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Paper laid on 16/3/2017 by Hon. Eng. Nestor Gumbiro

THE NATIONAL ASSEMBLY



11TH PARLIAMENT - FIFTH SESSION - 2017

REPORT OF THE PUBLIC ACCOUNTS COMMITTEE ON THE SPECIAL AUDIT REPORT OF MAY 2016; ON THE ACCOUNTS OF THE NATIONAL YOUTH SERVICE (NYS)

VOLUME II

MINUTES

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MARCH, 2017

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MINUTES OF THE TWO HUNDRED AND NINETY NINETH (299TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 5TH JULY, 2016 AT 10.00 A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - **Chairman**
2. Hon. Jackson K. Rop, M.P. - **Vice- Chairman**
3. Hon. SakwaBunyasi, M.P.
4. Hon. KyengoKatathaMaweu, M.P.
5. Hon. John Mbadi, M.P.
6. Hon. FathiaMahbub, M.P.
7. Hon. (Capt.) Clement Wambugu, M.P.
8. Hon. Arthur Odera, M.P.
9. Hon. David Eseli, M.P.
10. Hon. Julius Melly, M.P.
11. Hon. Manson Nyamweya, M.P.
12. Hon. Alice NyanchokaChae, M.P.
13. Hon. KarekeMbiuki, M.P.
14. Hon. Mathias Robi, M.P.
15. Hon. Andrew Mwadime, M.P.
16. Hon. Timothy Bosire, M.P.
17. Hon. Joel Onyancha, M.P.

ABSENT WITH APOLOGY

1. Hon. Stephen Manoti, M.P.
2. Hon. Charles GeniMong'are, M.P.
3. Hon. Kangogo Bowen, M.P.
4. Hon. GonziRai, M.P.
5. Hon. Joseph Manje, M.P.
6. Hon. Abdikadir Aden, M.P.
7. Hon. SilvaniceOnyangoOsele, M.P.
8. Hon. KaniniKega, M.P.
9. Hon. Jessica Mbalu, M.P.
10. Hon. Junet Sheikh Nuh, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Victor Weke - Clerk Assistant II
3. Ms. ChelagatTungo - Clerk Assistant II
4. Mr. Peter Mwaura - Legal Counsel
5. Ms. Winnie Kulei - Researcher
6. Mr. Chelanga Maiyo - Researcher
7. Mr. John Mungai - Audio Recorder

8. Mr. Saidi Wako - Serjent at Arms

NATIONAL TREASURY

Mr. Tom Khakame

OFFICE OF THE AUDITOR GENERAL

1. Mr Raphael Ikame - Parliamentary Liaison Officer
2. Mr Eddy Waichigo - Manager Audit

MIN No. 1147/2016: PRELIMINARIES

The Chairman called the meeting to order at half past ten O'clock in the morning and said a prayer. The agenda was adopted as proposed by Hon. Kareke Mbiuki and seconded by Hon. Julius Melly.

MIN No. 1148/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1149/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. WILFRED MUSAU, AG. CHIEF EXECUTIVE OFFICER, NATIONAL BANK OF KENYA

Mr. Wilfred Musau, Ag. Chief Executive Officer, National Bank of Kenya appeared before the Committee accompanied by Mr. Reuben Koech, Ag. Director, Corporate and Institutional Banking, and submitted the following;

1. The first bank account of the National Youth Service (NYS) was opened at the bank in 1988 through a presidential decree. This decree was not readily traceable but they would keep checking their records for it.
2. The bank held 3 accounts for the NYS namely The Huduma Cohorts Account, The Huduma Corps Account and The Director NYS Account. These accounts were opened on direction of the Ministry of Devolution and Planning. One account was perpetually overdrawn for a while because the Ministry took time to remit funds into it, resulting in debits by bank charges.
3. Evidence of Treasury's authority to open the subsequent bank accounts was not available because as is practise, only the mother bank account required this approval. The other accounts were simply linked to the existing customer registration number. This however may have been an oversight, or that this approval existed but was unavailable due to the several turnovers the bank has had.
4. The payments to NYS cohorts were to volunteers who participated in the slum upgrading project. It was NYS who brought a schedule of payment indicating names and amounts. NBK's role was to carry out these instructions as is. The banks liability therefore rested on this premise.
5. The bank entered into an agreement with Safaricom Limited through a contract signed in 2010 between the then bank's CEO, the late Mr. Reuben Marambii and Mr. Robert Collymore of Safaricom.
6. This agreement was meant to facilitate bulk payment to the youth who did not have bank accounts. The alternative of opening accounts for the youth was logistically costly because these accounts

would ultimately become dormant. The choice of MPESA payment was the most efficient because Safaricom had the best infrastructure to meet the volumes.

7. The youth cohorts were paid at a daily rate of Kes. 500.
8. The relevant charges, fees and commissions between the bank and Safaricom were agreed upon as specified in the contract.
9. The bank relayed a total bulk figure to Safaricom through a virtual account who then distributed amounts due to individual MPESA numbers, as provided by the NYS. The bank's control of these remittances was assured through statements provided by Safaricom for their reconciliations.
10. The current financial reporting rules that place a limit of cash transactions at Kes. 1 Million had been positively received by both customers and banks.

The meeting resolved that the witness provides a written statement to guide the supporting documents they had submitted within two weeks.

MIN No. 1150/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. ROBERT COLLYMORE, CHIEF EXECUTIVE OFFICER SAFARICOM LIMITED

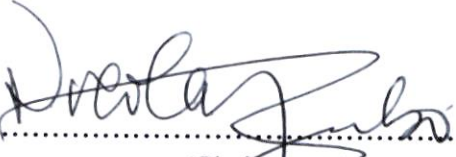
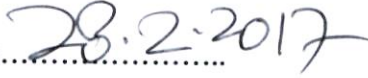
Mr. Robert Collymore, Chief Executive Officer, Safaricom Limited appeared before the Committee accompanied by **Messrs. Steve Chege, Director, Corporate Affairs** and **John Ohaga, Legal Counsel**, and submitted the following on oath;

1. MPESA is licensed and regulated by the Central Bank of Kenya, distinct from its 2009 GSM license.
2. MPESA enables customers, individuals and corporate, to send customer to customer, bill and merchant payments.
3. 2656 organizations had so far partnered with Safaricom, of which 40 were banks.
4. Kes. 1.7 Billion is transmitted through the platform daily, translating to Kes. 50 Billion monthly.
5. On bulk payments, money is put in a trust account then dispersed through a remittance sheet of customers. This sheet only contains mobile phone numbers and amounts. These remittances are then scheduled by Safaricom.
6. It was the responsibility of the client to verify recipients and do due diligence. In fact, Safaricom only provides the client with a platform of which the client themselves input the recipients by initiating and completing the disbursements.
7. Safaricom has no contractual relationship whatsoever with the NYS but with National Bank of Kenya. The agreement with the National Bank dates back to 2011 and comprises mobile banking and salary disbursements. NBK transactions total Kes. 14 Million daily and Kes. 425 Million monthly.
8. The payments to NYS cohorts were all made within wallet limits and to registered mobile phone numbers. The highest daily payment was Kes. 24,832.00.
9. NBK only loaded mobile phone numbers and amounts; Safaricom was therefore not able to know the intended recipients by name.
10. Safaricom has no list of cohorts, other than ISDN numbers, as this was exclusively handled by the client, NBK.

The meeting resolved that the witness be furnished with the list of payments with similar telephone or ID card numbers for their analysis. This, together with details of commissions earned and their written statement would be provided within one week.

MIN No. 1151/2016: ADJOURNMENT

There being no other business, the meeting was adjourned at twenty minutes past one o'clock in the afternoon. Next meeting would be on 11th July, 2016 at 2.30 p.m.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDREDTH (300TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON MONDAY, 11TH JULY, 2016 AT 2.30 PM. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. Jackson K. Rop, M.P. - Vice- Chairman
2. Hon. John Mbadi, M.P.
3. Hon. FathiaMahbub, M.P.
4. Hon. (Capt.) Clement Wambugu, M.P.
5. Hon. David Eseli, M.P.
6. Hon. Julius Melly, M.P
7. Hon. Manson Nyamweya, M.P.
8. Hon. KaniniKega, M.P.
9. Hon. Abdikadir Aden, M.P.
10. Hon. Joseph Manje, M.P.
11. Hon. Andrew Mwadime, M.P.

APOLOGIES

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Arthur Odera, M.P.
3. Hon. Timothy Bosire, M.P.
4. Hon. Alice NyanchokaChae, M.P.
5. Hon. KarekeMbiuki, M.P.
6. Hon. Mathias Robi, M.P.
7. Hon. SakwaBunyasi, M.P.
8. Hon. KyengoKatathaMaweu, M.P.
9. Hon. Stephen Manoti, M.P.
10. Hon. Charles GeniMong'are, M.P.
11. Hon. Kangogo Bowen, M.P.
12. Hon. GonziRai, M.P.
13. Hon. SilvanseOnyangoOsele, M.P.
14. Hon. Jessica Mbalu, M.P.
15. Hon. Junet Sheikh Nuh, M.P.
16. Hon. Joel Onyancha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Ms. ChelagatTungo - Clerk Assistant II
3. Mr. Peter Mwaura - Legal Counsel
4. Mr. John Mungai - Audio Recorder

NATIONAL TREASURY

Mr. Geoffrey Mwitari

OFFICE OF THE AUDITOR GENERAL

1. Mr Raphael Ikame - Parliamentary Liaison Officer
2. Mr Addy Waichigo - Manager Audit

MIN No. 1152/2016: PRELIMINARIES

The Vice- chairman called the meeting to order at fifty minutes past two O'clock in the afternoon and said a prayer.

MIN No. 1153/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1154/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. SAITOTI TOROME, PS STATE DEPT. FOR PLANNING

Mr. Saitoti Torome, Principal Secretary, State Department for Planning and Statistics appeared before the Committee accompanied by **Messrs. Peter Muita, Deputy Chief Finance Officer, Clement Murage, Chief Accountant and Anthony Mwangi, Finance Officer**, and submitted the following;

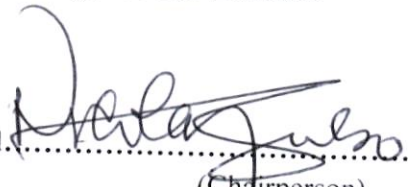
1. The National Youth Service (NYS) was moved to the State Department of Public Service and Youth Affairs under the Ministry of Public Service, Youth and Gender Affairs vide an executive order in May, 2016.
2. He was appointed as a Principal Secretary before the executive order, and was the accounting officer before the state departments were formalized. During this period however, the Principal Secretary in charge of Public Service and Youth, Ms. Lillian Mbogo- Omollo had instructed accountants in the ministry to consult her, as the substantive Principal Secretary, on all matters related to NYS. This was done through a memo authored by her Director of Administration, a Mr. Mike Ojiambo. A team was set up to validate all pending payments before they were approved.
3. Mr. Torome was therefore not in possession of original documents that pertain to the payments under query. He only had copies of some of the payment vouchers. He also could only manage to obtain the procurement plan of financial year 2014/15. Details of AIE of Kes. 70 Million issued to NYS Gilgil college were also unavailable.
4. Procurement of goods and services (including voucher validation and examination) in question were done at the NYS. The ministry was only involved in payments at the final stage through the G-pay system. This was done by a Mr. Joel Karenju who was the Head of Accounts at the time.
5. He recalls having blocked payment of an invoice of about Kes. 78 Million to Out of the Box Solutions because the company had been identified by the EACC as being investigated.
6. Suppliers of goods and services to government in general are first pre-qualified before they can tender. Pre-qualification establishes genuineness and capacity of applicants before they can be engaged.

The meeting resolved that the witness avail before the Committee the memo from PS Lillian Mbogo-Omollo's office and the list of companies the team she created cleared or denied payments. This, together with the blocked invoice to Out of the Box Solutions would be provided within two weeks.

The meeting further resolved to invite the Principal Secretary, State Department for Public Service and Youth Affairs, Ms. Lillian Mbogo- Omollo, to provide a detailed response on the matters still pending. PS SaitotiTorome would accompany her.

MIN No. 1155/2016: ADJOURNMENT

There being no other business, the meeting was adjourned at five O'clock in the evening. Next meeting would be on 12th July, 2016 at 10.00a.m.

Signed.  Date. 28.2.2017
(Chairperson)

MINUTES OF THE THREE HUNDREDTH AND FIRST (301ST) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 12TH JULY, 2016 AT 10.00A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. Jackson K. Rop, M.P. - Vice- Chairman
2. Hon. John Mbadi, M.P.
3. Hon. FathiaMahbub, M.P.
4. Hon. (Capt.) Clement Wambugu, M.P.
5. Hon. David Eseli, M.P.
6. Hon. Julius Melly, M.P
7. Hon. Manson Nyamweya, M.P.
8. Hon. KaniniKega, M.P.
9. Hon. Abdikadir Aden, M.P.
10. Hon. Arthur Odera, M.P.
11. Hon. Timothy Bosire, M.P.
12. Hon. Joseph Manje, M.P.
13. Hon. Junet Sheikh Nuh, M.P.
14. Hon. KyengoKatathaMaweu, M.P.
15. Hon. Andrew Mwadime, M.P.

APOLOGIES

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Alice NyanchokaChae, M.P.
3. Hon. KarekeMbiuki, M.P.
4. Hon. Mathias Robi, M.P.
5. Hon. SakwaBunyasi, M.P.
6. Hon. Stephen Manoti, M.P.
7. Hon. Charles GeniMong'are, M.P.
8. Hon. Kangogo Bowen, M.P.
9. Hon. GonziRai, M.P.
10. Hon. SilvanceOnyangoOsele, M.P.
11. Hon. Jessica Mbalu, M.P.
12. Hon. Joel Onyancha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Ms. ChelagatTungo - Clerk Assistant II
3. Mr. Peter Mwaura - Legal Counsel
4. Ms. WinnieKulei - Researcher
5. Mr. John Mungai - Audio Recorder

NATIONAL TREASURY

Mr. Geoffrey Mwitari

OFFICE OF THE AUDITOR GENERAL

1. Mr Joshiah Oyuko - Manager Audit
2. Mr Addy Waichigo - Manager Audit
3. Mr. Francis Gichure - Manager Audit

MIN No. 1156/2016: PRELIMINARIES

The Vice- chairman called the meeting to order at twenty five minutes past ten O'clock in the morning and said a prayer.

