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Code of Corporate Governance for Public Enterprises Directive No. 501/2020

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Public Enterprises Holding and Administration

ሰኔ 24፥ 2011

Contents

Code of Corporate Governance for Public Enterprises **No. 501/2020**

Whereas, it is a necessary requirement to install transparency, fairness, accountability, responsibility, integrity and ethical behavior into the overall governance of public enterprises so as to improve their performances and competitiveness;

Whereas, modern corporate governance provides a fertile ground to install common corporategovernance approaches with inpublic enterprises to ensure that public enterprises are managed by individuals with the right skills, qualification, expertise, experience, integrity,andethical behavior;

Whereas,corporate governance enables implementation of internal control systems in public enterprises and assists these enterprises to meet their ultimate objectives of realizing long term business sustainability;

Whereas,the ownership entityshould ensure that public enterprises are soundly and properly managed and directed in the way that they can increase values to customers, the employees, the owner and other stakeholders;

Now, therefore,the Agency has issued this codein accordance with the powers and duties vested in it by Article 5(3 & 4) of the Council of Ministers Regulation No. 445/2019.

Chapter I

General Provisions

1. Short Title

This code may be cited as Code of Corporate Governance for Public Enterprise No. **501/2020**

2. Definitions

In this code, unless the context otherwise requires:

1) "**Corporate Governance**" means the framework of rules, structural relationships, systems and processes within an enterprise by which powers and duties are exercised and controlled through building an environment of trust, transparency and corporate accountability necessary to enhance business prosperity, foster long-term investment, financial stability and business integrity.

2) "**Ownership entity**" means the part of the state responsible for the ownership function, or the exercise of ownership rights in public enterprises;

3) "**Agency**" means Public Enterprises Holding and Administration Agency established in accordance with the Council of Ministers Regulation Number 445/2019;

4) "**Enterprise**" means a wholly state owned public enterprise established pursuant to Public Enterprises Proclamation number 25/1992 to carry on activities in the manufacturing, distribution, service rendering or other economic and related activities;

5) "**Board**" means the management board of an enterprise formed in accordance with article 12 of Proclamation Number 25/1992 which is the highest management body of a public enterprise;

6) “**Board committee**” means a committee established within the board and reporting to the board, composed of some of the board members to handle specific corporate matters;

7) “**Non-executive director**” means a director who is not a full time employee of the public enterprise in any executive capacity.

8) “**Independent director**” means a member of board of management who does not have direct or indirect material or pecuniary relationship with an enterprise or related persons in the enterprise except board established benefit.

9) “**Disclosure**” means the periodic publishing and reporting to the public on business information of enterprises that may have material influence on the decision making of the ownership entity, the board, management and other stakeholders;

10) “**Public policy objectives**” means for the purpose of this document, objectives benefitting the general public within the public enterprises own jurisdiction;

11) “**Stakeholders**” mean individuals, group of people and organizations who have a stake or legitimate interest in a particular enterprise, including employees, lenders, suppliers, consumers and the society;

12) “**Senior Management**” means general manager or deputy or vice executive officers.

13) “**General Manager**” means a person, by whatever title that person may be referred to, who is primarily responsible for the day-to-day management of affairs of an enterprise.

14) “**External Auditor**” means the controller and auditor general or any other appointed auditor in terms of relevant legislation.

3. Scope of Application

1. This code shall be applicable to public enterprises as defined by article 2 (1) of the Public Enterprises Proclamation Number 25/1992and Council of Ministers Regulation No. 445/2019.

2. Notwithstanding sub-article 1 of this article, other industry specific regulatory laws and directives are applicable on public enterprises.

4. Corporate Governance framework

The corporate governance framework of public enterprises shall:

1. Constitute the Agency, board, general manager, deputy general managers, employees and all other stakeholders;
2. Establish a sound legal and regulatory framework for public enterprises;
3. Create proper structural setup for effective oversight by the ownership entity to enhance accountability in public enterprises;
4. Ensure that ownership functions from ordinary business functions ofpublic enterprises are identified and separated; and
5. Develop a sound performance- management system by defining mandates, strategies, objectives, key performance indicators and targets for public enterprises.

