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Forensic Audit of the CDF Secretariat Bank Transactions and Expenses

Constituencies Development Fund

TABLE OFFICE
S/No.
16 JUL 2013
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Abbreviations

The following abbreviations have been used in the report:

Abbreviation	Full description
Ag. CEO	Acting Chief Executive Officer
AIE's	Authority to Incur Expenditure
KCB Kipande branch	KCB Kipande House branch
BFIU	Banking Fraud Investigations Unit of the Central Bank of Kenya
CDF Board	The CDF Board established by the CDF Act of 2003 as ammended in 2009
CBK	Central Bank of Kenya
CDF	Constituency Development Fund
CEO	Chief Executive Officer
CFC	Parliamentary Consituency Fund Committee
CMFS	Chief Manager Financial Services
CPA-K	Certified Public Accountant of Kenya
Dept	Department
DCL	Deloitte Consulting Limited
EFT	Electronic Funds Transfer
ESP	Economic Stimulus Programme
HOD	Head of Department
ICT	Information and Communication Technology
IT	Information Technology
KCB	Kenya Commercial Bank of Kenya Limited
KENAO	Kenya National Audit Office
Minister	Minister for Planning, National Development and Vision 2030
NMC	National Management Committee
MPs	Members of Parliament
OAG	Office of the Auditor General
PS	Permanent Secretary Ministry for Planning, National Development and Vision 2030
Secretariat	Constituency Development Fund Secretariat
Speaker	Speaker of the National Assembly
SN	Serial Number
ToRs	Terms of Reference
TT's	Telegraphic Transfers

URL

Uniform Resource Locator

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1 Executive Summary

1.1 Introduction

1.1.1 Pursuant to the request made by the Minister of State for Planning, National Development and Vision 2030 vide letter of Ref. MPND/4/52 dated 14 August 2012, my Office has conducted a forensic audit (investigation) into the CDF Secretariat bank transactions and expenses for the 14-month period: 1 July 2011 to 31 August 2012. This investigation was carried out on the recommendation of the Constituency Development Fund (CDF) Board.

1.1.2 The investigation was conducted between December 2012 and May 2013. This Report sets out the work done and key findings from the investigation.

1.1.3 Our terms of reference as per the CDF Board were to:

- Undertake a forensic audit of the CDF Secretariat bank transactions and expenses pertaining to the period 1 July 2011 to 31 August 2012 that are or may be available to establish authenticity of such payments;
- Examine authenticity of payments and documents referred to in (1) above in order to establish their source, initiators, issuers and validity;
- Examine all CDF Board expenditure and establish their lawfulness and value for money.
- Examine and/or investigate any transaction that would appear irregular; and
- Submit a report to the Auditor General comprising the forensic audit findings, observations and recommendations.

1.1.4 The team consisted of various individuals with skills and expertise in different fields as follows:

- Forensic auditors from the Office of the Auditor General ("OAG"), and
- Forensic auditors from Deloitte Consulting Limited ("DCL") contracted by OAG (approved by the CDF Board) and with expertise in public sector and computer forensics.

1.1.5 We have faced various constraints in the course of the assignment that have resulted in delays in the execution and completion of this engagement.

1.1.6 Specifically, the following constraints have had an implication on our ability to finalise the review on time:

- One month delay in obtaining access to the Computer that was used to perpetrate the Electronic Funds Transfer ("EFT") fraud in July 2012;
- Delays in obtaining original bank statements from KCB;
- Delays in obtaining requisite documentation and information in relation to the expenses incurred during the period under review;
- Delayed access to the information held by the Banking Fraud Investigations Unit ("BFIU"); and

- Delays in acquisition of procurement documentation as well as draft and final reports for the consultancy work done for CDF during the period under review.

1.1.7 This summary of our findings, which should be read in conjunction with the full report and restrictions set out therein, comprises the following sections:-

- 1.1 Introduction
- 1.2 Findings and conclusions
- 1.3 Responsibility and culpability
- 1.4 Possible claims by CDF & Government
- 1.5 Recommendations.

1.2 Findings and Conclusions

1.2.1 This investigation revealed a number of irregularities, override of stipulated controls, collusive behaviour amongst certain staff and weaknesses within the CDF Secretariat's internal control environment. These findings are discussed in detail in section 5 of the report.

1.2.2 The key objective of the forensic audit was to elucidate the facts around the fraudulent withdrawal of KES 39 Million from the CDF Secretariat's KCB Kipande Branch Bank Account. In addition to this, the audit revealed several anomalies and weaknesses in fixed deposits, imprest payments and Board expenditure. The audit also highlighted various internal control weaknesses and included a procurement and quality review. We discuss each of these findings below.

Fraudulent EFT Transactions

1.2.3 Following a tip-off from KCB on 2 August 2012, the CDF Secretariat discovered five unauthorised EFT transactions effected between 27 June 2012 and 30 July 2012. In total, KES 39,561,967 was stolen in these five transactions. The transactions were effected through the KCB QuickPay system.

1.2.4 In all five transactions, Mr Michael Mutulili's computer and account were used to process the transactions while Mr George Obara and Mr Yusuf Mbuno's credentials were used to approve the transactions. The three officers were at the time the Cashier, CMFS and Ag. CEO of the CDF Board respectively. The three have however denied involvement in or knowledge of any of the transactions.

1.2.5 We note that the QuickPay system was installed and accessed from a computer that was located in an open office. There is therefore the possibility of passwords being obtained through shoulder surfing. We cannot however rule out the possibility of the perpetrators obtaining the passwords through other means including the authorised officers sharing the passwords.

- 1.2.6 Due to an apparent lack of bank reconciliations or tracking of bank transactions and balances by CDF staff, the fraudulent transactions were not identified by the CDF Secretariat for more than a month and may have remained unidentified had KCB not questioned the suspicious withdrawal by one of the intended beneficiaries of the fund transfers.

Fixed Deposits

- 1.2.7 We found that the CDF Board has been and continues to invest its surplus funds in fixed deposits with commercial banks contrary to directives issued by Treasury through various circulars. Specifically, the Board invested its money in fixed deposits with KCB, Ecobank, Equity Bank, Cooperative Bank, Consolidated Bank and Family Bank.
- 1.2.8 The Board risks loss of revenue by investing in fixed deposits with commercial banks, which are more risky investments, compared to Treasury Bills and Bonds. The risk is enhanced by the failure of the Board to carry out regular due diligence on the banks it invests in.

Imprest Payments

- 1.2.9 We noted that there are CDF employees who appear to have been holding more than one imprest at a time. The employees were issued with subsequent imprest amounts when they still had imprest amounts outstanding in contravention of the Government Financial Regulations and Procedures.
- 1.2.10 We also found that some of the CDF Secretariat employees have large amounts of unsurrendered imprests. For instance, we found that Mr Wilfred Buyema appears to have had KES 14,391,684 of unsurrendered imprests as at the time of our review. This was however explained as a case of officers in the Finance department not updating the imprest register after the retirement of imprests.
- 1.2.11 The failure to update the register and secure surrender documents means that the CDF Secretariat does not know the exact amount of outstanding imprests. It further creates a risk where the surrender documents may be lost resulting in the unfair surcharge of the involved officer and opens the door to officers claiming they had retired imprests when in fact they have not.

Board Expenditure

- 1.2.12 We found that a total of **KES 2,670,000.00** may have been misappropriated or used irregularly in the form of irregular sitting allowance payments to the Board and members of staff of the CDF Secretariat.
- 1.2.13 We also observed that the CDF Board and the Parliamentary Constituencies Fund Committee members made what appear to be irregular and unauthorized foreign trips to Brazil, the UK and Tanzania during the period of our review.
- 1.2.14 In total, we traced a total of **KES 12,814,600.40** that was incurred in these trips.

Internal Control Weaknesses

- 1.2.15 In the course of our review, we came across various cases of control weaknesses. These included weaknesses associated with the cashbook; bank reconciliations; weaknesses in accounting for EFT and TT transactions, and petty cash and standing imprest.
- 1.2.16 As regards bank reconciliations for instance, we found evidence showing that the reconciliations were delayed from as early as February 2012.
- 1.2.17 We also found that the Internal Audit department was not effective in its role.
- 1.2.18 These weaknesses are detailed in section 5 of this report.

Procurement and Quality Review

- 1.2.19 As part of our ToRs, we also reviewed the process followed in procuring for some large consultancy services.
- 1.2.20 We found that whereas one of the mandatory requirements during the evaluation of bids for consultancy services, was the provision of a complete list of directors of the respective companies, the CDF Secretariat's management was unable to provide us with these lists for the successful companies. We however noted that these lists were used as a criterion to disqualify some vendors.
- 1.2.21 We further noted that although the consultancy contracts for the evaluation of CDF projects were signed on 25 August 2011, there were significant delays in the commencement of the work, which constituted a breach of the respective agreements. Some did not commence work until February 2012, long after the final report scheduled deadline, while others were yet to submit their final reports by the time of carrying out this review, in January 2013.
- 1.2.22 There was also evidence that the payments schedules as stipulated in the respective contracts were not strictly adhered to. As per the consultancy agreements between CDF and the respective consultants, the third and final payments were to be processed on receipt of final signed and approved reports. However, we noted several consultancies that were paid amounts due, in full, net of taxes, before submission of final approved reports.

Other noted areas of concern

- 1.2.23 During the course of the assignment, we came across information on wrongdoing or weaknesses that is of concern and which we summarise here.
- 1.2.24 During our interview with Mr Stephen Chege (Clerical Officer- Projects), he admitted that he irregularly benefited from bursaries from at least six constituencies in the Country. These are Nakuru Town, Narok South, Dagoretti, Central Imenti, Kathiani and Ndia. Mr Chege used the proceeds of these bursaries to finance his degree in Computer Science at a private University. According to Mr. Chege, the practice of CDF Secretariat staff irregularly benefitting from bursaries is widespread.
- 1.2.25 From our interviews with Mr Mbuno (Ag. CEO) and Mr Obara (CMFS), they both highlighted the lack of adequate and competent staff in the Finance department as well as other departments.

Both officers also indicated that top politicians influenced the employment of a majority of the CDF staff and as such, management was unable to control them. This may have contributed to some of the weaknesses in controls highlighted in this report.

1.3 Responsibility and culpability

1.3.1 We found that there is evidence to link various CDF officers to incidences of irregularities or negligent conduct. Our findings are summarised in the table below.

Name	Designation	Findings	Suggested way forward
(a) Yusuf Mbuno	Acting Chief Executive Officer	<p>Mr Mbuno was negligent in his duties. In particular, we found that:</p> <ul style="list-style-type: none"> • Mr Mbuno as the accounting officer failed to safeguard the assets of the CDF Board by putting in place systems and controls to guard against theft. • On 26 July 2012, Mr Mbuno approved the transfer of KES 100,000,000 into the KCB Account without consulting the head of Finance and before investigating why the transfer was required. This transfer allowed the final fraudulent transfer of KES 11 million on 28 July 2012. • Mr Mbuno also participated in and/ or allowed the use of CDF funds in unauthorised foreign travel by himself and other CDF officers and CFC members. 	<ul style="list-style-type: none"> • Requisite disciplinary measures in line with CDF's and/or Government policies on public officers should be instituted against Mr Mbuno for his failure to safeguard the assets of the CDF Board by putting in place systems and controls to guard against theft. • Mr Mbuno should be surcharged for the funds expended in the unapproved foreign travel and the money recovered fully. • He should be further investigated by the CID and the Ethics and Anti-Corruption Commission and charged with various offences including abuse of office.

Name	Designation	Findings	Suggested way forward
(b) George Obara	Chief Manager Financial Services	<p>We found Mr Obara to have been negligent in his duties. In particular, we found that:</p> <ul style="list-style-type: none"> • Mr Obara as the head of Finance failed to safeguard the assets of the CDF Board by putting in place systems and controls to guard against theft. He in particular did not ensure timely bank reconciliations. • Mr Obara did not investigate the transfer of KES 100,000,000 into the KCB Account on 26 July 2012 despite the transfer having happened without his approval. 	<ul style="list-style-type: none"> • Requisite disciplinary measures in line with CDF's and/or Government policies on public officers should be instituted against Mr Obara for his failure to safeguard the assets of the CDF Board by putting in place systems and controls to guard against theft. • He should be further investigated by the CID and the Ethics and Anti-Corruption Commission and charged with various offences including abuse of office.
(c) Venazio Gachara	Senior Accountant	<p>We found Mr Gachara to have been negligent in his duties. There is also a possibility of his direct involvement in the fraudulent EFT transactions. In particular, we found that:</p> <ul style="list-style-type: none"> • Mr Gachara failed in his responsibility to track the movements and balances in the CDF KCB Account. • On 26 July 2012, Mr Gachara transferred KES 100,000,000 into the KCB Account without Mr Obara's (the Chief Manager Financial Services) approval and before investigating the reason for 	<ul style="list-style-type: none"> • There should be further investigations by the BFIU, CID and the Ethics and Anti-Commission to establish if Mr Gachara was a culprit or beneficiary of the fraudulent EFT transactions. • Requisite disciplinary measures in line with CDF's and/or Government policies on public officers should be instituted against Mr Gachara for his negligent behaviour that facilitated the fraudulent EFT transactions. • The Director of Public prosecutions should direct the CID to conduct further

Name	Designation	Findings	Suggested way forward
		<p>the unusually low balance in the account. This transfer allowed the final fraudulent transfer of KES 11 million on 28 July 2012.</p>	<p>investigations with a view of obtaining further evidence and where appropriate prefer criminal charges.</p>
(d) Michael Mutulili	Cashier	<p>We found Mr Mutulili to have been negligent in his duties. In particular, we found that:</p> <ul style="list-style-type: none"> • Mr Mutulili failed in his responsibility to track the movements and balances in the CDF KCB Account. This is despite Mr Mutulili having accessed the Account's statements on 2 July 2012 and 4 July 2012. • The failure to carry out timely bank reconciliations for the month of June 2012 was caused by a delay by Mr Mutulili in updating the cashbook. 	<ul style="list-style-type: none"> • Requisite disciplinary measures in line with CDF's and/or Government policies on public officers should be instituted against Mr Mutulili for his negligent behaviour during the fraudulent EFT transactions. • The Director of Public prosecutions should direct the CID to conduct further investigations with a view of obtaining further evidence and where appropriate prefer criminal charges.
(e) Stephen Chege	Clerical Officer	<p>There is evidence that Mr Chege was directly involved in at least one of the fraudulent EFT transactions. This is detailed below (after the table).</p> <p>Mr Chege has also admitted to having irregularly benefited from bursaries from at least six constituencies. The bursaries were used to finance his degree in Computer Science at a private University.</p>	<ul style="list-style-type: none"> • The BFIU, CID should carry out further investigations on Mr Chege with a view to establishing all the culprits involved in the fraudulent EFT transactions and where appropriate prefer criminal charges. • Mr Chege should be surcharged for the irregular bursaries and the money recovered fully. • Requisite disciplinary

Name	Designation	Findings	Suggested way forward
			measures in line with CDF's and/or Government policies on public officers should be instituted against Mr Chege.
(f) Various CDF staff, CDF Board members and CFC members		<p>We found that various individuals participated in unauthorised foreign travel that was financed by the CDF Board.</p> <p>We also found instances of irregular sitting allowance payments.</p>	<ul style="list-style-type: none"> • Board members and members of staff responsible for or who are recipients of irregular payments should be surcharged and the money recovered fully. • We also recommend further investigations to ascertain whether the CFC members who benefitted from these funds were also paid by Parliament for the same activities.