MIN No. 1157/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1158/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. ALEX NGUGI, HEAD OF INTERNAL AUDIT, STATE DEPT. FOR PLANNING

Mr. Alex Ngugi, Head of Internal Audit, State Department for Planning and Statistics appeared before the Committee accompanied by Ms. Alice Njoki, Internal Auditor, and submitted the following;

1. That he joined the public service in 1981 in the then Ministry of Transport and Communication. He then joined the internal audit function in 1995 and posted to districts, then the headquarters in charge of IT audits and finally posted as the in charge at the Ministry of Devolution and Planning. He was now due for transfer to Treasury. His academic qualifications are Form 4 certification, and CPA Section 6.
2. The Ministry of Devolution and Planning had seven directorates of which NYS was one of them, headed by Mr. James Gitau Kanuthu. Each of these directorates had an internal auditor in charge. His role therefore was that of an overall coordinator and supervisor.
3. The coordination role included developing an annual work plan and presenting the same to the ministerial audit committee of which he was secretary. He then oversaw implementation of this work plan and monitored each unit to function properly and present their reports to the ministerial committee.
4. In the normal internal audit functioning, their role was to conduct a systems audit as opposed to pre-auditing which entailed appending their signatures on payment vouchers. However, NYS was unique because the Director General had requested the internal auditors to assist in improving efficiency by appending their signatures and approving payment vouchers. This decision was made informally and may have begun before Mr. Ngugi took office.
5. Mr. Ngugi felt this was not ordinarily professional because it meant the internal auditor would now be exercising executive authority and thus personally responsible. It was however difficult to turn down a request from the accounting officer.

MINUTES OF THE THREE HUNDRETH AND SECOND (302ND) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 12TH JULY, 2016 AT 2.30P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. Jackson K. Rop, M.P. - Vice- Chairman
2. Hon. FathiaMahbub, M.P.
3. Hon. David Eseli, M.P.
4. Hon. Julius Melly, M.P
5. Hon. Manson Nyamweya, M.P.
6. Hon. KaniniKega, M.P.
7. Hon. Abdikadir Aden, M.P.
8. Hon. Arthur Odera, M.P.
9. Hon. Joseph Manje, M.P.
10. Hon. Andrew Mwadime, M.P.

APOLOGIES

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. (Capt.) Clement Wambugu, M.P.
3. Hon. KyengoKatathaMaweu, M.P.
4. Hon. Junet Sheikh Nuh, M.P.
5. Hon. John Mbadi, M.P.
6. Hon. Timothy Bosire, M.P.
7. Hon. Alice NyanchokaChae, M.P.
8. Hon. KarekeMbiuki, M.P.
9. Hon. Mathias Robi, M.P.
10. Hon. SakwaBunyasi, M.P.
11. Hon. Stephen Manoti, M.P.
12. Hon. Charles GeniMong'are, M.P.
13. Hon. Kangogo Bowen, M.P.
14. Hon. GonziRai, M.P.
15. Hon. SilvanceOnyangoOsele, M.P.
16. Hon. Jessica Mbalu, M.P.
17. Hon. Joel Onyancha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Ms. ChelagatTungo - Clerk Assistant II
3. Mr. Peter Mwaura - Legal Counsel
4. Ms. WinnieKulei - Researcher
5. Mr. John Mungai - Audio Recorder

NATIONAL TREASURY

Mr. Geoffrey Mwitari

OFFICE OF THE AUDITOR GENERAL

1. Mr. Josiah Oyuko - Manager Audit
2. Mr. Addy Waichigo - Manager Audit
3. Mr. Francis Gichure - Manager Audit

MIN No. 1160/2016: PRELIMINARIES

The Vice-chairman called the meeting to order at twenty minutes past two O'clock in the afternoon and said a prayer.

MIN No. 1161/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1162/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. HASSAN NOOR HASSAN, FORMER CHAIRMAN OF THE MINISTERIAL TENDER COMMITTEE, MINISTRY OF DEVOLUTION AND PLANNING

Mr. Hassan Noor Hassan, the then **Chairman of the Ministerial Tender Committee** appeared before the Committee and submitted the following:

1. He had served the public service diligently for 32 years, and was due to retire in two years. He confirmed chairing the Ministerial Tender Committee from 16th July 2014 to December 2015 when he was transferred to his current position as an Administrative Secretary in the Ministry of Water and Irrigation. This transfer was routine and affected several officers in government.
2. His substantive role of Administrative Secretary was simply to coordinate support activities in the ministry and deputize the Principal Secretary should he be away. The PS was however never away during the subject period of the queries.
3. The role of the Ministerial Tender Committee (MTC) was to harmonize procurement in the ministry including all its directorates and agencies to ensure efficiency, effectiveness and value for money. This was necessitated by the fact that almost eight former ministries had been collapsed into one.
4. The MTC approved procurements after the respective unit's tender committee had done all evaluations and made their decisions. The MTC's secretariat then did the background checks including availability of funds and the items inclusion in the procurement plan.
5. He was deputised by the then Chief Finance Officer Mr. John Munywoki. Decisions of the MTC could be made by a vote, and in case of a tie, the chairman would cast his. This provision was however never invoked because decisions were always made by consensus.
6. On the 3.5 kilometre Kibera road, procurement was not done through the MTC and he was therefore not privy. He only learnt of it through the media and more authentically through the Directorate of Criminal Investigations who were called in by the then Cabinet Secretary after Mr. Adan Harakhe had reported that his password had been stolen. He later established that this procurement was done

by the use of Supplies Branch contracts of which the law DID NOT require the MTC to ratify. Supplies branch usually sent circulars to MDAs for firms that could be contracted.

7. The law requires that the MTC be involved in procurement of goods and services above Kes. 500,000. It was however the responsibility of the AIE holder and the department to refer such matters to them. They must have therefore violated the law to that extent.
8. On procurement of goods and services amounting to Kes. 609,252,760.60 as detailed the Auditor General's report's table 2, the MTC was not involved. They were procured by use of Supplies branch contracts. This was also the position for goods procured at Kes. 222,122,919.00 as detailed in page 15 of the Auditor General's report.
9. Procurement of publicity services from Out of the Box Solutions for Kes. 302,458,690.00 and rebranding services from The Consulting House for Kes. 90,000,000.00 were procedurally done through the MTC. The original documentation supporting advertisements of expression of interest of these procurements were however taken by the Ethics and Anti-corruption Commission and he did not have copies to present to the committee.
10. On the Consulting House procurement, the audit query was about over payment by Kes. 12.5 Million. This was not within the premise of the MTC but with the finance department and the AIE holder, and he did not know why they were overpaid.
11. The contract for Out of the Box Solutions had a 30% provision for payment for delivery of an inception report which included a comprehensive execution plan, detailed dates of activities, details of coordinating government activities for AGPO registration for a, outreach mechanisms, campaign theme, outline of three television and ten radio station commercials, merchandize, an interactive website, a mobile telephone USSD system and monitoring and evaluation. The payment of Kes. 90,737,607.00 was done after delivery of this inception report. The balance of 70% was for execution of the plan to reach at least 1000 youth in every county. This was done in seven counties including Machakos and Kiambu. The plan was however halted after bad publicity and the launch of investigations into the affairs of the NYS. He however did not know whether the company had pursued payment of its remaining contractual dues.
12. AIE holders had a responsibility towards funding controls, and procurement is managed by the Head of Supplies Chain and ultimately the Accounting Officer who gets quarterly reports.
13. He had no idea on Mr. AdanHarakhe's movements and transfers culminating at the NYS.
14. He concluded that the MTC had enough strength to deliver on its mandate. The use of Supplies Branch contracts had however created a loophole that could be exploited for fraudulent activities. Its usefulness in the current market dynamics is outdated.

The meeting resolved that the witness avail the following within one week;

- a) Tender and Contract documents for Out of Box Solutions;
- b) Tender and Contract documents for The Consulting House;
- c) His formal letter of appointment as Chairman of MTC;
- d) Treasury's memo guiding use of Supplies Branch contracts.

MIN No. 1163/2016: ADJOURNMENT

There being no other business, the meeting adjourned at twenty minutes past four O'clock in the afternoon. Next sitting would be held on 13th July, 2016 at 2.30p.m.

Signed.....


(Chairperson)

Date.....

28.2.2017

MINUTES OF THE THREE HUNDREDTH AND THIRD (303RD) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON WEDNESDAY, 13TH JULY, 2016 AT 2.30P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. Jackson K. Rop, M.P. - Vice- Chairman
2. Hon. FathiaMahbub, M.P.
3. Hon. David Eseli, M.P.
4. Hon. Manson Nyamweya, M.P.
5. Hon. KaniniKega, M.P.
6. Hon. Abdikadir Aden, M.P.
7. Hon. Joseph Manje, M.P.
8. Hon. KyengoKatathaMaweu, M.P.
9. Hon. SakwaBunyasi, M.P.
10. Hon. John Mbadi, M.P.
11. Hon. GonziRai, M.P.
12. Hon. Andrew Mwadime, M.P.

APOLOGIES

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. (Capt.) Clement Wambugu, M.P.
3. Hon. Arthur Odera, M.P.
4. Hon. Julius Melly, M.P.
5. Hon. Junet Sheikh Nuh, M.P.
6. Hon. Timothy Bosire, M.P.
7. Hon. Alice NyanchokaChae, M.P.
8. Hon. KarekeMbiuki, M.P.
9. Hon. Mathias Robi, M.P.
10. Hon. Stephen Manoti, M.P.
11. Hon. Charles GeniMong'are, M.P.
12. Hon. Kangogo Bowen, M.P.
13. Hon. SilvanceOnyangoOsele, M.P.
14. Hon. Jessica Mbalu, M.P.
15. Hon. Joel Onyancha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Ms. ChelagatTungo - Clerk Assistant II
3. Mr. Peter Mwaura - Legal Counsel
4. Ms. WinnieKulei - Researcher
5. Mr. ChelangaMaiyo - Researcher
6. Ms. Catherine Burure - Fiscal Analyst
7. Mr. John Mungai - Audio Recorder

NATIONAL TREASURY

Mr. Geoffrey Mwitari

OFFICE OF THE AUDITOR GENERAL

1. Mr. Joshiah Oyuko - Manager Audit
2. Mr. Addy Waichigo - Manager Audit
3. Mr. Francis Gichure - Manager Audit

MIN No. 1164/2016: PRELIMINARIES

The Vice-chairman called the meeting to order at five minutes past two o'clock in the afternoon and said a prayer. All present introduced themselves.

MIN No. 1165/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1166/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. JOHN MUNYWOKI, FORMER SENIOR CHIEF FINANCE OFFICER, MINISTRY OF DEVOLUTION AND PLANNING

Mr. John Munywoki, the then **Senior Chief Finance Officer, Ministry of Devolution and Planning** appeared before the Committee and submitted the following:

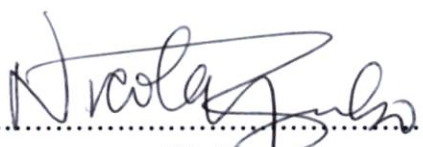
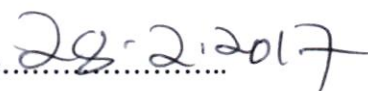
1. He was the Senior Chief Finance Officer (SCFO) in the Ministry of Devolution and Planning until March 2015 when he was transferred to the Ministry of Interior and Coordination of National Government in the same capacity. He was also the Vice-chairman of the Ministerial Tender Committee (MTC) of the Ministry of Devolution and Planning.
2. In his position as the SCFO, his roles included budget planning, implementation and control. He would assist the Accounting Officer implement the budget and had the powers to sign documents including LPOs, LSOs and payment vouchers.
3. Mr. Adan Gedow Harakhe, the then Senior Deputy Director at NYS was appointed as the AIE holder by the then Principal Secretary, Mr. Peter Mangiti vide letter ref. MDP/1/3/41 dated 19th February, 2015. This was after revocation of Dr. Nelson Githinji's responsibility as AIE holder vide a letter ref. MNDP/3/41 dated the same day. This was meant to free Dr. Githinji to concentrate on policy direction and oversight as the NYS's mandate had expanded.
4. Upon receipt of the two letters, the SCFO wrote to Director IFMIS at Treasury vide letter ref. MDP/1/3/41 dated 20th February, 2015 requesting him to define Mr. Adan Harakhe as AIE holder as had been appointed by the Accounting Officer.
5. He however failed to request IFMIS to revoke Mr. Githinji's credentials and admitted that it was an oversight. He explained that he had attached the Accounting Officers letters in his own letter to serve as self-explanatory. He could not explain why Dr. Githinji kept logging in, and he had only seen that fact in the special audit report.
6. NYS had fully-fledged procurement and finance departments. They only sent their documents to the ministry for final payment through G-pay, and this would be done by accountants.

7. From the IFMIS system, he could see expenditure returns and could request for ledgers from those who had rights to see them.
8. He used to relate with the NYS Director, Mr. Samuel Wachenje verbally whenever he sought clarifications on any commitments made in the system. He however could not recall any specific case on which he did.
9. As a member of the MTC, the tenders in question procured through supplies branch were not ratified by them as required by law, as long as they met the threshold of Kes. 1 Million. It was however the prerogative of the procuring department to present them for ratification. NYS actually brought some cases to the MTC, but not those under query.
10. He did not relate expenditure returns with failure to present procurements to the MTC by NYS because he was not in a position to see everything. AIE holders had been empowered by the Accounting Officer to verify all their payments.
11. He was aware of the contracts with Out of the Box Solutions and The Consulting House and they must have been approved by the MTC.
12. The letter appointing Mr. AdanHarakhe stated that he as the SCFO could sign for approval of vouchers in Mr. Harakhe's absence. He may have actually exercised this power at times but could not remember specifics. He was also aware of clauses in this letter empowering the SCFO to approve all documentation before payment but he did not adhere.
13. He saw the suspect vouchers at the EACC when he was called to record a statement. He however did not sign any of these documents.
14. The Kes. 3.5 Billion supplementary budget was meant to replicate the Kibera slum upgrading project in three other slums. He left the ministry before this exchequer was issued.

The meeting resolved that the witness avail a written statement explaining the confusion in two letters he drafted to the Director IFMIS within one week; and also stating the policy they implemented as regards the threshold with which all matters procurement were to be referred to the MTC.

MIN No. 1167/2016: ADJOURNMENT

There being no other business, the meeting adjourned at thirty minutes past four O'clock in the afternoon. Next sitting would be held on 14th July, 2016 at 10.00a.m.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDREDTH AND FOURTH (304TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY, 14TH JULY, 2016 AT 2.30P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. (Capt.) Clement Wambugu, M.P.
4. Hon. FathiaMahbub, M.P.
5. Hon. KaniniKega, M.P.
6. Hon. Jessica Mbalu, M.P.
7. Hon. Joseph Manje, M.P.
8. Hon. Alice NyanchokaChae, M.P.
9. Hon. Mathias Robi, M.P.
10. Hon. Abdikadir Aden, M.P.
11. Hon. GonziRai, M.P.
12. Hon. KarekeMbiuki, M.P.
13. Hon. Manson Nyamweya, M.P.
14. Hon. Andrew Mwadime, M.P.