Chapter II

Mandate of the Ownership Entity

5. Duties and Responsibilities of the Agency

The Agency shall:

1) Select, appoint, induct, develop and remove board chairperson and board members;
2) Establish well-structured and transparent board nomination and assignment processes for all public enterprises to ensure the placement of competent leadership and professionalism;
3) Have a list of pre-qualified board candidates for the purpose of eventual selection and appointment;
4) Ensure that the board has efficient internal division of labor with effective overall responsibility as a board;
5) Simplify and standardize the legal forms under which public enterprises operate;
6) Allow public enterprises full operational autonomy to achieve their defined purposes and growth objectives while maintaining accountability;
7) Ensure that public enterprises have efficient and well-functioning competent boards, with the required mix of professional competencies and internal control instruments to fulfill their responsibilities;
8) Put in place appropriate monitoring, evaluation and motivation mechanism of the board and board members;
9) Approve strategic plan, annual plan and monitor the performance using comprehensive set of financial and non-financial performance indicators (KPIs), and introduce clear performance agreement/ contract between the Agency and public enterprises;

10) Set up reporting systems that allow the Agency to regularly monitor and assess the performance of public enterprises and oversee compliance with applicable performance and corporate governance standards;

11) Establish clear remuneration policy for boards that fosters sustained growth and viability of the public enterprises;

12) Ensure acceptable level of return from a portfolio of public enterprise investments and projects;

13) Develop and communicate minimum content for public enterprise performance disclosures;

14) Periodically collect, organize, analyze, and report on the performances of portfolio of public enterprises, and serve as a depository of public enterprises aggregate data and information;

15) Undertake or coordinate training programs, in collaboration with public enterprises, for board members and top management that would promote high standard of governance and leadership development;

16) Prepare general guideline for planning, performance monitoring, evaluation, and reporting relating public enterprises;

Chapter III

Board of Directors

6. Composition of the Board

1) The composition of the board should be planned with strategic & operational considerations and to the fulfillment objectives of the enterprise.

2) The composition of board members shall maintain a diversity of views, experience, intangible qualities like interpersonal skills, communication skills, diplomacy, leadership, commitment, and ethical integrity.

3) Public enterprises boards should consist of a mix of independent directors from the public and private sectors to bring more professionalism and fresh perspectives into the board.

4) The directors should possess critical skills and experiences to manage the challenges and exploit opportunities facing the enterprises.

5) The number of board members shall be such that it allows the Board to have fruitful discussions and to make appropriate, swift, and prudent decisions. The number of members of the board shall be at least 3 but not more than 12.

7. Appointment of Board Members

1) The board should be composed of people of integrity who can bring a blend of knowledge, skills, objectivity, experience, and commitment to the enterprise. The board should be led by a capable Chairman who brings out the best in each board member.

2) New board members should be familiarized with the enterprise's operations and its business environment and be inducted in terms of their fiduciary duties and responsibilities as well as in respect of the board's expectations.

3) The term of service of board members shall be 3-5 years, where good performing members may be reappointed for another term up on the Agency's decision.

4) Board members may be removed on the basis of evaluating their attendances and contributions or misalignment to the requirements of this Code.

8. Duties and Responsibilities of the Board

1) The board shall be accountable to the Agency and act in the best interest of the enterprise;

2) The board must ensure business continuity and sustainability of the enterprise by making effective and efficient decisions, establishing and monitoring appropriate key performance indicators;

3) The board shall exercise leadership, integrity, and judgment in guiding the enterprise management so as to achieve continuing growth and competitiveness;

4) Regarding decision-making and supervision, the board shall:

   a) Ensure that aspiring and vivid business goals and strategies are set out and implemented;

   b) Submit the strategic and or annual enterprise plan to the Agency prior to the end of May of every fiscal year;

   c) Ensure the presence and placement of capable, integral and delivering management in the enterprises;

   d) Observe meritocracy and excellence all along the management lines and eliminate the cases and opportunities for mediocre management performances;

   e) Ensure the presence and deployment of succession planning and management systems and practices in the enterprises;

f) Appoint and remove the general manager in consultation with the Agency and approve assignment and dismissal of senior management members answerable to the general manager;

g) Monitor and evaluate implementation of policies, strategic and operational plans, investments, management performances and take timely corrective measures as appropriate;

