




THE ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM
1ST OCTOBER 2023 TO 31ST DECEMBER 2023

JANUARY 2024

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 05 MAR 2024	
DAY: TUESDAY	
TABLED BY:	Hon Owen Baya, MP Deputy Leader, Majority Party
CLERK-AT THE-TABLE:	Inzofu mwale

PREAMBLE

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under Section 35 of the ACECA, 2003 as read with Section 11(1) (d) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney General.
4. The Attorney General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October 2023 to 31st December, 2023.

1. EACC/FI/INQ/33/20222

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES IN THE PROCUREMENT OF SERVICES INVOLVING THE CONSTRUCTION OF KINANIE LEATHER INDUSTRIAL PARK WATER SUPPLY PROJECT PHASE II & III TENDER NO. TAWWDA/048/2021-2022 BY TANATHI WATER WORKS DEVELOPMENT AGENCY (TAWWDA) FOR KSHS. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Co. Ltd (PERMA) at a cost of Kshs. 300,000,000/=

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July 2022, after receiving Kshs. 56,030,210.00 from TAWWDA, the company transferred Kshs. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance & Accounts-TAWWDA received a benefit of Kshs. 925,000/- from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

- i. Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.
- ii. Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.
- iii. Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act No. 3 of 2003
- iv. Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act. No 3 of 2003
- v. Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.
- vi. Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes act, no.3 of 2003
- vii. Fraudulent practice in a procurement proceeding contrary to section 66(1) as read with section 177 of the Public Procurement and Asset Disposal Act.
- viii. Fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48(1) of the Anti-corruption and Economic crimes Act.

- ix. Attempt to commit an offence involving corruption contrary to section 47 (a) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003

In addition, the Commission will

- i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from participating in public procurement and asset disposal processes in compliance with Section 41(3) (a) of the PPDA, 2015 and Regulation 22(1) (c) of the PPDR, 2020.
- ii) Institute civil proceedings for the recovery of Kshs. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited.
- iii) Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/FI/INQ/18/2023

INQUIRY INTO ALLEGATIONS OF CONFLICT OF INTEREST AND RECEIPT OF IRREGULAR BENEFITS OF KSHS. 56,740,325/= AGAINST THE FORMER GOVERNOR OF THE COUNTY GOVERNMENT OF KAKAMEGA

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the financial year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to Kshs. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a

benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for Kshs.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of Kshs. 56,740,325/= in total from the County Government of Kakamega

On 12th October 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

- i. One count of conspiracy to commit an offence of corruption contrary to section 47(a)(3) as read with sections 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.
- ii. Eleven counts of conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003
- iii. Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003
- iv. Five counts of Money laundering contrary to section 3 (B) (I) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act 2009

On 16th November 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December 2023. On 18th December 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES AT THE EMBAKASI NORTH CONSTITUENCY AMOUNTING TO KSHS. 51,351,357/=.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on 21st August 2021 on allegations of procurement irregularities and embezzlement of public funds amounting to Kshs. 51,351,357 at the Embakasi North Constituency. It was further alleged that the Member of Parliament for Embakasi North Constituency used his office to award tenders to his children and close associates. The tenders were allegedly for construction of classrooms, event hosting and roadworks within Embakasi North Constituency.

Investigations established that the said constituency awarded various tenders to four companies associated with the daughter of the Member of Parliament for the constituency.

Financial investigations revealed that several payments were made to the companies for various projects allegedly undertaken with the Embakasi Constituency.

Investigations revealed that the said Member of Parliament received a total of Kshs. 10,482,298/= either directly or indirectly from the companies associated with the daughter and other close associates. The MP is a signatory to bank account in one of the companies namely Ndakaini Hardware and Property Agencies.

On 12th October 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Member of Parliament, the Fund Account Manager and directors of the four companies namely Ndakaini Enterprises Limited, Allica Investment Limited, Pride wind Africa Limited and Ndakaini Hardware with the following offences;

- i. Two counts of conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003
- ii. Five counts of unlawful acquisition of public property contrary to section 45(1)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act 2003.
- iii. One count of abuse of office contrary to section 46 as read with section 48(1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 6th December 2023, the DPP returned the inquiry file with recommendations for further investigations.

4. EACC/PI/INQ/24/2021

INQUIRY INTO ALLEGATIONS OF IRREGULAR TENDER AWARD AND EMBEZZLEMENT OF FUNDS BY OFFICERS OF BOMAS OF KENYA IN THE AWARD OF GENERAL INSURANCE COVER FOR FINANCIAL YEARS 2020-2021 AND 2021-2022 TO CIC GENERAL INSURANCE LIMITED

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation that the Bomas of Kenya (BoK) had irregularly awarded the general property and work injury insurance cover tender to CIC General Insurance Limited during the financial year 2020-2021. Evidence obtained indicates that the tender was awarded to CIC.

Investigations established that BOK violated section 103 of the Public Procurement and Asset Disposal Act 2015 and illegally awarded the tender to CIC. It was further established that since the tender for FY 2020-2021 was irregularly awarded. Subsequently, the renewal clause in the FY 2020-2021 tender policies could not birth a legitimate renewal in FY 2021-2022. Furthermore, no LPO was issued for the renewed tender. CIC Insurance was illegally paid Kshs.9,058,916.70 for the two financial years which payments were made out of flawed procurement process.

