

DRAFT



REPUBLIC OF KENYA

PUBLIC SERVICE COMMISSION

**GUIDELINES ON THE BOND FOR TRAINING PUBLIC
SERVANTS**

2018

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Definition of Terms

Authorized Officer	- Any officer, body or authority appointed to perform the HRM&D functions in a public organization
Bond Merger	- Combining two bonds into one bond period and amount
Bondee	- Employee who is serving a training bond obligation
Training Bond Form	- Instrument for executing the bond
Concurrent Bonds	- Two bond obligations running simultaneously
Liquidated Damages	- The stated amount which a Bondee commits to pay to the Government if he/she fails to serve the entire bond period
Long Course	- A training program lasting six months and above
Part-Time Courses	- These include all sandwich/school based /online/e-learning/distance learning sponsored or self-sponsored where the trainee uses part of Government working time for training
Prorated	- Computation for the period served proportionate to full period
Public Servant	- Any person other than a state officer who holds a public office
Public Service Organizations	- Public bodies that are fully or partially funded by the exchequer and exists to provide services to the public
Redeem Bond	- Discharge or absolve the bond obligation
Self-Sponsored Course	- Training program funded by employee
Short Course	- A training program lasting less than six months
Surety	- A person who formally accepts responsibility to locate a bondee and/or redeem the bond obligation of a bondee who defaults or appears in a court of law in respect of the same
Training Bond	- A formal agreement between a public service organization and an employee who undertakes approved training that oblige her/him to serve in the Public Service for a specified period of time after completion of training

Abbreviations

M&E	Monitoring and Evaluation
GHRIS	Government Human Resource Information System
HR	Human Resource
HRM	Human Resource Management
HRMAC	Human Resource Advisory Committee
HRM&D	Human Resource Management and Development
ID	National Identity Card Number
PIN	Income Tax Personal Identification Number
PSC	Public Service Commission
SCAC	State Corporations Advisory Committee

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Foreword

The Government recognizes that the potential for excellent service delivery lies in its employees. It is also aware that to maintain a committed, competent and innovative workforce, there is need to enhance employees' opportunity to develop skills and abilities for work performance, career and personal development.

Through regulations, policies and guidelines issued by the Public Service Commission, the Government supports and encourage continuous learning for all categories of public servants, as an integral part of its people management strategy. Investing in people is important and like all investments, the Government expects a considerable return, in the form of successful application of the new knowledge, skills and competencies, as reflected in productivity and quality of service delivery. This necessitates the need for bonding employees for a period of obligatory service within the public service after training. Through bonding, the Government is able to safeguard the interest it has in employees continued services, after expending time and training resources.

The Bonding Guidelines for the Public Service have been developed with a view to enhancing the mutual cooperation and understanding between public service organizations and their employees; where the former obtains the benefit of highly skilled employees while the latter acquires skills and knowledge that often benefit them beyond their immediate work environment.

**CHAIRPERSON
PUBLIC SERVICE COMMISSION**

Preface

The Government of Kenya has continued to invest heavily in training public servants to enable them become more adaptive to work dynamics, and globally competitive to ensure efficient and effective public service delivery. Bonding trained public servants ensures that beneficiaries of the Government training remain in the Service for a specified period of time to ensure that the Public Service benefits adequately from the knowledge, skills, competencies and positive attitudes acquired by the employees who have undergone training.

Comprehensive guidelines on bonding trained public service officers were first developed in 2011. Over the years, a number of legislations have been developed and several HR policies developed or reviewed which necessitated review of the 2011 version. The reviewed guidelines shall be read alongside other relevant legislations and policy documents where applicable.

Participatory approach is crucial for successful implementation and management of the guidelines on the training bond. This calls for all stakeholders and public servants responsible for HRM&D to take personal responsibility and ensure that the Government gets value for the colossal amount of money spent in training public servants through effective enforcement and management of these guidelines.

**DR. Alice A. Otwala (Mrs), CBS
SECRETARY/CEO
PUBLIC SERVICE COMMISSION**

1.0 INTRODUCTION

1.1 Background

The Government of Kenya recognizes that its potential lies in its people; their creativity, work ethics, education, entrepreneurial and other skills. It has therefore continued to invest heavily in training its employees with a view to creating a globally competitive and adaptive Human Resource (HR) base to meet the ever increasing citizenry's demand for quality service delivery.