h) Approve major capital expenditures and investment plans;

i) Avoid the conflicting interests among and between board members, management, and stakeholders;

j) Ensure the integrity, timeliness, and adequacy of the enterprise accounting and financial reporting and auditing;

k) Ensure the presence and effectiveness of risk management, financial and internal audit and control systems of the enterprise;

l) Ensure that management has deployed modern technology and systems to properly and competitively run the enterprise;

m) Ensure that there is human resource development plan and it is aligned with enterprise strategic plan;

n) Ensure appropriate corporate social responsibility management system and plan are put in place and interests of various stakeholders are considered;

o) Ensure the prevalence of transparent and adequate degree of empowerment, delegation and accountability at various management levels;

p) Strictly ensure that the enterprise communicates with the ownership entity, stakeholders, and general public on a timely and regular manner;

q) Ensure that the enterprise is financially viable and properly managed;

r) Conduct discussions on the enterprise plans and executions at least yearly with the enterprise employees and stakeholders.

9. Performance and Evaluation

The board shall:

1) Supervise and evaluate management performance, competence, and integrity;
2) Set executive remuneration levels that foster long- and short-term interests of the enterprise and that can motivate the management to improve performance further;
3) Ensure the establishment of effective and result oriented performance management systems;
4) Deploy a 360 degree assessment of its performance internally or use independent reviewer;
5) Regularly assess board's group and in individual performance twice a year using annual plan, performance measures, and leadership shown;
6) Ensure that clear performance evaluation criteria are set and decide on the incentives for management members accountable to the general manager including the internal audit head;
7) Evaluate the senior management semi-annually on the basis of accomplishment of enterprise plans, team development, fulfilment of fiduciary and regulatory requirements, management competence, decision making, etc.;
8) Report results of performance evaluations of the board and general manager or CEO of the enterprise to the Agency;
9) Submit quarterly consolidated enterprise performance report within 10 days after the expiry of each quarter to the Agency

10. Board members

1) Each board member shall be:

a) Diligent in discharging his or her duties to the enterprise, endeavor to regularly attend meetings and must acquire a broad knowledge of the business of the enterprise so that productive & meaningful direction is given to management;

b) Aware of and conversant with the statutory and regulatory requirements affecting the enterprise and thereby of the society in which it operates;

c) Free of any material interests or relationships with the enterprise, its management and the ownership entity that could jeopardize the exercise of objective judgment.

2) A board member should avoid conflicts of interest. Full and timely disclosure of any conflict, or potential conflict, must be made known to the board. Where an actual or potential conflict does arise, a board member should at least refrain from participating in the debate and/or voting on the matter;

3) In the case of continuing material conflict of interest, the board member should resign from the board.

4) Board members must not make improper use of information acquired while serving in their positions as board member or board chair. This prohibition applies irrespective of whether or not the board member, or any person closely associated with him/her would gain directly or indirectly a personal advantage or whether or not the enterprise would be harmed.

5) Board members should not obtain, attempt to obtain, or accept any bribe, secret commission, or illegal inducement of any sort and this should be actively discouraged throughout the enterprise with appropriate and legal sanction measures where it is found to have taken place.

11. Meeting of the Board

1) Meetings of the board shall be held at least once every month. To convene a board meeting, prior notification of date, time and agenda items shall be made to each board member.

2) The board is encouraged and expected to plan its meetings for the year and execute them accordingly;

3) The board meeting minutes and/ or audio recordings of the board meeting shall be maintained all the time by a secretary;

4) Board may pass decisions on the basis of consensus or majority vote as the case may be;

5) The board should allow every board member to play a full and constructive role in its affairs.

6) A board member should be allowed and be able, where necessary, to express disagreement on certain decisions or positions taken by other board members and this shall be explicitly stated in the minutes;

7) Board should avoid or discourage un productive dialogues and ensure early preparedness, punctuality, and focus on substantive and relevant matters;

8) The board may ensure the presence and facilitation of its office in the enterprise to handle and manage its records, reports, documents, and correspondences;

Chapter IV

Board Committees and their Responsibilities

12. Board Committees

1) The board shall establish sub-committees, composed of independent and qualified members and/or expertise, to support the board in its functions.
2) Each sub-committee should be formally assigned by the board with properly written mandates and chairperson.
3) The board shall establish such sub committees as audit and risk management committee, finance committee, strategy and business development committee.
4) As per business nature and complexity of specific enterprises, the names and member size of the sub committees could vary.
5) The sub-committee's resolution on matters shall be reported to the board for decisions.
6) Competent secretaries shall be assigned to each sub-committee by the general manager from among the employees and minutes shall be held accordingly.
7) Each sub-committee, as a conference body, shall be composed of a minimum of three members to function smoothly. Sub-committees may use enterprise employee or outside expertise as found relevant for their duties.