On 15th December 2023, a report was compiled and forwarded to the DPP with recommendations that the Chief Executive Officer for Bomas of Kenya, Finance Officer, Supply Chain Management Officer, Ag. Managing Director CIC General Insurance and a Marketer at CIC, the Managing Director CIC General Insurance and CIC General Insurance Limited be charged with the following offences;

- i. Conspiracy to commit a corruption offence contrary to section 47 a (3) as read with section 48 of anti-corruption and economic crimes Act.
- ii. Two counts of abuse of office contrary to section 46 as read with section 48 of the anti-corruption and economic crimes act, 2003
- iii. Two counts of wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

- iv. Two counts of unlawful acquisition of public property contrary to section 45 (1) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act 2003

The Commission has in addition instituted the recovery of public property from CIC Insurance Company.

Awaiting DPP's response.

5. EACC/PI/INQ/05/2022

INVESTIGATIONS INTO ALLEGATIONS OF IRREGULAR AWARD OF TENDERS AND EMBEZZLEMENT OF FUNDS BY OFFICIALS OF BOMAS OF KENYA LIMITED DURING FINANCIAL YEAR 2020/2021 THROUGH SPLITTING OF TENDERS/CONTRACTS TO VARIOUS COMPANIES AMOUNTING TO KSHS. 8,587,831/=

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation on 3rd November 2021. The allegation was that Bomas of Kenya (BOK) was involved in irregular award of tender for purchase of cutlery.

Investigations established that there was no budget allocated for the purchase of cutlery and crockery during the financial year 2020/2021 and the board did not approve any re-allocation of funds from other votes. Further investigations also established that there were several procurement irregularities including collusion between the suppliers and procurement officials in the purchase of cutlery for all the quotations at BOK. Some of the directors of the said companies denied participating in the procurement of the cutlery at BOK despite the evidence of bid documents allegedly submitted by their companies.

Financial investigations conducted revealed that after payments were made to the suppliers, they sent money to a particular supplier who would then transfer money to some of the officials of BOK.

On 15th December 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Finance Officer, Finance Officer, Supply Chain Management Officer, former Board Chair, Directors of Arwin Gold Limited, Director for Grasonnel Limited, Directors of Bamyong Limited and Directors of Dysema Limited together with all the four companies with the following offences;

- i. Conspiracy to Commit An Offence Of Corruption Contrary To Section 47a As Read With Section 48 Of The Anti-Corruption And Economic Crimes Act No. 3 Of 2003.

- ii. Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the anti-corruption and economic crimes act, 2003.
- iii. Abuse of office contrary to section 46 as read with section 48 of the anti-corruption and economic crimes act no.3 of 2003.
- iv. Fraudulent practice in procurement proceeding contrary to section 66(1) as read with section 176 (1) (i) and (2) of the public procurement and asset disposal act of 2015.
- v. One count of forgery contrary to section 345 as read with section 349 of the Penal Code.
- vi. Two counts of dealing with Suspect Property contrary To Section 47(2) (A) As Read with Sections 47(1) And 48 of the Anti-Corruption and Economic Crimes Act, 2003.
- vii. Four counts of unlawful acquisition of public property contrary to section 45 (1) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Awaiting DPPs response.

6. EACC/MSA/FI/INQ/7/2023

INVESTIGATIONS INTO ALLEGATIONS OF CORRUPTION, PROCUREMENT IRREGULARITIES AND EMBEZZLEMENT OF FUNDS AT TAITA TAVETA COUNTY GOVERNMENT DURING THE COMMEMORATION OF WORLD WAR 1 CELEBRATIONS THAT TOOK PLACE BETWEEN 24TH TO 27TH NOVEMBER 2022

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 5th April 2022, on allegations of corruption, procurement irregularities and embezzlement of funds at Taita Taveta County Government during the commemoration of World War 1 (WW1) celebrations that took place between 24th to 27th November 2022.

Investigations established that the Government of Taita Taveta County prepared budget estimates and a consolidated procurement plan for the financial year 2022/2023 and the aforesaid event was not provided for in the budget.

Investigations further established that in respect to the World War One Event the Economic advisor and the Chief Officer Finance applied for imprest to facilitate the commemoration of the event. Investigation established that the Taita Taveta

County utilised Kshs. 4,048,000.00 through irregular Daily Subsistence Allowance paid to officers.

It was further established that during the process of preparation for the WWI event, the public officers engaged and or directly single sourced suppliers for various services without following the laid down procedures despite the fact that the County Government had a repository of registered suppliers and service providers for the financial year 2022/2024. The suppliers that were engaged directly included Kazi Ngoma Orchestra band, Elbon Agencies, Banane North Explorer's Limited, Voi Wildlife Lodge, Kididi FM a commercial radio station, Tree Top Eatery, Pen and Paper Solutions, Gracious Tents and Sounds and Alconsup Solution Limited.

Investigations established that the receipts that were attached to the surrender documents were forgeries and were not actually issued by the purported entities.

On 14th December 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Economic Advisor to the Governor, County Secretary, County Chief Officer in charge of Trade, Tourism & Co-operatives Development with the following offences;

- i. Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.
- ii. Engaging in a project without prior planning contrary to section 45(2) (c) as read together with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003
Unlawful acquisition of public property contrary to section 45(1)(a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act, 2003
- iii. Six counts of uttering false documents contrary to section 353 of the Penal Code Cap 63 laws of Kenya
- iv. Willful failure to comply with the applicable procedures and guidelines relating to incurring of expenditures contrary to section 45(2)(b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003

On 5th February 2024, the DPP returned the inquiry file with recommendations for further investigations.

