



ANTI-BRIBERY AND ANTI-CORRUPTION POLICY

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1. INTRODUCTION

1.1 Reference made to Prime Minister's Directive Series 1 No. 1 of 2018 – The Establishment of Integrity and Governance Unit in Government-Linked Companies (GLCs) and Ministries, Agencies, and State-Owned Companies. The Agency Integrity Management Division, MACC is responsible for conducting organisational risk rating to set a suitable structure for the IGU. Risk ratings are classified into high, medium or low and re-rating of an organisation's risk is conducted every three years or as necessary.

IWK received the first GLCs Risk Rating Status, reference: SPRM.BPIA.600-9/3/2 dated 22 October 2019 highlighted that Indah Water Konsortium Sdn. Bhd. ("IWK") sits in the high risk category. IWK has developed efforts in combating corruption, abuse of power and malpractice. Rerating was done after 3 years and IWK received a notification of the above Risk Rating, reference SPRM.BPIA.600-9/3/2 Jld.6 (46) dated 9 January 2023 highlighted that IWK sits in the moderate risk category.

1.2 This Policy which serves as an IWK's efforts in mitigating the governance weaknesses and integrity breaches has been reviewed and updated.

2. OBJECTIVE

The establishment of this Policy is as a source of reference on corruption, reporting channel and corruption prevention.

3. SCOPE

This Policy applies to all IWK employees. This policy also should be used as a guidance by stakeholders, business partners or any individual / organisation that deals with IWK employees / facilities.

4. DEFINITION

Corruption

Corruption under the Malaysian Anti-Corruption Commission Act 2009 (Act 694) means giving or offering, receiving or soliciting or agree to receiving or soliciting gratification directly or indirectly as an incentive or reward to perform or not to perform a task related with official duties.

Bribery

Bribery refers to the interpretation of 'gratification' under Section 3, Act 694.

IWK Employees

Officer and employee who serves at IWK whether through permanent appointment, temporary, trainee, loan, contract or part-time including political appointment.

IWK Employees also includes the Chairman, Board of Directors, Chief Executive Officer, Chief Operating Officer, Head of Departments and Head of Operations or Companies under IWK.

5. ANTI-BRIBERY & ANTI-CORRUPTION POLICY STATEMENT

IWK adopts a zero-tolerance approach to corruption in providing sewerage services in Malaysia. IWK stresses the following four (4) terms of references:

I. Policy, Legislation and Regulation

- a. Understand and comply with laws, regulations and any other anti-corruption directives in force.
- b. Implement anti-corruption elements in policy formulation to enhance internal control over governance weaknesses and integrity breaches.

II. Working Systems and Procedures

Identify, examine weaknesses and enhance working systems and procedures which can open up avenue and opportunity for corruption, abuse of power and malpractice.

III. Strengthening Governance and Integrity

Spreading, educating and nurturing integrity as well as strengthening governance in delivering services.

IV. Detection, Compliance, Punitive and Rehabilitation

- a. Empower and dissemination reporting mechanics on corruption, abuse of power and malpractices.
- b. Ensure compliance with regulations, taking punitive action on violations of the code of conduct and perform rehabilitation efforts.

6. POTENTIALLY CORRUPT BEHAVIOURS

Potentially corrupt behaviours are as follows:

<i>Transactive</i>	Agreement to give and receive gratification (win-win situation)
<i>Extortive</i>	Threat with intention of inaction
<i>Defensive</i>	Bribery for self-protection
<i>Investive</i>	Bribery for future reward/ favour

<i>Nepotisme</i>	Abuse of power and position for personal benefit / relatives (family) / allies
<i>Autogenic</i>	Corruption that become a practice and culture in organisation
<i>Supportive</i>	Proxies/Cronies placement in strategic places(hotspot) in organisation

7. CORRUPT OFFENCES

Corrupt offences under Act 694 are as follows:

7.1 Offence of accepting gratification under Section 16, Act 694

- 7.1.1 Any person corruptly **solicits** or **receives** or **agree to receive** for himself or for any other person any gratification as an inducement to or a reward for doing or forbearing to do anything in respect of any matter or transaction; or
- 7.1.2 Any person corruptly **gives**, **promises** or **offers** to any person whether for the benefit of that person or of another person any gratification as an inducement to or a reward for doing or forbearing to do anything in respect of any matter or transaction.