1.3.2 After initial denials, Mr Chege has admitted to have been the only person that used Mr Mutulili's computer on the afternoon of Saturday 28 July 2012 when the fraudulent EFT payment of KES 11,266,924.30 was processed via that computer. Our computer forensics review shows that this payment was processed on Mr Mutulili's computer at 5.17 pm. The computer was not accessed remotely on that afternoon.

1.3.3 Mr Chege has also admitted that he had his own computer formatted soon after the discovery of the fraud. Although he claims that this was done due to a malfunction in his computer, chances are that he did this as a way of concealing evidence.

1.3.4 There are also allegations that Mr Chege made significant investments in or around August 2012. By his own admission, he has acquired a car and opened a business for his wife. Though he admitted that he could not have financed these acquisitions using his salary, he has claimed that his father funded the acquisitions.

1.4 Possible claims by CDF

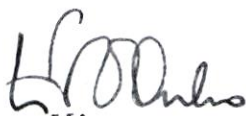
1.4.1 We observed that the controls put in place by KCB in regards to the Quickpay system were not adequate and therefore did not prevent the fraudulent EFT transactions from occurring. In particular we found that KCB: accepted and processed payment instructions received from

different personal email accounts; did not confirm payment instructions with the mandated officers before processing them; allowed the opening of accounts using aliases and sent unencrypted statements. The CDF Board should therefore review its contract with KCB and seek a legal opinion, to establish whether an indemnity claim can be filed against KCB for recovery of the lost funds.

- 1.4.2 The CDF Board and the BFIU should also work with KCB to determine whether there are funds that can be recovered from beneficiary accounts that have been frozen or from identified beneficiaries.
- 1.4.3 The CDF Board should also consider instituting a claim in regard to the irregular and/or unauthorised payments or expenditure by CDF staff and Board members. This claim relates to the KES 2,670,000 that may have been misappropriated or used irregularly in the form of irregular sitting allowance payments and the KES 12,814,600.40 spent on three foreign trips that appear to have been made irregularly. The claim would also relate to any monies paid as bursaries to undeserving CDF staff members as detailed in the report.

1.5 Recommendations

- 1.5.1 Following from the foregoing, we recommend that in addition to the recommendations listed in the table above, the CDF Secretariat should address the control weaknesses highlighted in detail in Section 5 of this report and in the Kenya National Audit Office ("KENAO") Systems Audit Report dated 15 August 2012.



Edward R.O. Ouko, CBS
AUDITOR-GENERAL

NAIROBI

04 July 2013

2 Background

2.1.1 The Office of the Auditor-General (“OAG”) engaged Deloitte Consulting Limited (“DCL”) to conduct a forensic audit of the Constituencies Development Fund Secretariat (“CDF Secretariat”) bank transactions and expenses for the 14-month period: 1 July 2011 to 31 August 2012. This followed the discovery of suspected illegal payments made from the CDF Secretariat’s KCB Kipande branch bank account. The forensic audit was undertaken jointly with forensic auditors from the OAG.

In this section, we provide a brief background of CDF Secretariat and the assignment.

2.2 Constituency Development Fund and the CDF Secretariat

2.2.1 The Constituency Development Fund (“CDF”) was set up by the Government of Kenya in 2003 to combat poverty and promote equitable growth and development in the country. This was to be achieved by setting aside an amount of money equal to not less than 2.5% of Government ordinary revenue each year to make up the CDF. The CDF’s implementation is primarily guided by the CDF Act 2003.

2.2.2 Initially, the CDF Act 2003 placed the role of management of the Fund under the the National Management Committee (“NMC”). The CDF Act 2003 was however amended in 2007 to abolish the NMC and establish the Board of Management of CDF (“CDF Board”). The CDF Board is a body corporate with perpetual succession and a common seal and is capable of performing all acts, which may lawfully be performed by a body corporate. The CDF Secretariat undertakes the day-to-day activities of the CDF Board.

2.2.3 The CDF Board is responsible for the allocation and disbursement of funds to every constituency. In addition to managing the disbursement of funds to the constituencies, the CDF Board is also responsible for managing its own budget. The Board is required by the CDF Act to prepare its annual budget, which should then be approved by the Planning Minister with the concurrence of the Parliamentary Constituencies Fund Committee (“CFC”). The expenditure for running the CDF Board, which includes sitting and other allowances, is capped by the CDF Act at not more than three per cent of the total allocation to the Fund in the financial year.

2.2.4 The CDF Board is audited by the OAG in accordance with the Public Audit Act. In line with this audit mandate, the OAG became aware of illegal payments totalling approximately KES 40m from the CDF current account at Kenya Commercial Bank (“KCB”) Kipande House branch. These payments were made between 27 June 2012 and 30 July 2012 and were allegedly not authorised by the mandated signatories of the CDF Board.

2.2.5 Consequently, the OAG jointly with DCL looked into the CDF Secretariat bank transactions and expenses for the 14-month period: 1 July 2011 to 31 August 2012. This is a report of our findings.

2.3 Scope of the Investigation

2.3.1 The forensic audit was to focus on the following Terms of Reference ("ToRs"):

- To undertake a forensic audit of the CDF Secretariat bank transactions and expenses pertaining to the period 1 July 2011 to 31 August 2012 that are or may be available to establish authenticity of such payments.
- To examine authenticity of payments and documents referred to in (1) above in order to establish their source, initiators, issuers and validity.
- To examine all CDF Board expenditure and establish their lawfulness and value for money.
- To examine and/or investigate any transaction that would appear irregular; and
- To submit a report to the Auditor General comprising the forensic audit findings, observations and recommendations.

2.3.2 The OAG and DCL conducted the forensic audit between December 2012 and March 2013 and our findings and recommendations are included in this report.

3 Work Done and Limitations

- 3.1.1 This report details our findings and the corresponding conclusions with respect to the issues noted during the forensic audit, whose fieldwork was conducted between December 2012 and March 2013.
- 3.1.2 To compile this report, we obtained the requisite information from interviews, as well as documentary and electronic evidence and data provided to us by the CDF Board and the CDF Secretariat. Although we cannot guarantee the authenticity of the information, we have operated under the reasonable expectation that it does not contain material errors or misstatements.
- 3.1.3 We do not express a legal opinion on any issue, but merely state the facts established during the review. We do not comment on matters of law, and such issues should be referred to your legal advisors.
- 3.1.4 Our investigation did not entail carrying out a statutory financial audit in accordance with International Standards on Auditing. Accordingly, this report does not express an audit opinion, but rather is a statement of the facts and issues noted during the review.
- 3.1.5 This report has been prepared solely for use by the OAG. As such, it should not be disclosed to any other party without our prior written consent, which we may withhold or give subject to conditions. Whether or not we have given our consent, we will not accept liability or responsibility to any other party who may gain access to this report.
- 3.1.6 We have faced various constraints in the course of the assignment that have had a bearing on the execution of this engagement and an implication on the time taken to finalise and conclude on specific issues. Specifically, the following constraints have had an implication on our ability to finalise the review in time:
- One month delay in getting access to the Computer that was used to perpetrate the Electronic Funds Transfer ("EFT") fraud in July 2012;
 - Delays in obtaining original bank statements from KCB;
 - Delays in getting requisite documentation and information for sampled vouchers, for expenses incurred during the period under review;
 - Delayed access to the information held by the Banking Fraud Investigations Unit ("BFIU"); and
 - Delays in acquisition of procurement documentation as well as draft and final reports for the consultancy work done during the period under review.

4 Approach

4.1 Sources of information and detailed audit procedures

4.1.1 Planning

4.1.1.1 In planning the detailed review, we held preliminary discussions and interviews with relevant members of staff; refer to the list of personnel interviewed in table 1 below. We also reviewed relevant policies, procedures and other pertinent documentation, e.g. Internal Audit reports, Information and Communication Technology ("ICT") audit reports, consultancy draft and final reports, Board minutes, tender and procurement committee minutes.

4.1.2 Detailed Review

4.1.2.1 We performed a detailed review and verification of documents provided by CDF Secretariat. These include:

- Bank statements obtained directly from the bank;
- Bank reconciliations;
- Cashier summaries;
- Supporting documentation for expenses incurred and service line payments;
- Cashbooks;
- Procurement documents;
- EFT Manual register;
- Quick pay system generated files; and
- Imprest registers.

4.1.3 Conducting Interviews

4.1.3.1 We conducted interviews with management and staff of CDF Board. The list of people we interviewed is provided in the table below:

Table 1: List of interviewees

No.	Name	Designation	Department
1	Anthony Mwangi	Accountant 1	Finance Dept – CDF
2.	Carol Mbugua	IT Support Officer	ICT Dept – CDF

No.	Name	Designation	Department
3.	George Obara	Chief Manager Financial Services("CMFS")	Finance Dept- CDF
4.	Juma Amimo	Forensics Officer	Forensics Services- KCB
5.	Margaret Muriithi	Cashier	Finance Dept – CDF
6.	Martin Nyaga	IT Intern	ICT – CDF
7.	Mary Anangwe	Corporate Relationship Manager	Corporate Affairs- KCB
8.	Michael Mutitili	Cashier	Finance Dept- CDF
9.	Stephen Chege	Clerical Officer- Projects	Projects Dept- CDF
10.	Venazio Gachara	Senior Accountant	Finance Dept- CDF
11.	Yusuf Mbuno	Acting Chief Executive Officer ("Ag. CEO")	Administration- CDF

4.2 Testing methodology

- 4.2.1.1 We performed a 100% analysis of all EFT transactions appearing on the bank statements, as well as Telegraphic Transfers ("TT's"). We further reviewed a sample of cheque payments. This was based on the risk envisaged in particular areas we looked at.

5 Findings and Conclusions

5.1 Overview

5.1.1.1 This section of the report provides detailed findings and conclusions arising from our forensic audit, which aimed to establish the period within which alleged misappropriation was carried out, how it was conducted, and ascertain the extent of financial loss to CDF Secretariat.

5.1.1.2 Our findings are presented under the following six subheadings:

1. Fraudulent EFT Transactions
2. Fixed Deposits
3. Imprest Payments
4. Board Expenditure
5. Internal Control Weaknesses
6. Procurement and Quality Review

5.2 Fraudulent EFT Transactions

Observation

5.2.1 Background

5.2.1.1 The CDF Secretariat's main account number 11041868863 is maintained at KCB, Kipande House branch. This is the account that was hit with fraudulent transfer of funds in June and July 2012.

5.2.1.2 Based on interviews carried out with KCB, Banking Fraud Investigation Unit ("BFIU") and CDF officers as well as review of various CDF documents, we established that on 2 August 2012, a certain Mr Moses Otieno Oketch (alias Kennedy Ouma Olala) was arrested by the BFIU as he tried to withdraw money from an account at KCB River Road branch. Upon investigation by the Bank and BFIU, it was established that the origin of the funds the man had been attempting to withdraw was the CDF Board's KCB account. On further inquiry, it was found that the funds had been transferred to the man's account via an EFT transaction of 30 July 2012. The EFT transaction was for a total amount of Kenya Shillings ("KES") 11,266,924.30 and the transfer to the man's account was one of several that totalled to this amount.

5.2.1.3 It is in light of the above that KCB contacted the CDF Secretariat to confirm whether the latter had indeed made and authorized the specific EFT transaction. In particular, the Bank official separately spoke to Mr Yusuf Mbuno (Ag. Chief Executive Officer), Mr George Obara (CMFS) and Mr Michael Mutulili (Accountant II, Accounts Department). Each of these officers denied knowledge of the transaction. The Bank then requested the CDF Secretariat to scrutinize its bank statements to determine if there were any other similar unauthorized payments (Refer to

Annexure 1 – Letter dated 7 August 2012 from KCB (Mrs Mary Anangwe, KCB Relationship Manager) to CDF).

5.2.1.4 Following a review of its bank statements the CDF Secretariat discovered four additional unauthorised EFT transactions effected prior to that of 30 July 2012 transaction.

5.2.1.5 In all of the above five fraudulent transactions, all the beneficiaries of the funds were not bona fide suppliers or payees of CDF and consequently all payments were fraudulent and amounted to theft. Table 2 below shows a summary of the five fraudulent EFT transactions totalling to KES 39,561,967 and the intended beneficiaries.