7. EACC/MSA/FI/INQ/13/2022

INVESTIGATIONS INTO ALLEGATIONS OF CORRUPTION AND MISAPPROPRIATION OF PUBLIC FUNDS AT TAITA TAVETA COUNTY ASSEMBLY AS A RESULT OF IMPREST ADVANCED TO THE SPEAKER OF THE COUNTY ASSEMBLY, CLERK TWENTY ONE MEMBERS OF THE COUNTY ASSEMBLY AND FOUR OTHER OFFICERS FOR TRAVELING TO ZANZIBAR FOR A BONDING TRIP IN THE FINANCIAL YEAR 2022/2023

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 28th November 2022 on allegation of embezzlement of public funds against staff of the County Assembly of Taita Taveta. It is alleged that the Speaker, Clerk, twenty-one (21) Members of the County Assembly (MCAs) and four (4) other officers incurred an expenditure of around Kenya Shillings Seven (7) million without following proper guidelines with regard to the edicts of the law on Public Finance at a bonding tour to Marijani Hotel in Zanzibar in November 2022 within the Financial Year 2022/2023.

Investigations established that members of the Liaison Committee and public officials of Taita Taveta County Assembly traveled to Zanzibar on an education tour. However, some delegates were paid excess per diem allowances which they were not entitled because accommodation had been provided while others were paid yet they had not travelled for various reasons.

The procurement process was not properly followed in regard to sourcing of the service provider being the World Scout Parliamentary Union (WSPUK) who would offer the catering and training facilities for the delegates. WSPUK was single sourced and directly engaged for the educational trip to Zanzibar. Investigation established that the procurement threshold was way above Kshs. 500,000/= and therefore it ought to have been reported to the Public Procurement Regulatory Authority by the Accounting Officer.

Investigation further established that the Clerk of Taita Taveta County Assembly, authorised payment voucher for full daily subsistence allowance to the delegates whilst knowing that the delegates were not entitled to full daily subsistence allowance since their accommodation had been catered for.

The investigation established that the Taita Taveta County Assembly had lost Kshs. 6,181,433.00 through irregular DSA paid to officers. The said County Assembly initiated recoveries from the beneficiaries by deducting their salaries and some made cash deposits to Taita Taveta County Assembly Bank Account amounting

to Kshs. 2,215,550.60. The outstanding amount yet to be recovered is Kshs. 3,943,033.98

It was further established that the Accounting Officer during imprest surrender attached false travel clearance letters for delegates who had not travelled for various personal reasons. He further fraudulently authorised surrender of payment voucher of Kshs. 8,037,599 purporting to have been fully accounted for yet it was not sufficiently supported by surrender documents.

On 14th December 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Clerk/Accounting Officer and the Deputy Speaker of Taita Taveta County Assembly with the following offences;

- i. Three counts of Abuse of office contrary to section 46 as read with section 48(1) of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.
- ii. Uttering false documents contrary to section 353 of the Penal Code, cap. 63 Laws of Kenya
- iii. False accounting by a public officer contrary to section 331 (1) and (2) of the Penal Code, cap. 63 Laws of Kenya
- iv. Wilful failure to comply with the law applicable, regulations and guidelines relating to procurement, contrary to section 45 (2) (b) as read with section 48(1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.
- v. Financial misconduct contrary to section 197(1)(i) as read with section 199 of the Public Finance Management Act, No. 18 of 2012

On 1st February 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

8. EACC/MSA/FI/INQ/4/2017

INVESTIGATIONS INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES IN THE PURCHASE OF STONE CUTTING MACHINES BY COAST DEVELOPMENT AUTHORITY (CDA) FROM ENDEBES DEVELOPMENT COMPANY (EDC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report dated 22nd March 2017 that Coast Development Authority (CDA) had purchased stone cutting machines from Endebes Development Company (EDC) without following procurement procedures.

Investigations established that CDA leased coral block cutting equipment and vehicles from EDC without following the public procurement laws and procedures i.e use of direct method instead of open tender method as required under the PPDR 2006.

Furthermore, there were no bid documents received from any bidder hence no procurement process was conducted hence the procurement process was a fraud.

EDC offered to sell the said machines to CDA at a cost of Kshs. 62,000,000/=. On 10th July 2012, CDA and EDC entered into a lease agreement for the machines. The lease was signed by the Managing Director on behalf of CDA. EDC received a total sum of Kshs. 28,794,834.00 from CDA for the lease of coral block cutting machines. It was established that the lease agreements were entered into illegally and therefore payments made to EDC by CDA were unlawful. It was revealed that the Director and beneficial owner of EDC is a bank signatory in the company and he had appointed the Managing Director CDA while he was the Minister for Regional Development Authorities.

On 14th December 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Managing Director, the Director of the company and Endebes Development Company Limited with the following offences;

- i. Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003
- ii. Wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003
- iii. Entering into an obligation that has financial implication contrary to section 196 (3) as read with section (196) (6) of the Public Finance Management Act, 2012.
- iv. Unlawful acquisition of public property contrary to section 45(1)(a) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003
- v. Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003

Awaiting DPP's response.

9. EACC/MSA/FI/INQ/17/2017

INVESTIGATIONS INTO ALLEGATIONS OF IRREGULAR PROCUREMENT FOR EXTENSION OF BURA WATER SUPPLY BY COAST WATER SERVICES BOARD (CWSB) AT A COST OF KSHS. 52,020,061/= IN THE FINANCIAL 2017/2018

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an anonymous complaint that the Coast Water Services Board (the Board) flouted the procurement law during the procurement process in the tender CWSB/TR-EQ/W/6A/2017 for extension of Bura Water Supply (the Project). This project had been sanctioned by the Ministry of Water and Irrigation (the Ministry) and was being funded from the Equalisation Fund (the Fund).

