

**KENYA BUREAU OF STANDARDS**

**ACCESS TO INFORMATION POLICY**

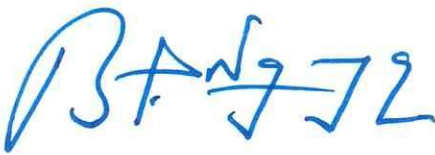
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## PREAMBLE

Access to information is guaranteed under Article 35 of the Constitution of Kenya 2010, which is operationalized through the Access to information Act No. 31 of 2016. The Commission on Administrative Justice (CAJ), established under the Commission on Administrative Justice Act, 2011, has been mandated to oversee and enforce the Access to information Act 31, 2016.

This policy on Access to Information has been established to provide a framework for implementation of the Access to Information Act.

KEBS is committed to effecting the objectives and purpose of the access to information Act.



Bernard M. Nguyo  
**Ag. MANAGING DIRECTOR**

**TABLE OF CONTENTS**

1. SCOPE ..... 4

2. PURPOSE ..... 4

3. POLICY OBJECTIVES ..... **Error! Bookmark not defined.**

4. ACRONYMS AND DEFINITIONS ..... 4

5. REFERENCE DOCUMENTS..... **Error! Bookmark not defined.**

6. POLICY IMPLEMENTATION GUIDELINES ..... 5



## 1. INTRODUCTION

- 1.1. **KEBS Mission:** To provide standards based solutions that promote innovation, trade and quality life.
- 1.2 **KEBS Vision:** To be a global leader in standards based solutions that deliver quality and confidence.
- 1.3 To accomplish its Mission and Vision, KEBS requires all employees to practice its core values: integrity, customer focus, excellence and sustainability.

## 2. SCOPE

This policy shall apply to access to information held by Kenya Bureau of Standards (KEBS) including, but not limited to:

- a) All data and information held in computer systems, including mobile computing devices, telecommunications equipment, networks, printers and servers.
- b) All information from electronic communications equipment and services, including telephones, PABXs, radio communicators, voice-mail, voice recorders, cameras, CCTV system, e-mail, fax machines, wired or wireless services, website, internet and intranet and other on-line services.
- c) All information held in hardcopies and archived records.

## 3. PURPOSE

The purpose of this policy is to guide KEBS in providing the public with information in accordance with the Access to Information Act 31 of 2016. It outlines the responsibility of KEBS regarding access to information.

## 4. ACRONYMS AND DEFINITIONS

### 4.1 Acronyms

- 4.1.1 **KEBS** Kenya Bureau of Standards
- 4.1.2 **CS** Cabinet Secretary
- 4.1.3 **MD** Managing Director
- 4.1.4. **AIO** Access to Information Officer

### 4.2 Definitions

- 4.2.1 **Commission** refers to the Commission on Administrative Justice
- 4.2.2 **Interested party** is a person who has an identifiable stake or legal interest in the proceedings before the court but is not a party to the proceedings or may not be directly involved in the litigation.
- 4.2.3 **National Security** is the protection against internal and external threats to Kenya's territorial integrity and sovereignty, its people, their rights, freedoms, property, peace, stability and prosperity, and other national interests.



- 4.2.4 Public record** includes any record in writing or any other form containing information relating to the conduct of KEBS business, prepared, owned, used or retained by KEBS regardless of physical form or characteristics;
- 4.2.5 Electronic record** means a record generated in digital form by an information system, which can be transmitted within an information system or from one information system to another and stored in an information system or other medium;
- 4.2.6 Exempt information** means information that may be withheld by KEBS in accordance with section 6 of Access to Information Act no. 31 of 2016;
- 4.2.7 Public entity** means -
- a) an office in the national government, a county government or the public service, if the remuneration and benefits of the office are payable directly from the Consolidated Fund or directly out of money provided by Parliament; or
  - b) any entity performing a function within a commission, office, agency or other body established under the Constitution;
- 4.2.8 Edited copy** in relation to a document, means a copy of a document from which exempt information has been deleted;
- 4.2.9 Person** includes a company, association or other body of persons whether incorporated or unincorporated;