Table 2: List of beneficiaries of the five fraudulent EFT transactions

NAME	ACCOUNT	AMOUNT	BANK	Branch
VALUE DATE		5-JUL-2012		
James Aggrey Adhola	0001112368841	458,720.60	KCB	Moi Avenue, Nairobi
Jane Wangechi	0001125112654	567,970.00	KCB	Moi Avenue, Nairobi
George Oyugi	0001128721899	700,112.95	KCB	Moi Avenue, Nairobi
Elidah Wanjiku Kigenyi	0001132443733	667,890.00	KCB	Ruiru
Judy Muthoni Karanja	0001120437210	598,678.15	KCB	Kariobangi, Nairobi
Masaba Security Services	0002021728228	1,589,000.00	BBK	Ongata Rongai,
Raphael Maina	0130100264423	545,900.45	Equity	Nakuru
Venessa Thamaini	0300190430590	406,445.90	Equity	Harambee Avenue, Nairobi
		TOTAL	5,534,718.05	
VALUE DATE		27-JUN-2012		
Kariuki John Mwangi	0001132283035	1,662,940.00	KCB	Moi Avenue, Nairobi
Jane Mugoiri Gichuki	0001134733763	468,900.65	KCB	Moi Avenue, Nairobi
Elidah Wanjiku Kigenyi	0001132443733	476,568.50	KCB	Ruiru
PW Flying Services	0002252233201	955,645.55	Bank Of India	Kenyatta Avenue, Nairobi
Mwati Services	0120251255100	866,200.55	Consolidated Bank of Kenya	Koinange Street, Nairobi
Field Polythene Ltd	0026029041625	2,650,258.45	Equity Bank	Kimathi Street, Nairobi
		TOTAL	7,080,513.70	
VALUE DATE		27-JUN-2012		
Cicilia Wangui Gachoka	0001133971113	401,224.60	KCB	Ruiru
Leonard Kipkemoi Ngeno	0001134491050	455,798.45	KCB	Gateway, Nairobi
Mango Agencies	0002024838679	790,890.45	Barclays	Queensway House, Nairobi
Mochengo Dominic Ameyna	1116177502400	845,678.65	Co-operative	Industrial Area, Nairobi

NAME	ACCOUNT	AMOUNT	BANK	Branch
Nathan C Mbuya	0124560347100	412,675.85	National	Harambee Avenue, Nairobi
Kariuki John Mwangi	0100000433308	1,648,290.00	Stanbic	Harambee Avenue, Nairobi
Collins Omondi	0120192594928	580,111.50	Equity	Tom Mboya, Nairobi
Kevin C Mbuthia	0120193701154	650,225.00	Equity	Tom Mboya, Nairobi
Halima Syambo	0320197575712	525,722.25	Equity	Kariobangi, Nairobi
		6,310,616.75		

VALUE DATE	30-JUN-2012			
Shibli Enterprises Ltd	0001106201620	2,895,994.25	KCB	Eastleigh, Nairobi
Ellys Farm Agencies	0001127818716	895,746.45	KCB	Moi Avenue, Nairobi
George Oyugi	0001128721899	987,564.55	KCB	Moi Avenue, Nairobi
Kariuki John Mwangi	0001132283035	1,576,445.90	KCB	Moi Avenue, Nairobi
Siprose Aoko Dianga	0001125757671	658,720.60	KCB	Bungoma
Leornard Kipkemoi Ngeno	0001127462571	458,975.65	KCB	Gateway, Nairobi
Wilcob Universal Ltd	0000008941600	1,895,746.55	BBK	Queensway House, Nairobi
		TOTAL	9,369,193.95	

VALUE DATE	28-JUL-2012			
Jane Wangechi	0001125112654	276,549.40	KCB	Moi Avenue, Nairobi
Elias Njuki Njue	0001127191136	450,987.20	KCB	Moi Avenue, Nairobi
Eugene Okoth	0001134829892	267,112.70	KCB	Moi Avenue, Nairobi
Peninah Mbuthia	0001135416737	410,564.55	KCB	Moi Avenue, Nairobi
Harrison Kigenyi Kamau	0001135125279	267,876.25	KCB	River Road, Nairobi
David Ouma Ofware	0001135224684	455,746.45	KCB	River Road, Nairobi
Kennedy Otieno Olala	0001135272093	258,975.65	KCB	River Road, Nairobi
Olando Zablon	0001115683098	288,451.00	KCB	Mumias
Elidah Wanjiku Kigenyi	0001132443733	258,720.60	KCB	Ruiru
Sillah Ochieng	0001127070932	297,210.00	KCB	University Way, Nairobi
Raphael Nyamu Maina	0001134491050	467,211.90	KCB	Naivasha
Juliet Akello Obonyo	0001135147914	245,789.55	KCB	Buruburu, Nairobi
Rapola General Contractors	0001121754643	1,845,672.00	KCB	Ugunja
Judy Muthoni Karanja	0001120437210	295,400.45	KCB	Kariobangi, Nairobi
Tri-Source Eng EA Ltd	0002024258338	1,254,879.20	BBK	Queensway House, Nairobi
Festus Nzioka	0120193270055	267,455.40	Equity Bank	Tom Mboya, Nairobi
John Kyalo Kimuyu	0150193587869	521,566.50	Equity Bank	Mama Ngina, Nairobi

NAME	ACCOUNT	AMOUNT	BANK	Branch
Peter Burugu Gachugu	0150200051324	879,545.00	Equity Bank	Mama Ngina, Nairobi
Kuku Water	0820299219815	989,114.00	Equity Bank	Mama Ngina, Nairobi
Nosilale Water	0820299219837	1,268,096.50	Equity Bank	Doonholm, Nairobi
TOTAL		11,266,924.30		

5.2.1.6 The BFIU has since interviewed and arrested some of the above beneficiaries and instituted charges against some.

5.2.1.7 According to KCB, not all of the funds transferred had been withdrawn by the time of discovery of the fraud. BFIU has also advised us that some of the beneficiaries of the funds have indicated their willingness to refund the money.

5.2.2 Description of the KCB Quickpay System

5.2.2.1 We learnt that the CDF Secretariat processed payments directly to suppliers' bank accounts through a vendor based system known as 'Quickpay', provided by KCB.

5.2.2.2 The Quickpay program was installed on the desktop computer of one of the Cashier's in the CDF Accounts department. The system is web-based with user access and authorization rights. The initiator prepares the schedule of payments on an Excel worksheet, which is then uploaded into the Quickpay system. The system then prompts the authorizers to confirm the payment details. They do this in a two-tier process whereby each of them logs into the system using the credentials assigned to them and authorizes the payment. After authorization, the system generates 4 files as follows:

- a) Advice File (ADV) - shows the total number of transactions, the total amount and authorization details;
- b) Cross Border Report (CBR) - shows the transactions rejected by the system e.g. as a result of erroneous bank sort codes.
- c) Encrypted File (SFX) - shows details of the payment(s) in encrypted form; and the
- d) Report (RPT) - shows all details of the payments.

5.2.2.3 The 4 files are then sent via email to KCB for processing. At KCB, the Encrypted and Advice files are decrypted and authenticated respectively, after which payment is processed. An e-mail containing the ADV and SFI files are then sent to the originating e-mail address as confirmation of processed payments.

5.2.2.4 The Quickpay program was installed on a HP computer (Serial number CZC531245S running Win XP Service Pack 3) assigned to and operated by the Cashier; Mr Mutulili (Refer to Annexure 2 – which shows the computer name, registration and default user details of the computer). Mr Mutulili and Ms Margaret Muriithi, also a cashier in the same department, were

assigned initiator rights in the Quickpay system. Mr Mbuno, Mr Obara, and Mr Venazio Gachara (Senior Accountant in the Accounts Department) had authorizer rights during the period under review.

5.2.2.5 We noted that the computer was located in an open-plan office on fifth floor shared by CDF staff from various departments. There was no access control to the office and the computer was physically accessible to anyone entering the office.

5.2.3 Chronology of events around the fraud

5.2.3.1 The table below gives a summary of the activities associated with the fraudulent transfers.

Table 3: Chronology of events around the fraud

Date	Details
Wednesday 27 June 2012	Two Fraudulent payments: Serial Number ("SN") 124 of KES 7,060,513.70 and SN 125 of KES 6,310,616.75 are processed. The payments are according to the system generated by Mr Mutulili and approved by Mr Obara and Mr Mbuno.
Saturday 30 June 2012	Mr Mutulili requests and receives bank statements from a Mr Gordon of KCB. The statements received do not however capture the two fraudulent transactions of 27 June 2012.
Saturday 30 June 2012	A third fraudulent payment SN 127 of KES 9,369,193.95 is processed. The payment is subsequently cleared and appears in the bank statement on Monday 2 July 2012.
Monday 2 July 2012	Mr Mutulili again emails Mr Gordon of KCB and requests for statements which are then sent. Again, the statements received in Mr Mutulili's email account do not include the fraudulent transactions.
Wednesday 4 July 2012	KCB sends another statement for the period ending 3 July. This too does not show the fraudulent transactions
Thursday 5 July 2012	A fourth fraudulent payment of KES 5,534,718.05 SN No 130 is processed.
Thursday 26 July 2012	KES 100,000,000 is transferred to the KCB Account to replenish the balance as the funds in the account are insufficient to cover the July payroll. The payroll payment of KES 18 M is processed on the same day.
Saturday 28 July 2012	The fifth and final fraudulent payment SN 134 of KES 11,266,924.30 is processed. The payment is sent to the Bank and clears on Monday 30 July 2012.
Wednesday 1	KCB arrests a Mr Moses Otieno Oketch as he tries to withdraw funds transferred to him through an alias. The bank then calls both Mr Obara and Mr Mutulili on 2

Date	Details
August 2012	August 2012 and informs them of the fraud.

5.2.3.2 Whereas Mr Mutulili, Mr Obara and Mr Mbuno's credentials were used to process (Mr Mutulili) and approve (Mr Obara and Mr Mbuno) all of the five fraudulent transactions, they have all denied any involvement in the payments.

5.2.3.3 Based on the above facts, we investigated various incidences as reported below in a bid to determine the persons implicated in the fraud.

5.2.4 Analysis of Mr. Mutulili's computer and the QuickPay logs

5.2.4.1 We observed that in all of the five fraudulent transactions, Mr Mutulili's initiator credentials were used and authorisation granted using Mr Obara's and Mr Mbuno's credentials. However, all three deny any knowledge of the transactions or either initiating or authorizing the transactions. We therefore, carried out a forensic data analysis on the computer used to effect the EFT transactions so as to gain a better understanding of events leading up to the loss of CDF funds. (Refer to Annexure 2a – Quick Pay Logs showing the credentials used to prepare and approve the fraudulent payments.)

5.2.4.2 To start with, we noted that one of the five transactions took place outside the official working hours (on a Saturday) while two appear to have been processed during lunch break (see table below):

Table 4: EFT transaction dates and times

No.	EFT transaction amount	Authorization date	Authorization time
1.	7,080,513.70	Wednesday 27 June 2012	01:37 PM
2.	6,310,616.75	Wednesday 27 June 2012	01:42 PM
3.	9,369,193.95	Saturday 30 June 2012	03:39 PM
4.	5,534,718.30	Thursday 5 July 2012	03:38 PM
5.	11,266,924.30	Saturday 28 July 2012	17:17 PM

5.2.4.3 Following a series of interviews, we decided to focus on the last transaction for which there was considerable information. We ascertained that on Saturday 28 July 2012, several CDF Secretariat employees were in the office in the course of the day. Among them were:

- Mr. Yusuf Mbuno (Acting CEO);
- Mr. Lawrence Mbaria (Projects Dept);
- Ms. Brenda Serem (Intern-Projects Dept);

- Mr. Martin Nyaga (Intern - ICT Dept);
- Ms. Ann Thumbi (Human Resource Manager);
- Mr. Stephen Chege (Clerical Officer - Projects Dept); and
- Mr. Jack Odhoch (Head of ICT).

5.2.4.4 We analysed the web logs and other Uniform Resource Locator ("URL") logs data from Mr Mutulili's computer and discovered that it had been in use between 3.28PM and 5.19PM on that day. Notably, we observed possible access to the Quick-pay system in two instances at 5.01PM and at 5.19PM. An analysis of the Quick-Pay log system corroborated the URL Logs data as we saw two activities in the Quick-Pay log. For the first access, there was an unsuccessful attempt to create the necessary file for money transfer but on the second access, a money transfer file was successfully created amounting to KES 11,266,924.30.

5.2.4.5 Further, apart from KCB Quick-Pay Application we noted that there was an application known as GoToMyPC installed in the system. This is an application that is owned by Citrix Systems and is a software used to remotely access computers without the user necessarily sitting behind the same terminal. However, though there was evidence that someone attempted to use the GoToMyPc application on 28 July 2012, there is no evidence that the application was actually used.

5.2.4.6 Each of the employees present in the office on Saturday 28 June 2012 initially denied having used Mr Mutulili's computer. We established that Mr Stephen Chege was the only officer seated in the room where the computer was located. He initially told us that he was in the office between 1.00PM and 5.30PM and that in that period he was working from his desk and at no time did he access Mr Mutulili's computer.

5.2.4.7 However, Mr Martin Nyaga claimed that he saw Mr Chege seated at Mr Mutulili's desk trying to print some documents from Mr Mutulili's computer. Mr Nyaga explained that he had gone to the Fifth Floor where the Accounts department is located when Mr. Chege called him to assist him with printing a document. He recalled that this was between 3.00PM and 4.00PM and that they were the only two people in the Accounts office at the time. Mr Chege was initially emphatic that he only used his computer on that day. He also said that he never saw anyone else come into the room or use Mr Mutulili's computer.

5.2.4.8 Mr Chege however recanted his denial of having used Mr Mutulili's computer when it became apparent that he could only have been printing from Mr Mutulili's computer. This was because the other printer in the room was not working at the time and the only printer that he could have been using was connected directly to Mr Mutulili's computer.