Investigations established that the Board advertised the subject procurement on 27th June 2017 attracting 28 bidders. Further investigations established that the Board failed to subject all the tenders to both technical and financial evaluation contrary to section 80 of the Public Procurement and Disposal Act 2015. The contract was irregularly awarded to Misriya Company Limited.

It was further established that the Director for Misriya Company limited had made false documents being motor vehicle registration documents and submitted the same to the Coast Water Services Board.

Investigations established that the Head of Procurement at CWSB prepared misleading professional opinion hence did not offer expert advised as was required of him.

On 15th December 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Evaluation Committee, the Head of Procurement and the Director of the Misriya Company Limited together with the company with the following offences;

- i. Wilful failure to comply with the procurement law contrary to section 45 (2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003
- ii. Fraudulent procurement practice contrary to section 66(1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

- iii. Forgery contrary to section 345 as read with section 349 of the Penal Code.
- iv. Uttering a false document contrary to section 353 of the Penal Code.
- v. Knowingly misleading a person carrying out a duty contrary to section 176(1) (b) as read with section 176(2) of the Public Procurement and Asset Disposal Act, 2015

On 31st January 2024, the DPP returned the inquiry file with recommendations for further investigations.

10. EACC/FI/INQ/20/2021

INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT/MISSAPPROPRIATION OF PUBLIC FUNDS AMOUNTING TO KSHS. 45,610,187/= BY TURKANA COUNTY ASSEMBLY THROUGH TENDERING AND CONSTRUCTION OF TURKANA COUNTY ASSEMBLY SPEAKER'S RESIDENCE AT KANAMKEMER WARD

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on allegation that public funds which were meant for construction of the speaker's residence at Kanamkemer within Turkana County amounting to Kshs. 45,610,187/= was misappropriated by the public officer's employed at Turkana County.

Investigations revealed that eight companies submitted their bids for the tender. The tender was irregularly awarded to Ekoriagete Enterprises Limited and the contract was executed by the County Assembly Clerk.

Further, it was established that one of the directors of the said company is an employee of the County Government of Turkana. The work done was valued at Kshs. 19,494,994.99 as compared to payments made to the contractor totaling to Kshs. 54,392,735.87. There was an overpayment of Kshs. 34,897,740.88

Investigations revealed that the said company was not registered with the National Construction Authority for the period between the years 2013 to 2018. The NCA certificates submitted by Ekoriagete Enterprises Limited as part of the requirement were forgeries.

Furthermore, financial investigations conducted revealed that payments were made to the company' account. The account was established to be operated by one of the county officials who is a director in the company. Upon receipt of the funds, the county official withdrew Kshs. 18,495,500/= between August and September 2018 in a clear case of conflict of interest.

On 12th October 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Deputy Clerk of Turkana County Assembly, the Clerk, the County Works Officer and the Director of the Ekoriagete Enterprises Limited with the following offences;

- i. One count of conspiracy to commit an offence of economic crime contrary to Section 47A (3) all as read with Section 48 of ACECA.
- ii. One count of fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act 2003
- iii. Two counts of abuse of office contrary to section 46 as read with section 48(1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.
- iv. One count of fraudulently making payments from public revenues for services not rendered contrary to section 45(2) (iii) as read with section 48 of the Anti-Corruption and Economic Crimes Act 2003
- v. One count of fraudulent procurement practice contrary to section 66(1) and (2) as read with section 177 of the Public Procurement and Disposal Act, 2015
- vi. Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code
- vii. One count of conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

On 19th December 2023, the DPP returned the inquiry file with recommendations for further investigations.

11. EACC/NKR/INQ/FI/101/2017

INQUIRY INTO THE ALLEGATIONS OF MISAPPROPRIATION OF PUBLIC FUNDS AND PROCUREMENT IRREGULARITIES IN THE REHABILITATION AND CONSTRUCTION OF SALGAA-ELBURGON ROAD BY THE COUNTY GOVERNMENT OF NAKURU AT THE COST OF KSHS. 10,000,000/= IN THE FINANCIAL YEAR 2015/2016

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th January 2017 on allegations that the County Government of Nakuru had misappropriated Kshs. 10,000,000/= in the rehabilitation and construction of Salgaa-Elburgon road.

Investigations established that the County Government of Nakuru had planned for the construction and rehabilitation of Salga-Elburgon Road as per the roads work

plan at Kshs. 8,084,300/= during the financial year 2015/2016. It was established that the technical evaluation was not conducted as required by regulation 16(4) of the Public Procurement and disposal regulations 2013. The procurement process was therefore flawed. The award was issued to Gee El Construction Works Limited and was paid for Kshs. 6,508,478.53.

It was further established that the said company was not registered with the National Construction Authority and that the certificate provided by the company was a forgery.

On 9th November 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Tender Evaluation Committee members, the Supply Chain Management Officer, the Chief Officer for Department of Roads and Public Works and the Directors of Gee El Construction Works Limited with the following offences;

- i. One count of Fraudulent practice in the procurement proceedings contrary to section 66(1) as read with section 177 of the Public Procurement and Asset Disposal Act 2015
- ii. One count of Fraudulent acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.
- iii. Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; and
- iv. One count of Abuse of office contrary to section 45(2) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31st January 2024, the DPP returned the inquiry file with recommendations for further investigations.