APOLOGIES

1. Hon. Timothy Bosire, M.P.
2. Hon. KyengoKatathaMaweu, M.P.
3. Hon. SakwaBunyasi, M.P.
4. Hon. John Mbadi, M.P.
5. Hon. Arthur Odera, M.P.
6. Hon. David Eseli, M.P.
7. Hon. Julius Melly, M.P.
8. Hon. Junet Sheikh Nuh, M.P.
9. Hon. Stephen Manoti, M.P.
10. Hon. Charles GeniMong'are, M.P.
11. Hon. Kangogo Bowen, M.P.
12. Hon. SilvanceOnyangoOsele, M.P.
13. Hon. Joel Onyancha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Victor Weke - Clerk Assistant II
3. Ms. ChelagatTungo - Clerk Assistant II
4. Mr. Peter Mwaura - Legal Counsel
5. Ms. WinnieKulei - Researcher
6. Ms. Catherine Burure - Fiscal Analyst
7. Mr. John Mungai - Audio Recorder

NATIONAL TREASURY

Mr. Geoffrey Mwitari

OFFICE OF THE AUDITOR GENERAL

1. Mr. Joshiah Oyuko - Manager Audit
2. Mr. Addy Waichigo - Manager Audit
3. Mr. Francis Gichure - Manager Audit

MIN No. 1168/2016: PRELIMINARIES

The Chairman called the meeting to order at three O'clock in the afternoon and said a prayer followed by introductions by all present.

MIN No. 1169/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1170/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. FREDRICK MUNGE MUSEMBI, FINANCE OFFICER, TREASURY

Mr. Fredrick Munge Musembi, a **finance officer** at Treasury's IFMIS department appeared before the Committee and submitted as follows:

1. He hailed from Machakos town. He joined the public service in 2009 as a finance officer at Treasury's budget department before joining the department of IFMIS in 2012. His qualifications included a Bachelor's degree in Business Management, Finance option, and CPA (K) certification. He currently pursues his Master's degree.
2. His roles at IFMIS department included creating/ defining suppliers in the system, providing budgetary preparation to both national and county governments, training as well as providing general support on IFMIS. His immediate supervisor was the Director IFMIS.
3. His specific task of supplier definition involved capturing supplier details as requested by Ministries, Departments and Agencies (MDAs). The process currently is done by the MDAs on site and Treasury approves online. His allocated ministries include Devolution and Planning, Interior and Coordination of National Government, Transport and Infrastructure and Health.
4. The request from MDAs to define suppliers was signed by the respective head of accounting unit and delivered to the IFMIS reception. This was then distributed to the relevant officers to define, without having to go through the IFMIS Director. The specific letter that requested definition of the companies under query was signed by Mr. Naftali Githinji of the State Department of Planning dated 10th November, 2014.
5. Defining the supplier in the IFMIS system was entirely distinct from the payment process which was done by the respective MDAs.
6. There was no policy that specified the data to be input when defining the supplier. One keyed in the details as presented and requested by the MDA depending on the workload. One would define the most basic details and request the MDA to complete the rest at their discretion. On the subject companies however, he defined all the details as requested in the letter.

7. The process of defining suppliers had no verification levels. In case of an error, the user would log back into the system and correct it.
8. In the conduct of his duties, he was never coerced and always acted with integrity.

The Committee resolved to engage the Director IFMIS on the operations of the system, and also resolved to summon Mr. Naftali Githinji to explain details on the companies in the letter he had supposedly written to IFMIS for creation.

MIN No. 1171/2016: ANY OTHER BUSINESS

1. The Chairman informed the Committee that the inspection delegation that visited Embu GK Prison's biogas plant in its inquiry into FY 2013/14 national government accounts had promised to return and do corporate social responsibilities visit. This was due to the fact that the project was well done and the Committee commended it as a model project in its report. The secretariat was tasked to find a suitable date and arrange logistics for the visit.
2. The Chairman also reminded members of the committee of the upcoming AFROPAC AGM and Conference to be held in Nairobi from 29th August – 2nd September, 2016. He called for the committee members full involvement.

MIN No. 1172/2016: ANY OTHER BUSINESS

There being no other business, the meeting adjourned at five minutes past five O'clock in the evening. Next sitting would be held on 18th July, 2016 at 2.30p.m.

Signed.....



(Chairperson)

Date.....

29.2.2017

MINUTES OF THE THREE HUNDREDTH AND FIFTH (305TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 26TH JULY, 2016 AT 10.30A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. (Capt.) Clement Wambugu, M.P.
4. Hon. FathiaMahbub, M.P.
5. Hon. KaniniKega, M.P.
6. Hon. Jessica Mbalu, M.P.
7. Hon. Joseph Manje, M.P.
8. Hon. Alice NyanchokaChae, M.P.
9. Hon. Mathias Robi, M.P.
10. Hon. Abdikadir Aden, M.P.
11. Hon. KarekeMbiuki, M.P.
12. Hon. Andrew Mwadime, M.P.
13. Hon. John Mbadi, M.P.
14. Hon. Arthur Odera, M.P.
15. Hon. David Eseli, M.P.
16. Hon. Julius Melly, M.P
17. Hon. Timothy Bosire, M.P.
18. Hon. Stephen Manoti, M.P.
19. Hon. Charles GeniMong'are, M.P.
20. Hon. SakwaBunyasi, M.P.

APOLOGIES

1. Hon. Gonzi Rai, M.P.
2. Hon. Manson Nyamweya, M.P.
3. Hon. KyengoKatathaMaweu, M.P.
4. Hon. Junet Sheikh Nuh, M.P.
5. Hon. Kangogo Bowen, M.P.
6. Hon. Silvanice Onyango Osele, M.P.
7. Hon. Joel Onyancha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Ms. ChelagatTungo - Clerk Assistant II
3. Ms. Winnie Kulei - Researcher
4. Mr. John Mungai - Audio Recorder

NATIONAL TREASURY

Mr. Geoffrey Mwitari

OFFICE OF THE AUDITOR GENERAL

1. Mr Raphael Ikame - Manager Audit
2. Mr Addy Waichigo - Manager Audit
3. Mr. Francis Gichure - Manager Audit

FAMILY BANK

1. Mr. David Thuku - MD and CEO
2. Cecil Miller - Advocate
3. Rebecca Mbithi - Company Secretary
4. Samuel Karanja - Corporate Communications
5. Norman Mudibo - Corporate Communications
6. Caroline Gichuru - Marketing

MIN No. 1173/2016: PRELIMINARIES

The Chairman called the meeting to order at twenty minutes to eleven O'clock in the morning and said a prayer followed by introductions by all present.

MIN No. 1174/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN NO.1175/2016:SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. DAVID THUKU, CHIEF EXECUTIVE OFFICER, FAMILY BANK

The witness requested for the session to be held in camera since information they were to table was confidential as protected by the CBK Prudential Guidelines. The Committee accepted the request after determining the information to be tabled was not in the public domain and touched on several clients of the bank.

(Information submitted is available in the National Assembly Clerk's office on request)

The Committee resolved to interrogate submissions provided by the accounting officer in details. The Committee requested the accounting officer to submit the following documents and information within seven (7) days.

- a. Accounts relating to internal transfers (Ms. Kabura's transactions)
- b. Name of the 9 officers who were suspended by Family Bank
- c. Date when Mr. Kipsanai was contacted
- d. Any information regarding Draco Capital, Grumum Engineering and Tegmen Trading

MIN No. 1176/2016: ANY OTHER BUSINESS

The Committee agreed to have Family Bank reappear before it on a date to be determined.

MIN No. 1177/2016: ADJOURNMENT

There being no other business, the meeting adjourned at five minutes to two O'clock in the afternoon. Next sitting would be held on 28th July, 2016 at 10.30a.m.

Signed.....

Nicola J. ...

(Chairperson)

Date.....

28.2.2017

MINUTES OF THE THREE HUNDREDTH AND SIXTH (306TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY, 28TH JULY, 2016 AT 10.30A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahbub, M.P.
4. Hon. KaniniKega, M.P.
5. Hon. Joseph Manje, M.P.
6. Hon. Alice NyanchokaChae, M.P.
7. Hon. Mathias Robi, M.P.
8. Hon. Abdikadir Aden, M.P.
9. Hon. KarekeMbiuki, M.P.
10. Hon. Andrew Mwadime, M.P.
11. Hon. John Mbadi, M.P.
12. Hon. Arthur Odera, M.P.
13. Hon. Timothy Bosire, M.P.
14. Hon. SakwaBunyasi, M.P.
15. Hon. KyengoKatathaMaweu, M.P.
16. Hon. (Capt.) Clement Wambugu, M.P.
17. Hon. Julius Melly, M.P.
18. Hon. Manson Nyamweya, M.P.
19. Hon. Jessica Mbalu, M.P.

APOLOGIES

1. Hon. David Eseli, M.P.
2. Hon. Stephen Manoti, M.P.
3. Hon. Charles GeniMong'are, M.P.
4. Hon. GonziRai, M.P.
5. Hon. Junet Sheikh Nuh, M.P.
6. Hon. Kangogo Bowen, M.P.
7. Hon. SilvanaceOnyangoOsele, M.P.
8. Hon. Joel Onyancha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Ms. ChelagatTungo - Clerk Assistant II
3. Mr. Victor Weke - Clerk Assistant II
4. Ms. Chelang'aMaiyo - Researcher
5. Mr. John Mungai - Audio Recorder

NATIONAL TREASURY

Mr. Geoffrey Mwitari

OFFICE OF THE AUDITOR GENERAL

1. Mr Raphael Ikame - Manager Audit

2. Mr Addy Waichigo - Manager Audit
3. Mr. Francis Gichure - Manager Audit

MIN No. 1178/2016: PRELIMINARIES

The Chairman called the meeting to order at twenty minutes to eleven O'clock in the morning and said a prayer followed by introductions by all present.

MIN No. 1179/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1180/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. JIROME OCHIENG, DIRECTOR IFMIS- NATIONAL TREASURY

Accompanied by:

1. Dr. Geoffrey Mwau
2. Mr. Benard Ndungu
3. Mr. Alfayo Mogaka
4. Mr. Francis Anyona
5. Mr. Tom Khakame
6. Mr. Geofrey Maloba
7. Mr. Pius Kaua
8. Mr. Moses Gitari
9. Mr. Arthur Nduati

Mr. Jirome Ochieng, the Director, IFMIS, appeared before the Committee and gave submission to the Committee as follows;

On rationale for increasing the budget of the NYS and absorption capacity created to absorb the funds before exchequer issuance, he informed the committee that; the approved Budget allocation to the National Youth Service for the Financial Years 2012/13, 2013/14 and 2013/15 was Kshs.3.9 billion, Kshs.13.05 billion and Kshs.22.8 billion respectively.

A detailed movement of the approved budgets for NYS within the financial years and the reasons for increased funding are shown in the table below:

| Financial Year | Printed Estimates Kshs millions | Final Approved Budget Kshs million | % Increase | Rationale/Justification for the increase |
|----------------|------------------------------------|---------------------------------------|------------|---|
| FY 2012/13 | 3,892.82 | 3,943.12 | | |
| FY 2013/14 | 17,496.16 | 13,053.20 | 231% | Increase in Kshs.2.928 billion was to cater for dam construction which was a strategic intervention in the FY 2013/14 Increase in Kshs.6.325 billion was to cater for equipping of NYS which was a donor funded project funded by the People's Republic of China |
| FY 2014/15 | 17,941.25 | 22,803.79 | 74.7% | Kshs.1.92 billion was required to cater increase intake of 10,000 recruits as provided for in the Second Medium Term Plan (2013-2017) of the Vision 2013 Kshs.7.8 billion was required to cater for NYS re-engineering through of the 5 Point Vision Plan |

The rationale for increased funding is explained in the table above and was as follows for the two financial years:

1) In the FY 2013/14

- The major increase of Kshs.6.3billion was to cater for equipping of NYS which was a donor funded project by the Peoples Republic of China;
- The increase of Kshs.2.9 billion was also to cater for dam construction in ASAL areas which was a strategic intervention in the FY 2013/14.

2) In the FY 2014/15

The Second Medium Term Plan (2013-2017) of the Vision 2030, under the Social Pillar provides for "upgrade of the NYS with the projected annual youth recruitment of more than ten thousand recruits".

In this regard, the increase in funding in FY 2014/15 for NYS was to cater for:

- Double intake in recruitment of Service men/women which aimed at recruiting ten thousand (10,000) recruits.
- In order to implement the Government's agenda for transformative youth empowerment, the Ministry of Devolution and Planning developed a 5 point vision to guide the transformation. To support this, the Ministry requested for more funding to cater for increased activities carried out by NYS under the new 5 point pillar. The 5 point pillar includes:
 - Paramilitary training and service regimentation;
 - National Service and youth re-socialization;
 - Social transformation and vocational training;
 - Enterprise and youth economy; and
 - Bankable institutional architecture at NYS.