The Public Service Commission is constitutionally mandated to develop human resources in the Public Service. Section 56(1) (b) of the PSC Act, 2017 mandates the Commission to prescribe procedures and instruments governing the development of human resources in the public service. Further section 56 (1) (c) requires the Commission to prescribe measures for prudent utilization of training funds in the Public bodies.

Human resource development entails among others sourcing and providing training opportunities for the public service employees. It is recognized that training is an expensive venture and public service organizations expect considerable return on investment. This is achieved through binding the trained officers to serve in the public service for a stipulated period of time to facilitate transfer of knowledge, skills, and competencies. The overall intention of the bonding process is to allow for full utilization of knowledge, skills and competencies acquired through training.

Over the years, the Government has been bonding its employees using various instruments until April 2011, when Guidelines on Bonding Public Service Trainees were issued to the service. Since then, a number of legislations, regulations and HR policies have been developed or reviewed which necessitates review. Guidelines on the training bond shall be read alongside other relevant legislations and policy documents where applicable.

1.2 Policy Statement

The Government shall continue bonding serving public servants proceeding on approved courses of training lasting six months and above mounted locally or abroad to enable the Government benefit adequately from its investment in training. This will also apply to short programmes lasting below six months whose value and costs are considered high as to constrain the organization's training budget.

1.3 Rationale for Bonding

The Commission is mandated to promote values and principles of the public service as well as develop human resources in the public service. One of the values and principles of public service is efficient, effective and economic use of public resources. Bonding is a strategy that ensures trained employees are retained in the Service for a specified period of time to facilitate utilization of knowledge, skills and competencies acquired while on training. Through bonding, the Government gets value for its investment in training while enhancing capacities and capabilities for efficient and effective public service delivery.

1.4 Objectives of the Guidelines

The general objective of the guidelines is to provide clear procedures to ensure consistency in the application of the bonding process in the Public Service.

Specific objectives of the guidelines are to:

- i. Ensure uniform and coherent approach to the bonding process;
- ii. Provide framework for the implementation and administration of bonding;
- iii. Ensure effective transfer of knowledge, skills and competencies acquired during

- training; and
- iv. Provide mechanisms for monitoring and evaluation of the bonding process.

1.5 Scope of the Guidelines

These guidelines cover all public service organizations and will apply to all serving public servants who proceed on training.

2.0 BONDING PROCEDURES

The procedures described below will be followed in the process of bonding.

2.1 Determination of Bond Period and Amount

A bond shall be determined by either the duration and/or the cost of training.

i). Bond Period Determined by Course Duration

Training Period	Bond Period
a. Six (6) months up to one (1) year	One (1) year
b. More than one (1) year up to two (2) years	Two (2) years
c. More than two (2) years up to three (3) years	Three years
d. More than three (3) years	Bonded for full course duration but not more than Five (5) years

ii). Bond Period Determined by Cost of Training

Where the organization considers the cost of a short term training program to be high and constraining the organization's training budget, the officer will be bonded for a minimum period of one year but not exceeding five years. For the purposes of these guidelines, short term training programmes are defined as those courses or seminars that involve learning or professional /technical/specialized training for duration of below six months.

2.2 Determination of Bond Amount

The bond amount will be determined by the mode of study, cost of training, sponsorship and duration of training.

i). Determination of the Bond Amount Based on Mode of Study and Sponsorship

The amount of bond shall be determined according to the mode of study and sponsorship as follows:

Mode of Study/Sponsorship	Parameters for determining Bond Amount
Full-time sponsored	Total cost of training plus the gross salary for the duration of training less applicable training levy
Full-Time self-sponsored	Gross salary for the duration of training
Part-Time sponsored	Total cost of training
Own Time Sponsored	Total cost of training
Own Time Self-Sponsored	No bonding except where the officer claims 50% reimbursement in which case the refundable amount constitutes the bond amount

ii). Cost components of the bond (As Applicable)

- a. Tuition;

- b. Dissertation/research/thesis/project allowances;
- c. Insurance fee;
- d. Library/computer/examination fees;
- e. Travel/transport expenses;
- f. Gross salary for the period of the course in months less 10% (for local) or 20% (for foreign) training levy;
- g. Book allowance;
- h. Living/subsistence allowance; and
- i. Any other approved training expenses

2.3 Liquidated Damages

An employee who leaves the employing organization before the expiry of the bond period shall be liable to pay liquidated damages to the organization. The damages will comprise the whole amount of the bond. The Bondee and/or Surety(ies) will be required to redeem the bond amount in lump sum in case of default. The organization will reduce the liquidated damages in proportion to the length of the bond period served by the Bondee i.e. prorated. Any incomplete months will be calculated to the nearest month.