- 5.2.4.9 Mr Nyaga further indicated that when he found Mr Chege working on Mr Mutulili's computer, he had a flash disk connected to the computer. Again, Mr Chege initially denied having used a flash disk on Mr Mutulili's computer.
- 5.2.4.10 From the URL Log data from Mr Mutulili's computer, we observed that there was access to a file labelled "code lists" via an external device. From our interview with Mr. Chege, he had informed us that he had come to work on that Saturday specifically to finish work on some "additional code lists" that he needed to complete urgently.
- 5.2.4.11 Faced with this evidence and the fact that there was no other way he could have transferred the document he was printing to Mr Mutulili's computer, Mr Chege again changed his testimony and admitted that he may have used a flash disk.
- 5.2.4.12 Please refer to annexure 3 for our interview notes with both Mr Chege and Mr Nyaga.
- 5.2.4.13 From our analysis, we found that there was no evidence of hacking into the computer or the Quick-Pay system. We can therefore conclude that the person(s) who carried out the fraudulent transactions were privy to the passwords for both the computer and the Quick-Pay system.

5.2.5 Omission of transactions in bank statements

- 5.2.5.1 In the course of our investigation, Mr Mutulili informed us that he had on separate occasions received two different CDF bank statements covering the period in which fraudulent payments were processed but which omitted these fraudulent transactions.
- 5.2.5.2 We obtained the bank statements and noted that they covered the period 1 June 2012 to 30 June 2012. Upon scrutiny of the transactions in each, we found that two of the unauthorized EFT transactions had been removed from the statements (Refer to Annexure 4 – Bank statements with the omitted fraudulent transactions of 27 June 2012). The two transactions were KES 7,080,513.70 and KES 6,310,616.75 effected on 27 June 2012. We further noted that whereas the two transactions were missing, the running balance in the statements incorporated the withdrawals.
- 5.2.5.3 We queried Mr Mutulili as to the source of the statement with the omitted EFT transactions and he provided us with access to his Yahoo email inbox where he received the bank statements. We observed that the two statements that had the omitted transactions were indeed present as attachments. The two emails with these attachments were apparently received from Mr Gordon Winani and Ms Rose Odengo whose e-mail addresses are gwinani@kcb.co.ke and rondego@kcb.co.ke respectively. In both instances, the e-mail trail shows that Mr Mutulili had requested for the bank statement and the KCB staff were responding accordingly by attaching the requested bank statement (Refer to Annexure 5 – E-mails with doctored bank statements attached).

5.2.5.4 We interviewed the officers of the KCB Forensic department regarding their staff sending statements with omitted transactions. They informed us that following their own internal investigations, they had established that the e-mails sent to Mr Mutulili's Yahoo e-mail address were the complete bank statements without any missing transactions. They further stated that they believed the genuine statements were 'doctored' after they had entered the inbox of Mr Mutulili. However, they could not explain how after the bank statements had been 'doctored', saved or re-sent from the respective KCB staff's e-mail address.

5.2.5.5 After further analysis of the "emails with doctored statements" purported to have originated from the KCB Staff, the Deloitte forensics team found that someone who had access to Mr Mutulili's inbox intercepted and used a "fake email service" to send the "doctored emails with statements". Please refer to Annexure 6 which shows the difference between the "genuine emails" from KCB and "fake emails" sent by the fraud perpetrators.

5.2.5.6 The genuine emails sent from KCB with attached statements showing the fraudulent transactions are attached at Annexure 7.

5.2.6 Bank balance tracking at CDF and the transfer of KES 100 Million

5.2.6.1 As we have already noted, Mr Mutulili, Mr Obara and Mr Mbuno have all denied knowledge of the fraudulent transfers. All other staff in the CDF Finance department have equally denied knowledge of these transfers.

5.2.6.2 We sought to establish whose role it was to keep track of the bank balances.

5.2.6.3 According to the head of the Finance department, Mr Obara, the two cashiers (Mr Mutulili and Ms Margaret Muriithi), being agents to the bank, could and should have been calling the bank frequently to find out the Account's balance. He further explained that it was the Senior Accountant, Mr Venazio Gachara's role to keep track of the balances on a daily basis and supervise the monthly bank reconciliation that was undertaken by Mr Anthony Mwangi.

5.2.6.4 Surprisingly, all staff members in the Finance department including Mr Gachara, Mr Mutulili and Ms Mureithi have denied that it was their role to track the account balance and indicated that they were not tracking the balances in June and July 2012.

5.2.6.5 The table below summarises the expected vs actual balances in the KCB Account on select dates.

Table 5: Analysis of the balances in the KCB Account

Date	Balance in the absence of fraudulent transactions	Balance after the fraudulent transactions	Difference
26-Jun-12	59,152,459.43	59,152,459.43	-

27-Jun-12	59,047,906.43	45,655,775.98	13,392,130.45
30-Jun-12	45,459,332.88	32,067,202.43	13,392,130.45
2-Jul-12	42,419,997.83	19,658,173.43	22,761,824.40
5-Jul-12	41,090,333.23	12,793,290.53	28,297,042.70
25-Jul-12	33,389,351.63	5,092,308.93	28,297,042.70
30-Jul-12	116,130,730.43	76,566,263.43	39,564,467.00
31-Jul-12	115,761,977.88	76,197,510.88	39,564,467.00

- 5.2.6.6 As can be noted from the table, any reasonable attempt to reconcile the bank balances to the expected balance would have identified the presence of unauthorised payments from as early as 27 June 2012. The monthly bank reconciliations for June and July 2012 should definitely have identified the fraudulent withdrawals had they been done.
- 5.2.6.7 In our interviews with Mr Obara, he further indicated that it was Mr Gachara's role to track CDF investments in call deposit accounts and to replenish the current account when it ran out of funds. He explained that Mr Gachara would prepare cash projections going forward two months and based on these projections, he would ask Mr Obara and Mr Mbuno to transfer sufficient funds from the fixed deposit accounts to the KCB Kipande branch bank account.
- 5.2.6.8 We noted that other than a transfer of KES 100,000,000 that was credited to the KCB Account on 12 June 2012 and then reinvested (debited from the account) the following day i.e. 13 June 2012, there was no replenishments of the account in June and most of July 2012.
- 5.2.6.9 Indeed, the account had a balance of KES 59,152,459 as at 26 June 2012. Without the fraudulent transfers, this amount should have been sufficient to cover all genuine payments to the end of July and into August 2012. Indeed, the two main payments in the two months (June and July) would have been the circa KES 36 Million consisting of the June and July Payrolls of circa KES 18 Million each.
- 5.2.6.10 However, due to the payment of the first four fraudulent EFTs, the balance in the account had reduced to KES 12,793,290.53 by 5 July 2012. This meant that there were insufficient funds to process the July payroll on 26 July 2012. This fact was communicated to Mr Obara when he came to approve payment of the payroll on 26 July 2012.
- 5.2.6.11 Mr Obara indicated that he was surprised that there were insufficient funds. According to Mr Obara, it was Mr Mutulili who informed him on 26 July 2012 that there was no money. Mr Obara who was at the time away on sick leave, had come to the office to authorise the payment of salaries. Mr Obara further indicated that upon learning of this lack of funds, he

proceeded to Mr Gachara's office to enquire about the balances. Mr Gachara however informed Mr Obara that there was no longer a problem as they (Mr Gachara and Mr Mbuno) had already transferred KES 100,000,000 from one of CDF's call deposit accounts into the KCB current Account.

5.2.6.12 Mr Obara did not then follow up on the issue of lack of funds.

5.2.6.13 The last processing of a fraudulent EFT surprisingly happened only two days after the transfer of the KES 100,000,000.

5.2.7 Inherent weaknesses on the part of KCB

5.2.7.1 As earlier mentioned, Quick Pay is a vendor based EFT money transfer system installed on a customer's computer. Payments would then be initiated from the customer's premises and thereafter sent to KCB for processing.

5.2.7.2 A quick look at the modus operandi of the system reveals a number of weaknesses.

5.2.7.3 First, we noted that KCB would receive emails containing the instructions to process payments from different email addresses and go ahead to process them. It did not matter that the addresses were not consistent and were private accounts e.g. yahoo. An acknowledgement of receipt of the instructions would be sent to the email address that sent the instructions. Mr Chege is on record saying that he had on several occasions sent instructions to the bank on behalf of Mr Mutulili from his own private address which were processed by KCB.

5.2.7.4 Ideally, the bank should only process instructions from a specified person who should be an authorised bank agent. In this case, it was Mr Mutulili or Ms Margaret Muriithi. In addition to this, the agent should only use their known official email address as opposed to their personal addresses.

5.2.7.5 We further found that KCB would process the payments without seeking confirmation from the mandated account signatories as good practice dictates. For this account, the signatories were Mr Mbuno and Mr Obara. Both were categorical that KCB had never called or sought any confirmation for instructions received for payment via EFT for the entire period that they were signatories. They both wondered why the bank would seek confirmation for large cheque payments but not for EFT payments considering that EFT payments are of a considerably higher amount.

5.2.7.6 We also noted that the bank would send Interim account statements to Mr Mutulili via email in an insecure format. The statement attachments would be in HTML format that can be edited. This means that the statements were not tamper proof and could be manipulated.

5.2.7.7 It is our view that a bank should ensure that bank statements attachments in emails are in a secure format that cannot be manipulated. A bank should also use encryption to transmit information between the bank and its clients and at the very least the information should be password protected. This protects data in 3 key ways:

- Authentication ensures that they are communicating with the right individual/entity and prevents another computer/users from impersonating;
- Encryption scrambles transferred data so that it cannot be read by unauthorized parties/users/persons; and
- Data integrity verifies that the information sent to the bank is not altered during the transfer. The system also detects if data was added or deleted after you sent the message. If any tampering has occurred, the connection is dropped.

5.2.7.8 We also found fault with the effectiveness of the Know Your Customer procedures used by KCB during account opening. This is informed by the fact that one of the beneficiaries of the fraudulent funds who was arrested was found to have opened an account at KCB with an alias. There is a high possibility this could be true of other beneficiaries as well. The CBK Prudential Guidelines of 2006 contain a section on Guidelines on Proceeds of Crime and Money Laundering (Prevention) that applies to all institutions licensed under the Banking Act (Cap.488). This contains elaborate guidelines on the minimum Know Your Customer Procedures that should be applied when a person seeks to open an account.

5.2.7.9 For personal accounts and transactions, it requires that:-

- i) A financial institution shall take reasonable measures to satisfy itself as to the true identity of any applicant seeking to enter into a business relationship with it, or to carry out a transaction or series of transactions with it, by requiring the applicant to produce an official record reasonably capable of establishing the true identity of the applicant such as a birth certificate, passport, national identity card, a drivers licence or other official means of identification as may be set forth in other regulation;
- ii) Address of current residence verified by a referee or a utility bill i.e. electricity or water bill;
- iii) Verified employment and/or source(s) of income; and
- iv) Where applicable, written confirmation from customer's prior bank attesting to customer's identity and history of account relationship (bank referee).
- v) For accounts with more than one party and where one of the parties has identified the others, written confirmation must be obtained to the effect that the first party has known the other(s) personally for at least 12 months.

5.2.7.10 It is possible that the fraud would have been identified and stopped earlier had KCB put in place adequate Know Your Customer procedures. Such procedures would also have made recovery of lost funds and prosecution easier.

Implications and Recommendations

5.2.7.11 As concerns culpability, we found as follows for the following CDF officers:

- Mr. Stephen Chege:
 - Despite his earlier denials, there is evidence that Mr Chege used Mr Mutulili's computer on Saturday 28 July 2012 in the afternoon. To have done so, it means that he had the computer's login password. Mr Chege also used a flash disk on Mr Mutulili's computer.
 - The fact that he is the only person, by his own admission, who could have used the computer between 2.00pm and 6.00pm on 28 July 2012 would mean that he was responsible for processing the fraudulent EFT payment of KES 11,266,924.30. This payment was processed on Mr Mutulili's computer at 5.17 pm.
 - Mr Chege has also admitted that he had his own computer formatted soon after the discovery of the fraud. Although he claims that this was done due to a malfunction in his computer, chances are that he did this as a way of concealing evidence.
 - There are allegations that Mr Chege's lifestyle has greatly changed for the better since August 2012. By his own admission, he has acquired a car and opened a business for his wife. He however claims that the money to do this was given to him by his father.
 - We would recommend further investigations by law enforcement agencies to determine Mr Chege's exact role in the fraud and his accomplices. He also needs to be subjected to the requisite disciplinary measures in line with CDF's and/or Government policies on public officers.

- Mr Venazio Gachara and Mr Michael Mutulili:
 - Both Mr Gachara and Mr Mutulili had a responsibility to keep track of the balance in the CDF KCB Account. The two officers had access to the bank statements of the account and there is evidence that they accessed these statements on 2 and 4 July 2012.
 - The two officers were also aware of the balance in the account on 26 July 2012 before the transfer of the KES 100,000,000.
 - That the two officers do not appear to have done anything to investigate the discrepancies in the account balances may at worst point to their involvement in the fraud or at best to criminal negligence. The two should therefore be subjected to the requisite disciplinary measures in line with CDF's and/or Government policies on public officers.

- Mr. Yusuf Mbuno and Mr George Obara:
 - Both Mr Mbuno and Mr Obara's passwords were used to authorise all the fraudulent payments. They have however denied any involvement in the fraud and we did not find any other direct evidence to implicate the two officers in the fraud.
 - However both Mr Mbuno and Mr Obara had a fiducially duty to safeguard all assets of the CDF Board and in particular to put in place systems and controls to guard against theft.
 - The two failed to put in place any safeguards to guard against the theft of funds from the KCB Account. The two were particularly negligent in failing to question the absence of adequate funds on 26 July 2012 and thereby allowed the continued pilferage of cash. They should thus be subjected to the requisite disciplinary measures in line with CDF's and/or Government policies on public officers.

5.2.7.12 Lack of timely bank reconciliations contributed to greater loss of funds than may have been the case. This is further discussed in section 5.6.2 below. There is also a general lack of clarity on roles in the Finance department.