Absorption capacity created to absorb the funds before Exchequer issuance:

The Vote book balances for Subhead Youth Development Initiatives as at 30th April 2015 indicated that NYS had capacity to absorb the allocated funds. Apart from considering the double intake and upgrading of NYS through the 5 point Pillar, the National Treasury also considered the absorption levels as at 30th April, 2015 (third quarter), as per Vote Book which stood at **92.63%** of the printed estimates under Head 0092-03 - Youth Development Initiatives as shown in the table below:

| Items | Printed Estimates 2014/15 Kshs. millions | Status of Expenditure as at 30th April 2015 Kshs.million | Balance as at 30th April 2015 Kshs. million | Expenditure as a% of Printed Estimates Kshs. Million | Supplementary Estimates Kshs. Million |
|---|--|--|---|--|---------------------------------------|
| Casual Labour -Others | 1,300.00 | 961.35 | 388.65 | 73.95% | 250 |
| Hire of Equipment, Plant and Machinery | 1,505.36 | 1,450.65 | 54.71 | 96.37% | 500 |
| Refined Fuels and Lubricants for Production | 1,149.84 | 951.95 | 197.89 | 82.79% | 750 |
| Other Infrastructure and Civil Works | 7,600.00 | 7,339.77 | 260.23 | 96.58% | 2000 |
| Total | 11,555.20 | 10,703.72 | 851.48 | 92.63% | 3,500.00 |

On circumstances under which authority-to-incur expenditure controversially changed hands at NYS

The meeting was informed that;

- Ordinarily under normal circumstances, MDA's can have multiple AIE holders who include the main AIE holder and Alternatives. The Department normally defines and maps the AIE holders under the mandate given by the MDAs authority.
- In reference to letters dated 23rd February, 2015 Ref. No. MDP/1/3/41 and 20th February, 2015 Ref. No. MDP/1/3/41 signed by John Munyoki for Principal Secretary, the instructions was to define Mr. AdanHarake as an AIE holder.
- Further, the Department received another request Ref. No. MDP/1/3/41 dated 27th May, 2015 signed by Eng. Peter O. M. Mangiti requesting for deactivation of four (4) officers in Supply Chain

Management but did not receive instructions to deactivate Dr. Nelson Githinji from the system as an AIE Holder

On Internal Audit Report of the NYS and the Ministry of Devolution & Planning for the years under review

The meeting was informed that between 2013 and 2015, the period under review, the internal audit department at the Ministry of Devolution and Planning produced a total of seventeen (17) audit reports. Nine (9) were specific to the National Youth Service activities, while eight were in respect of the Ministry. At NYS, the audits were specific on:-

- a) Financial Management Review at NYS Senior Mess Audit, cash management, Record Keeping and Staff Establishment (National Youth Service);
- b) Field Attachment/Assessment Allowance (NYS Tech-Naivasha);
- c) Procurement Audit (NYS);
- d) Outstanding Bills owed to Mechanical and Transport Fund;
- e) Mechanical and Transport Fund Audi;
- f) Construction Projects (Double span Kitchen, dining and barracks NYS Engineering School;
- g) Classroom and workshop - NYS Engineering School;
- h) Flats No. 12 - NYS Vocational Training Institute Industrial Area) and
- i) Asset Management at NYS; at Pending Bills

In respect of the Ministry, the audit coverage were on:-

- a) Programme for Agriculture and Livestock in Western Communities (PALWECO) - 5 Year Programme Review (2010-2016)-GOK/Finland Project
- b) Community Empowerment and Institutional Support Project;
- c) Western Kenya Community Driven Development and Floor Mitigation Project (Busia, Teso and Mt. Elgon)
- d) Youth Enterprise Development Fund, 8th Anniversary & Specific Loans;
- e) Unsettled Commercial Invoices from National Cereals and Produce Board;
- f) Stores Management in the State Department of Planning;
- g) Procurement System Audit (Directorate of Youth Affairs);
- h) Procurement Audit (Directorate of Youth Affairs); and Turkana IDP Camp

Authority to open bank accounts for all accounts operated by the NYS

The National Treasury granted authority to operate the below account at National Bank of Kenya Harambee Avenue:-

| <u>Account Name</u> | <u>Account No.</u> |
|---------------------|--------------------|
| Director NYS | 01002000909300 |

The National Treasury granted authority to operate accounts with Kenya Commercial Bank, Moi Avenue, Nairobi.

| <u>Account Name</u> | <u>Account No.</u> |
|-----------------------------------|--------------------|
| NYS Huduma Cohorts Payments | 1178056929 |
| NYS Huduma Cohorts SACCO Payments | 1178058158 |

The National Treasury letters of authority of opening the accounts are included in **Appendix VII**

The Accounts below were opened at National Bank of Kenya Harambee Avenue without authority of National Treasury.

| <u>Account Name</u> | <u>Account No.</u> |
|---------------------------------|--------------------|
| NYS Mechanical & Transport Fund | 1128674548 |

This account was opened in June, 2011 according to the Special Audit report. In July 2011, after the account was opened the Permanent Secretary, Ministry of Youth Affairs and Sports, wrote to the Treasury seeking authority to open an account in a Commercial Bank for the National Youth Service (NYS) Mechanical and Transport Board Fund.

How Fredrick MungeMusembi an employee of Treasury's IFMIS Department managed to create and define site details of suppliers who allegedly defrauded NYS Kshs.791,835,000.00

He submitted that the National Treasury adopted a policy for all suppliers for National Government to be defined centrally under IFMS. Mr. Fredrick MungeMusembi P/No. 2009112985 is the officer who was assigned duties/help desk for Ministry of Devolution and Planning, State Department of Planning where NYS was attached among other MDA's.

Inline of his duties, definition of suppliers was within the mandate assigned by the Department. On 11th November, 2014 IFMIS received a letter Reference No. NYS/FIN/2/3 dated 10th November, 2014 signed by Naftali Githinji for Director General requesting ten (10) suppliers to be defined in the system among them was the four (4) supplier names in question.

All ten (10) suppliers were fully defined as requested in the system with relevant ban details as assigned. Mr. Musembu therefore performed his allocated responsibility without ill motive.

Reasons as to why Dr. Nelson Githinji retained his IFMIS rights despite revocation of AIE and actually continued logging into the system three months later exposing the system's weak control

The meeting was informed that as stated in question (vi) above, IFMIS Department did not receive any instructions from NYS to deactivate Dr. Nelson Githinji from the system. However, Dr. Githinji could not start and finish any procurement process without involvement of others in the business work flow which has twenty eight (28) documented steps leading to a tight system control.

Circumstances under which users logged in at Treasury despite being officers defined at NYS and sometimes logging in using the same credentials at the two different locations at the same time signalling are sharing passwords. Some of the log-ins was noted to have been during weekends

He stated that the objectives of automation in the business process are to bring efficiency and flexibility in working environment and minimizing cost of doing business. The IFMIS System being one is configured with controls such that each user is restricted to access the only responsibilities assigned to. The user is able to access the system from IFMIS enabled network and through Virtual Private Network if assigned access by Administrator. Therefore there is a possibility through Government Shared Services (GCCN) to access IFMIS from different points, but restricting you to the responsibilities assigned through Approval Hierarchy, and IFMIS business flow controls. User can only approve or take action and only if the lower level user in Approval Hierarchy have directed work to him or her.

Further IFMIS has been configured with security control of a single sign-on. The user cannot have multiple logging to the system at the same time. On logging page where users long-in, the user password is encrypted and system, using secure network is not possible for any other person to copy password from logging page.

Understanding the pressure and backlog of work from officers in different MDA's the officers normally work late hours and even on weekends. The government had no policy barring officers from working over the weekends.

He further made clarifications on issues raised by members as follows;

1. That the system can only allow a single log in. Nobody else can log in anywhere within Government with that user name and password. It's configured to meet security credentials. The Person initiating a transaction directs request approval to the appropriate AIE holder. Its only one AIE holder who can transact or carry out approvals at a time. In addition, In the event that the AIE holder is not in, the system is configured in such a way that the alternate holder can operate.
2. No logging in to the system by multiple users at the same time, instead one has to log out first to enable another user to log in and complete a transaction.
3. On issues of stolen password, he informed the meeting that the password could not have been stolen from the system. Security features in the system has it that the password cannot be accessed by

anyone apart from a case where the password is given out or shared, then the other person can log in as the owner. There's a possibility Mr. Harake could have given out his password.

4. A welcome password cannot be used before one changes it. No transaction can take place within the system with a welcome password and that is one password given across the board.
5. IFMIS has inbuilt controls and approval hierarchy. Requests to have a password and access IFMIS are made by MDA's for officers with specific assigned responsibilities and roles. One cannot have a password if the request has not been made by the respective Ministry to create it.

MIN No. 1181/2016: ANY OTHER BUSINESS

The Committee agreed to have The CS and PS, National Treasury as well as the Director General in charge of Budget reappear before it on a date to be determined so as to present a clear and comprehensive submission to the Committee.

MIN No. 1182/2016: ADJOURNMENT

There being no other business, the meeting adjourned at twelve minutes to two O'clock in the afternoon. Next sitting would be held on 2nd August, 2016 at 10.30a.m.

Signed.....


(Chairperson)

Date.....

28.2.2017

MINUTES OF THE THREE HUNDREDTH AND SEVENTH (307TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY, 18TH AUGUST, 2016 AT 10.00A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahbub, M.P.
4. Hon. Arthur Odera, M.P.
5. Hon. Joseph Manje, M.P.
6. Hon. SakwaBunyasi, M.P.
7. Hon. KyengoKatathaMaweu, M.P.
8. Hon. Andrew Mwadime, M.P.
9. Hon. (Capt.) Clement Wambugu, M.P.
10. Hon. Abdikadir Aden, M.P.
11. Hon. John Mbadi, M.P.
12. Hon. Timothy Bosire, M.P.
13. Hon. Mathias Robi, M.P.
14. Hon. Stephen Manoti, M.P.
15. Hon. Julius Melly, M.P.
16. Hon. David Eseli, M.P.

APOLOGIES

1. Hon. Alice NyanchokaChae, M.P.
2. Hon. Jessica Mbalu, M.P.
3. Hon. GonziRai, M.P.
4. Hon. Charles GeniMong'are, M.P.
5. Hon. Manson Nyamweya, M.P.
6. Hon. KaniniKega, M.P.
7. Hon. Junet Sheikh Nuh, M.P.
8. Hon. KarekeMbiuki, M.P.
9. Hon. Kangogo Bowen, M.P.
10. Hon. SilvanceOnyangoOsele, M.P.
11. Hon. Joel Onyanacha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Mrs. Tungo Aaron - Clerk Assistant II
3. Ms. Catherine Ghati - Fiscal Analyst
4. Ms. WinnieKulei - Researcher
5. Mr. John Mungai - Audio Recorder

OFFICE OF THE AUDITOR GENERAL

1. Mr. Richard Nyachieo - Deputy Director, Forensic Audit
2. Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer

STATE DEPT. FOR PUBLIC SERVICE AND YOUTH AFFAIRS

1. Dr. Richard Ndubai, CBS, - Director General, NYS
2. Mr. Eliud Koome - Senior Chief Supply Chain Management Officer
3. Mr. Bernard Masiga - Senior Chief Finance Officer
4. Mr. Charles Mulandi - Senior Chief Supply Chain Management Officer, NYS
5. Mr. Nixon Obora
6. Ms. Joyce Gichuru
7. Mr. Peter Muita
8. Ms. Carolyne Okello
9. Mr. Joram Mbui
10. Mr. Sammy Mbugua
11. Mr. W. A. Lubira
12. Mr. M. Mulili
13. Mr. Peter Kinyita
14. Mr. Clement Murage
15. Ms. Rita Njiru
16. Ms. Jacqueline Atyang

MIN No. 1183/2016: PRELIMINARIES

The Chairman called the meeting to order at twenty minutes to eleven O'clock in the morning and said a prayer. The agenda was adopted as proposed by Hon. Timothy Bosire, MP and seconded by Hon. Arthur Odera, MP followed by introductions by all present.

MIN No. 1184/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1185/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MS. LILLIAN MBOGO, PRINCIPAL SECRETARY, STATE DEPARTMENT OF PUBLIC SERVICE, GENDER AND YOUTH AFFAIRS

Ms. Lillian Mbogo, the Principal Secretary, State Department of Public Service, Gender and Youth Affairs, accompanied by Mr. Saitoti Torome, PS Planning (MoDP) appeared before the Committee and submitted the following:

1. The State Department submitted to the Committee procurement plans for the National Youth Service in the financial years, 2013/14 and 2014/15 for their perusal.
2. She further submitted to the Committee copies of the payment vouchers with all the supporting documents for payment to three suppliers for the supply of goods/ services worth Kshs. 791,385,000 to the construction of a 3.5km road in Nairobi's Kibera area. The vouchers presented were for the three suppliers in question including Form Home Builders, reinforced Concrete Technologies and Roof and All Trading.

The Committee was informed that issues relating to the payment of goods and services worth Kshs. 791,385,000 were before a Court of Law and the proceedings were ongoing.

The Original documents of contract to supply goods and services worth Kshs. 791,385,000 related to construction of a 3.5km Road in Nairobi's Kibera Area were with the investigating agencies.

3. Documentary support leading to payment of supply of goods and services worth Kshs. 609,252.60 which were procured through supplies branch were submitted to the Committee. The Ministry availed copies of payment vouchers, Suppliers Branch Circular, LPO, delivery notes, invoices as well as inspection and acceptance certificates as documentary evidence to support Kshs. 508,242,930 which were made in favour of M/s Brain Craft Trading, M/s Big Kent Company, M/s Classroom Technology, M/s Essential Prodigy Trading, M/s Gilnak General Supplies, M/s Smart Board Learning Equipment, M/s Startling Trading and M/s Tucking Stitch Emporium.

The Committee was informed that all the above eight companies were under investigation by various investigating agencies of the Government.

She further submitted that, payment to M/s Brand Associates amounting to Kshs. 101,009,830.60 which was paid in two tranches of Kshs. 73,361,695.00 and Kshs. 27,548,135.60 was for the National Youth Service media advertising and not civil works or hire of equipment as indicated in the auditor General's report.

That the tender to M/s Brand Associates amounting to Kshs. 101,009,830.60 was approved by the Ministerial Tender Committee in a meeting held on 1st October, 2014. Copies of the contract agreements, notification of award letter, extract of MTC minutes and copies of the payment vouchers were submitted to the Committee.

4. The State Department confirmed that a subject tender was awarded to a consortium led by Out of the Box Solutions Ltd at a meeting of the Ministerial Tender Committee held on 9th April, 2014. The tender was for the provision of publicity services for the Access to Government Procurement Opportunities (AGPO). A payment of Kshs. 90,737,607 was made to Out of the Box Solutions Ltd on 17th of August, 2015.

The firm Out of the Box Solutions Ltd was under investigation by EACC which directed that no further payment to be made by the Ministry to the said company until investigations were complete. It was also noted that all original documents relating to that tender were submitted to EACC for investigations including copies of the tender advertisements, appointment letters to the opening and evaluation committees, tender opening minutes and registers, tender attendance register and all the submitted proposals including the technical and financial proposals. Copies of the same were submitted to the committee.

5. Regarding documentary support leading to payment of contract for NYS rebranding for Kshs. 102,500,000, the Ministry submitted that the service was first procured through direct procurement vide MTC meeting held on 4th March, 2014 at a cost of Kshs. 40, 000, 000 and award made to M/s Consulting House.

That the same consultant having been engaged in the preceding phase of the restructuring and having provided the services was also approved by the MTC vide direct procurement to provide advisory services on the implementation of the developed NYS 5-point vision. The award was approved by the MTC in a meeting held on 6th October, 2014 at a consultancy fee of Kshs. 50, 000,000 and reimbursable not exceeding Kshs. 4,000,000

The State Department confirmed that a total sum of Kshs. 102, 500, 000 was paid to the Consulting House, representing an overpayment of Kshs. 12,500,000. The State Department wrote to the Consulting House to refund the excess payment as they established the circumstances leading to the overpayment.