## 5. LEGAL FRAMEWORK

This policy is premised on the following legal framework and administrative requirement, but not limited to:

- a) Constitution of Kenya, 2010
- b) Access to Information Act no. 31 of 2016
- c) Records Disposal Act 14
- d) Public Archives and Documentation Service Act 19
- e) Public Officer Ethics Act, 2003
- f) Official Secrets Act
- g) Statistics Act, 2006
- h) Standards Act

## 6. POLICY IMPLEMENTATION GUIDELINES

### 6.1 Right to Information

- a) Every citizen has the right of access to information held by KEBS. The citizen's right to access information is not affected by;
  - i. any reason the person gives for seeking access; or
  - ii. KEBS' belief as to what are the person's reasons for seeking access.
- b) KEBS shall provide Information expeditiously at a reasonable fee.

## 6.2 Disclosure of information by KEBS

- a) KEBS shall facilitate access of information to the public. This shall include;
  - i. The particulars of KEBS, functions and duties;
  - ii. The powers and duties of KEBS officers and employees;
  - iii. The procedure followed in the decision making process, including channels of supervision and accountability;
  - iv. Salary scales of KEBS officers by grade;
  - v. The norms set by KEBS for the discharge of its functions;
  - vi. Guidelines used by KEBS in its dealings with the public or with corporate bodies, including the rules, regulations, instructions, manuals and records, held by KEBS or under its control or used by its employees for discharging its functions; and
  - vii. A guide sufficient to enable any person wishing to apply for information under this policy to identify the classes of information held by KEBS and the subjects to which they relate.
- b) Every year, KEBS shall publish on the website statements updating the information in (6.2a) above as appropriate.
- c) KEBS shall publish all relevant facts while formulating important policies, scheme, programme or law which affects the public or announcing the decisions which affect the public and before initiating any project, or formulating any policy, scheme, programme or law, publish or communicate to the public in general or to the persons likely to be affected thereby in particular.
- d) KEBS shall provide to any person the reasons for any decision taken by it in relation to that person;
- e) KEBS shall upon signing any contract, publish the following particulars in respect of the contract entered into -
  - i. The public works, goods acquired or rented, and the contracted service, including any sketches, scopes of service and terms of reference;
  - ii. The contract sum;
  - iii. The name of the service provider, contractor or individual to whom the contract has been granted; and
  - iv. The periods within which the contract shall be completed.
  - v. KEBS shall publish the current financial year information.
- f) KEBS shall disseminate information in English or Kiswahili. The information shall be available at a reasonable cost (as guided in part III section 12 of the Access to Information Act no 31 of 2016) and taking into consideration the need to reach persons with disabilities.
- g) At a minimum, the material shall be made available;
  - i. For inspection by any person without charge;



- ii. By supplying a copy to any person on request for which a reasonable charge to cover the costs may be made; and
- iii. On the internet, provided that the materials are held by KEBS in electronic form.

### 6.3 Limitation of right of access to information

- a) The right of access to information under this policy shall be limited in respect of information whose disclosure is likely to;
  - i. Undermine the national security of Kenya;
  - ii. Impede the due process of law;
  - iii. Involve the unwarranted invasion of the privacy of an individual, other than the applicant or the person on whose behalf an application has, with proper authority, been made;
  - iv. Substantially prejudice the commercial interests, including intellectual property rights, of that entity or third party from whom information was obtained;
  - v. Cause substantial harm to the ability of the Government to manage the economy of Kenya;
  - vi. Significantly undermine a public or private entity's ability to give adequate and judicious consideration to a matter concerning which no final decision has been taken and which remains the subject of active consideration;
  - vii. Damage KEBS' position in any actual or contemplated legal proceedings; or
  - viii. Infringe professional confidentiality as recognized in law or by the rules of a registered association of a profession.
- b) For the purpose of 3 (a)(i) above, information relating to national security includes—
  - i. Intelligence activities, sources, capabilities, methods or cryptology;
  - ii. Scientific, technology or economic matters relating to national security;
  - iii. Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans or protection services relating to KEBS;
  - iv. Information that should be provided to a State organ, independent office or a constitutional commission when conducting investigations,
  - v. Examinations, audits or reviews in the performance of KEBS functions;
  - vi. Any other information whose unauthorized disclosure would prejudice KEBS and national security.
- c) KEBS shall disclose information if a request for information relates to the results of any product or environmental testing, and the information concerned reveals a serious public safety or environmental risk.
- d) KEBS may be required to disclose information where the public interest in disclosure outweighs the harm to protected interests as shall be determined by a Court.