12. EACC/MSA/FI/INQ/04/2021 (C)

INQUIRY INTO ALLEGATIONS OF CONFLICT OF INTEREST AND PROCURMENT IRREGULARITIES INVOLVING THE HEAD OF TREASURY AT THE KWALE COUNTY GOVERNMENT WHO IS ALLEGED TO OWN A COMPANY KNOWN AS CHILONGOLA HOLDINGS LIMITED, WHICH HAS BEEN TRADING WITH THE COUNTY GOVERNMENT OF KWALE

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 4th February 2021 alleging conflict of interest

against the Head of Treasury, Kwale County Government who was alleged to own two companies namely; Rome Investment Limited and Chilongola Limited Companies which transacted and received Kshs. 9,000,000/= from the said institution during the financial year 2017/18 and 2018/2019.

Investigations established that the companies were awarded ten tenders to supply and deliver sanitation materials, food and ration, general office supplies, and institutional appliances. It was further established that the procurement process undertaken was flawed. Rome investment and Chilongola Limited entered into a contract with the County Government of Kwale through Local Purchase Orders for the 10 tenders despite the procurement process having been flawed.

It was established that the tender documents including purchase requisition forms, minutes of the Tender Opening Committee, letters of appointment of inspection and acceptance committee and inspection and acceptance minutes relating to the said tenders were forgeries and the same were presented at the Kwale County Government by the Accountant and the Hospital Administrator. Further investigations established that Rome Investments and Chilongola Limited were paid a sum of Kshs 44,919,341 and Kshs 4,007,943 respectively.

Further investigations disclosed that the Head of Treasury at the county was the Director at Chilongola Holdings together with his brothers who were directors for Rome Investments (k) Limited. The Head of Treasury was a mandatory signatory of the said companies bank accounts held at KCB Kwale Branch.

Financial investigations revealed that the Head of Treasury was a beneficial owner of the two companies, by virtue of the withdrawals he made. The total amount received by the two companies was Kshs 44,919,341 and the same distributed to the directors of the companies.

On 9th November 2023, a report was compiled and forwarded to the DPP with recommendations that the Head of Treasury and a Director of Chilongola Holdings Limited and Rome Investment Limited, an Accountant and Hospital Administrator of the Kwale County Government be charged as follows:

- i. Conflict of interest contrary to Section 42(3) as read with Section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

- ii. Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.
- iii. Deceiving principal contrary to section 412) as read with as read with section 48(1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003
- iv. Fraudulent practise in procurement contrary to section 66 as read with section 177 of the Public Procurement and Asset Disposal Act, 2015

On 31st January 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

13. EACC/BGM/PI/INQ/09/2020

INVESTIGATION INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES AND CONFLICT OF INTEREST IN THE PROCUREMENT OF A DOUBLE CABIN PICK-UP AND A 33 ISUZU BUS SEATER BY THE COUNTY ASSEMBLY OF BUNGOMA IN THE FINANCIAL YEAR 2018/2019

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on allegations of procurement irregularities in in tender number CA/BGM/PUR/205/2019-2020 for the supply of a double cabin pick-up and a 33 Isuzu bus seater by the County Assembly of Bungoma during the financial year 2018/2019. It was further alleged that the Accounting Officer of the County Assembly had participated in the procurement amounting to Conflict of interest.

It was established that seven bidders participated in the procurement process. The Evaluation Committee conducted the evaluation exercise and recommended Westfield Motors Limited for the award for both the bus and double cabin. However, after a professional opinion was submitted with the foregoing recommendations, the clerk disregarded the opinion and went ahead to establish a different three-member committee to conduct another evaluation which was irregular since the substantive evaluation committee had not been disbanded.

It was further established that the Procurement Officer and the Clerk of the County Assembly prepared and approved a professional opinion which was misleading. The Accounting Officer executed the contract and authorised payments of Kshs. 5,870,000/= and Kshs. 4,980,000/= to be made in full to Westfield Motors Limited and Kenyan Coach Industries Limited respectively while knowing that the vehicles had not been supplied.

On 12th October 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Accounting Officer and the Head of Procurement with the following offences;

- i. Three counts of wilful failure to comply with applicable procedures and guidelines relating to procurement of services contrary to section 45(2) (b) as read with section 48 of the Anti-Corruption and Economic Crimes Act 2003.
- ii. Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 30th November 2023, the DPP returned the inquiry file with recommendations for further investigations.

14. EACC/EL/INQ/29(ii)/2022

INQUIRY INTO ALLEGATION THAT AN EMPLOYEE FALSIFIED ACADEMIC CERTIFICATES TO SECURE EMPLOYMENT AT RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION (REREC) AS A SUPPLY CHAIN MANAGEMENT ASSISTANT

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received that the officer used a forged Bachelor's degree in purchasing and supplies Chain Management from Jomo Kenyatta University of Agriculture and Technology to gain employment at REREC as a Supply Chain Management Assistant (Procurement and Disposal).

Investigations established that the Supply Chain Management Assistant forged a Bachelor's degree certificate No. 3701 in purchasing and supplies from Jomo Kenyatta University and Technology. He uttered the certificate while making application to be employed in the position of Supply Chain Management Assistant as captured from his employment records. Investigations revealed that he also submitted fake transcripts to REREC.

It was established that he had irregularly been paid a net salary amounting to Kshs. 311,974.45 since the April 2022 to July 2022.

On 17th October 2023 a report was compiled and forwarded to the DPP with recommendations to charge the aforesaid suspect with the following counts;

- i. One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act
- ii. Five counts of forgery contrary to section 345 as read with section 349 of the Penal code
- iii. Five counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 19th November 2023, the DPP returned the inquiry file with recommendations for further investigations.

15. EACC/EL/INQ/29(v) /2022

INQUIRY INTO ALLEGATIONS THAT AN EMPLOYEE USED FORGED ACADEMIC DOCUMENTS TO SECURE EMPLOYMENT AT RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint on 2nd August 2022 that the employee used forged academic documents to apply for the position of a driver at REREC.

