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RULES

OF CONDUCTING ANTI-CORRUPTION EXPERTISE OF INTERNAL ACTS

Karaganda

1 Scope

These Rules of Conducting Anti-Corruption Expertise of Internal Acts (hereinafter referred to as the Rules) are directed to the expertise of internal acts of the Non-Commercial Joint Stock Company "Karaganda Technical University".

2 Regulatory references

In this Rules there are used references to the following regulatory documents:
MS ISO 9000:2015 Quality Management System. Basic Provisions and Glossary.
MS ISO 9001:2016 Quality Management System. Requirements.

3 Terms, definitions, and abbreviations

These Rules contain terms, definitions and abbreviations in accordance with IS ISO 9000: 2015 Quality Management System. Basic Provisions and Glossary, in addition to them, the following terms, definitions and abbreviations are established:

DP – documented procedure;

DAW – Department of Administrative Work of the University;

KTU – Karaganda Technical University;

Anti-corruption expertise - a study of internal acts and draft internal acts in order to identify corruption-related norms in them with the issuance of a scientific anti-corruption expert opinion;

Corruption risks - the risk of corruption, which can cause damage to the implementation of the University, and the public interest will be discriminated against private interests;

Corrupt manifestation - abuse of entrusted power for personal purposes;

PD – personnel department of the University;

R – rules;

QMR – quality management representative;

RK – Republic of Kazakhstan;

QMS – quality management system;

ST RK – standard of the Republic of Kazakhstan;

LD – legal department of the University.

4 General provisions

4.1 These Rules establish the directions of anti-corruption expertise of internal acts of the University.

4.2 The purpose of these Rules is to ensure uniform approaches to the examination of internal acts in organizations subordinate to the Ministry of Education and Science of the Republic of Kazakhstan.

4.3 Principles of anti-corruption expertise of internal acts:

1) legality;

2) objectivity;

- 3) completeness and comprehensiveness;
- 4) transparency;
- 5) prevention of corruption.

4.4 The main tasks of anti-corruption expertise:

- objective and comprehensive identification of conditions and opportunities for the occurrence of corruption risks;
- formation of reasonable proposals for the elimination of corruption-generating factors in internal acts concerning the activities of the subjects of analysis.

5 Areas of anti-corruption expertise

5.1 The purpose of anti-corruption expertise is to identify corruption risks in internal acts affecting the activities of the University.

5.2 The internal acts affecting the activities of the University identify norms that may contribute to the commission of corruption offenses.

Identifying signs of norms contributing to the commission of corruption offenses:

1) The breadth of discretionary powers

Corruption risk indicators:

- absence or uncertainty of terms, conditions or grounds for making a decision (taking an action);
- the possibility of increasing the duration of the time frame for making a decision (taking an action) for an indefinite period or without establishing clear conditions for extending the time frame;
- establishment of an unreasonably wide time range for making a decision (taking an action);
- lack of indication of the nature of the calculation of the timing of the decision (action);
- the presence of several options for making a particular decision without accurately determining the conditions (grounds);
- use in an internal act of the formulations: "during", "reasonable period", "appropriate period", "fixed period", "if it is not established by other regulatory legal acts" and other similar indefinite formulations;
- the presence of duplicate powers of the organization (their officials);
- establishing responsibility of several employees for the same decision.

2) Definition of competence according to the formula "to be eligible for"

Corruption risk indicators:

- application in the norms and provisions of the internal act of the formulations "to be eligible for", "may", etc.;
- the presence in the text of the internal act of provisions and norms that interpret the power exclusively as a right (that is, in certain cases, not to exercise it);
- the presence in the text of an internal act of provisions and norms interpreting law as an opportunity, and not as an obligation to perform certain actions.

3) A regulatory gap

Corruption risk indicators:

- lack of status norms (if they should be);
- lack of norms regarding the regulation of a particular type of activity, the implementation of the function assigned to the organization;
- lack of rules of conduct and control over the fulfillment of the requirements.

4) Lack or incompleteness of administrative procedures:

- lack of business procedures and / or a list of sequential actions (stages) aimed at obtaining the final result of the administrative procedure;
- lack of regulated grounds for making a decision by an organization (official);
- the presence of subjective approaches, not based on legal grounds, to the acceptance or refusal when accepting applications from individuals and legal entities.

5) Selective change in the scope of rights.

Corruption risk indicators:

- absence or uncertainty of conditions, criteria or grounds for making decisions to change the scope of rights;
- establishment of unjustifiably broad powers when making decisions on changing the scope of rights without establishing clear conditions and grounds;
- application in the norms and provisions of an internal act of such formulations with an unclear, indefinite content such as "as a rule", "in exceptional cases", "in individual cases", or "subject to ... is allowed", etc.

6) Collisions of internal acts

Corruption risk indicators:

- the presence of a contradiction between single-level acts;
- the presence of a contradiction between the main and the derived internal act;
- the presence of contradictions between the provisions of the RLA and internal acts.

7) Excessive requirements for a person to exercise his right

Corruption risk indicators:

- imposition of duties on individuals (officials) and legal entities, the fulfillment of which is not necessary for the proper exercise of subject rights and freedoms;
- the presence in the text of the internal act of an open, non-exhaustive list of grounds for refusal, references to the grounds for refusal established in other RLA, including those of a subordinate nature;
- imposing on individuals (officials) and legal entities the obligation to submit documents, information, certificates, statements, etc., in the reclamation of which there are no grounds provided for by the current RLA;
- the presence in the text of the draft of "vague", subjective and evaluative grounds for refusal.

8) Legal and linguistic uncertainty

Corruption risk indicators:

- the use in the text of an internal act of ambiguous or invalid terms, expressions and phrases in jurisprudence. Including such words and phrases as: "expedient", "in extreme conditions", "in a reasonable time", "in a short time", "in the shortest possible time", "long terms", "under certain conditions", "with sufficient grounds", "unlimited time", "other names (cases, conditions, procedure, procedures)", etc., "other ...", "other options", "preferred use", "in some cases, allowed (permitted)", etc.;

- the presence in the content of internal acts of concepts and formulations in categories of an evaluative nature with an unclear, indefinite content that allows for different interpretations of a phenomenon, event, fact;
- the presence of semantic discrepancies between the texts in the state and Russian languages of the same internal act, allowing them to be interpreted differently in legal terms;
- the presence of uncertainty, ambiguity and non-binding nature in the rules establishing the legal responsibility of individuals and legal entities.

9) Other factors of corruption

List of factors:

Lack of competitive (auction) procedures; lack of employee liability for offenses; lack of control, including public control, by subjects of the quasi-public sector, employees; the presence of norms legitimizing direct contact between the subject of analysis (their representatives) and individuals and legal entities; filling legislative gaps with an internal act in the absence of legislative delegation of relevant powers.

6 Results of anti-corruption expertise

6.1 The results of the anti-corruption expertise are drawn up in a conclusion, if there are comments and suggestions.

6.2 If corruption-generating factors are identified in the act, the conclusion based on the results of the anti-corruption expertise shall reflect all identified corruption-generating factors, indicating the structural units of the project (sections, points, sub-points, paragraphs). At the same time, the conclusion contains proposals for eliminating the identified corruption-generating factors.

6.3 The conclusion on the results of the anti-corruption expertise is subject to mandatory review in the structural unit responsible for the preparation of the act.