5.2.7.13 KCB should also be put to task over the loss of funds as weaknesses in their systems contributed the loss.

5.3 Fixed Deposits

Observation

- 5.3.1.1 Sec 5 (2) (c) of the Constituencies Development Fund Act 2003 allows the CDF Board to borrow money or make investments in its corporate name. At the beginning of the financial year, the CDF Board receives 3% of 2.5% of the ordinary revenue of the Government for its use. It also receives funds for the Economic Stimulus Programme ("ESP"). Since these funds are received upfront, the Board invests part of the money and even budgets for the investments in its annual budget.
- 5.3.1.2 We reviewed the CDF Board's investments and noted that funds were invested in fixed deposits with various commercial banks during the period of review. Specifically, the Board invested its money in fixed deposits with KCB, Ecobank, Equity Bank, Cooperative Bank, Consolidated Bank and Family Bank.
- 5.3.1.3 The investment of funds in commercial banks is contrary to a directive given via Treasury Circular No. 10 issued on 15th July 1992 which states that '... all surplus funds of State Corporations, must, without fail, be invested in Treasury Bills and Treasury Bonds'. The Circular further states that '... no State Corporation will hereafter invest its surplus funds or renew its existing deposits with Commercial Banks and/or Financial Institutions.... and all such funds have to be invested in Treasury Bills and Treasury Bonds. The same is also reiterated in Treasury Circular No. 14/98 issued on 22nd September 1998 and 12/2002 issued on 29th November 2002 (see attached copies at Annexures 8,9 and 10).
- 5.3.1.4 Mr. Obara, the CMFS, informed us that CDF seeks consent from the Minister for Planning, National Development and Vision 2030 prior to making any investment with a commercial bank. He informed us that they forward a request to invest with a particular bank to the Minister. The Minister approves the request and forwards it to the CDF Board. The Board then conducts a due diligence on the Bank and makes a recommendation to the Minister in this regard. If the Minister consents to the Board investing with the particular commercial bank, CDF goes ahead to open call accounts with the bank and invests its funds there. Mr Obara also noted that most of the funds deposited in call accounts are from the ESP as the uptake of money from the ESP is slow.
- 5.3.1.5 We found that when CDF needs to place funds in a fixed deposit, it requests the different authorised banks to quote their best rate of interest for deposit of a specified sum of money. The quotes are then collated and analysed and deposits are placed with the bank offering the most favourable rate (highest rate) to CDF. No other risk factors with regards to the specific banks are considered before funds are placed with them.

5.3.1.6 We also noted that only the principal amount was reinvested following maturity of the fixed deposits. It was unclear why this was the case instead of re-investing both the principal amount and the interest so as to generate higher interest income.

Implications

5.3.1.7 The CDF Board has been and continues to invest its surplus funds in fixed deposits with commercial banks contrary to directives issued by Treasury through various circulars and as such risks being castigated or worse by the Government. It is unclear under what powers the Minister of Planning approved such deposits.

5.3.1.8 The CDF Board risks loss of revenue by investing in fixed deposits with commercial banks which are more risky investments compared to Treasury Bills and Bonds. Some of the banks that CDF invests in are also not among the more established banks in Kenya thereby increasing the risk of loss.

5.3.1.9 The CDF Board could have earned more interest had it reinvested the interest earned in addition to the principal amount.

Recommendations

5.3.1.10 The CDF Board should follow the directive issued by Treasury and invest only in Treasury Bills and Bonds which are less risky. However, if it feels that there is merit in continuing to invest with commercial banks, the Board should ensure that Treasury is aware and approves of these investments.

5.3.1.11 The CDF Board should also periodically carry out risk analysis of the commercial banks it invests in as a one off analysis may not be adequate in the long run.

5.4 Imprest Payments

Observation

- 5.4.1.1 We found that as with other Government bodies, the CDF Secretariat issues imprests to its staff to enable them carry out various activities pertaining to their work.
- 5.4.1.2 According to Government Financial Regulations and Procedures Section 5.6.4 (a) and (b), an employee should only hold one imprest at a time and should not be issued with any other imprest until he has surrendered the previous one.
- 5.4.1.3 However, we noted that there were employees who appear to have been holding more than one imprest at a time. The employees were issued with subsequent imprest amounts when they still had imprest amounts outstanding in contravention of the Government Financial Regulations and Procedures.
- 5.4.1.4 We also found that some of the CDF Secretariat employees have large amounts of un-surrendered imprests. We for instance found that Mr Wilfred Buyema, appears to have had a very large amount outstanding (KES 14,391,684) as at the time of our review. (See table below):

Table 6: Imprest amount outstanding for Wilfred Buyema

Date Issued	Expected date of surrender	Imprest Warrant No.	Amount (KES)
20-Mar-12	Not indicated	1089306	1,234,000.00
15-Mar-12	Not indicated	1089294	200,300.00
25-Apr-12	Not indicated	1089335	1,686,884.00
23-Aug-12	7-Sep-12	1089381	468,600.00
28-Aug-12	14-Sep-12	1089388	3,275,500.00
29-Aug-12	14-Sep-12	1089389	2,136,100.00
12-Sep-12	5-Oct-12	1089454	1,625,000.00
11-Oct-12	31-Oct-12	1089465	938,900.00
25-Oct-12	3-Nov-12	1089480	689,700.00
26-Oct-12	2-Nov-12	1089481	677,700.00
13-Nov-12	23-Nov-12	1089497	1,348,000.00
22-Nov-12	30-Nov-12	1473504	27,000.00
16-Jan-13	28-Jan-13	1473526	84,000.00
Total outstanding as at 31st Jan 2013			14,391,684.00

- 5.4.1.5 When we spoke to various CDF Secretariat officers including the CEO and officers in the Finance department, they indicated that the imprest register gave a misleading picture of the amount of outstanding imprests as it was not updated upon surrender of imprests. According to Mr Obara, whereas it may be true that Mr Buyema may have one or two outstanding imprests, he had already accounted for the vast majority of the above listed imprests.
- 5.4.1.6 Mr Obara indicated that it was Mr Mutulili's responsibility to update the imprest register upon surrender of imprests. Mr Obara however noted that Mr Mutulili was not diligent in this role and though he would receive the surrender and supporting documents on time, he would leave these documents in his office without necessarily filing them or updating the register.
- 5.4.1.7 We also noted an instance where the imprest register showed that an amount of KES 620,000 was surrendered by Ms Margaret Muriithi in cash form and therefore banked. However, on perusal of the bank statement, we found that only KES 600,000 was deposited in the bank on 2 March 2012.
- 5.4.1.8 The cashiers, Mr. Michael Mutulili and Ms Margaret Muriithi, informed us that when an employee requests for imprest, they being the agents appointed by CDF to withdraw cash from the organization's bank account and go to withdraw the imprest amounts on the employee's behalf. Often the amounts are large, sometimes running into millions and poses a great risk of theft.
- 5.4.1.9 According to Mr. Obara, there are only very few senior CDF Secretariat staff that can be entrusted with imprests. Due to this challenge and the need to incur significant expenses in the field related with hosting seminars and paying allowances to Members of Parliament("MPs") and field based staff, the CDF Secretariat is forced to give the few officers large amounts of cash as imprests.
- 5.4.1.10 The CDF Board is faced by a further challenge of having to deal in cash as this is the preferred mode of receiving imprests by MPs and Board members.

Risk

- 5.4.1.11 The likelihood of an employee surrendering imprest when they have a large amount outstanding reduces the longer they are allowed to continue without being required to retire it.
- 5.4.1.12 The failure to update the register and secure surrender documents means that the CDF Secretariat does not know the exact amount of outstanding imprests. It further creates a risk where the surrender documents may be lost resulting in the unfair surcharge of the officer involved and opens the door to officers claiming they had retired imprests when in fact they have not.
- 5.4.1.13 There is a risk of loss of cash where the recording of imprest amounts surrendered differs from the amount actually banked or surrendered in form of bills (receipts). The absence of an updated register makes it hard to pick out such incidences in good time.
- 5.4.1.14 There is a great risk of theft of cash when a cashier regularly withdraws large amounts of money for imprest payments without any form of security provided. The risk also extends to the officers who have to carry these large sums of cash.

Recommendation

- 5.4.1.15 The imprest register must be updated with immediate effect to capture all imprest surrenders. It should thereafter be updated as soon as surrenders are processed.
- 5.4.1.16 Mr Wilfred Buyema and all other staff members with outstanding imprests should be asked to surrender all outstanding imprests and no further imprest should be issued to them until they have completed full payment of these amounts.
- 5.4.1.17 Ms Margaret Muriithi should explain where the difference of KES 20,000 between the amount banked (KES 600,000) and that recorded in the imprest register (KES 620,000).
- 5.4.1.18 Management should find a less risky mode of disbursing cash to its employees such as depositing the amount directly into the requestor's bank account. Where possible, payments for conferencing facilities should be made directly and in aggregate to hotels and airlines rather than disbursing cash to individual participants.
- 5.4.1.19 The CDF Secretariat should also deal with the further issues on imprests highlighted in the Kenya National Audit Office("KENAO") Systems Audit Report dated 15 August 2012 (attached at Annexure 11).

5.5 Board Expenditure

5.5.1.1 We observed some sitting allowance payments made to members of the CDF Board and CDF Secretariat employees that appear irregular.

5.5.1.2 Our findings in this section are presented under two headings:

- Irregular sitting allowances to Board members and employees, and
- Irregular and unauthorized foreign travel by Board members and employees.

5.5.2 Irregular sitting allowance payments to Board members and employees

5.5.2.1 The CDF Board is a public office established by the CDF Act 2003 as amended in 2007. By virtue of being a public office, the State Corporation Act Cap 446 applies to the Board. Section 10 (1) of this Act revised the allowances payable to Chairmen and members of State Corporation Boards.

5.5.2.2 In line with this Act, the Head of Civil Service and Secretary to the Cabinet issued a circular reference number OP/CAB/9/21/L 11/43 dated 2004(amended on 7 December 2009) which provided that the Chief Executive Officer and employees of respective State Corporations are **not eligible** for sitting allowances.(Circular attached at annexure 12)

5.5.2.3 Sitting allowances are only payable to Board members on official duty.

5.5.2.4 Official duty warranting payment of sitting allowance is either:-

- 1) An activity the bears directly on the business of the State Corporation for which the chairman or Board member is authorized by the Board to attend as evidenced by a minute of a meeting of the Board; or
- 2) An activity that bears directly on the business of the State Corporation for which the Chairman or Board Member is invited in writing by the Chief Executive Officer to attend.

5.5.2.5 This definition was provided in a Circular reference number OP/CAB.17/34 A issued on 14 January 2008 by the then Head of Public Service to all Permanent Secretaries, Accounting Officers, Attorney General and Controller and Auditor-General. Any activity that falls outside the scope of these two should not be considered to be official duty (circular attached at annexure 13).

5.5.2.6 We observed at least one case where the CDF Secretariat appear to have gone against the above directive. This was in relation to a total of KES 5,970,000 used to pay sitting allowances for the review the CDF Act on diverse dates under our period of review.

5.5.2.7 Out of this total amount, **KES 2,390,000** was paid to staff members of the CDF Secretariat (see Annexure 14). Interestingly, among the CDF staff members paid, was a casual employee engaged on temporary basis and who was involved in the review of the CDF Act. She was paid a total of **KES 330,000** as sitting allowances yet at the time of our review she was still engaged in the organization as a casual employee. The remaining amount of **KES 3,580,000** was paid to Board members and was supported by respective Board Minutes as per the direction of the Circular.

5.5.2.8 We also found what appears to be an irregular payment of **KES 280,000** that was paid as sitting allowances to some CDF staff and board members while doing a research to domicile the CDF Act. We could not trace the invitation letters by either the Board or the CEO to conduct this activity as required in the above referenced circular. The research work which would have been the product of this exercise was also not availed for our review. We were also not able to ascertain whether the exercise took place at all since there was no attendance registers provided. The only reference made of the research is in the Memo to surrender the imprest. In this memo, there is reference to payment of allowances for two additional days in which the members reportedly conducted research on how to domicile CDF within the Constitutional framework.

5.5.2.9 The table below lists the beneficiaries of this payment.

Table 7 Breakdown of KES 280,000 paid for research to domicile the CDF Act

Payee	Amount
Ahmed Ibrahim Abass	40,000
Jane Nyawira Kabugi	40,000
Odongo M Okeyo	40,000
Consolota W Munga	40,000
Francis Anyona	40,000
George Obara	40,000
Clarah Kimeli	40,000
TOTAL	280,000

5.5.3 Irregular and Unauthorized Foreign Travel by Board members

5.5.3.1 We observed that some CDF Board members made what appear to be irregular and unauthorized foreign trips to Brazil, the UK and Tanzania during the period of our review.

5.5.3.2 We obtained information that the Minister, some CDF Board members and staff took two trips to Brazil in the months of May and June 2012.

5.5.3.3 The first trip took place between 11 May 2012 and 21 May 2012. The persons who are reported as having been part of the trip were:-

1. Jennifer Barasa-Board Chair
2. Hillary Nyaanga-Board Member
3. Yusuf Mbuno-Ag CEO

5.5.3.4 We obtained the authorization for this trip from the PS vide a letter dated 2 May 2012 where the PS noted the departure date to be 4 May 2012 and the return date to be 12 May 2012.(See annexure 15). This was a response to a letter dated 30 April 2012 written by the Ag CEO to the PS seeking clearance for this trip (see annexure 16). The letter explains that the CDF Board was invited by the CFC to participate in the Government delegation to a bench marking seminar on Brazil's devolved government system which was scheduled to take place at Mercure Brasilia Eixo Hotel, Brasilia. The Ag CEO wrote a subsequent letter on 10 May 2012 to the PS informing him that there had been a change of dates due to visa processing hitches (see annexure 17)

5.5.3.5 The second trip to Brazil took place between 27 May 2012 and 2 June 2012. The persons who are on record as having been on this trip were:-

1. Hon Wycliffe Oparanya - Minister
2. Ahmed Abass - Board Member
3. Dr John Wamakonjio - Board Member
4. Wilfred Buyema - Programme Officer CDF
5. Festus Wangwe - PA to the minister

5.5.3.6 In contrast to the first trip, we could not ascertain whether this second trip was properly authorized/ approved or not. This is because no authorization/approval letter(s) by relevant government offices as is required for any government delegation traveling abroad was availed for our review. This is the authorization of the Ministry for the public officers and Board members and the Speaker for the Minister.