7.2 Offence of giving or accepting gratification by agent under Section 17, Act 694

- 7.2.1 Any person being an agent corruptly **agrees to accept** or **obtain** from any person for himself or for any other person, any gratification as an inducement or a reward for doing or forbearing to do, in relation to his principal's affairs; or
- 7.2.2 Any person being an agent corruptly **gives** or **agrees to give** or

offers any gratification to any agent as an inducement or a reward for doing or forbearing to do, in relation to his principal affairs.

7.3 Offence of intending to deceive principal by agent under Section 18, Act 694

Any person who **gives** to an agent, or being an agent he **uses**, with intent to deceive his principal, **any receipt, account or other document** in respect of which the principal is interested, and which he has reason to believe contains any statement which is false or erroneous or defective in any material particular, and is intended to mislead the principal.

7.4 Offence on bribery of officer of public body under Section 21, Act 694

Any person who **offers** to an officer of any public body, or being an officer of any public body **solicits** or **accepts**, any gratification as an inducement or a reward, notwithstanding that the officer did not have the power, right or opportunity to do so, or accepted the gratification without intending to do so, or that the inducement or reward was not in relation to the affairs of the public body.

7.5 Offence of using office or position for gratification under Section 23, Act 694

Any officer of public body who **uses his office or position** for any gratification, whether for himself, his relative or associate.

7.6 Penalty under Section 24, Act 694

7.6.1 Any person who commits an offence under sections 16, 17, 21 and 23, Act 694, shall on conviction be liable to:

- i. **Imprisonment for a term no exceeding twenty (20) years;**
and
- ii. **A fine not less than five (5) times** the sum or value of the **gratification** which is the subject matter of the offence, **or ten thousand ringgit (RM10, 000), whichever is the higher.**

7.6.2 Any person who commits an offense under Section 18, Act 694, shall on conviction be liable to:

- i. **Imprisonment for a term no exceeding twenty (20) years; and**
- ii. **A fine not less than five (5) times the sum or value of the false or erroneous or defective material particular, or tenthousand ringgit (RM10, 000), whichever is the higher.**

7.7 Duty to report bribery transactions under Section 25, Act 694

7.7.1 Any person to whom any gratification is **given, promised, or offered** shall **report** such gift, promise or offer together with the name, if known, of the person who gave, promised or offered such gratification to MACC officer.

7.7.2 Any person who fails to comply with that subsection shall on conviction be liable to:

- i. **a fine not exceeding one hundred thousand ringgit (RM100,000); or**
- ii. **imprisonment for a term not exceeding ten (10) years or to both.**

7.7.3 Any person from whom any gratification has been **solicited** or **obtained** or an **attempt has been made** to obtain such gratification, shall **report** such soliciting or obtaining of, or attempt to obtain the gratification together with the full and true description and if known, the name of the person who solicited, or obtained, or attempted to obtain, the gratification from him to MACC officer.

7.7.4 Any person who fails to comply with that subsection shall on conviction be liable to:

- i. **a fine not exceeding ten thousand ringgit (RM10, 000); or**
- ii. **imprisonment for a term not exceeding two (2) years or to both.**

7.8 Offence of obtaining any valuable thing, without consideration, from person concerned under Section 165, Penal Code (Act 574)

Whoever, being a public servant, **accepts** or **obtains**, or **agrees to accept** or **attempts to obtain**, for himself or for any other person, any valuable thing, without consideration, or for a consideration which he knows to be inadequate, from any person he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted, or about to be transacted, by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, shall be punished with **imprisonment** for a **term which may extend to two (2) years** or **with the fine** or **with both**.

7.9 Offence of forgery under Section 465, Penal Code (Act 574)

Whoever **commits forgery** shall be punished with **imprisonment** for a **term which may extend to two (2) years** or **with fine** or **with both**.

8. OTHER LAWS AND REGULATIONS IN FORCE

8.1 Others laws and regulations related to corruption are as follows:

- i. Section 3, Act 694:
 - a. Any offence under Penal Code (Act 574) as specified in the Schedule – Paragraph 3 (a), interpretation “prescribed offence” under Act 694;
 - b. an offence punishable under Section 137 of the Customs Act 1967 (Act 235);
 - c. an offence under Part III of the Election Offences Act 1954 (Act 5);
 - d. an attempt to commit any of the offences referred to in paragraph (a) to (c); or
 - e. an abetment of or a criminal conspiracy to commit (as those terms are defined in the Penal Code) any of the offences

referred to in paragraphs (a) to (c), whether or not the offence is committed in consequence thereof.

ii. Section 17A, Act 694, Malaysian Anti-Corruption Commission (Amendment) Act 2018 (MACC (Amendment) Act 2018). Offences by commercial organizations

(1) A commercial organization commits an offense if a person associated with the commercial organization corruptly **gives, agrees to give, promises or offers** to any person any bribe either for the benefit of that person or for the benefit of another person with the intention:

- (a) to acquire or retain business for the commercial organisation; or
- (b) to obtain or retain an interest in carrying on business for the commercial organisation.