The State Department submitted to the Committee copies of the payment vouchers and supporting documents as evidence leading to payment of contract for NYS rebranding for Kshs. 84, 483, 533 to the Consulting House.

The Committee was informed that payment vouchers for the balance of Kshs. 18,016,467 had not been traced, primarily due to massive movement of accounting documents following the separation of the State Department of Public service and Youth Affairs from the Ministry of Devolution and Planning.

6. Regarding documentary support leading to payment for Goods or Services by the use of Supplies Branch Contract for the procurement of goods/services worth Kshs. 222,122,919, the Accounting Officer informed the meeting that the matter involved procurement of goods directly from the Supplies Branch Unit. That the NYS paid Supplies Branch Kshs. 221,122,919 for the supply of various items as requisitioned vide issue and receipt voucher No. 02541450159803/7/8/9
That the supplies were paid for in advance and were to be taken on charges in the stores ledger cards once received. As at the time the Youth Empowerment Programme was temporarily halted in November 2015, NYS had received supplies worth Kshs. 81,712,551.50 leaving a balance of Kshs. 139,115,923.50

The position was confirmed by the Principal Secretary, State Department of Public Works, under whose jurisdiction supplies branch unit falls through a letter ref. no. MLHUD/100/A/133 dated 19th July 2016 whose copy was submitted to the Committee. The NYS continues to receive supplies from the Supplies Branch as and when required basis until the whole amount is exhausted.

7. The State Department confirmed to the Committee that there was a record of an AIE no. 757439 issued to the Commandant NYS College, Gilgil and a copy of the same was submitted to the Committee.
That the AIE of Kshs. 70,000,000 direct credit was entered in the Sub- County Treasury cash box at Gilgil sub-county on 11th November, 2014.
8. The Accounting Officer also submitted copies of minutes of the Ministerial tender Committee meetings for the Ministry of devolution for the year 2014.

The meeting resolved that the Principal Secretary re-appear accompanied by Arch. Nyariki who had been alleged to have authored the now disowned supplies branch circular. The Principal Secretary

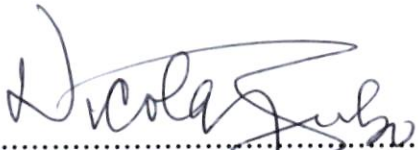
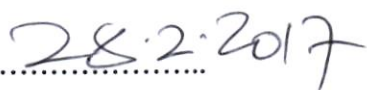
was also requested to provide a record of all contracts that had been found irregular. He would further verify receipts of NYS funds for the years 2013 and 2015.

MIN No. 1186/2016: ANY OTHER BUSINESS

The Chairman reminded members of the AFROPAC Conference scheduled for 29th August to 4th September, 2016 at the SafariPark Hotel. He urged all members to attend.

MIN No. 1187/2016: ADJOURNMENT

There being no other business, the meeting adjourned at one O'clock in the afternoon. Next sitting would be held on notice.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDREDTH AND EIGHTH (308TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 23RD AUGUST, 2016 AT 10.30A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahbub, M.P.
4. Hon. Joseph Manje, M.P.
5. Hon. Alice NyanchokaChae, M.P.
6. Hon. Abdikadir Aden, M.P.
7. Hon. Andrew Mwadime, M.P.
8. Hon. Arthur Odera, M.P.
9. Hon. Timothy Bosire, M.P.
10. Hon. KyengoKatathaMaweu, M.P.
11. Hon. (Capt.) Clement Wambugu, M.P.
12. Hon. Manson Nyamweya, M.P.
13. Hon. David Eseli, M.P.
14. Hon. Jessica Mbalu, M.P.

APOLOGIES

1. Hon. Julius Melly, M.P.
2. Hon. John Mbadi, M.P.
3. Hon. KaniniKega, M.P.
4. Hon. Stephen Manoti, M.P.
5. Hon. KarekeMbiuki, M.P.
6. Hon. SakwaBunyasi, M.P.
7. Hon. Mathias Robi, M.P.
8. Hon. Charles GeniMong'are, M.P.
9. Hon. GonziRai, M.P.
10. Hon. Junet Sheikh Nuh, M.P.
11. Hon. Kangogo Bowen, M.P.
12. Hon. SilvanceOnyangoOsele, M.P.
13. Hon. Joel Onyancha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Ms. ChelagatTungo - Clerk Assistant II
3. Mr. Victor Weke - Clerk Assistant II
4. Ms. Chelang'aMaiyo - Researcher
5. Mr. John Mungai - Audio Recorder

NATIONAL TREASURY

Mr.Geoffrey Mwitari

OFFICE OF THE AUDITOR GENERAL

1. Mr Raphael Ikame - Manager Audit

2. Mr Addy Waichigo - Manager Audit
3. Mr. Francis Gichure - Manager Audit

MIN No. 1188/2016: PRELIMINARIES

The Chairman called the meeting to order at twenty minutes to eleven O'clock in the morning and said a prayer followed by introductions by all present.

MIN No. 1189/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1190/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. HENRY ROTICH, CABINET SECRETARY- NATIONAL TREASURY

Accompanied by:

1. Dr.KamauThugge, PS National Treasury
2. Dr. Geoffrey Mwau
3. Mr. BenardNdungu
4. Mr. AlfayoMogaka
5. Mr. Francis Anyona
6. Mr. Tom Kakhame
7. Mr. GeoffreyMaloba
8. Mr. Pius Kaua
9. Mr. Moses Gitari
10. Mr. Arthur Nduati
11. Mr. Jerome Ochieng
12. Ms. Isabella Kogei

Mr. Henry Rotich, Cabinet Secretary, National Treasury, appeared before the Committee and gave submission as follows;

1. That the approved Budget allocation to the National Youth Service for the Financial Years 2012/13, 2013/14 and 2013/15 was Kshs.3.9 billion, Kshs.13.05 billion and Kshs.22.8 billion respectively.
2. A detailed movement of the approved budgets for NYS within the financial years and the reasons for increased funding are shown in the table below:

| Financial Year | Printed Estimates Kshs millions | Final Approved Budget Kshs million | % Increase | Rationale/Justification for the increase |
|----------------|---------------------------------|------------------------------------|------------|---|
| FY 2012/13 | 3,892.82 | 3,943.12 | | |
| FY 2013/14 | 17,496.16 | 13,053.20 | 231% | Increase in Kshs.2.928 billion was to cater for dam construction which was a strategic intervention in the FY 2013/14 Increase in Kshs.6.325 billion was to cater for equipping of NYS which was a donor funded project funded by the People's Republic of China |
| FY 2014/15 | 17,941.25 | 22,803.79 | 74.7% | Kshs.1.92 billion was required to cater increase intake of 10,000 recruits as provided for in the Second Medium Term Plan (2013-2017) of the Vision 2013 |

| | | | | |
|--|--|--|--|--|
| | | | | Kshs.7.8 billion was required to cater for NYS re-engineering through of the 5 Point Vision Plan |
|--|--|--|--|--|

The rationale for increased funding explained in the table above was as follows for the two financial years:

a) In the FY 2013/14

- i. The major increase of Kshs.6.3billion was to cater for equipping of NYS which was a donor funded project by the Peoples Republic of China;
- ii. The increase of Kshs.2.9 billion was also to cater for dam construction in ASAL areas which was a strategic intervention in the FY 2013/14.

b) In the FY 2014/15

The Second Medium Term Plan (2013-2017) of the Vision 2030, under the Social Pillar provides for "upgrade of the NYS with the projected annual youth recruitment of more than ten thousand recruits". In this regard, the increase in funding in FY 2014/15 for NYS was to cater for:

- i. Double intake in recruitment of Service men/women which aimed at recruiting ten thousand (10,000) recruits.
- ii. In order to implement the Government's agenda for transformative youth empowerment, the Ministry of Devolution and Planning developed a 5 point vision to guide the transformation. to support this, the Ministry requested for more funding to cater for increased activities carried out by NYS under the new 5 point pillar. The 5 point pillar includes:

- Paramilitary training and service regimentation;
- National Service and youth re-socialization;
- Social transformation and vocational training;
- Enterprise and youth economy; and
- Bankable institutional architecture at NYS.

3. That the Vote book balances for Subhead Youth Development Initiatives as at 30th April 2015 indicated that NYS had capacity to absorb the allocated funds. Apart from considering the double intake and upgrading of NYS through the 5 point Pillar, the National Treasury also considered the absorption levels as at 30th April, 2015 (third quarter), as per Vote Book which stood at **92.63%** of the printed estimates under Head 0092-03 - Youth Development Initiatives as shown in the table below:

| Items | Printed Estimates 2014/15 Kshs. millions | Status of Expenditure as at 30th April 2015 Kshs.million | Balance as at 30th April 2015 Kshs. million | Expenditure as a% of Printed Estimates Kshs. Million | Supplementary Estimates Kshs. Million |
|---|--|--|---|--|---------------------------------------|
| Casual Labour -Others | 1,300.00 | 961.35 | 388.65 | 73.95% | 250 |
| Hire of Equipment, Plant and Machinery | 1,505.36 | 1,450.65 | 54.71 | 96.37% | 500 |
| Refined Fuels and Lubricants for Production | 1,149.84 | 951.95 | 197.89 | 82.79% | 750 |
| Other Infrastructure and Civil Works | 7,600.00 | 7,339.77 | 260.23 | 96.58% | 2000 |
| Total | 11,555.20 | 10,703.72 | 851.48 | 92.63% | 3,500.00 |

4. The meeting was further informed that;

- (a) Ordinarily under normal circumstances, MDA's can have multiple AIE holders who include the main AIE holder and Alternatives. The Department normally defines and maps the AIE holders under the mandate given by the MDAs authority.
- (b) In reference to letters dated 23rd February, 2015 Ref. No. MDP/1/3/41 and 20th February, 2015 Ref. No. MDP/1/3/41 signed by John Munyoki for Principal Secretary, the instructions was to define Mr. AdanHarake as an AIE holder.
- (c) Further, the Department received another request Ref. No. MDP/1/3/41 dated 27th May, 2015 signed by Eng. Peter O. M. Mangiti requesting for deactivation of four (4) officers in

Supply Chain Management but did not receive instructions to deactivate Dr. Nelson Githinji from the system as an AIE Holder

5. He informed the meeting that between 2013 and 2015, the period under review, the internal audit department at the Ministry of Devolution and Planning produced a total of seventeen (17) audit reports. Nine (9) were specific to the National Youth Service activities, while eight were in respect of the Ministry. At NYS, the audits were specific on:-
 - a) Financial Management Review at NYS Senior Mess Audit, cash management, Record Keeping and Staff Establishment (National Youth Service);
 - b) Field Attachment/Assessment Allowance (NYS Tech-Naivasha);
 - c) Procurement Audit (NYS);
 - d) Outstanding Bills owed to Mechanical and Transport Fund;
 - e) Mechanical and Transport Fund Audit;
 - f) Construction Projects (Double span Kitchen, dining and barracks NYS Engineering School;
 - g) Classroom and workshop - NYS Engineering School;
 - h) Flats No. 12 - NYS Vocational Training Institute Industrial Area) and
 - i) Asset Management at NYS; at Pending Bills

6. That in respect of the Ministry, the audit coverage were on:-
 - a) Programme for Agriculture and Livestock in Western Communities (PALWECO) - 5 Year Programme Review (2010-2016)-GOK/Finland Project
 - b) Community Empowerment and Institutional Support Project;
 - c) Western Kenya Community Driven Development and Floor Mitigation Project (Busia, Teso and Mt. Elgon)
 - d) Youth Enterprise Development Fund, 8th Anniversary & Specific Loans;
 - e) Unsettled Commercial Invoices from National Cereals and Produce Board;
 - f) Stores Management in the State Department of Planning;
 - g) Procurement System Audit (Directorate of Youth Affairs);
 - h) Procurement Audit (Directorate of Youth Affairs); and Turkana IDP Camp

7. The National Treasury granted authority to operate the below account at National Bank of Kenya Harambee Avenue:-

| <u>Account Name</u> | <u>Account No.</u> |
|---------------------|--------------------|
| Director NYS | 01002000909300 |

8. The National Treasury granted authority to operate accounts with Kenya Commercial Bank, Moi Avenue, Nairobi.

| <u>Account Name</u> | <u>Account No.</u> |
|-----------------------------------|--------------------|
| NYS Huduma Cohorts Payments | 1178056929 |
| NYS Huduma Cohorts SACCO Payments | 1178058158 |

9. The National Treasury letters of authority of opening the accounts were submitted to the Committee. The Account below was opened at National Bank of Kenya Harambee Avenue without authority of National Treasury.

| <u>Account Name</u> | <u>Account No.</u> |
|---------------------------------|--------------------|
| NYS Mechanical & Transport Fund | 1128674548 |

The account was opened in June, 2011 according to the Special Audit report. In July 2011, after the account was opened the then Permanent Secretary, Ministry of Youth Affairs and Sports, wrote to the National Treasury seeking authority to open an account in a Commercial Bank for the National Youth Service (NYS) Mechanical and Transport Board Fund.

10. On another note, he submitted that the National Treasury adopted a policy for all suppliers for National Government to be defined centrally under IFMS. Mr. Fredrick Munge Musembi P/No. 2009112985 was the officer who was assigned duties/help desk for Ministry of Devolution and Planning, State Department of Planning where NYS was attached among other MDA's.

11. In line of his duties, definition of suppliers was within the mandate assigned by the Department. On 11th November, 2014 IFMIS received a letter Reference No. NYS/FIN/2/3 dated 10th November, 2014 signed by Naftali Githinji for Director General requesting ten (10) suppliers to be defined in the system among them was the four (4) supplier names in question.
12. All ten (10) suppliers were fully defined as requested in the system with relevant ban details as assigned. Mr. Musembi therefore performed his allocated responsibility without ill motive.
13. The meeting was informed that as stated in question (vi) above, IFMIS Department did not receive any instructions from NYS to deactivate Dr. Nelson Githinji from the system. However, Dr. Githinji could not start and finish any procurement process without involvement of others in the business work flow which had twenty eight (28) documented steps leading to a tight system control.
14. He further stated that the objectives of automation in the business process were to bring efficiency and flexibility in working environment and minimizing cost of doing business. The IFMIS System being one was configured with controls such that each user was restricted to access the only responsibilities assigned to. The user was able to access the system from IFMIS enabled network and through Virtual Private Network if assigned access by Administrator. Therefore there was a possibility through Government Shared Services (GCCN) to access IFMIS from different points, but restricting one to the responsibilities assigned through Approval Hierarchy, and IFMIS business flow controls. Users could only approve or take action and only if the lower level user in Approval Hierarchy had directed work to him or her.
15. Further IFMIS had been configured with security control of a single sign-on. The user could not have multiple logging to the system at the same time. On logging page where users log-in, the user password was encrypted and system, using secure network was not possible for any other person to copy password from logging page.
16. Understanding the pressure and backlog of work from officers in different MDA's the officers normally worked late hours and even on weekends. The government had no policy barring officers from working over the weekends.