The liquidated damages will be calculated as illustrated below:

Given that the full bond amount is Ksh. 800,000 and the bond period is 2 years (24 Months) with effect from 1st January, 2018. If the employee secures employment in a private organization and wishes to resign, and had served his last day on 20th June, 2019, he shall be deemed to have served 18 months of the bond period.

The pro-rated amount to be redeemed shall be 24 months minus 18 months= 6 months which will be the balance of the months not served. The Prorated Redeemable Amount will be:

Ksh. 800,000x 6 months/24 months = Ksh. 200, 000 will be the pro-rated amount to be redeemed.

2.4 Discharge of the Bond Obligation

(a) The Bond obligation will be deemed to have been discharged when:

- i. The Bondee completes the bond period;
- ii. The Bondee or Surety (ies) fully redeems the bond;
- iii. The service of the Bondee is terminated by the employer;
- iv. The Bondee is declared permanently incapacitated on recommendation of a medical board; or
- v. The bondee dies.

(b) The Bondee and the Surety(ies) shall be notified of the discharge of the bond obligation within 21 days from when s/he completes the bond period or bonded amount is fully redeemed.

2.5 Eligibility for Bonding

Bonding shall apply only to the public servants serving on permanent and pensionable terms of employment. Employees on probation or contract terms will only attend short term training that does not attract bonding.

2.6 Special Bond Cases

2.6.1 Bond Merger

Where a bondee is awarded a second scholarship by a development partner and the same is approved by the relevant authority the Bondee will be required to enter into a second bond. The two bonds shall be combined and the bond period shall not exceed five years.

2.6.2 Concurrent Bond

Bonds may be served concurrently where an officer has been bonded for a long training program but before completion of bond period s/he is awarded a short course in specialized/critical area that attracts bonding.

2.7 Bond Obligation

In case of a transfer from one public organization to another during the period of the bond, the relevant Government entity must be advised of the change. The immediate supervisor of the Bondee shall inform the officer responsible for the Human Resource Management and Development about the change.

Where the Bondee initiates termination of employment s/he shall fully redeem the bond, whereas the Government shall write-off the bond obligation if it initiates the termination process.

2.8 Transfer of Bond Obligation

Should a Bondee take an appointment in a public service organization during the period of the bond, the remaining bond shall be transferred to the new entity. In case of an appointment in a private sector organization the bond shall be redeemed in full.

2.9 Breach of Bond Agreement

- i. An employee who fails to comply with the terms of the bond shall be deemed to have breached the agreement and will be required to redeem the bond in full or as pro-rated.
- ii. Where administrative efforts to redeem the bond fails, the organization shall institute legal action to recover the bond amount.
- iii. If a Bondee fails to complete a course of training for reasons which cannot be justified, s/he and/or Surety/(ies) will be liable to repay the cost of training incurred.

2.10 Sureties

2.10.1 Number of Sureties

Every Bondee shall secure two eligible persons to serve as sureties, who will co-sign the bond agreement.

2.10.2 Qualifications of a Surety

A person will qualify to be a surety if s/he is:

- i. A public officer;
- ii. At a grade comparable, same or higher than the Bondee;
- iii. Of an age that enables her/he to serve for the duration of the bond;
- iv. Not a surety for more than five (5) Bondees at any given time;
- v. Not a surety for more than three (3) Bondees if serving a bond; and
- vi. Not bankrupt.

2.10.3 Death of a Surety

In the event that a Surety dies before the bond agreement has been fully discharged, the Bondee has an obligation to inform the relevant authorized officer and the remaining Surety shall guarantee the bond.

2.10.4 Surety(ies) Commitment

- i. Should the Bondee forfeit the agreement and fail to redeem the bond amount, the Surety(ies) shall be required to pay all monies outstanding after reasonable attempts have been made by the organization and the Surety(ies) to locate the Bondee.
- ii. The Surety(ies) will indemnify the organization against all legal and administrative costs that will be incurred by reason of any default on the part of the Bondee.