Investigations established that the said driver made an application following an advertisement in the local dailies on 1st December 2020. In his application he attached several documents including, a Kenya Secondary school certificate number 2386658 from Kimuri High School issued in the year 2008.

Investigations further established that the KCSE certificate was forged, having been subjected to authentication by the Kenya National Education Council (KNEC). He had worked with REREC from 1st April 2022 to July 2022 and irregularly earned a net salary of Kshs. 293,240.94

On 17th October 2023, a report was compiled and forwarded to the DPP with recommendations to charge the suspect being a driver at REREC with the following offences;

- i) Fraudulent acquisition Contrary to Section 45(1)(a) all as read with Section 48 of ACECA,
- ii) Forgery contrary to section 345 as read with section 349 of the Penal code

- iii) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.
- iv) Giving false information to a person employed in the public service contrary to section 129 (a) of the Penal Code

On 2nd January 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

16. EACC/EL/INQ/29(iii)/2022

INQUIRY IN TO ALLEGATIONS THAT AN EMPLOYEE USED FORGED ACADEMIC DOCUMENTS TO GET EMPLOYMENT AT RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 2nd August 2022 on allegations that the employee used forged academic documents to apply for the position of Supply Chain Management Assistant (Inventory and Logistics) at REREC.

It was established that the REREC advertised for various positions in the daily nation dated 1st December 2020. One of the positions advertised was that of Supply Chain Management Assistant (Inventory and logistics). She applied for the position and in her application; she indicated that she holds a Diploma in Business Information Technology from Kenya Methodist University awarded in the year 2014

Investigations established that she did not study at the said institution and the Diploma certificate in question was therefore a forged document. It was further established that she had been working at REREC from 1st April 2022 to 14th July 2022. She illegally gained from the institution a net salary of Kshs. 293,457.07 considering that she was not qualified for the position.

On 12th October 2023 a report was compiled and forwarded to the DPP with recommendations to charge with the following offences;

- i. One count of Fraudulent acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act 2003.
- ii. One count of Forgery contrary to section 345 as read with section 349 of the Penal code

- iii. One count of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.
- iv. Two counts of Giving false information to a person employed in the public service contrary to section 129 (a) of the Penal Code

On 30th November 2023, the DPP returned the inquiry file with recommendations for further investigations.

17. EACC/ISL/EL/INQ/2/2020

INQUIRY INTO ALLEGATIONS THAT THE WARD ADMINISTRATOR FOR MARSABIT CENTRAL USED FORGED ACADEMIC DOCUMENTS TO GET EMPLOYMENT

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received with allegations that the Ward Administrator for Marsabit Central had allegedly used forged Kenya Certificate of Secondary Education Certificate (KCSE) and diploma certificate to gain employment in Marsabit County.

Investigations established that the suspect applied for employment opportunity at the Marsabit County Government in the year 2018. He submitted his curriculum vitae, which indicated that he had a Diploma in Community Development and Social Work.

Investigations revealed that the Ward Administrator also applied for the position of Civic Education Officer and attached a KCSE Certificate serial number 2023397 from Marsabit Secondary School. He further submitted a KNEC Certificate serial number BTEP/D004270 for diploma in Community Development and Social work. The suspect was appointed as a Public Participation and Civic Education Officer from 28th January 2019.

Investigations further revealed that the positions in which he was appointed into had not been advertised and therefore the appointments were irregular.

Further investigation revealed that the suspect had altered the grades in the KCSE certificate that he submitted to the Marsabit County Government and the Diploma in Community and Social Development were forgeries. It was further established that the Ward Administrator had earned a net salary from April 2019 to September 2023 amounting to Kshs. 1,954,324.15

On 27th November 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Ward Administrator with the following offences;

- i. One count of Fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48(1) of ACECA.
- ii. One count of Deceiving principal contrary to section 412) as read with as read with section 48(1) of ACECA.
- iii. Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code
- iv. Two counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 31st January 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

18. EACC/MSA/FI/INQ/13/2023

INQUIRY INTO ALLEGATIONS JOSKAT CONSTRUCTION COMPANY DID NOT FOLLOW THE BILLS OF QUANTITIES WHEN PERFORMING CONTRACTS FOR LIKONI CDF IN ERECTING THE PERIMETER WALL FOR TIMBWANI SECONDARY SCHOOL IN THE FINANCIAL YEAR 2021-2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September 2022 on allegations that a contractor was not following the bill of quantities when performing contracts for Likoni NG-CDF project for erecting the 400-meter perimeter wall for Timbwani Secondary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Timbwani secondary School were followed from the initiation of the tender process until the award of contract. The contract was awarded to Joskat Construction Company Limited at a cost of Kshs. 6,394,807/=. The Project Management Committee confirmed that the progress was good and that the work was being done as per the specifications. The company completed the said construction as per the contract and as a result, payments were made to the contractor. The project has been completed but was yet to be handed over, once the defect liability period elapses.

On 9th November 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 30th January 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

19. EACC/MSA/FI/INQ/11/2022

INQUIRY INTO ALLEGATIONS THAT A COMPANY CALLED SALLYSAM LTD DID NOT FOLLOW THE BILLS OF QUANTITIES WHEN ERECTING THE PERIMETER WALL FOR MRIMA PRIMARY SCHOOL IN LIKONI CONSTITUENCY DURING THE FINANCIAL YEAR 2021/2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September 2022 on allegations that a company namely Sallysam Ltd was not following the bill of quantities when performing contracts for Likoni NG-CDF project for construction of classes for Mrima Primary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Mrima Primary School were followed from the initiation of the tender process until the award of contract to Sallysam Limited. The construction was also completed as per the contract and as a result, payments were made to the contractor. The project has been completed and yet to be handed over, once the defect liability period elapses.