The Cabinet Secretary informed the Meeting that the National Treasury was constantly carrying out quality assurance tests on IFMIS, a process of review with a view to identify areas to improve in the systems where weaknesses have been detected.

MIN No. 1191/2016: ANY OTHER BUSINESS

The CS informed the meeting that issues raised regarding pending bills were being taken seriously and that the National Treasury was focused in reducing the bills. He encouraged SME's to participate in Government Procurement.

The National Treasury was in the process of engaging an International Expert on IFMIS and that Procurement process was underway to get a consultant who would check on risks and quality assurance in office.

MIN No. 1192/2016: ADJOURNMENT

There being no other business, the meeting adjourned at twelve minutes to one O'clock in the afternoon. Next sitting would be held on 13th September, 2016 at 10.30a.m.

Signed..... Nicola Gubio Date..... 20.2.2017
(Chairperson)

MINUTES OF THE THREE HUNDREDTH AND NINETH (309TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY, 25TH AUGUST, 2016 AT 10.00A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahbub, M.P.
4. Hon. Arthur Odera, M.P.
5. Hon. Joseph Manje, M.P.
6. Hon. Alice NyanchokaChae, M.P.
7. Hon. SakwaBunyasi, M.P.
8. Hon. GonziRai, M.P.
9. Hon. Charles GeniMong'are, M.P.
10. Hon. Jessica Mbalu, M.P.
11. Hon. KyengoKatathaMaweu, M.P.
12. Hon. Andrew Mwadime, M.P.

APOLOGIES

1. Hon. (Capt.) Clement Wambugu, M.P.
2. Hon. David Eseli, M.P.
3. Hon. Julius Melly, M.P
4. Hon. Manson Nyamweya, M.P.
5. Hon. KaniniKega, M.P.
6. Hon. Abdikadir Aden, M.P.
7. Hon. Junet Sheikh Nuh, M.P.
8. Hon. John Mbadi, M.P.
9. Hon. Timothy Bosire, M.P.
10. Hon. KarekeMbiuki, M.P.
11. Hon. Mathias Robi, M.P.
12. Hon. Stephen Manoti, M.P.
13. Hon. Kangogo Bowen, M.P.
14. Hon. SilvanceOnyangoOsele, M.P.
15. Hon. Joel Onyancha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Ms. Catherine Ghati - Fiscal Analyst
3. Ms. WinnieKulei - Researcher
4. Mr. John Mungai - Audio Recorder

OFFICE OF THE AUDITOR GENERAL

1. Mr AddyWaichigo - Manager Audit
2. Mr. Francis Gichure - Manager Audit

STATE DEPT. FOR PUBLIC WORKS

1. Prof. Arch. Paul Mwangi Maringa - Principal Secretary
2. Mr. Sebastian Mokua - Ag. Officer in Charge, Supplies Dept.
3. Ms. Joyce Ala - Principal Supply Chain Management Officer

MIN No. 1193/2016: PRELIMINARIES

The Chairman called the meeting to order at twenty minutes past ten O'clock in the morning and said a prayer. The agenda was adopted as proposed by Hon. Charles Geni, MP and seconded by Hon. Jackson Rop, MP followed by introductions by all present.

MIN No. 1194/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1195/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: PROF. ARCH. PAUL MWANGI MARINGA, PRINCIPAL SECRETARY, STATE DEPT. FOR PUBLIC WORKS

Prof. Arch. Paul Mwangi Maringa, the Principal Secretary, State Department for Public Works, Ministry of Transport, Infrastructure, Housing and Urban Development, appeared before the Committee and submitted the following;

1. The State Department can confirm that the firms under query including Messrs. Form Home Builders, Reinforced Steel and Roof & Allied and purported to hold the Supplies Branch Contracts are not in their records.
2. The State Department can confirm that Kshs. 221,098,209.00 was received by the Supplies Branch from the National Youth Service (NYS) in the year 2014. Against these monies, supplies worth Kshs. 81,712,551.50 had already been dispatched to the NYS. The balance of Kshs. 139,385,657.50 worth of supplies were still to be procured.
3. Out of the Supplies already made to the NYS worth Kshs. 81,712,551.50, a payment of Kshs. 33,344,325.00 was still pending. An internal review of all tenders for the Period 2013-2014 suggested possible fraud in this particular supply. As a result advice had been sought from The National Treasury and The Public Procurement and Regulatory Authority (PPRA) on the way forward.
4. According to records at the departments, the circular referenced SB/CON/P/VOL.XXIV (4) dated 30th September, 2014 was non-existent. This reference was for a circular dated 28th September, 2011, signed not by Arch. Wesley M. Nyariki but by Mr. Mwimbi Likami, who was then the Officer In-Charge of the Department. This circular was valid for a period up to 31st May, 2012.
5. The three firms already mentioned above were not in the genuine circular.
6. Since the Principal Secretary took over, he had initiated pro-active measures to streamline the State Department. These measures include the following;

- A holistic internal review of all Supplies Branch Tenders carried in 2013-2014; a report had been procedurally forwarded to Public Procurement Regulatory Authority (PPRA), The National Treasury and the Chief of Staff and Head of Public Service for their advice on the way forward.
- A Procurement Review Systems Audit of Supplies Branch was conducted by PPRA on a joint request by the State Department of Public Works and Public Procurement Regulatory Authority (PPRA) and reporting is awaited.
- An ongoing Special Audit conducted by Internal Auditor General (The National Treasury) once more requested by the State Department of Public Works (SDPWs) and The National treasury and will conclude in two weeks.
- In February, 2016, the State Department of Public Works replaced the then Officer In-charge of the Supplies Branch Arch. Wesley M. Nyariki with Mr. Sebastian Mokua who was now spearheading the Department a new direction of transformation.
- They had written to all MDAs who are recipients of supplies to declare the volume of business conducted so as to guide on the possible recovery of monies that may have been transacted on illegitimate business.
- Arch. Wesley M. Nyariki and two other officers then serving at the Supplies Branch Department were interdicted in May, 2016 awaiting a final decision by Ministerial Human Resource Advisory Committee (MHRAC).
- The ministry had modernized the Administrative Block through refurbishment using budgeted annual funding, completed structured cabling to support the automation of the department to allow the procurement transactions to be carried out on an e-platform, already concluded fast tracked preparation to run the Tenders for Common User Items (CUIs) to culminate in Framework Agreements on a new e-procurement platform with the aim of enhancing transparency and accountability and deployed eight officers from the National Treasury to the Supplies Branch to enable the procurement of Common User Items (CUIs) effectively.
- Further, the ministry initiated co-operation with the State Department of ICT and Innovation and the National Treasury to connect the department to the Government Common Core Network and develop a website to interface with the IFMIS platform to enhance transparency in the procurement of Common User Items (CUIs) to attain the value for money for all MDAs.
- Finally, there was an ongoing co-operation with stakeholders in a multi-sectoral taskforce to harmonize and consolidate the various studies previously undertaken to propose the most effective Institutional Framework upon which the procurement of Common User Items (CUIs) for all MDAs shall be carried out.

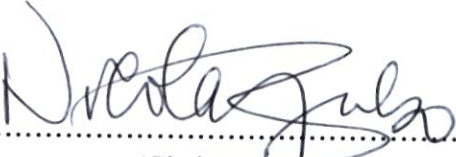

The meeting resolved that the Principal Secretary re-appear accompanied by Arch. Nyariki who had been alleged to have authored the now disowned supplies branch circular. The Principal Secretary was also requested to provide a record of all contracts that had been found irregular. He would further verify receipts of NYS funds for the years 2013 and 2015.

MIN No. 1196/2016: ANY OTHER BUSINESS

The Chairman reminded members of the AFROPAC Conference scheduled for 29th August to 4th September, 2016 at the SafariPark Hotel. He urged all members to attend.

MIN No. 1197/2016: ADJOURNMENT

There being no other business, the meeting adjourned at twentythree minutes past eleven O'clock in the morning. Next sitting would be held on notice.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDREDTH AND TENTH (310TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 13TH SEPTEMBER, 2016 AT 10.30A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahbub, M.P.
4. Hon. KaniniKega, M.P.
5. Hon. Joseph Manje, M.P.
6. Hon. Alice NyanchokaChae, M.P.
7. Hon. Manson Nyamweya, M.P.
8. Hon. Andrew Mwadime, M.P.
9. Hon. Arthur Odera, M.P.
10. Hon. David Eseli, M.P.
11. Hon. Julius Melly, M.P.
12. Hon. KyengoKatathaMaweu, M.P.

APOLOGIES

1. Hon. (Capt.) Clement Wambugu, M.P.
2. Hon. Mathias Robi, M.P.
3. Hon. Abdikadir Aden, M.P.
4. Hon. GonziRai, M.P.
5. Hon. KarekeMbiuki, M.P.
6. Hon. Timothy Bosire, M.P.
7. Hon. Jessica Mbalu, M.P.
8. Hon. SakwaBunyasi, M.P.
9. Hon. John Mbadi, M.P.
10. Hon. Junet Sheikh Nuh, M.P.
11. Hon. Stephen Manoti, M.P.
12. Hon. Charles GeniMong'are, M.P.
13. Hon. Kangogo Bowen, M.P.
14. Hon. SilvanceOnyangoOsele, M.P.
15. Hon. Joel Onyancha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Victor Weke - Clerk Assistant II
3. Ms. ChelagatTungo - Clerk Assistant II
4. Mr.ChelangaMaiyo - Researcher
5. Ms. Catherine Burure - Fiscal Analyst
6. Mr. Collins Mahamba - Audio Recorder

NATIONAL TREASURY

Mr. Geoffrey Mwitari

OFFICE OF THE AUDITOR GENERAL

1. Mr Raphael Ikame - Manager Audit
2. Mr Addy Waichigo - Manager Audit
3. Mr. Francis Gichure - Manager Audit

MIN No. 1198/2016: PRELIMINARIES

The Chairman called the meeting to order at quarter to eleven o'clock in the morning and said a prayer followed by introductions by all present.

MIN No. 1199/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1200/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MS DAINAH WANJIRU MBUGUA, DIRECTOR ALPHA MERCANTILE LIMITED

Ms. Dainah Wanjiru Mbugua, Director and CEO Alpha Mercantile Ltd accompanied by Mr. Simon Migwi, appeared before the Committee and submitted as follows;

1. That Alpha Mercantile was contracted to supply 144 plastic tanks of one cubic meter capacity that were cylindrical open plastic fish water tank worth Kshs. 7,182,720.00, as evidenced in the tender documents as follows;
 - Request for Quotation dated 10th November, 2014
 - Award letter dated 20th November, 2014
 - Acceptance letter dated 26th November 2014
 - LPO dated 6th January, 2015
2. That they delivered the said tanks in full and according to specifications. Relevant delivery notes signed by the relevant parties dated 27th January, 2015 were submitted to the committee.
3. The tanks were custom made to fulfil the specifications.
4. On the matter of tender number MDP/ 12/20 worth Kshs. 6,681,600.00 for the supply of 144 plastic tanks of one cubic meter capacity that is cages, the committee was informed that the company was contracted to supply 144 plastic tanks as evidenced in the following tender documents;
 - Request for quotation dated 28th November, 2014
 - Award Letter dated 7th January, 2016
 - Acceptance letter dated 9th January, 2015
 - LPO dated 20th January, 2015
5. She confirmed to the Committee that the said tanks were delivered in full and according to specifications.
6. Copies of signed delivery notes and photographs of the tanks confirming designs and dimensions were submitted to the Committee.

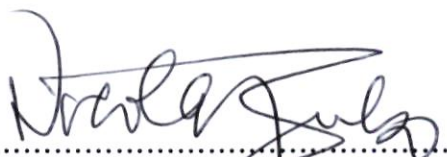

The Committee observed that the prices quoted by Alpha Mercantile Ltd were much higher compared to the local market prices

Need to provide proof that they ordered the tanks from Kentainers Ltd and supplied to NYS

The Committee resolved to engage the Director IFMIS on the operations of the system, and also resolved to summon Mr. Naftali Githinji to explain details on the companies in the letter he had supposedly written to IFMIS for creation.

MIN No. 1201/2016: ADJOURNMENT

There being no other business, the meeting adjourned at five minutes past noon. Next sitting will be held same day at 2.30p.m.

Signed.....  Date..... 

(Chairperson)

MINUTES OF THE THREE HUNDREDTH AND ELEVENTH (311TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 13TH SEPTEMBER, 2016 AT 3.00 P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahbub, M.P.
4. Hon. KaniniKega, M.P.
5. Hon. Joseph Manje, M.P.
6. Hon. Alice NyanchokaChae, M.P.
7. Hon. Manson Nyamweya, M.P.
8. Hon. Andrew Mwadime, M.P.
9. Hon. Arthur Odera, M.P.
10. Hon. David Eseli, M.P.
11. Hon. Julius Melly, M.P
12. Hon. KyengoKatathaMaweu, M.P.

APOLOGIES

1. Hon. (Capt.) Clement Wambugu, M.P.
2. Hon. Mathias Robi, M.P.
3. Hon. Abdikadir Aden, M.P.
4. Hon. GonziRai, M.P.
5. Hon. KarekeMbiuki, M.P.
6. Hon. Timothy Bosire, M.P.
7. Hon. Jessica Mbalu, M.P.
8. Hon. SakwaBunyasi, M.P.
9. Hon. John Mbadi, M.P.
10. Hon. Junet Sheikh Nuh, M.P.
11. Hon. Stephen Manoti, M.P.
12. Hon. Charles GeniMong'are, M.P.
13. Hon. Kangogo Bowen, M.P.
14. Hon. SilvanaceOnyangoOsele, M.P.
15. Hon. Joel Onyancha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Victor Weke - Clerk Assistant II
3. Ms. ChelagatTungo - Clerk Assistant II
4. Mr. ChelangaMaiyo - Researcher
5. Ms. Catherine Burure - Fiscal Analyst
6. Mr. Collins Mahamba - Audio Recorder

NATIONAL TREASURY

Mr. Geoffrey Mwitari

OFFICE OF THE AUDITOR GENERAL

1. Mr Raphael Ikame - Manager Audit
2. Mr Addy Waichigo - Manager Audit
3. Mr. Francis Gichure - Manager Audit

MIN No. 1202/2016: PRELIMINARIES

The Chairman called the meeting to order at quarter to eleven o'clock in the morning and said a prayer followed by introductions by all present.