5.5.3.7 Further, we did not get any documentation showing what the reason for the trip was. The only reference to the reason for the trip is made in the memo for surrender of imprest done by a Mr Wilfred Buyema .It indicates that the team was on the trip following an invite to attend a study on the Agrarian Fund and to exchange ideas on the effectiveness of the planning process that has enabled Brazil to be the sixth largest economy in the world. However, this invitation letter was not provided for our review.

5.5.3.8 We obtained the budget breakdown for this trip totaling to **KES 4,506,956**.

Table 8: Budget breakdown for the second Trip to Brazil

Name	DSA Rate in dollars	Number of days	Amount in USD	Amount in KES
Hon Wycliffe Oparanya	532	7	3724	312,836.00
Ahmed Abbas	431	5	2155	181,020.00
Dr. John Wamakonjio	431	5	2155	181,020.00
Wilfred Buyema	301	7	2107	176,988.00
Festus Wangwe	301	7	2107	176,988.00
Transport Cost /Interpreter	NA		3310	278,000.00

Duty Allowance-Minister	NA	4	953	80,052.00
Duty Allowance- 2 Board Members	NA	2	953	80,052.00
Air Ticket:Nairobi to Brazil Return,Business Class two persons	NA	NA		1,790,000.00
Air Ticket: Nairobi to Brazil Return, Economy Class two persons	NA	NA		950,000.00
Contingencies	NA	NA		300,000.00
TOTAL				4,506,956.00

5.5.3.9 From available documentation, it would appear that **KES 3,689,711.80** was the total expenditure on this second trip to Brazil as summarized in the table below.

Table 9: Summary of the expenditure traced for the second Trip to Brazil

Payment Voucher	Description	Amount (KES)	Annexure
1887	Surrender of Imprest by Mr. Wilfred Buyema	1,716,556.80	19
1306	Provision of Air Travel Services	1,853,155.00	20
1293	Duty and Accommodation allowances for Directors	120,000	21
	TOTAL	3,689,711.80	

5.5.3.10 The surrender of imprest was done by Mr. Wilfred Buyema. The supporting documentation for the surrender of imprest seemed to be satisfactory. However, the expenditure for air travel was for Mr. Wilfred Buyema, Mr. Abass Ahmed and Mr. John Wamakonjio only. Also, one of the annexures to the duty allowances voucher were copies of Visas for both directors which had airport stamps confirming that they indeed took the trip. We cannot therefore ascertain whether the Minister and his PA took the trip or not. This is because neither copies of their visas, nor of their Passports showing Immigration entries nor air tickets or clearances at the airport were availed for our review. The duty and accommodation allowances for the two Board members were for a period of nine days.

5.5.3.11 We also noted that the some members of the CDF Board and CFC made a trip to the UK for a training on Budget Execution through Strategic Financial Management 2012 between 29 October 2012 and 9 November 2012 at the Crowns Agents International Training Centre, United Kingdom.

5.5.3.12 The persons on record as having been on this trip are:-

1. Hon Ekwe Ethuro-Chair CFC
2. Hon Nur Nassir-Member CFC
3. Mr David Koross-Board Member

4. Ms Rosalia Nyalle-Board Member
5. Ms Brenda Onyino-Head of Department

5.5.3.13 The Board approved the trip in its 60th meeting held on 5 October 2012 and directed the CDF management to organize for the same (see the Board Minutes at Annexure 18). According to the Board minutes, it appears that the trip had earlier been cancelled on advice of the parent Ministry but the matter had been revisited and the trip authorized by the Board.

5.5.3.14 However, we cannot ascertain that the Ministry approved this trip as such authorization letters were not availed for review. Further, we noted that the Minister had made a query as to the propriety of this trip vide a letter dated 21 December 2012 (see annexure 19). In this letter, the minister was demanding to be furnished with details of the necessary approvals for the trip together with evidence that all the necessary government regulations had been adhered to. In addition, he sought to know what the total expenditure for the trip was. We are not aware of any response made to this enquiry as such was not provided for our review.

5.5.3.15 The Public Relations Officer of the Board subsequently wrote a memo to the Ag. CEO on 25 October 2012 seeking approval for the proposed training and its financing (see the Memo at Annexure 20). The Memo also had the budget breakdown for the sum of **KES 9,864,775** which is summarized in the table below.

Table 10: Breakdown of the budget breakdown for the UK trip

Item	Brief Description	Rate in dollars	Number of days	Amount in KES
	2 Board Directors			
Daily Rates	1 Secretariat	525	15	1,354,500.00
Allowances	2 CFC Members	365	15	470,850.00
		1110	15	2,863,800.00
Air Tickets	To and from London for 5 pax Business Class for 4 pax Economy Class for 1 pax			1,200,000.00 130,000.00
Cost of training	3750 pounds per person			3,065,625.00
Sitting Allowances	2 Board members for 12 days			480,000.00
Contingencies	Other incidental costs			300,000.00
TOTAL				9,864,775.00

5.5.3.16 From available documentation, it would appear that **KES 7,607,843.00** was used as expenditure for this UK trip.

Table 11: Summary of the expenditure traced to the UK trip

Payment Voucher	Description	Amount (KES)	Annexure
Not Indicated	Surrender of Imprest by Ms Brenda Onyino	5,959,503.00	21
178	Surrender of imprest issued to Ms Brenda Onyino to process Visas to the UK.	162,000.00	22

Payment Voucher	Description	Amount (KES)	Annexure
366	Payment for the provision of Air Travel services	1,486,340.00	23
TOTAL		7,607,843.00	

5.5.3.17 Some of the attachments to the Surrender of Imprest were copies of UK visas for Ms Brenda Onyino, Ms Rosalia Nyale and Mr. David Koross with immigration entries showing that they indeed took the trip. Travel documentation for the other two officers was not availed for our review, we however saw their air tickets. The Voucher surrendering money spent to process Visas shows that in addition to the officers who were meant to take the trip, the money was spent to process Visas for the following, Mr. Yusuf Mbuno, Mr. Odongo Mark, Mr. Joseph Njihia, Ms Consolata Waithera, Ms Jane Nyawira and Mr. Xavier Francis Nyamu. We did not get any information on why visas were being processed for them.

5.5.3.18 We also got information that some members of the CDF Board and staff took what appears to be an unauthorized trip to Tanzania between 7 October and 13 October 2012.

5.5.3.19 The officers who are on record as being on this trip are:-

1. David Koross-Board Member
2. Elizabeth Kitundu- Programme Officer-CDF
3. Susan Maritim- CFC
4. Hon Ekwe Ethuro-CFC Chairman
5. Major Rose Mbula Kioko-Board Member

5.5.3.20 The trip is reported to have been a Commonwealth conference to which the CFC chair had been invited. The CFC chair is said to have proposed that the conference be attended by three CFC members, two Board members and CDF secretariat staff. The Board authorised funding of the conference in its 60th meeting held on 5 October 2012 (see the Board Minutes at Annexure 18). The proposal for this trip had been prepared by the management and tabled to Board for approval. The approved budget was to the tune of **KES 2,295,918** as is summarized in the table below:-

Table 12: Breakdown of the budget for the Tanzania Trip

Item	Brief Description	Rate in dollars (USD=87 KES)	Number of days	Amount in KES
Accommodation	3 CFC Members	367	6	574,722.00
	2 Directors	367	6	383,148.00
Sitting Allowances	3 CFC Members	230	5	210,150.00
	2 Directors	230	5	140,100.00
Per Diem	Ag CEO	289	6	150,858.00

Item	Brief Description	Rate in dollars (USD=87 KES)	Number of days	Amount in KES
	2 CDF Secretariat staff	220		229,680.00
Ground transport		230		200,100.00
Air tickets		460		320,160.00
Contingency		1000		87,000.00
TOTAL				2,295,918.00

5.5.3.21 From available documentation, it would appear that a total of **KES 1,517,045.60** was used as expenditure for this trip as detailed below.

Table 13: Summary of the total expenditure for the Tanzania trip (KES 1,517,045.60)

Item	Brief Description	Rate in dollars (USD=85.40 KES)	Number of days	Amount in KES
Accommodation	1 CFC Members	634	6	324,861.60
	2 Directors	367	6	376,104.00
Per Diem	CDF Secretariat	220	6	112,728.00
	CFC Secretariat	502	6	257,224.80
Ground transport		250	7	149,450.00
Taxi Services(Kenya)				27,000.00
Conference fee				93,940.00
Air tickets				109,440.00
Total Imprest surrendered				1,450,748.40
Amount Banked				66,297.20
TOTAL EXPENDITURE				1,517,045.60

5.5.3.22 Although we obtained an unreferenced letter (annexure 24) dated 1 October 2012 from the Chairman of the Constituencies Fund Committee Hon. Ekwee Ethuro to the Acting CEO of the CDF Board Secretariat Mr. Mbuno informing him of this conference, we have no evidence of the relevant Government approvals for foreign travels these being from the Speaker for the CFC members and the Minister for the Board Members and the CDF Staff.

5.5.3.23 We also did not locate any invitation letter to Hon. Ekwe Ethuro to the Conference. A taxi receipt of **USD 1,750** which we found attached to the voucher was also suspicious because of the amount involved and could not be verified.

5.5.3.24 **Risks/Implications**

5.5.3.25 A total of **KES 2, 670, 000**, may have been misappropriated or used irregularly in the form of irregular sitting allowance payments to the CDF Board and members of staff of the CDF Secretariat

5.5.3.26 Further, we cannot ascertain the propriety of the expenditure amounting to **KES 12,814,600.40** spent on the three foreign trips.

Recommendations

5.5.3.27 The Board members and members of staff responsible for or recipients of all irregular payments should be surcharged and the money recovered fully.

5.5.3.28 We would recommend further investigations to ascertain whether the CFC members may have been paid by Parliament for the same activities.

5.6 Internal Control Weaknesses

In the course of our review, we came across various cases of control weaknesses. We discuss these under the following headings.

- Cashbook;
- Bank reconciliations;
- Weaknesses in accounting for EFT and TT transactions, and
- Petty cash and standing imprest.

5.6.1 Cashbook

Observations

Delay in preparation of the cashbook

- 5.6.1.1 The Government Financial Regulations and Procedures 1989 issued by the Minister for Finance govern the administration of Government Finance in relation to the consolidated Fund. Section 5.9.1.1 of these Regulations provides that the cashbook should be posted and balanced on a daily basis.
- 5.6.1.2 We observed that the CDF Secretariat's cashbook was not updated on a daily basis. On 17 July 2012, the CMFS issued a memo to all Department Heads, Regional Coordinators and Fund Account Managers with a detailed work plan for the Accounts and Finance Department (Annexure 25). This was intended to have all the financial statements for the financial year ending 30 June 2012 prepared and finalized for audit purposes by 30 September 2012. In the work plan, he issued clear time logs for the various finance and accounting functions with clear action points and the expected output.
- 5.6.1.3 For the cashbook, he instructed Mr. Michael Mutulili, Ms Margaret Muriithi, Mr. Antony Mwangi and a Mr. Alex to post all the payment vouchers and derive the closing cash and bank balances by 17 July 2012.
- 5.6.1.4 It is our conclusion that he instructed the cashbook to be updated then because it had not been for a long time. Mr. Obara, Mr. Mwangi and Mr. Mutulili have also informed us during our interviews that the cashbook was not usually updated on time.

Lack of review of the cashbook by a senior officer of the organization

- 5.6.1.5 Section 5.9.1.1 of the Regulations further provides that the Cash book should be checked by a senior officer daily. The senior officer should then sign the last entry he examines as an indication that the examination was done and that he is satisfied that the entries posted are correct. In this instance, the senior officer is the Chief Accountant according to his Contract of employment that indicates that he is responsible for maintaining all Books of Account.

In the Cashbook, we observed that the reviewer of the Cashbook signed at a date way earlier than the date of the last entry made. Further, the signature appears only once every month showing that a review, if at all done, was done only once a month. Chances are that the review was never done and the presence of a signature of the reviewer is deceitful and meant to give the impression that the review was done as is required.

Use of Counterfoils to post the cashbook for cheque payments

- 5.6.1.6 In an interview with Mr. Mutulili, the Accountant responsible for posting the cashbook, he revealed that he used cheque counterfoils instead of approved payment vouchers to post the cashbook. He also said that in some instances, the cheques are written before the voucher is prepared.
- 5.6.1.7 A close scrutiny of the cashbook corroborated this statement. We observed that the Cheque Number column was in sequence. This ideally should not be the case. Instead, it is the Payment Voucher column that should be sequential. This is informed by the process followed when posting the cashbook. At the point of posting the vouchers to the cashbook, the voucher only has a Voucher Number.
- 5.6.1.8 Another number referred to as the cashbook voucher number is allocated to a voucher at the point of posting. It follows that these numbers will be in sequential order in the cashbook. The cheque numbers on the other hand are allocated at the point of writing the cheque. It is not practical therefore that both the cheque number and the cashbook voucher number be in sequence in the cashbook. The question that arises is whether the Accountant ever looked at the payment vouchers to confirm the legitimacy of the payments before posting the payments in the cashbook.