On 9th November 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 31st January 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

20. EACC/MSA/FI/INQ/14/2023

INQUIRY INTO ALLEGATIONS OF THAT A COMPANY CALLED SALLYSAM ENTERPRISES DID NOT FOLLOW THE BILLS OF QUANTITIES WHEN ERECTING THE PERIMETER WALL FOR MTONGWE GIRLS SECONDARY SCHOOL IN LIKONI CONSTITUENCY DURING THE FINANCIAL YEAR 2021/2022

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 26th September 2022 that a company called Sallysam Limited was not following the bill of quantities when performing contracts

for Likoni NG-CDF project of erecting the perimeter wall for Mtongwe girls Secondary school during the financial year 2021/2022.

Investigations established that the NG-CDF Board approved a code of projects including Mtongwe Girls Secondary School with an allocated amount of Kshs. 5,985,075/=. The procurement entity was Likoni Constituency Development Fund. Three companies submitted their bids and a final award issued to Sallysam Enterprises Limited. The contract was executed on 3rd May 2022. The works were executed by the said company and it was noted that the project was going on well as per the specifications of the Bill of quantities. Investigations did not reveal any procurement irregularities in the subject project.

On 9th November 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed with no further action.

On 31st January 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

21. EACC/KSI/OPS/INQ/3/2022

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A COURT ASSISTANT WORKING FOR THE JUDICIARY AT MIGORI LAW COURTS

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 11th April 2022 that a Court Assistant had approached him and that he could assist him to get a favourable judgment from the Magistrate handling the criminal matter at a court in Migori. He was required to give Kshs. 100,000/=.

Investigations established that there was a criminal matter at Migori Law Courts where the complainant was the accused and was coming up for judgment. The Court Assistant requested for Kshs. 100,000/= in order to assist the complainant to get a favourable judgment. The Commission established that the Court Assistant had demanded and received a bribe of Kshs. 20,000/= which was recovered from him upon arrest.

On 9th November 2023 a report was compiled and forwarded to the DPP with recommendations that the Court Assistant be charged with two counts of receiving a bribe contrary to section 6 (1) (a) as read with section 18 (1) and (2) of the Bribery Act, 2016.

On 28th December 2023, the DPP returned the inquiry file with recommendations for further investigations.

22. EACC/OPS/INQ/20/2023

INQUIRY INTO BRIBERY ALLEGATION OF CORRUPT CONDUCT AGAINST A KENYA REVENUE AUTHORITY OFFICER

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 14th March 2023 alleging that a Waiver Processing Officer at the Kenya Revenue Authority was demanding for a benefit of Kshs. 50,000/= in order to write off accrued erroneous value added tax penalty amounting to Kshs. 410,000/=.

Investigations established that the Waiver Processing Officer worked at the KRA and had requested and received Kshs. 40,000/= as a financial benefit.

On 9th November 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Waiver Processing Officer at KRA with three counts of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act No. 47 of 2016

On 28th December 2023, the DPP returned the inquiry file with recommendations for further investigations.

23. EACC/MCKS/OPS/INQ/2/2021

INQUIRY INTO ALLEGATIONS THAT THE HEAD TEACHER AT UNOA PRIMARY SCHOOL WAS CHARGING ILLEGAL LEVIES AS FEES IN VIOLATION OF GUIDELINES BY THE MINISTRY OF EDUCATION ON FREE PRIMARY EDUCATION (FPE)

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received on 14th January 2020 that the Head teacher at Unoa Primary School was charging illegal levies as fees in violation of guidelines by the Ministry of Education on free primary education.

Investigations further established that the head teacher had been charging illegal fees in form of development fees of Kshs. 5,000/=, harambee fee of Kshs. 1,000/=, Fencing fee of Kshs. 1000/= and feeding programme fee of Kshs. 1850/= plus other motivation and activity fee totalling to Kshs. 10,000/=.

Financial Investigations established that the head teacher owned a private enterprise namely AGPHILY Enterprise that was trading with the school wherein he was the head.

Further investigations established that the head teacher purported to have made supplies to the school and he had signed a cheque of Kshs. 183,500/= in his favour. The cheque was not honoured at the bank since no supporting document was provided to the bank.

On 9th November 2023, a report was compiled and forwarded to the DPP with the recommendations to charge the head teacher, Unoa Primary school with the following offences;

- i. Conflict of interest contrary to Section 42(3) as read with Section 48 of the ACECA, 2003.
- ii. Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code

On 30th January 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

24. EACC/OPS/INQ/36/2023

AN INQUIRY INTO ALLEGATIONS OF CORRUPT CONDUCT AGAINST A NAIROBI CITY COUNTY REVENUE OFFICER BASED AT CITY HALL.

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received a report dated 18th May 2023 alleging that a Nairobi City County Revenue Officer based at City Hall was demanding for a bribe of Kshs. 20,000/= from him in order to write off cess arrears amounting to Kshs 47,0000/= accrued by his lorry.

Investigations established that on 27th April 2023 the County Official informed owner of lorry that he had cess arrears of Kshs. 47,000/= . The suspect reduced the amount to Kshs 20,000/= and required the owner of the lorry to pay Kshs 10,000/= through paybill number and was given Kshs 10,000/= in cash. On a later date, the lorry owner was informed that he had cess arrears of Kshs 14,000/=.