- e) KEBS is not obliged to supply information to a requester if that information is reasonably accessible by other means.
- f) In line with the Access to Information Act, KEBS shall -
  - i. Promote accountability to the public;
  - ii. Ensure that the expenditure of funds is subject to effective oversight;
  - iii. Keep the public adequately informed about the existence of any danger to public health or safety or to the environment; and
  - iv. Adequately discharge its functions.
- g) Information will not be exempt if the information has been held for a period exceeding thirty (30) years.

#### **6.4 Designation of Information Access Officer**

The Managing Director (MD) shall be the Information Access Officer (IAO) and may delegate his/her duties as an IAO to any officer of KEBS.

#### **6.5 Application and Processing of requested information**

All applications shall be received and processed in accordance with the KEBS access to information procedures.

#### **6.6 Fees**

KEBS will not levy any fee on applications submitted. However, KEBS shall charge processing fee at prevailing market rates.

#### **6.7 Correction of information**

Where the applicant makes a request to correct, update or annotate any personal information held by KEBS, which is out of date, inaccurate or incomplete, KEBS shall at its own expense within five (5) working days take appropriate action.

#### **6.8 Review of decisions by the Commission**

KEBS shall be bound by any decision made by the Commission on Administrative Justice in relation to any decisions on a request for Access to Information as per Part IV section 14 of the Access to Information Act no 31 of 2016.

#### **6.9 Protection of person making disclosure**

All KEBS officers are bound by the provisions of Access to Information Act no 31 of 2016 Part IV section 16 with regard to disclosure of information and the consequences of malicious disclosure.

#### **6.10 Management of records**

KEBS shall adhere to the guidelines for management of records or any other information in accordance with the Access to Information Act and the KEBS records management and administration process. KEBS shall computerize its records and information management systems in order to facilitate more efficient access to information.

#### **6.11 Offence of Alteration, Defacement, Blocking, Erasure e.t.c.**





Any officer who alters, defaces, blocks, erases, destroys or conceals any record held by KEBS shall be liable of an offence in accordance with part IV (section 18) of Access to Information Act No. 31 of 2016.

#### **6.12 Defamatory matter in information released**

The publication to the applicant of any defamatory matter contained in the information shall be privileged unless the publication is shown to have been made with malice.

#### **6.13 Powers relating to investigation**

- a) The Managing Director may, for the purpose of conducting any investigation pertaining to an inquiry by the Commission on Administrative Justice; avail the services of a KEBS officer and where the officer is so utilized under this subsection, the Commission shall pay such expenses as may be incurred by the KEBS officer for the service rendered.
- b) For the purpose of investigating any matter pertaining to an enquiry by the Commission on Administrative on Justice a KEBS officer whose services are utilized under sub section (i) above may, subject to the direction and control of the Commission:
  - i. summon and enforce attendance of any person for examination;
  - ii. require the discovery and production of any information;
  - iii. requisition any public records or copy thereof from any public officer; and
  - iv. take a statement under oath in relation to any investigation it is undertaking.
- c) The KEBS officer whose services are utilized under sub section (i) above shall investigate into any matter pertaining to the inquiry and submit a report thereon to the MD for onward transmission to the Commission in that behalf.

#### **6.14 Regulations**

KEBS shall be guided by any regulations provided by the Cabinet Secretary in relation to the Access to Information Act No. 31 of 2016, part VI section 25.