Risks/Implications

- 5.6.1.9 It is evident that when the EFT fraudulent transactions took place, the cashbook had not been updated. Two of the transactions amounting to a total of **KES 13,391,130.45** (**KES 7,080,513.70** and **KES 6,310,616.75** respectively) took place in the month of June. They both occurred on the 27 June 2012. This is long before the 17 July 2012 date deadline issued by the CMFS for the cashbook to be updated. There is reasonable cause to believe that on the 17 July 2012, the cashbook was not up to date and had not been for a long time.
- 5.6.1.10 The fraudulent transactions occurring in the month of July would have been detected and averted by the Finance department if the cashbook was updated daily and bank reconciliations done as per the regulations. The file containing the payment amounting to **KES 11,266,924.30** made on 30 July 2012 was detected by the bank after two other files amounting to **14,903,912.25** (**KES 9,369,193.95** and **5,534,718.30** respectively) had been processed on 2 July 2012 and 5 July 2012 respectively.
- 5.6.1.11 With the review not being done as required, errors and irregularities cannot not be detected and corrected on a real time basis. Had the responsible officer sought to review the cashbook as per the Government Financial Regulations and procedures, he would have identified the first two fraudulent payments and hopefully thwarted the rest.

5.6.1.12 The use of cheque counterfoils to post the cashbook means that the legitimacy of payments in the period cannot be ascertained. As a result, there is a high chance that the Cashbook may contain payments that are not legitimate. An approved Payment Voucher contains supporting documents and a brief explanation of what the payment is for. This information is not available from a Cheque counterfoil as it will only contain the name of the Payee, the amount of money paid and the Cheque number. These details are not enough to verify the validity of a payment.

Recommendations

5.6.1.13 The Cashbook should be updated and reviewed daily as per the Government Financial Regulations and Procedures 1989.

5.6.1.14 Only fully approved and supported payment vouchers should be used to post the cashbook.

5.6.2 Bank Reconciliations

Observations

5.6.2.1 We found that bank reconciliations are not done and reviewed on a timely manner. We expected the Finance department to have daily reconciliations of their current account balances using online interim statements and a monthly reconciliation based on the final authenticated bank statement.

5.6.2.2 We further expected that the monthly reconciliation would be done soon after the end of the month preferably by the 5th of the following month.

5.6.2.3 We however found that there were no daily bank reconciliations and that the monthly reconciliations would be delayed by up to a month or more. We for instance found that as at 17 February 2012, the reconciliations for January 2012 had not been done. This is as evidenced by a letter dated 17 February 2012 to the CMFS from the Accountant in charge of bank reconciliations (Annexure 26). The letter was a handing over letter as the Accountant was to proceed on leave starting 20 February 2012. According to the letter, one of the activities that were to be handed over included the January 2012 reconciliation of the KCB bank account.

5.6.2.4 As we have noted earlier, it would also appear that the reconciliation for the month of June 2012 had not been done as late as 6 August 2012.

5.6.2.5 We also noted material long outstanding reconciling items in the monthly bank reconciliations. There was also no evidence of regular review, follow up and resolution of these long outstanding items.

5.6.2.6 A summary of these reconciling items is provided in table 16, below

Table 14: Long outstanding reconciling items

Month	payments in cash book, not in bank statement	Receipts in bank statement, not in cashbook	Payments in bank statement, not in cashbook	Receipts in Cash book but not in bank statement
Jul-11	3,126,541.6	303,285	88,438.7	-
Aug-11	491,403	497,573.9	116,938.8	-
Sep-11	788,625.4	633,547.9	141,836	814,554
Oct-11	722,223.5	4,358,058.55	34,406	827
Nov-11	642,596.4	17,255,841.35	29,406	827
Dec-11	4,430,759.35	21,461,438.90	34,406	25,477
Jan-12	7,319,700	12,765,884.25	34,406	25,477
Feb-12	13,047,004.55	11,237,598.25	196,651.1	12,350,976.8
Mar-12	18,075,290.65	16,669,572.45	196,651.1	12,350,976.8
Apr-12	17,753,085.5	24,859,942.70	19,808,038.7	17,950,976.8
May-12	3,356,271.5	34,319,178.55	27,216,110.75	25,477
Jun-12	437,990	-	34,406	-
Jul-12	7,858,243.65	200,151	13,425,536.45	93,165
Aug-12	2,067,389.9	165,158	39,596,373	-

5.6.2.7 We also noted that interim unauthenticated bank statements rather than approved bank statements are often used to perform the monthly bank reconciliations.

Risks/Implications

5.6.2.8 The lack of adequate and timely bank reconciliations is indicative of weak controls over banking operations, which creates an environment that is conducive for fraudulent practices.

5.6.2.9 Long outstanding reconciling items may also be used as a cover up for fraudulent practices.

5.6.2.10 The use of interim bank statements to perform bank reconciliations increases the risk of non-detection of fraudulent or omitted transactions, especially in instances where fraud is perpetuated by banking agents or third parties e.g. bank staff.

Recommendations

5.6.2.11 Bank reconciliations should be diligently prepared and reviewed on a daily basis. Anomalies and irregularities noted should be investigated and resolved in a timely manner.

5.6.2.12 A further review of long outstanding items should be done to facilitate the relevant adjustments and reversals.

5.6.3 Weakness in accounting for EFT & TT transactions

Observations

5.6.3.1 We noted several errors and inconsistencies in accounting for EFT and TT transactions, which are often used to process material payments, usually above KES 1 M. These are as detailed in table 17 below.

Table 15: Errors & omissions in accounting

Bank Statement Details			Comments
Date	Description	Amount(KES)	
26/7/2011	FT1207KZ689	15,688,348	Debit recorded in Cash book was KES 15,775,399.35 which was overstated by KES 87,052.
26/8/2011	FT11238DK1NK	8,187,381	Only transactions amounting to KES 5,958,762.00 were recorded in the EFT Manual Register
26/8/2011	FT11238RF884	18,461,404	We were unable to account for KCB Quick pay files number 86 and 87.
4/10/2011	FT11277L8SGR	36,771,946	<ul style="list-style-type: none"> -EFT transaction was unaccounted for in the KCB Quick Pay system - Payments amounting to KES 7,944,080 were not approved by the AIE holder. -These were Ex-gratia payments to CDF staff who worked under the economic stimulus program. -The approval had been declined by treasury in a letter dated 15/1/2010, in response to request on 2 Oct 2009. -The number of attached beneficiaries was not clearly accounted for and variable rates were used. - For payments amounting to KES 2,235,000, fund accountants were paid double, for non-existent accountants (at a rate of KES 750, total, KES 225,000) -These were payment of lunch allowances to FAMS conducting ledger reconciliations exercise in their respective constituents. -Payments amounting to KES 5,865,000 were not approved by the AIE holder and were also not approved by the treasury. -These payments were facilitation allowance to FAMS while monitoring projects on economic stimulus program. -The attached list of beneficiaries had repetitions. -The rates of KES 5,000 per person for 6 months were not consistently utilised.
20/9/2011	MDC1126300145	3,810,964	-Receipt was not recorded in the cash book.
24/10/2011	FT112973RY2X	17,620,648	-We were unable to account for KCB Quick pay file number 90.
3/11/2011	FT11307XT37B	1,314,800	- Payment not recorded in the cashbook.

26/10/2011	Swift-Pioneer Assurance	2,756,700	- Receipts were not recorded in the cashbook.
21/10/2011	Swift-DPC Constituencies Board Sec	2,656,700	
17/11/2011	Fixed Deposit MM1132100149	100,000,000	- Payment was not recorded in the cashbook.
2/11/2011	MDC1130600341	1,314,800	- Receipt was not recorded in the cashbook.

5.6.3.2 We also noted that the cashier, Mr. Michael Mutulili who is charged with generation and processing EFT files, recording of bank and cash transactions and custody of cheque books is also a bank agent.

Risks/Implications

5.6.3.3 Amendment 16 (b), 3 of the CDF act, states that the signing instructions shall be such that the signature of the CEO shall be mandatory on all payment cheques and/or instruments intended for actual release of money from the fund, plus any two other signatories. Evidence of processing material payments for expenses that have not been approved by the respective parties could be indicative of significant internal control weaknesses which could heighten the risk of perpetuation of fraud.

5.6.3.4 Non-review and matching of internal EFT register documentation, physical payment vouchers, recorded amounts in the cashbook, sequential accounting of generated and submitted files from the KCB quick pay system is evidence of significant internal control weaknesses in the processing of EFT payments, most of which are above KES 1M. This could heighten the risk of perpetuation of fraud.

5.6.3.5 Non-review of entries recorded in the cashbook for completeness and accuracy on a daily basis, as well as lack of resolution for reconciling items with the bank, could increase the risk of perpetuation of fraud and/or concealment of fraudulent activities.

5.6.3.6 Non-segregation of duties of book keeping, performance of bank reconciliations, preparation of payments (EFT, TT's & cheques), custody of cheque books as well as performance of banking duties could also heighten the risk of perpetuation and concealment of fraudulent practices.

Recommendations

5.6.3.7 The CDF Secretariat should ensure that appropriate controls are put in place to manage EFT, TT, cheque and cash transactions, to mitigate risks of perpetuation of fraud.

5.6.3.8 Appropriate levels of approvals should be obtained for all payments before they are processed, without exception.

5.6.3.9 Regular reviews and matching of cashbook entries, manual registers, sequential numbering of EFT transfer files and bank reconciliations should be done regularly, to ensure accuracy and completeness of accounting entries.

5.6.4 Information Technology Controls Weaknesses

- 5.6.4.1 We observed that the CDF Secretariat does not have an ICT policy document to govern usage of IT equipment and services within the organization. Ideally, such a policy would cover the operating system security, internet access and email management. For instance Mr. Stephen Chege had his desktop computer formatted without proper authorization making it impossible to retrieve information that might have had significant bearing on the case at hand.
- 5.6.4.2 We also established that the current password and email account policy settings on computers with sensitive information were inadequate to safeguard the systems from unauthorized access.

Risks

- 5.6.4.3 The lack of an ICT policy can lead to loss of data which may prove expensive for the organization in terms of business continuity.
- 5.6.4.4 Sharing, weak and improper usage of passwords allows intruders or insiders to access to sensitive information.

Recommendations

- 5.6.4.5 CDF should implement an ICT policy to mitigate the inherent risks. In addition, an ICT policy awareness campaign should be conducted for all employees especially the system users concerning proper IT usage procedures and practices which include user acceptance, hardware and software change requests to be authorized by the relevant manager.
- 5.6.4.6 Management should ensure that all company systems, comply with the password policy in place to ensure that systems are secure from unauthorized access.

5.6.5 Petty Cash and Standing Imprest

- 5.6.5.1 Petty Cash/Standing Imprest is used for various small office expenses mostly for amounts less the KES 30,000 such as office tea, snacks and lunches for staff working overtime. For the CDF Board, the standing imprest is KES 300,000.

The petty cash processing procedure

- 5.6.5.2 The person requesting for the money obtains a Petty Cash Requisition Form from the Procurement office and fills it in with his personal details and those of the items he is seeking funds for. These forms are serialized in the Procurement Department.
- 5.6.5.3 The requesting officer then takes the Requisition Form through the approval process. The first approval is by the Head of Department ("HOD") of the requesting officer's department while the second approval is by the CEO in his capacity as the accounting officer of the organization. However, the Procurement or Finance department can approve on behalf of the CEO.

- 5.6.5.4 Once fully approved, the requesting officer takes the form to the cashier where he is issued with the money. The requesting officer signs an acknowledgement of receipt of the money on the face of the approved Requisition Form. Sometimes, money that was spent as a matter of urgency by an officer is reimbursed using petty cash when evidence of such an expense (e.g. a receipt) is endorsed by the CMFS. When sometimes the HOD is missing, the CEO approves alone. In the event that an officer spends more money than that that he sought, the cashier can reimburse when the amount is small.
- 5.6.5.5 Once the money has been spent, the officer then brings to the cashier supporting documents for the expenditure. These together with the requisition forms are used as annexures to a voucher that is prepared by the cashier to seek for funds to replenish the petty cash float once a considerable amount has been spent.
- 5.6.5.6 Upon approval, the Cashier writes a cheque in her name which she cashes and tops up the Petty cash float.

Observations

Physical safety

- 5.6.5.7 The designated cash office is not well designed in terms of the requisite security detail. It is an unsecure room with no special grills, automatic lock and unlocking systems, or teller-window from where the cashier can disburse funds. When the cashier is issuing money to someone, she has to open the door and allow the person into the cash office.
- 5.6.5.8 The Cashier, also informed us that when she cashes a cheque, she moves with the money from the bank to the office alone or sometimes in the company of the organization's driver with no security detail at all. The distance covered is approximately 500 meters right in the middle of the Nairobi Central Business District.
- 5.6.5.9 She also informed us that she not only cashes the office standing imprest but also imprests for officers in the organization. This was being done to comply with the bank's instructions that as far as cashing internal cheques was concerned; they would only deal with agents to the bank. The cashier in question is one of the agents to the bank.
- 5.6.5.10 As a result, at any one time, the cashier could be transporting or have in her possession in the cash office amounts exceeding the KES 300,000 standing imprest limit.
- 5.6.5.11 We also observed that imprest amounts taken by officers sometimes include payment to service providers such as hotels providing conference facilities. In this case, the amounts involved may run into the millions.

Implication(s)

- 5.6.5.12 The handling of the large sums of money both while in transit from the bank or while in the cash office poses a serious security threat to the cashier and also exposes the cash to the risk of being stolen or lost.
- 5.6.5.13 The cash also risks being stolen while at the CDF offices as there is no safe or strong room.

Recommendations

5.6.5.14 The cash office should be well designed with a grilled door which has an automatic locking and unlocking system. A teller window should be put in place to avoid the cashier having to serve customers while they are in her office. This will also ensure efficient use of time resource as lot of it is wasted in her having to keep moving up and down to let customers in and out of her office.

5.6.5.15 Imprest for officers should be credited directly to their respective bank accounts instead of having to be cashed by the cashier and then handed over to the officer(s).

Delay in accounting for petty cash issued

5.6.5.16 We observed that the organization has only one petty cash imprest order who doubles up as the main cashier of the CDF Board. To replenish the standing imprest, the cashier has to prepare a voucher which is supported by all the supporting documents for expenditure. These supporting documents are provided to the cashier by the officers who spent the money.