2.10.5 Release of Surety

The Surety(ies) will be released from her/his obligations under this agreement when the Bondee serves the bond period, redeems the full bond amount, or if s/he dies.

2.11 Bond Form

- i. The bonding process will be effected by completing a bond form in triplicate in the presence of a Magistrate, Commissioner of Oaths, or the Legal Officer of the Bondee's organization.
- ii. The copies of the forms will be maintained in the organization's subject file and Bondee's personal file with a copy to the Bondee.
- iii. The officer responsible for Human Resource Management and Development must ensure the Bondee reads the contents of the agreement and then sign as a witness and append the official stamp. The bond form is attached as appendix I.

3.0 INSTITUTIONAL FRAMEWORK

The institutions responsible for implementation of these guidelines are as detailed below.

3.1 Public Service Commission (PSC)

The Commission shall:

- i. Prepare and issue guidelines on training bond and monitor implementation through quarterly reports from the public organizations to ensure compliance; and
- ii. Develop and maintain a data bank of all bonded public servants.

3.2 Ministry Responsible for the Public Service

The Ministry shall provide technical advice and coordinate implementation of the bonding guidelines.

3.3 State Corporations Advisory Committee (SCAC)

The State Corporations Advisory Committee shall:

- i. Monitor implementation of the guidelines to ensure compliance in all state corporations; and
- ii. Submit status reports to the Public Service Commission.

3.4 Public Organizations

Responsibilities in administration of bonding in public organizations will be as follows.

3.4.1 Authorized Officers/Chief Executive

Respective Authorized Officers/Chief Executive Officers will be responsible for the administration and effective implementation of the training bond procedures and processes.

3.4.2 Human Resource Management Advisory Committees (HRMAC)

Human Resource Management Advisory Committees shall ensure that various provisions of these guidelines are implemented including:

- i. bonding of all serving officers proceeding on training that require bonding; and
- ii. In instances where bonding is necessitated by the cost of the training, the Committee shall determine the bond period in accordance with these guidelines.

3.4.3 Officer responsible for Human Resource Management and Development (HRM&D)

The officer has responsibility of:

- i. Ensuring that all the provisions of these guidelines are adhered to and enforced; and
- ii. Offering guidance on the bonding process, maintain a record of all bonded employees and communicate to both the Bonded and the Surety (ies) upon lapse of the bond period.

4.0 MONITORING AND EVALUATION

Monitoring and evaluation is critical in ensuring that the objectives set out in these guidelines are achieved.

4.1 Monitoring and Evaluation Activities

Specific activities for monitoring and evaluation include;

- i. Correct and timely completion of the training bond form;
- ii. Safe custody of the executed training bond form and the attachments;
- iii. Receipt of back-to-work reports and course completion certificates;
- iv. Provision of information on the deployment of the bonded officers;
- v. Tracking the performance of the bonded officers during training;
- vi. Recording the turnover of the bonded officers;
- vii. Bond period completion certification;
- viii. Clearance of the bonded officer on transfer;
- ix. Maintenance of records of redeemed, forfeited and transferred bonds;
- x. Development of a framework for tracking the bonding process;
- xi. Submission of quarterly and annual progress reports on bonded officers to the Public Service Commission;
- xii. Development and maintenance of data bank of all bonded public servants; and
- xiii. Inter-linkage with the Government Human Resource Information System (GHRIS) and other data systems in the Public Service for ease of monitoring.

4.2 Reporting period

Public service organizations shall prepare and submit to the Public Service Commission status report on all officers bonded while training on quarterly basis.

5.0 REVIEW OF THE BONDING GUIDELINES

The Guidelines on the Training Bond for the Public Service shall be reviewed every five years or as need arises to take into account emerging issues.

Appendix I: Training Bond Form for Public Servants



REPUBLIC OF KENYA

AFFIX RECENT COLOURED
PASSPORT/PHOTO

(Please use block letters to complete this form in triplicate and attach a recent colour passport size photograph)

I.....
(Bonded's full names)

Designation:

Employment No.:..... ID/Passport No:.....

PIN No: Mobile No:.....

E-mail:

Organization:

Address: Postal Code:.....

Town: Telephone No:.....

Commit myself to serve in the *(Indicate name of organization)* for..... years upon completion of the course in.....

(Program title)

held at.....
(Training Institution)

From: To:

And:
(First surety full name)

Designation:

Employment No.:..... ID/Passport No:.....