13. Duties and Responsibilities of Audit and Risk Management Committee

Audit and Risk management Committee shall:

1) Ensure that management has laid down properly defined framework, plan and procedures for risk assessment and management;
2) Periodically review the proper management and control of risk factors by the enterprise;

3) Fully understand the business risk factors affecting the ability of the enterprise to achieve its purpose, so as to enhance owner value in the long term;

4) Review risk exposure of the enterprise as related to the overall enterprise portfolio and impacts on earnings;

5) Have at least one member possessing professional knowledge of auditing. The other two members are not required to have professional license, but shall have basic understanding of accounting standards, financial reporting, and the internal control systems.

6) Appraise the performance and propose to the board the appointment and dismissal of persons heading internal audit and risk management units;

7) Review reports of external auditors and present suggestion to the board;

8) Ensure that appropriate measures are taken by management as per recommendations provided by audit and risk management reports;

9) Check the existence and effectiveness of property management system and procedure in the enterprise;

10) Receive supports from employees performing risk assessment and internal auditing operations;

11) Hold meetings at least once each quarter to review quarterly reports on audit and risk findings. If need arises, the committee may demand the attendance of the management, financial officers, chair of an internal audit and/or risk management unit or external auditors.

12) Ensure that the internal auditing and risk management units of the enterprise perform their duties independently;

13) Oversee that risks are rated and reported so that appropriate mitigation measures are taken by the senior management;

14) Review and approve model risk management, internal auditing standards and validation of the frame works;

15) Ensure the timely accounts closing and preparation of financial statements of the enterprises by the management for external auditing;

16) Advise the Board on the financial reports and statements of the enterprise.

14. Duties and Responsibilities of Finance Committee

The Finance committee shall:

1) Review and analyze financial performance of the enterprise against plan and acceptable standards;

2) Evaluate and analyze the debt and liability paying capacity and actual performance therewith of the enterprise;

3) Evaluate and recommend on the financial health of the enterprise;

4) Ensure the deployment of International Financial Standards and Reporting System, IFRS by the enterprise and creation of enterprise internal capacity to sustain the system;

5) Make recommendations to the board regarding financing options used by the enterprise;

6) Review the financial exposure of the enterprise together with mitigating strategies;

7) Oversee whether major actions taken by management with respect to financial matters are consistent with internal controls;

8) Review the cash flow status and impacts of major investments and certain transaction arrangements on enterprise viability;

9) Review the adequacy of systems, processes, organizational structure to manage financial affairs.

15. Duties and Responsibilities of Strategy and Business Development Committee

Strategy and Business Development Committee shall:

1) Oversee the preparation and development of the strategic and integrated annual business plans for the enterprise;
2) Ensure that enterprise focuses on and addresses future growth variables as R & D, digitalization, innovation, human capital and systems;
3) Regularly Monitor the implementation of mutually agreed strategies, policies, management performance criteria and business plans;
4) Ensure that key performance indicators are benchmarked against industry norms and best practices to assure the competitiveness and long-term sustainable development of the enterprise;
5) Review the trend of market in which the enterprise operates and develop recommendations on future drivers of value;
6) Support the enterprise to successfully identify and execute strategic objectives.