(2) Any commercial organization that commits an offense under this section upon conviction may be fined not less than **ten times the amount** or value of the bribe that is the subject of the offence, if the bribe can be assessed or is in the form of money, **or one million ringgit, whichever is higher, or to imprisonment for a term not exceeding twenty years or to both.**

(3) If an offense is committed by a commercial organization, a person:

- (a) who is a director, controller, officer or its partners; or
- (b) who is involved in the management of his affairs, at the time the offense is committed, is deemed to have committed the offense unless that person proves that the offense was committed without his consent or permission and that he has exercised all reasonable efforts to prevent the commission of the offense by

taking into account the type of function on that nature and on the matter of the situation.

- (4) If a commercial organization is accused of an offense referred to in subsection (1), it shall be a defense for the commercial organization to prove that the commercial organization has adequate procedures to prevent persons associated with the commercial organization from committing the act.

8.2 Service Circular Letter No 5 of 1997 – Guidelines on How to Manage Disciplinary Cases Referred by the Anti-Corruption Agency (currently known as the Malaysian Anti-Corruption Commission).

9. ROLES AND RESPONSIBILITIES OF IWK EMPLOYEES

9.1 In an effort to curb any space and opportunity for corruption, IWK employees should take necessary actions as follows:

DO NOT SOLICIT

IWK employees are prohibited from soliciting or receiving any forms of gratification.

REFUSE

IWK employees should refuse any offer of gratification.

REPORT

IWK employees shall at the earliest opportunity lodge a report on any corruption activities to the Head of Department, Integrity and Governance Unit or MACC.

9.2 IWK employees may report any corruption activities with the submission of at least basic information (5W + 1H) as follows:

- i. Who is involved?

- ii. When did the incident occur?
- iii. Where did the incident take place?
- iv. What were the offences?
- v. Why did the offence occur?
- vi. How did the offence occur?
- vii. Witness or related document (if necessary)

10. DATA AND WHISTLEBLOWERS PROTECTION

Any complaint made as a consequence of information received by the MACC officer, the **information** referred to in the complaint and the **identity of the whistleblower** from whom such information is received shall be a **secret** between the MACC officer and the whistleblower, and **shall not be disclosed** or be ordered or required to be disclosed in any civil, criminal or other proceedings in any court, tribunal or other authority under Section 65, Act 694.

11. ENQUIRIES AND REPORTING

Any enquiries or reports on violation of this Policy may be submitted through the reporting channels as follows:

Whistle Blowing Channel

- i) Telephone : 03-2780 1295
- ii) Email : whistle@iwk.com.my
- iii) Send the Whistleblower Form to the Head of the Integrity & Governance Unit
- iv) Send the Whistleblower Form through <https://www.iwk.com.my> or IWK Mobile App
- v) Attend and meet at :
Integrity & Governance Unit
Indah Water Konsortium Sdn Bhd
No. 1, Jalan Damansara
60000 Kuala Lumpur

12. CONCLUSION

Adherence to this Anti-Bribery and Anti-Corruption Policy can increase corruption prevention and become a catalyst for transparent and efficient management based on governance, integrity and anti-corruption principles. Moreover, IWK will become one of the leading agencies in the water and sewerage industry in fulfilling anti-corruption initiatives through complete adherence to this policy.

IGU is allowed to make appropriate guidelines for the good purpose of managing this policy.

REFERENCES

1. Malaysian Anti-Corruption Commission Act 2009 (Act 694)
2. Penal Code (Act 574)
3. Prime Minister's Direction No. 1 of 2018 on Strengthening Governance, Integrity and Anti-Corruption in Government Administration Management
4. National Anti-Corruption Plan (NACP) 2019 – 2023
5. Notification Letter of Government-Linked Companies (GLC) Risk Rating Status, from Malaysian Anti-Corruption Commission (MACC) reference:SPRM.BPIA.600-9/3/2 dated 22 October 2019.
6. Notification Letter of Government-Linked Companies (GLC) Risk Rating Status, from Malaysian Anti-Corruption Commission (MACC) reference:SPRM.BPIA.600-9/3/2 Jld.6 (46) dated 9 January 2023.