MIN No. 1203/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1204/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. JOSEPH MUGWANJA, HEAD OF BANKING FRAUD INVESTIGATIONS UNIT DIRECTORATE OF CRIMINAL INVESTIGATION

Mr. Joseph Mugwanja, Head of Banking Fraud Investigations Unit, Directorate of Criminal Investigation, appeared before the Committee and submitted as follows;

1. That on 5th June, 2015, he was directed by the Director, Directorate of Criminal Investigations to oversee investigation at NYS following a letter of complaint received by DCI from the Cabinet Secretary, Ministry of Devolution and Planning Ms. Anne Waiguru. The request from the Cabinet Secretary as contained in the letter dated the same day was for investigation to be carried out by Cyber Crime Officer to establish whether there was hacking of the IFMIS system at NYS and unauthorized approval of commitment of funds in the system using the credentials of the AIE holder Mr. AdanHarakhe.
2. He immediately assembled a team of officers from BFIU and Cyber Crime Unit to form an investigating team and the following were the team members:-
 - i. C.I. Micheal Kimilu, BFIU
 - ii. IP. David Muasya – Cyber Crime Unit
 - iii. Sgt. Alphonse Lumosi Liposhe, BFIU
 - iv. Cpl. Joseph Mwaura, BFIU
 - v. Cpl. Jeremiah Sautet, BFIU
 - vi. Cpl. Patrick Githinji, BFIU
 - vii. PC. Lizzy Melly – Cyber Crime Unit.

3. In the course of investigations through printouts made from NYS accounts department and also at G-pay, investigation established that, previous payments amounting to Kshs.791,385,000 had been made by NYS to Josephine Kaburalrungu's three companies as follows:-
 - i. Form Homes Builders – Kshs.218,925,000
 - ii. Reinforced Concrete Technologies – Kshs.320,160,000
 - iii. Roof and All Trading – Kshs.252,300,000
4. On conclusion of investigation it was established that, the payment of Kshs.791, 385,000 was fraudulent due to the following reasons:-
 - i. The circular from the Supplies Branch was forged.
 - ii. The payment was not adjudicated by the Ministerial Tender Committee (MTC) as required.
 - iii. There was fraudulent zeros on LPOs and other documents used to process the payment.
 - iv. The materials were being excavated by NYS at the quarry loaded by NYS to their trucks and transported to Kibera Road construction site by NYS trucks and no role was identified to have been played by the purported suppliers.
5. That the offence of conspiracy to commit a felony by stealing of the amount in question and also the offence of stealing the Kshs.791,385,000 was established.
6. The 22 members of NYS and Ministry who had participated in preparing, processing approving and transmitting the payments of Kshs.791,385,000, Josephine Kaburalrungu whose bank accounts were credited, Peter OmariOtwoma who received a total of Kshs.77 million from Form Homes Builders company of Josephine Irungu and Ben Gethi who is the business man who was pushing for the payment to be done for the disputed transactions together with Caroline NjambiKinuthia a Director of two companies were all found to have been part of the fraud commission and liable for prosecutions.
7. The file was thereafter forwarded to the Director of public prosecutions and he recommended that 26 suspects be charged with various offences
8. He further informed the Committee that on two occasions he had received letters from advocates purporting to be acting for the suspects threatening to take un specified action on him for directing investigators to pursue the stolen funds and proceeds of theft.
9. That in her affidavit Josephine Kaburalrungu made various allegations against Mr. Mugwanja and Cpl Sautet among other persons which included cover up in the course of investigations and receiving kshs 80 million from her on behalf of the former Cabinet Secretary Ms. Anne Waiguru.
10. Following the allegations he was directed by DCI to hand over the NYS investigation file and original exhibits to Mr. OdhiamboKamulus, SSP and further tasked to submit a written respond to the allegations raised.
11. On conclusion of the money laundering investigation a file was submitted to DPP who on 16th February 2016 issued directives for 11 eleven suspects among them Josephine Kaburalrungu to be charged with various counts under the POCAMLA Act

The meeting resolved to have other witnesses invited to appear before the Committee to give further evidence on the inquiry. They will include;

1. Mr. NdegwaMuhoro Director; Directorate Of Criminal Investigation
2. Cpl. SautetMatipei; Banking Fraud Investigation Unit

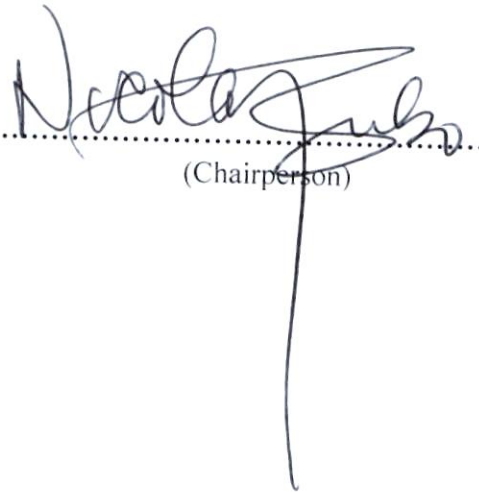

3. Chief Inspector Kipruto Kilimo- Head Of Cyber Crime Unit

In addition, it was agreed that the MD, Family Bank be re-called to answer more questions relating to the bank transaction that were carried out by the accused persons in the NYS inquiry.

A report on further investigation into the matter be provided by the EACC as well.

MIN No. 1205/2016: ADJOURNMENT

There being no other business, the meeting adjourned at five minutes past five in the afternoon. Next sitting would be held on 14th September, 2016 at 2.30p.m.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDREDTH AND TWELVTH (312TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 14TH SEPTEMBER, 2016 AT 3.00 P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahbub, M.P.
4. Hon. KaniniKega, M.P.
5. Hon. Joseph Manje, M.P.
6. Hon. Alice NyanchokaChae, M.P.
7. Hon. Manson Nyamweya, M.P.
8. Hon. Andrew Mwadime, M.P.
9. Hon. Arthur Odera, M.P.
10. Hon. David Eseli, M.P.
11. Hon. Julius Melly, M.P
12. Hon. KyengoKatathaMaweu, M.P.

APOLOGIES

1. Hon. (Capt.) Clement Wambugu, M.P.
2. Hon. Mathias Robi, M.P.
3. Hon. Abdikadir Aden, M.P.
4. Hon. GonziRai, M.P.
5. Hon. KarekeMbiuki, M.P.
6. Hon. Timothy Bosire, M.P.
7. Hon. Jessica Mbalu, M.P.
8. Hon. SakwaBunyasi, M.P.
9. Hon. John Mbadi, M.P.
10. Hon. Junet Sheikh Nuh, M.P.
11. Hon. Stephen Manoti, M.P.
12. Hon. Charles GeniMong'are, M.P.
13. Hon. Kangogo Bowen, M.P.
14. Hon. SilvanceOnyangoOsele, M.P.
15. Hon. Joel Onyancha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr.Daniel Mutunga - Principal Clerk Assistant
2. Mr. Victor Weke - Clerk Assistant II
3. Ms.ChelagatTungo - Clerk Assistant II
4. Mr.ChelangaMaiyo - Researcher
5. Ms. Catherine Burure - Fiscal Analyst
6. Mr.Collins Mahamba- Audio Recorder

NATIONAL TREASURY

Mr. Geoffrey Mwitari

OFFICE OF THE AUDITOR GENERAL

1. Mr Raphael Ikame - Manager Audit
2. Mr Richard Nyachio - Manager Audit

MIN No. 1206/2016: PRELIMINARIES

The Chairman called the meeting to order at half past three o'clock in the afternoon and said a prayer followed by introductions by all present.

MIN No. 1207/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1208/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MS. ANGELA ANGWENYI AND MR. ANTHONY LUNGHAO, DIRECTORS OF MESSRS. OUT OF THE BOX SOLUTIONS LTD

Ms. Angela Angwenyi and Mr. Anthony Lunghao, Directors of Messrs. Out Of The Box Solutions Ltd accompanied by Mr. Kennedy Odera, appeared before the Committee and submitted as follows;

1. That they were before the Committee to address the matter raised on page 24, Chapter 1.4.7, where the Auditor General recommended that an investigation be undertaken on whether user support services was provided and sensitisation campaigns undertaken to confirm the contract payment to Messrs. Out Of The Box Solutions Ltd. They sought to provide, in a chronological manner, all the work done, and pre and post payment by State Department of Planning.
2. That the State Department of Planning awarded Messrs. Out of The Box Limited a contract for Consultancy Services to provide support services and conduct sensitization campaigns to enhance access to the 30% reservation of government procurement opportunities for youth, women and persons with disabilities on **12th May 2015**.
3. The contract awarded to the company stipulated a monitoring and evaluation schedule, upon which the payment schedule was similarly pegged to. The schedule was along the following path:
 - **30%** of contract amount upon approval and adoption of campaign Inception Report.
 - **30%** upon evaluation of milestones 90 days after commencement of campaign execution and submission of the first progress report.
 - **30%** upon second evaluation of milestones after a further 90 days after first evaluation and submission of second progress report.
 - **10%** upon completion of the campaign and submission of final campaign report.

4. The Inception Report was submitted to the Ministry on the **22nd of May 2015**. They also invoiced the contract 30% totalling 90,737,607 on the same day. The invoice was sent together with the inception report and on submission of the report, they received feedback and made amendments which were included in the inaugural progress report which contained the following:

- The campaign visual elements
- Summary TV, Radio & Documentary write ups
- Summary Website write up
- Summary USSD Platform write up
- Revised launch dates – as a result of advice from the ministry

5. A steering committee was set up to receive the first progress report and review the inception as well as the inaugural report. Their first sitting was held on **12th June 2015**

6. The steering committee then sat to review all requested changes on the inception report on **23rd July 2015**. During this meeting the monitoring and evaluation milestones were discussed. The campaign target was set at a minimum of 50,000 youth, women and PWD owned entities to be reached and registered for AGPO. The meeting subsequently approved the inception report, subject to inclusion of the targeted milestone in the final inception report and adopted the first payment certificate.

7. Having met the first criteria as stipulated in the contract, Messrs' Out Of The Box Solutions Ltd received their first payment on **18th August 2015**.

8. After receiving the payment, they started putting together the various elements of the campaign. These were; TVCs, Radio Commercials, Documentary, Various Merchandise, Website, USSD Platform

9. On **September 15th 2015**, they met yet again and presented various campaign elements to the Chairman of the steering committee. He informed Messrs. Out Of The Box Solutions Ltd that the Kenya Young Parliamentarians Association (KYPA) had also expressed an interest in progressing AGPO awareness. A meeting was proposed in order to evaluate points of confluence

10. On **22nd September 2015**, Messrs. Out Of The Box Solutions Ltd met the Kenya Young Parliamentarians Association (KYPA), and officials from the MoDP and Youth Directorate at Harambee House 10th Floor. The team reviewed the campaign elements produced, as well as the planned communication plan. There was feedback on the areas of confluence and what to revise in order to merge the 2 campaigns. A further meeting was scheduled for **24th September 2015**.

11. On **24th September 2015**, Messrs. Out Of The Box Solutions Ltd presented revised changes to the Steering Committee at Harambee House 11th Floor, from 11am. The purpose of the meeting was to present the revised campaign based on the feedback from the previous meeting of **22nd September 2015**.

12. The meeting discussed the need to harmonize the actual input required from all agencies, itemized the requirements from each agency, as well as finalized the communication positioning to incorporate the objectives envisioned by the campaign. A subcommittee was formed, chaired by Director, Directorate of Youth Affairs to iron out the issues raised and report back to the main committee.

13. The meeting also involved representation from the participating government agencies, which were; NHIF, KRA, AG's Chambers, Uwezo Fund, Women's Fund, Youth Fund, and AGPO Secretariat, to guarantee that the on ground sessions with youth women and persons with disability would result in actual sign ups. The Sub-committee meeting was held on **24th September 2015** at Kencom House, 3rd Floor at 2.00pm.

14. The sub-committee meeting finalized government agencies' involvement, as well as adopted the campaign **slogan USIACHWE NYUMA IKO BIZ**, which would then be incorporated in to all the elements produced for the campaign. A follow up meeting was held on **On 29th September 2015**, at Harambee House, 11th Floor. The final campaign material was presented at this meeting. The full list of presented material included;

- 3 TVCs, each targeting specific segments
- Documentary
- 11 radio commercials
- Print material (Wall branding, Billboards, Fliers, Posters, Calendars)
- Various Merchandise (T-Shirts, Caps, Carry Bags, Flash Disks)
- Website
- USSD Platform

The meeting further proposed a launch date of **17th October 2015** and tasked the chairperson of KYPA, to secure the date with H.E President, in liaison with the Cabinet Secretary, Ministry of Devolution and Planning to officiate at the launch of the Campaign. The launch did not take place on the planned date of October because of H.E. the President's unavailability.

15. The Steering Committee subsequently met on **13th November 2015** at Treasury, 10th Floor to discuss on another launch date and details. At this meeting, the plan to launch the campaign in Machakos on the **22nd of November 2015** was approved. It was also agreed that subsequent events to be held in Kiambu and North Eastern Kenya.

16. A final planning meeting was held on **18th November 2015** at Kencom House where all agencies were briefed about the Machakos launch. The first events were to take place between 22nd and 25th November 2016. The events started with a 3-day AGPO Publicity road show covering all wards of Machakos County. The events culminated in a Machakos County Summit at Machakos People's Park on **25th November 2015**. Machakos County Governor officiated the Machakos County Summit. The summit attracted more than 1,000 representatives from all wards of Machakos County

17. At the Machakos event, The Governor committed to support AGPO registered entities in the County by setting aside specific tenders for the groups

18. The Steering Committee met again on **30th November 2015** to review the Machakos event and plan for Kiambu County event. The meeting concluded that the event be held from **2nd to 5th December 2015**. The events started with a 3-day AGPO Publicity road show covering all wards of Kiambu County. The events culminated in a Kiambu County Summit at the Governor's Office Park on **5th December 2015**. The County Governor officiated the Summit, with a parliamentary member of KYPA, in attendance. The event attracted more than 1,000 representatives from all wards of Kiambu County

19. At the Kiambu event, The Governor made commitments to set aside tenders worth more than **1Bn** for enterprises that meet AGPO qualifications

20. The Steering Committee held its last meeting of 2015, on 10th December. During the meeting, it was agreed that Messrs. Out Of The Box Solutions Ltd will execute the North Eastern region counties in December through an intensive on air campaign which will comprise, Wajir, Garissa, Mandera, Marsabit and Isiolo regions. The Regions were therefore covered between December 16th 2015 and January 14th 2016 as per the contract and a progress report was submitted on 15th January 2016.