The Commission established that he was employed as an Administrative Officer III at the Nairobi City County Government. The county official requested and

received Kshs 10,000/= in order to facilitate write-off cess arrears accrued by his lorry owed to Nairobi City County Government.

On 15th December 2023, a report was compiled and forwarded to the DPP with recommendations that the Administrative Officer at Nairobi City County Government be charged with three counts of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the bribery Act No. 47 of 2016.

On 31st January 2024, the DPP returned the inquiry file with recommendations for further investigations.

25. EACC/MCKS/OPS/INQ/54B/2018

AN INQUIRY INTO ALLEGATIONS OF OBSTRUCTION AGAINST A SUSPECT IN ACC 636/2020 - REPUBLIC VS. ELDAH KONZOLO

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 11th April 2021 on allegations that an accused person in Anti-corruption case no. ACC 636/2020 – R vs. Eldah Konzolo had offered Kshs.17, 000/= to a witness in order to change his testimony in the stated matter which was pending trial before Mavoko law courts.

Investigations established that the suspect had compromised the witness in the said matter and indeed sent Kshs. 17,000/= through Mpesa to a proxy to avoid any direct link. The money was intended to persuade the witness to change his testimony in court. It was established that the said amount was sent to one of his colleague. Investigations also established that the conduct of the accused amounted to interference with a witness with an aim to obstruct justice.

On 15th December 2023 a report was compiled and forwarded to the DPP with recommendations to charge the suspect, with the following offences;

- i. One count of giving a bribe contrary to section 5 of the Bribery Act, 2016
- ii. One count of interfering with witnesses contrary to section 117 (1) of the Penal Code Cap 63.

On 31st January 2024, the DPP returned the inquiry file with recommendations for further investigations.

26. EACC/OPS/INQ/44/2023

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A MEMBER OF COUNTY ASSEMBLY, HOSPITAL WARD, KIAMBU COUNTY.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 24th May, 2023 to the effect that a Member of County Assembly, Hospital Ward, Kiambu County was requesting for a financial advantage of Kshs. 130,000/- as an inducement to allow her proceed with the intended development activities on Parcel No. Thika Municipality Block 11/377.

Investigations established that county official requested that he be given a portion of land and Kshs. 200,000/= so that he could disregard an alleged Petition by members of the public against any development on the subject plot. They negotiated the amount downwards to Kshs. 100,000/=.

It was established that the suspect is Public Officer by virtue of him being a Member of County Assembly (MCA), Kiambu County. He was acting in his official capacity as MCA and Chairperson of the Development Committee of the Assembly when he requested for the benefit.

The Commission established that the county official requested for a bribe of Kshs. 130,000/= intending that, in consequence, the owner of the plot proceeds with her intended development on Parcel No. Thika Municipality Block 11/377.

On 15th December 2023 a report was compiled and forwarded to the DPP with recommendations to charge him with two counts of receiving a bribe contrary to section (6) (1) (a) of the Bribery Act, 2016.

On 31st January 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

27. EACC/BGM/OPS/INQ/8/2021

INVESTIGATION INTO ALLEGATIONS OF BRIBERY AGAINST A POLICE OFFICER ATTACHED TO KAKAMEGA CENTRAL POLICE STATION.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th December, 2021 with allegations that a Police Officer attached to the DCI Kakamega Central Police Station at Kakamega County, had requested for a financial advantage of Kshs. 100,000/= to give to a

Magistrate stationed at Kakamega Law Courts in order to influence the outcome of an inquest proceeding at the Kakamega Magistrates Court.

Investigations established that there was an inquest under Inquest No. 3 of 2020. The inquest proceedings had concluded and pending the verdict of the Principal Magistrate. The Police Officer who was at the time the investigating officer requested for a benefit in order to compromise the said magistrate to rule in favour of the deceased.

Investigations further established that the police officer was employed at the Ministry of Interior and Co-ordination of National Government (Administration Police). The Commission established that the police officer received the bribe of Kshs. 40,000/= which was recovered from him.

On 15th December 2023, a report was compiled and forwarded to the DPP with recommendations that the police officer be charged with two counts of receiving a bribe contrary to section (6) (1) (a) of the Bribery Act, 2016.

On 31st January 2024, the DPP returned the inquiry file with recommendations for further investigations.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

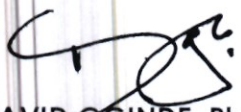
1.	Total No. of files forwarded to the Director of Public Prosecutions	27
2.	No. of files recommended for prosecution	24
3.	No. of files recommended for administrative or other action	0
4.	No. of files recommended for closure	3
5.	No. of files recommended for prosecution and the cases are already lodged before Court	-
6.	No. of files where recommendation to prosecute accepted	7
7.	No. of files where recommendation for administrative or other action accepted	-
8.	No. of files where recommendation for closure accepted	3
9.	No. of files returned for further investigations	14
10.	No. of files where recommendation to prosecute not accepted	-
11.	No. of files where recommendation for administrative or other action not accepted	-
12.	No. of files where closure not accepted	-
13.	No. of files where prosecution declined but administrative action recommended	-
14.	No. of files awaiting the DPP's advice	3

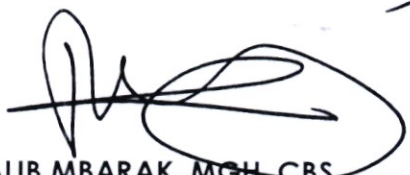
DATED AT NAIROBI THIS

13th

DAY OF

February 2024


DAVID OGINDE, PhD
CHAIRPERSON
 /w/c


TWALIB MBARAK, MGH, CBS
SECRETARY/CHIEF EXECUTIVE OFFICER