Chapter V

Senior Management and Internal Control Systems

16. Duties and Responsibilities of General Manager

For the success of public enterprises, general manager shall:

1) Prepare policies, high level strategies and business goals, annual plans and implement the same after approval by the board;

2) Prepare periodic and upon demand performance reports of the enterprise and present to the board;

3) Perform continuous internal and external environment scanning, organization health survey, benchmarking, stakeholder analysis, and develop responsive strategies;

4) Make the enterprise the learning organization so as to adapt to the new challenges and exploit opportunities;

5) Fully exercise powers and duties vested on it and be responsible for the current operations and future developments of the enterprise;

6) Ensure business need based and integrated human capacity building framework development and its implementation;

7) Develop appropriate organizational structure and implement the same upon approval by the board;

8) Deploy modern and pertinent working systems and tools in the enterprise;

9) Regularly review processes and procedures to ensure the effectiveness of its internal systems of control, so that its decision-making capability and the accuracy of its reporting and financial results are maintained at a high level at all times;

10) Ensure integrity of the accounting, financial control and reporting systems;

11) Identify key risk areas of the enterprise and ensure that risks are taken with appropriate mitigation mechanisms;

12) Identify key performance indicators of the enterprise and monitor factors driving performances;

13) Design and deploy efficient internal control system and establish an internal audit function;

14) Promote corporate culture that supports enterprise and innovation, with appropriate performance-based rewards;

15) Promote goodwill and a reciprocal relationship with stakeholders and outline a policy determining its conduct and relationships with stakeholders identified as having a legitimate interest in the activities of the enterprise.

17. Risk Management

The risk management system of an enterprise shall be established in a manner that enables to:

1) Identify key risk areas, understand, and fully appreciate the business risk factors of the enterprise and monitor these factors;

2) Lay down procedures for risk identification, assessment and management;

3) Ensure proper risk mitigation strategies are put in place and implemented;

4) Benchmark business risk and key performance indicators against industry norms and best practices;

5) Ensure that the enterprise is directed towards achieving its primary economic objectives of profit and growth through efficient resource utilization and compliance;

6) Apprehend and advise on strategic risk areas to assure the long-term sustainable development of the enterprise.

18. Internal Audit System

1) Internal audit shall perform auditing operations faithfully by maintaining independence from the management, board, and the Agency.

2) Internal audits shall be performed by qualified or certified auditors employed by the enterprise.

3) Internal audit shall annually prepare its plan on the basis of enterprise risk exposure and unique enterprise scenarios. The plan so prepared shall be submitted to the board for review and endorsement;

4) Internal auditors shall not reveal, unless required by law, any confidential corporate information learned while auditing.

5) Internal auditors shall at least perform the following functions:

   a. Audit the management's execution of operations, projects, capacity building programs, resource management, etc.;

   b. Review the soundness of financial activities and the comprehensive application of the enterprise financial reporting system using IFRS;

   c. Review the adequacy of major accounting standards and changes in accounting estimates;

   d. Evaluate internal control systems and property management practices and recommend actions for improvement;

   e. Review compliance of the enterprise to the Governance Directive as well as to pertinent and applicable laws and guidelines set out by appropriate organs;

   f. Ensure appropriate and timely measures are taken on previous internal and external audit findings;

   g. Ensure adequate staff and resources are made available to its functioning and delivery by the enterprise management;

19. External Audit

1. The financial statements of an enterprise shall be audited annually by external auditors appointed by the Agency;
2. Extracts of the findings of reports of the external auditors shall be published annually in line with article 20 (5) of this code.
3. External auditors may not audit an enterprise for more than three consecutive years;
4. External Auditors shall prepare their reports in accordance with the accepted international accounting and auditing standards.
5. The board shall meet the external auditors, at least once in a year, in the presence of the absence the general manager as the case may be.

Chapter VI

Stakeholders, Disclosure and Codes of Conduct

20. Stakeholders Rights and Responsibilities

1) There shall be a clear separation between the state ownership function and other state functions to avoid unnecessary interventions in the normal affairs of the enterprise;

2) Enterprise relations or transactions with other financial and non-financial public enterprises shall be governed on the basis of mutual gain and business orientations.

3) Enterprises should not be used as vehicles for financing political activities. Public enterprises should not make political campaign contributions to any parties or to religious groups.

4) Public enterprises should report or disclose on their stakeholder relations, including where relevant and feasible, with regard to labor, creditors, suppliers, important legal matters in hand, communities, etc.

5) Rights of stakeholders shall be respected and protected by the enterprise in accordance with pertinent laws and binding agreements entered into.

