

LEGAL FRAMEWORK GUIDING THE INTERNAL AUDIT FUNCTION AT THE UNIVERSITY OF NAIROBI

Introduction

The University of Nairobi is a public University. As a public institution, it is bound by the laws, regulations and procedures postulated by the Government of Kenya in the management of its affairs. Among other functional units established by the University management in furtherance of its mandate is the Internal Audit function. The responsibility of the internal audit Department in the management of the University includes oversight roles on;

- a) Governance
- b) Internal controls, and
- c) Risk management

THE LEGAL MANDATE OF THE INTERNAL AUDIT FUNCTION

The internal audit function in Kenya derives its mandate from the following legal instruments;

The constitution of Kenya, 2010

- i. Article 10: National values and principles of Governance

This article binds all state officers, public officers and all persons to ensure good governance, integrity, transparency and accountability in the discharge of their responsibilities. The University as a public entity is required to adopt and demonstrate good governance practices in the management of its affairs. Oversight over good Governance forms one of the main functions of the internal audit in any organization.

- ii. Article 232: Values and principles of public service

This article requires the public service to ensure an efficient, effective and economical use of resources, accountability for administrative acts and transparency in the provision of accurate information to the public.

Section (2) stipulates that these values and principles shall apply to public service in all state organs including Government parastatals. One of the cardinal duties of the internal audit function in any organization is to ensure the efficient, effective and economical use of resources.

These two Articles of the constitution lay a firm legal foundation upon which the internal audit function will be practiced in the public organizations in Kenya.

The public Finance management act, 2012

This Act lays the foundation of the financial management practices in both national and county Governments in Kenya. The Act establishes and anchors the internal audit function in all Government entities and also establishes the audit committees in all public organizations.

- a) S. 73(1) states that every national Government entity should ensure that it has appropriate arrangements in place for conducting internal audit according to the guidelines of the accounting standards board.
- b) S. 73 (4) states that a national Government entity shall ensure that internal audits are conducted in accordance with international best practices.
- c) S. 73(5) states that every Government public entity shall establish an audit committee.

As a major recipient of Donor research funds the University management is bound by S. 138 (9) which states that the recipient of a grant or a donation from a development partner shall administer and account for the grant or donation by using;

- a) Government financial and accounting practices laid down under an act of parliament , rules and regulations
- b) Administrative accounting and auditing procedures for accounting for the receipt or expenditure for the money specified or referred to in any agreement between the recipient and the donor.

As an oversight organ in the University the Internal audit is expected to monitor and ensure that these provisions of the law are adhered to.

The Universities Act, 2012

This Act establishes and gives guidance on the overall management of the University. It also establishes the Governance structures of the University. The University of Nairobi was chartered on 1st March, 2013 giving it legal status. It is the responsibility of the internal audit to ensure that the University operates within the confines of this law.

S.47 (1) of the Act states that a public university shall cause to be kept all proper books of records of accounts of the income, expenditure and the assets of the university. It is the responsibility of the internal audit to ensure that the University maintains accurate and reliable information records.

The public Audit act, 2015

This Act repealed the public audit Act, 2003. It was enacted in order to align the public audit function to the provisions of the constitution of Kenya, 2010.

S. 33 (1) of the Act states that the final report by the internal auditor which has been deliberated on and adopted by the audit committee of a state organ or public entity may be copied to the auditor general. This provision enhances the independence of the auditor by ensuring that their reports are acted upon by the management.

Public officer ethics Act, 2003

This law provides a wide range of ethical issues that a public officer is expected to uphold in the discharge of their duties. These issues form the bulk of the Governance issues that the auditor is expected to provide oversight.

Part (iii) of the act provides the general code of conduct and ethics that a public officer should adhere to. Together with the code of ethics issued by the various professional bodies for which auditors are members, this law forms a firm foundation on what an auditor needs to observe in the discharge of their duties.

S. 9 (d) requires members of a professional body to observe the ethical and professional requirements of that body. This provision legally binds the auditor to observe the ethical requirements of the professional bodies that they subscribe to.

S.15 (1) requires that a public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated. It is the duty of the internal auditor to ensure that the assets of the University are adequately protected.

Mwongozo code of Governance

Mwongozo code of Governance lays the foundation for the management, Governance and oversight of state entities. It was developed by the parastatal reform implementation committee and adopted for implementation. The aim of this code is to ensure that public organizations are efficient and effective in the delivery of value to Kenyans in a transparent and accountable manner. Assurance on effective and efficient management of public resources remains an important function of the internal audit.

Chapter three on accountability, Risk management and internal controls details the Governance principles that all public organizations should adhere to. The code of Governance has formulated specific tasks which form the bulk of what the internal audit is expected to perform in any public organization. These tasks among others include;

- a) Ensuring that effective processes and systems of risk management and internal controls are in place,
- b) Ensuring that the procurement process is cost-effective and delivers value for money.
- c) Ensure the development of a policy on risk management, which should take into account sustainability, ethics and compliance risks.
- d) Issuance to the council a written assessment of the effectiveness of the system of internal controls on a quarterly basis.

The code also requires the Audit committee of the council to ensure among others;

- a) The establishment of an internal audit function in the University (Section. 3.4(2) (c)
- b) That the head of internal audit holds a senior position in the management team, is professionally qualified and is a member in good standing of the professional body responsible for regulating Auditors Section 3.4 (2) (h)
- c) That the internal audit function is independent Section 3.4 (2) (f)