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EXECUTIVE OFFICE OF THE PRESIDENT
CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE

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Ref. No. **OP/CAB.9/1A**
and date

April 3, 2023, 20.....

The Attorney General

All Cabinet Secretaries

All Principal Secretaries

**RE: SEPARATION OF ROLES BETWEEN BOARDS OF
DIRECTORS AND MANAGEMENT OF STATE CORPORATIONS
AND AGENCIES**

The Mwongozo Code of Governance for State Corporations, which forms the guiding policy framework for the governance of state corporations and agencies, provides at clause 1.22, that the role of the Board should clearly be separated from that of the management. This principle of separation of roles is well established, as the board's main responsibility is to monitor the operations of the corporation, by providing policy, strategy and oversight, and by ensuring that it is being run in conjunction with its mandate, and the will of the shareholders.

Further, clause 3 of the letters of appointment of chairpersons and members, includes a specific provision on separation of powers. It requires appointees to "*observe the principles of separation of powers...ensure that the role of the Board remains that of policy formulation, directing and monitoring, and that of the Chief Executive will be policy implementation and management of day-to-day affairs of the Corporation, with engagement with management only being undertaken through the office of the Chief Executive Officer*" (copies of issued templates attached for reference).

This office has received information to the effect that some Boards of Directors are unduly performing executive functions. These include engagement in internal management controls and operations, assignment

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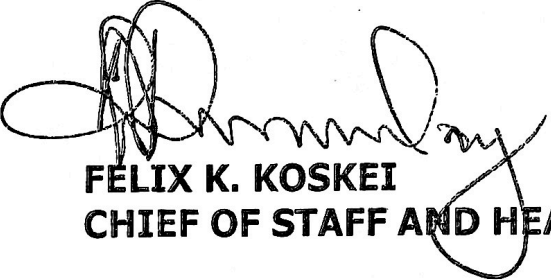
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and deployment of staff and routine project inspections. We have also noted an enhanced demand for elaborate facilitation including offices, vehicles, and equipment outside of approved provision, despite the part time status of these positions.

Boards of Directors are expected to adhere to the prescriptions of the Mwongozo, and specifically as relates to separation of powers. Board Chairpersons in particular, must refrain from engaging in day-to-day operations of the corporation, and direct their members accordingly. The Board is expected to have in place necessary mechanisms for the management to report on executive actions for purposes of oversight, including the use of the internal audit function.

To secure compliance, Principal Secretaries are directed to bring this matter as a substantive agenda item in the next scheduled Board Meeting of their respective state corporations, and report back on the resolutions adopted thereto.

Separately, and with specific reference to Circular Nos. OP/CAB.9/1A dated 25th November 2022 and 1st February 2023 respectively, on the Guidelines for appointment of Chairpersons, Members and Chief Executive Officers of State Corporations (copies attached), Ministries and State Corporations are reminded to **strictly adhere to the directive to seek this office's concurrence prior to appointment/re-appointment of Chief Executive Officers**. By a copy of this letter, Board Chairpersons are required to take note and secure compliance thereof.



FELIX K. KOSKEI
CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE

Copy to: Mr. George N. McGoye, EBS
Chief of Staff
Office of the Deputy President
NAIROBI

Mr. Joseph Busiega
Chief of Staff
Office of the Prime Cabinet Secretary
NAIROBI

Chairpersons of State Corporations

**Chief Executive Officers/Accounting Officers of
State Corporations**