PIN No:Mobile No:

E-mail:

Organization:

Address: Postal Code:.....

Town:Telephone No:

And:

(Second surety full name)

Designation:

Employment No.:..... ID/Passport No:.....

PIN No:Mobile No:.....

E-mail:

Organization:

Address:Postal Code:.....

Town:Telephone No:

We (*Bondee/1st Surety and 2nd Surety*) jointly and severally bind ourselves to pay unto the Government of Kenya (*here in after called "the Government"*) on demand the sum of Kenya Shillings **(In words.....In figures).....** On account of the Bondee defaulting to serve the bonded period of.....years.

Signed on this.....day of.....in the year Two thousand and

Whereas for the better protection of the Government interests, the above Bondee has agreed to execute the bond and comply with the conditions set out here-under:

1. Every serving officer granted a course approval to pursue a course of study tenable in or outside Kenya is required to comply with the following rules:
 - a. To proceed to the recognized institution and begin the course of study for which the approval was granted and to continue with such studies for as long as prescribed unless he/she is prevented from so doing by sickness proved by a certificate from a recognized Medical Practitioner or by circumstances beyond his/her control recognized as such by the Authorized Officer or any other person in that behalf;
 - b. To devote his/her whole time to following the course of instruction for which the approval is granted unless permission to undertake other work or studies or to modify his/her course content or duration is granted;
 - c. Not to engage in any occupation or activity which is considered detrimental to his/her progress in the course of studies prescribed for him/her and/or detrimental to his/her health;

- d. To satisfy the organization as to attendance, conduct and progress by a report from the Head of the institution or such other approved person at the institution in which he/she is studying;
 - e. To comply with the scholarship conditions;
 - f. To sit for and pass any prescribed examinations or approved group of examinations within the time fixed by the authorities of the institution at which he/she is attending, unless he/she is prevented from so doing by sickness proved by a certificate from a recognized Medical Practitioner or by circumstances beyond his/her control recognized as such by the Authorized Officer or any other person on his/her behalf;
 - g. To complete the course within the stipulated period and resume duty;
 - h. On resumption of duty to continue in the service for a period as per the aforementioned bond agreement;
 - i. The commencement date of the bond will be either the earliest dates the employee reports to work station after completion of training; or the date the employee goes on annual leave immediately after completion of training;
 - j. All Bondees will be required to sign this declaration in the presence of a magistrate, Commissioner of Oaths, or organization's Legal Officer; and
 - k. An officer under bond obligation who privately secures employment in the private sector will be required to redeem the bond in full.
2. The obligations contained in this agreement shall also be governed by the terms and conditions of employment in the Public Service and will bind and be paramount to any subsequent terms of appointment unless his/her bond is first terminated by the organization.
3. This Training Bond Form together with the Bonding Guidelines for the Public Service shall constitute a formal agreement between the bondee and the organization.
4. In the event of breach of any or all of the above conditions by the bondee, the above written bond shall remain in full force and effect and the agreed bond amount shall be forthwith payable to the respective authorized officer on behalf of the Government of Kenya, by way of liquidated damages, and not as a penalty and in case of his/her failing to do so, by the Surety(ies) jointly or severally.

THE ABOVE WRITTEN OBLIGATIONS will be discharged if:-

- (i) The bondee completes the bond period;
- (ii) The bondee or Surety(ies) fully redeems the bond;
- (iii) The service of the Bondee is terminated by the employer;
- (iv) The bondee is declared permanently incapacitated on recommendation of a medical board; or
- (v) The bondee dies.

Signed, sealed and delivered by:-

Bondee Name:.....Signature.....Date:.....
(Bondee)

First Surety; Name:.....Signature:.....Date:.....
(First Surety)

Second Surety; Name:.....Signature:.....Date.....
(Second Surety)

in the presence of Commissioner of Oaths /Magistrate/ Organization's Legal Officer

Name:.....Signature:.....Date:.....
(Seal)

DECLARATION

I *(Name of Bondee)*

Hereby declare that I have read the foregoing rules and conditions and agree to abide by them.

Signature: **Date:**

I certify that the Declaration was both read and signed by the officer in my presence on the day of 20.....

Name.....Signature.....
(Witness: Officer responsible for HRM&D in the respective Organization)

(Official Stamp/Seal).....