6) Enterprises shall observe rights of creditors while legally dealing with acquisitions, mergers, capital decrease, and split or split of mergers;

7) Enterprise shall make every effort to maintain and improve labor health and safety conditions, consider and provide for the persons with disabilities, women, minorities and youth and children as per the existing laws acceptable moral standards in its dealings.

8) Enterprise shall not be negligent of its social responsibilities, such as consumer protection, environmental protection and community development within its means and resources.

9) The form and level of employees' participation in corporate governance shall be determined by the management and Board so as to add values and achieve sound development of the enterprise.

10) Quarterly labor-management consultative meetings have to take place during which the management is required to expound on the business plans, quarterly and year end performances.

11) Enterprises procurements and transactions should ensure transparency, value for money, competitiveness, and fairness.

21. Disclosure

1) Enterprises shall disclose performance information in a timely and accurate manner that may materially influence the decision-making of the Agency and other stakeholders.

2) The disclosure report shall include, among others, the following information:

   a. Costs incurred and sources of finance as result of perusing public policy objectives should be disclosed. This relates to non-viable undertakings executed on the order and financing of pertinent Government organs in the public interest;

   b. Public enterprise should report material financial and non-financial information in line with international standards;

   c. Clear statement of the public enterprise objectives, businesses, strategies and their fulfillment status;

   d. Financial condition and operational performances of enterprises;

   e. Profiles and composition of board members, sub-committee members, board allowances and remunerations should be disclosed yearly;

   f. Any material foreseeable risk factors, business climate and risk elements & their management and measures taken to manage such risks;

g. External auditors reports, findings & measures taken;

h. Any financial assistance or donation received from stakeholders and the purpose to which it is used;

i. Matters that may have material influence on the financial structure or business operation of the enterprise in the mid to long term;

j. Material changes in the assets, operations, and business climate of the enterprise;

k. Capital increase or decrease of the enterprise and major investments made in other businesses;

l. Settlement of obligations including taxes, dividend, etc;

3) Enterprises shall prepare disclosure in such a way that it may be easily understood by nonprofessionals and non-technical. When using technical terms, explanations shall be attached so that the general public may easily understand.

4) The Agency should develop consistent reporting framework on public enterprises performances and publish annually an aggregate report in both Amharic and English languages.

5) Each enterprise should issue its disclosure annually at the end of each fiscal year and should publish in both English and Amharic languages.

22. Code of Conduct and Ethics

1) The Boards of each public enterprise shall formulate the code of conduct for themselves and senior Management Personnel and the code of conduct would, inter alia, include the followings:

A. Act to the best interests of and fulfill their fiduciary obligations to the public enterprises;

B. Act honestly, fairly, ethically and with integrity;

C. Conduct their duties and responsibilities in a professional, courteous, and respectful manner and not taking improper advantage of the positions assumed;

D. Act in a socially responsible manner, within the limits and content of applicable laws, rules and regulations, customs and traditions of the country;

E. Comply with communication and other policies of the enterprise;

F. Act in good faith, responsibly, with due care, competence and diligence, and independent judgment;

G. Not to use the public enterprises' property or position for personal gain;

H. Not to use any information or opportunity received by them in their capacity as board members senior management and personnel in a manner that would be detrimental to the public enterprises' interests;

I. Act in a manner to enhance and maintain the reputation of the enterprise;

J. Disclose any personal interest that they may have regarding any matters that may come before the Board and abstain from discussion, voting or otherwise influencing a decision on any matter in which the concerned Board member has or may have;

K. Respect the confidentiality of information relating to the affairs of the enterprise acquired in the course of their service as Board members, senior management and personnel except when authorized or legally required to disclose such information;

L. Help create and maintain a culture of high ethical standards and commitment to compliance;

M. Keep the board informed in appropriate and timely manner important decisions made critical for the enterprise;

N. Treat the other members of the board and other persons connected with the enterprise with respect dignity, fairness and courtesy.

23. Applications of Laws and Regulations

Wherever and whatever not mentioned in this Code but upheld in other such laws and regulations as Public Enterprise Proclamation 25/ 1992, regulation 445/2019, etc. shall be fully applicable in areas pertinent.

24. Effective Date

This corporate governance code shall enter in to force on the approval date by the Director General of the Agency.

Approval Date: July 19/ 2019

Signature

Beyene G/Meskel
Director General