5.6.5.17 The cashier informed us that in most cases, she has to follow up officers for the receipts and other supporting documents instead of the officers promptly bringing back the documents to her. This laxity in accounting for money spent sometimes causes a delay replenishing the float because without the supporting documents, the voucher cannot be prepared.

Implications

5.6.5.18 There is a risk of loss or misuse of public funds.

5.6.5.19 There is a risk of delay in replenishing the petty cash float and this may paralyze office operations that rely on it.

Recommendations

5.6.5.20 The organization's standing imprest of KES 300,000 should be distributed among the main departments that rely on petty cash.

5.6.5.21 Each imprest holder should promptly surrender their surrenders to the main cashier for accountability. An officer who does not surrender promptly should be surcharged for any amount outstanding.

5.6.5.22 All the receipts and other supporting documents should be properly verified by an independent party before clearance and the point of surrender.

5.6.6 Role of the Internal Audit Department

5.6.6.1 We noted that the CDF Secretariat has an Internal Audit Department. The generic functions of an Internal Audit Department are to evaluate and provide reasonable assurance that risk management, control, and governance systems are functioning as intended and will enable the organization's objectives and goals to be met. Further, it reports risk management issues and internal controls deficiencies identified and provides recommendations for improving the organization's operations, in terms of both efficient and effective performance while at the same time providing support to the company's anti-fraud programs.

5.6.6.2 In light of all the aforementioned control weaknesses, we found that the Internal Audit Department ought to have done more in identifying control weaknesses and putting measures to avert them. This way, there is a possibility that the fraudulent payments would have been forestalled.

5.7 Procurement and Quality Reviews

5.7.1 Procurement for Consultancy Services

Observation

- 5.7.1.1 We observed that the CDF Board procures for large consultancy services. We therefore reviewed the process followed in their procurement.
- 5.7.1.2 We found that as per the consultancy agreements between CDF and the respective service providers, the TORs spelt out the activities to be undertaken to ensure comprehensive evaluation of CDF Fund programme from October 2004 to June 2010. The scope of work included assessment of relevance, effectiveness, efficiency, impact and sustainability of the reports.
- 5.7.1.3 However, we noted several weaknesses in the review process, delays in drafting reports, limitations of scope and other inconsistencies that could have affected the quality of the evaluation of the CDF programme. These have been listed below.

Table 16: Summary of issues noted in the procurement of consultancy services

Consultancy	Summary of issues noted
Sokonet (Central Region)	<ul style="list-style-type: none">• First Draft report and related reviews not seen, as stipulated in the activities to be done by the consultants in the signed agreements.• Of the 6,248 CDF projects, 912 were sampled of which only 388 were said to have been reviewed in 2 days, which appears impracticable.• Approved Fixed assets registers for the respective projects sampled were not seen.• Project completion status for the period 2004 to 2010 as stipulated in the signed agreement was not seen in the report.• The recommendation paragraphs were too generic, making no reference to actual work done, in previous chapters.
Exceptional management consultants (North Rift region)	<ul style="list-style-type: none">• No final report seen as at the time of performance of this review.
Mbuthia & Associates	<ul style="list-style-type: none">• Unsigned Final report.• Project completion status for the period 2004 to 2010 as stipulated in the signed agreement was not seen in the report.
Eliud & Associates (Nyanza Region)	<ul style="list-style-type: none">• Un-signed final report received on 9 July 2012.• Project completion status for the period 2004 to 2010 as stipulated in the signed agreement was not seen in the report.• Approved Fixed assets registers for the respective projects sampled

Consultancy	Summary of issues noted
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were not seen.

Scenario Architects (Nairobi Region)

- No final report was seen as at the time of performance of the review.

M.A Consulting Group (Eastern Region)

- Although the Contract was signed on 25 August 2011, consultancy work had not commenced by Feb 2012, long after the submission of the final report deadline, breaching the contractual terms.
- M.A Consulting Ltd wrote a letter to CDF Board on 4 Oct 2011 requesting to adjust the contractual sum from KES 8,605,400 to KES 14,766,639 on 4 Oct 2011 to enable them to complete work in the large number of constituencies in Eastern Province, which was declined.
- Un-signed final report received in December 2012.
- The following 9 constituencies in Eastern region i.e. Moyale, North Horr, Saku Laisamis, Isiolo North, Isiolo South, Ntonyiri, Tigania West and Igembe, although part of the sampled constituencies, were not visited.
- First draft report, complete with CDF management review notes not seen, as stipulated in the TORs.

Max& Partners Ltd (South Rift)

- Final report as basis for the final payments made, on 25/9/2012 not seen by the time of review, in January 2013.

Elide & Associates

- Actual amount paid out was Ksh 974,400, exceeding the contractual sum of KES 940,000 by KES 34,400.
- Final report as basis for the final payments not seen.
- Report lacked specific details of actual work done e.g. constituencies studied.

Brains Consultancy Limited

- The final report lacked key annexures like lists of actual employees who took part in the employee satisfaction survey.

Global Management Network Limited (Western Region)

- Final report as basis for the final payments made, on 5/10/2012 not seen by the time of review, in January 2013.

Dial Africa Limited (North Eastern Region)

- The company was incorporated on 16 June 2011, long after the invitation to tender for consultancy was run in the local media, on 7 June 2011.
- This makes it impracticable that the Consultancy firm would have the requisite experience to carry out the evaluations of this magnitude.
- Final report as basis for the final payments made, on 25 September

2012 was not seen by the time of our review, in January 2013.

- Approved Fixed assets registers for the respective projects sampled were not seen.
- There was only 18% coverage of the proposed projects done, constituting a significant limitation of scope.

5.7.1.4 We noted that although the consultancy contracts for the evaluation of CDF projects were signed on 25 August 2011, there were significant delays in the commencement of the work, which constituted a breach of the respective agreements. Some consultants e.g. MA Consulting did not commence work until February 2012, long after the Final report scheduled deadline, while others e.g. Dial Africa Limited were yet to submit their final reports by the time of carrying out the review, in January 2013.

5.7.1.5 These delays were due to several un-foreseen circumstances and internal planning/project management bottlenecks that resulted in significant delays in the completion, compilation, consolidation and quality of the respective constituent report findings. The agreed upon work plan was as laid out in table 12 below.

Table 17: Consultancy work reporting schedules

Report type	Due Date, from signing the contract
Inception Report	2 weeks after signing contract
First Draft Report	12 weeks after signing contract
Second Draft Report	14 weeks after signing contract
Final report	16 weeks after signing contract

5.7.1.6 During the evaluation of bids for consultancy services, one of the mandatory requirements was the provision of a complete list of directors of the respective companies. We however noted that although this was a criteria that was used to disqualify some vendors, management was unable to provide us with these lists for our review.

Risks/Implications

5.7.1.7 Delays in execution of the evaluation of CDF projects as well as not subjecting the respective reports to rigorous quality reviews meant that there was no value for money realised on funds released in the financial period 2011/2012, for the execution of these activities.

5.7.1.8 It is indicative of inherent weakness in the capacity of the CDF board in overseeing the disbursement, monitoring and evaluation of CDF funds to the respective constituencies.

- 5.7.1.9 It could have adversely affected the strategic planning for the CDF Board, which had not carried out impact assessment and value for money audits on CDF Projects since its inception in 2004.
- 5.7.1.10 The lack of a list of directors for the successful firms might be indicative of bid rigging in the procurement of consultancy services if it is falsely indicated in the bid analysis that comprehensive lists of directors was a mandatory requirement that were used to eliminate some vendors. The lack of lists may also be as a result of some of the directors in these companies being staff or CDF Board members.
- 5.7.1.11 Another indication of a flawed procurement process is the award of tenders to newly incorporated companies, with no requisite experience in carrying out work of this magnitude e.g. Dial Africa Limited, as detailed in table 11 above.

Recommendations

- 5.7.1.12 All procurement procedures as laid out in the Public Procurement and Disposal Act should be adhered to, without exception, to ensure that the procurement of goods and services is done equitably.
- 5.7.1.13 All consultants contracted should be tasked to ensure that they execute, to satisfaction, all the contractual clauses of the respective consultancy agreements, without exception.

Management should critically review all reports submitted to ensure that each consultant conducted a verifiable social-economic evaluation, value for money audit and impact assessment of CDF funded projects and clearly outline the major achievements and challenges faced.

5.7.2 Budgetary Allocations for professional services for the period 2011/2012

Observations

- 5.7.2.1 As per budget code 2211308, a total of KES 121 Million was allocated for professional services as detailed in the table 13 below.

Table 18: Budgetary allocation for professional services

No.	Breakdown	Amount (KES)
1	Impact Assessment and Value for money on all CDF Projects by private consultants since inception	110,000,000
2	Surveys as per performance contracting guidelines (Work environment, employee satisfaction, customer satisfaction, drug & substance abuse, HIV/AIDS)	5,000,000
3	Audit fees –KENAO	2,000,000
4	Countrywide verification & identification of Fixed Assets ("FA") of CDF	4,650,000

No.	Breakdown	Amount (KES)
5	Parking charges	34,830
Total		121,684,830

5.7.2.2 We however noted that although the CDF Board budgeted for a countrywide verification & identification of CDF's FA, to the tune of KES 4,650,000 in the 2011/12 financial period, this exercise was yet to commence by January 2013.

5.7.2.3 Contracted professional services moved up from KES 48,977,000 in the previous period (2010/2011) to KES 121,684,830 (representing a 223% increase) in 2011/2012. However, the evaluation of CDF projects as detailed above was grossly behind schedule, and most of the work was still incomplete by the end of 2012, more than 17 months after consultancies were contracted to perform the exercise.

Risks/Implications

5.7.2.4 Contractual agreements totalling KES 109M were signed between CDF Board and the respective consultancies for carrying out impact assessment and value for money on all CDF Projects by private consultants since inception.

5.7.2.5 Delays in execution of this exercise as well as FA verification meant that there was no value for money realised on funds released in the financial period 2011/2012, for the execution of these activities.

Recommendations

5.7.2.6 Management of CDF should appoint personnel specifically for overseeing the quality reviews, execution and finalisation of the evaluation of all CDF projects, including the consolidation of the final results.

5.7.2.7 Better budgetary estimation and expedient procurement of services should be done to ensure that all activities planned for a particular financial period are executed to completion, without exception.

5.7.3 Consultancy Payment Schedules.

Observations

5.7.3.1 As per the consultancy agreements between CDF and the respective projects, the third and final payments were to be processed on receipt of final signed and approved reports.

5.7.3.2 However, we noted several consultancies that were paid amounts due, in full, net of taxes, before submission of final approved reports. See table 14 below for details.

5.7.3.3 There was also evidence that the payments schedules as stipulated in the respective contracts were not strictly adhered to e.g. although some consultancies e.g. M.A Consulting were yet to submit their results by the end of 2012, Digital Africa, charged with consolidation of constituency results had received the third and final payment by June 2012.

Table 19: Summary of payments made for professional Services

Consultancy	Contract Sum (KES)	1st Instalment (40%) (KES)	2 nd Instalment (30%) (KES)	3rd Instalment (30%) (KES)	Date of making payment	Total Actual Payments (KES)	% of the contract sum paid
Sokonet (Central Region)	12,558,880	4,568,965	3,767,664	3,767,664	11/9/2012	12,104,293.	96.38%
Exceptional Management Consultants (North Rift region)	11,760,046	4,298,500	3,528,0134	3,528,014	11/9/2012	11,354,527.60	96.55%
Mbuthia & Associates	11,890,870	4,346,318	3,567,261	3,567,261	11/9/2012	11,480,840	96.55%
Eliud & Associates (Nyanza Region)	9,187,200	3,358,080		2,581,620	11/9/2012	5,939,700	64.65%
Scenario Architects (Nairobi Region)	10,339,080	3,779,112	3,101,724	2,968,029	1/10/2012	9,848,865	95.26%
M.A Consulting Group (Eastern Region)	8,057,541	2,945,170	-	2,313,069.90	1/10/2012	5,258,239.9	65.26%
Max & Partners Ltd (South Rift)	9,177,920	3,354,688	-	2,516,016	25/9/2012	5,870,704	63.97%
Brains Consultancy limited	718,000	980,000	-		30/8/2012	980,000.	136.49%
Global Management Network Limited (Western Region)	11,895,360	4,347,959	3,568,608.00	3,414,789.00	5/10/2012	11,331,356.	95.26%
Dial Africa Limited (North Eastern Region)	8,605,400	3,145,422	2,581,620.00	2,355,966.55	11/9/2012	8,083,008.55	93.93%
Digital Africa Services	13,641,600	4,986,240	4,585,915.00	986,870	30/6/2012	12,532,765.10	91.87%

5.7.3.4 We also noted that there were no suitably qualified personnel within the CDF Board who was charged with the task of interfacing regularly with the respective consultants, to ensure the following:

- a) They were progressing as planned;
- b) All contractual terms were adhered to;
- c) Invoicing was done appropriately for completed phases of the consultancy work done; and
- d) No double payments were done.

5.7.3.5 Overseeing the respective consultancies and consolidation of the respective constituent results was outsourced to Digital Africa Services, for a contractual sum of KES 13.6Million.

Risks/Implications

5.7.3.6 Not following payments schedules as stipulated in the respective private consultancy agreements is a breach of the contractual terms, and could result in failure to achieve value for money in the evaluation of CDF projects, due to incomplete work, delays, poor quality of reports submitted, and limitations of scope due to poor planning and execution of the exercise.

5.7.3.7 It could also be indicative of fraudulent billing schemes where invoices are issued and payments effected, for incomplete and/or fictitious services provided.

Recommendations

5.7.3.8 A reconciliation of all consultancy accounts should be done to determine amounts actually invoiced extent of completion of work and actual payments processed in a bid to determine whether any irregularities like double payments, over-payments e.t.c occurred. All irregularities noted should be resolved with each consultant and in a timely manner.

6 Annexures