21. In her closing remarks, the Director Messrs. Out Of The Box Solutions Ltd reiterated as follows:

- That as per their contract with the State Department of Planning, they presented the Inception Report to the Project Committee on **22nd May 2015**,
- That after various changes, the Inception Report was accepted on **23rd July 2015**
- That their payment for the invoice dated **22nd May 2015** was then made on **18th August 2015**, and this was after having met the contract requirements
- Following up on this, Messrs. Out Of The Box Solutions Ltd did the various tasks set out to be completed as per the Inception Report and as per agreements at the Project Steering Committee meetings
- That all evidence of the work Messrs. Out Of The Box Solutions Ltd had done, and based on the initial payment presented to the State Department of Planning in the form of a Progress Report was consistent with the deliverables agreed on as per the contract.

In response to the query raised by the Auditor General's report, Messrs. Out Of The Box Solutions Ltd had fulfilled milestones as outlined in the contract and to the satisfaction of the Steering Committee appointed by the contracting authority.

Messrs. Out Of The Box Solutions Ltd submitted before the Committee copies of Steering Committee Meeting Minutes, letters to CS Devolution, soft copy pictorial evidence and video of the event, Soft copy of the various campaign material and various Progress Reports for the campaigns.

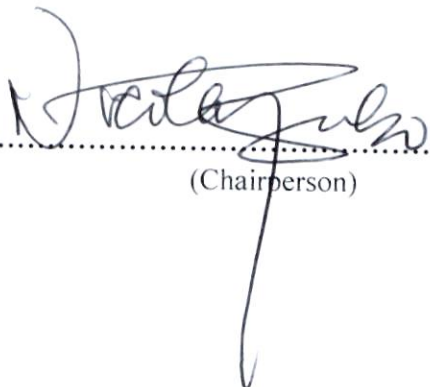
The Committee requested the witness to provide further information as follows;

- i. Copies of Communication regarding starting up the contract after it was terminated by the Ministry (their appeal to continue their work)
- ii. Copies of contracts between Messrs. Out Of The Box Solutions Ltd and other media houses.
- iii. Copies of invoices and proof of payment made to media houses for airing and transmitting their advertisements
- iv. Tender opening forms, indicating list of other companies which tendered for the same job

MIN No. 1209/2016: ADJOURNMENT

There being no other business, the meeting adjourned at ten minutes past six in the evening. Next sitting would be held on Thursday 15th September, 2016 at 10.00 a.m.

Signed.....


(Chairperson)

Date.....

28/2/17

MINUTES OF THE THREE HUNDREDTH AND THIRTEENTH (313TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY, 15TH SEPTEMBER, 2016 AT 10.00A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahbub, M.P.
4. Hon. Arthur Odera, M.P.
5. Hon. Joseph Manje, M.P.
6. Hon. GonziRai, M.P.
7. Hon. Julius Melly, M.P.
8. Hon. Andrew Mwadime, M.P.
9. Hon. Manson Nyamweya, M.P.
10. Hon. KaniniKega, M.P.
11. Hon. Timothy Bosire, M.P.
12. Hon. Kangogo Bowen, M.P.
13. Hon. KyengoKatathaMaweu, M.P.

APOLOGIES

1. Hon. (Capt.) Clement Wambugu, M.P.
2. Hon. Charles GeniMong'are, M.P.
3. Hon. David Eseli, M.P.
4. Hon. Jessica Mbalu, M.P.
5. Hon. Alice NyanchokaChae, M.P.
6. Hon. SakwaBunyasi, M.P.
7. Hon. Abdikadir Aden, M.P.
8. Hon. Junet Sheikh Nuh, M.P.
9. Hon. John Mbadi, M.P.
10. Hon. KarekeMbiuki, M.P.
11. Hon. Mathias Robi, M.P.
12. Hon. Stephen Manoti, M.P.
13. Hon. SilvanceOnyangoOsele, M.P.
14. Hon. Joel Onyancha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Victor Weke - Clerk Assistant II
3. Mr. Collins Mahamba - Audio Recorder

OFFICE OF THE AUDITOR GENERAL

1. Mr. Richard Nyachieo - Deputy Director, Forensic Audit
2. Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Mr. Tom Khakame - Ag. Director, National Sub-County Treasuries
2. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer

STATE DEPT. FOR PUBLIC SERVICE AND YOUTH AFFAIRS

1. Ms. Lillian Mbogo- Omollo, OGW - Principal Secretary
2. Dr. Richard Ndubai, CBS, - Director General, NYS
3. Mr. Eliud Koome - Senior Chief Supply Chain Management Officer
4. Mr. Bernard Masiga - Senior Chief Finance Officer
5. Mr. Charles Mulandi - Senior Chief Supply Chain Management Officer, NYS
6. Mr. Nixon Obora
7. Ms. Joyce Gichuru
8. Mr. George Mwangi
9. Ms. Carolyne Okello
10. Mr. Joram Mbui
11. Mr. Sammy Mbugua
12. Mr. W. A. Lubira
13. Mr. J. K. Tembur
14. Mr. Peter Kinyita

MIN No. 1210/2016: PRELIMINARIES

The Chairman called the meeting to order at thirty minutes past ten O'clock in the morning and said a prayer. All present introduced themselves.

MIN No. 1211/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1212/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MS. LILLIAN MBOGO- OMOLLO, PRINCIPAL SECRETARY, STATE DEPT. FOR PUBLIC SERVICE AND YOUTH AFFAIRS

Ms. Lillian Mbogo- Omollo, the Principal Secretary, State Department for Public Service and Youth Affairs, Ministry of Public Service, Youth and Gender Affairs, appeared before the Committee and submitted the following:

1. She was thankful for the second opportunity to submit information specifically on the award of tenders to Brand Associates Ltd, Out of the Box Solutions and The Consulting House, as well as the Supplementary Budget FY 2014/15, NYS Supplies Branch Contracts, Youth Cohort Payments, and the AIE No. 757439 issued to the NYS College in Gilgil.

- **Consultancy services for media buying awarded to M/s Brand Associates**

2. This tender involved the placement of advertisements in various media platforms such as TV, Radio, print media, documentaries, social media, and billboards. Consultancy services had been planned for in the 2014-15 Procurement plan. Restricted tendering method was used.
3. Upon evaluation, six (6) out of ten (10) firms were shortlisted to have their financial proposals considered and subsequently, M/S Brand Associates was recommended for award, being the lowest evaluated bidder at the cost of Kshs. 183,654,237.51. The Ministerial Tender Committee (MTC) approved the award on 1st October, 2016.
4. A letter of award was issued to the firm on 1st October 2014 and duly accepted by the firm on 3rd October 2014.
5. The payment to M/s Brand Associates amounting to Kshs.101,009,830.60 which was paid in two tranches of Kshs. 73,461,695.00 and Kshs. 27,548,135.60 was for National Youth Service media advertising and not civil works or hire of equipment as had been indicated in the Auditor General's Special Report.

- **Consultancy services for user support services and conduct of sensitization campaigns to enhance access to the 30% government procurement opportunities**

6. M/s Out of the Box Solutions was awarded this tender for Kes. 302,458,690.00. The procurement was provided for in the procurement plan and was requested vide Memo Ref. MDP/1/1/34 dated 12th August 2014.
7. The Request for Expression of Interest (REOI) for the consultancy was advertised in the print media on 26th September 2014 and closed on 13th October 2014 with 24 firms responding.
8. The tender was opened on the 13th October 2014 and the subsequent evaluation resulted in the following ten (10) firms being shortlisted for the issuance of Request for Proposal (RFP) document. Only six (6) firms responded with the RFP document.
9. The evaluation of the technical proposals resulted to two (2) firms being qualified to have their Financial Proposals opened. The firms were Round Trip Kenya Ltd & Out Of The Box Solutions, and Alpex Consulting Africa Limited.
10. MTC approved award to Round Trip Kenya Ltd & Out Of The Box Solutions on 9th April 2015 at Kshs. 302,458,690.00. The contract was signed on 12th May 2015 after the acceptance of the offer as communicated on 24th April 2015.
11. A payment of Kshs. 90,737,607 was made to Out of the Box Solutions on 17th August 2015. This was 30% of the total contract sum which was provided to be paid upon submission of the Inception Report, less withholding tax.
12. Out of The Box Solutions was currently under investigation by the Ethics and Anti-Corruption Commission. The Commission had directed that no further payments should be made by the Ministry to the said company until investigations are complete.

- **Consultancy services for NYS rebranding for Kes. 102,500,000.00 to The Consulting House**

13. This consultancy was requisitioned by the Director General/NYS vide memo Ref. No. NYS/Proc/4/1 dated 3rd February 2014 and approved by the Accounting Officer on 24th February 2014. The procurement was done through direct procurement vide MTC meeting held on 4th March, 2014 at a cost of Kshs. 40,000,000 and award made to M/s The Consulting House.
14. The procurement was NOT provided for in the procurement plan for that financial year 2013/14.
15. The same Consultant having been engaged in the preceding phase of the restructuring and having provided the services was also approved by the MTC vide direct procurement on 6th October, 2014 at a Consultancy fee of Kshs. 50,000,000 and reimbursable not exceeding Kshs. 4,000,000, to provide Advisory Services on the implementation of the developed NYS 5-point vision.
16. The first contract between the firm and the Ministry was signed on 5th March 2014 and the second one on 13th October 2014.

17. Payment vouchers and supporting documents for the payment for Kshs.84, 483,533.00 were provided. Those of payment of Kshs. 18,016,467.00 had not been traced at the ministry.
18. It was unclear why the firm had been overpaid by Kes. 12.5 Million. The ministry had written to the firm demanding a refund of the same but was yet to receive it.

The ministry had written a letter to the Registrar of Companies requesting to be furnished with details of names, identification details, and proportion of shareholding of the directors of the three firms above but did not receive a response.

- **Use Of Supplies Branch Contracts For The Procurement Of Goods/Services Worth Kshs.222,122,919**

19. This matter involved the procurement of goods directly from the Supplies Branch unit. The NYS paid Supplies Branch (then based at the Ministry of Lands, Housing & Urban Development) for the supply of various items as requisitioned vide issue & Receipt voucher Nos. 0254145,0159803/7/8/9.
20. The supplies were paid for in advance and were to be taken on charges in the stores ledger cards once received. As at the time the Youth Empowerment Programme was temporarily halted in November 2015, the department (NYS) had received supplies worth Kshs.81,712,551.50 leaving a balance of Kshs.139,115,923.50.

- **Chronology and documentary evidence of movement and expenditure of AIE no. 757439 of Kes. 70 million, issued on 2nd October, 2014**

21. The Accounting Officer confirmed that there were records of the AIE No. 757439 issued to the Commandant NYS College, Gilgil, and was entered in the Sub -county Treasury cash book at Gilgil sub-county on 11th November, 2014. The entire funding was used to pay for four (4) contracts.

The Accounting Officer submitted supporting documentation to the auditors for verification.

The Accounting Officer submitted a breakdown of details of all youth cohorts paid for various projects in the financial years 2013/2014 and 2014/2015 for the Committee's examination.

She also submitted supporting documentation of the requisition and receipt of the supplementary budget of Kes. 3.5 Billion, starting from the request from the then Cabinet Secretary, Ms. Anne Waiguru.

MIN No. 1213/2016: ADJOURNMENT

There being no other business, the meeting adjourned at ten minutes to one O'clock in the afternoon. Next sitting would be held on 19th September, 2016 at 2.30 pm.

Signed.....



(Chairperson)

Date.....

28.2.2017

MINUTES OF THE THREE HUNDRED AND FOURTEENTH (314TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 20TH SEPTEMBER, 2016 AT 10.00A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. FathiaMahbub, M.P.
3. Hon. (Capt.) Clement Wambugu, M.P.
4. Hon. Charles GeniMong'are, M.P.
5. Hon. Arthur Odera, M.P.
6. Hon. Joseph Manje, M.P.
7. Hon. Julius Melly, M.P.
8. Hon. Alice NyanchokaChae, M.P.
9. Hon. KaniniKega, M.P.
10. Hon. John Mbadi, M.P.
11. Hon. Stephen Manoti, M.P.
12. Hon. SilvaniceOnyangoOsele, M.P.
13. Hon. Joel Onyancha, M.P.
14. Hon. KarekeMbiuki, M.P.
15. Hon. KyengoKatathaMaweu, M.P.

APOLOGIES

1. Hon. Jackson K. Rop, M.P. - Vice- Chairman
2. Hon. Andrew Mwadime, M.P.
3. Hon. Timothy Bosire, M.P.
4. Hon. Kangogo Bowen, M.P.
5. Hon. Manson Nyamweya, M.P.
6. Hon. GonziRai, M.P.
7. Hon. David Eseli, M.P.
8. Hon. Jessica Mbalu, M.P.
9. Hon. SakwaBunyasi, M.P.
10. Hon. Abdikadir Aden, M.P.
11. Hon. Junet Sheikh Nuh, M.P.
12. Hon. Mathias Robi, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Victor Weke - Clerk Assistant II
3. Mr. Peter Mwaura - Legal Counsel
4. Ms. Winnie Kulei - Researcher
5. Mr. Collins Mahamba - Audio Recorder

OFFICE OF THE AUDITOR GENERAL

Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

THE CONSULTING HOUSE LTD

1. Prof. Mutahi Ngunyui - Principal Fellow
2. Ms. Jennifer Shamalla - Legal Counsel
3. Mr. Njau Mweu - Internal Auditor
4. Mr. Jonathan Maina - Research Fellow
5. Mr. Fredrick Kibuka - Visiting Junior Fellow

MIN No. 1214/2016: PRELIMINARIES

The Chairman called the meeting to order at ten minutes past ten O'clock in the morning and said a prayer. All present introduced themselves.

MIN No. 1215/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1216/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: PROF. MUTAHI NGUNYI OF THE CONSULTING HOUSE

Prof. Mutahi Ngunyui, the Principal Fellow/ Director of The Consulting House, submitted the following:


1. He was apologetic for not honouring his initial invitation to appear before the Committee. This was as a result of mis-routing of his invitation letter to an old address.
2. The Consulting House Limited is a private security and policy innovation think tank working in 18 African countries. His first involvement with the Government of Kenya was in 2010 when he was commissioned by UNDP and the Ministry of Internal Security to study the crisis of militia groups in the country. The study was completed, and established that Kenya had 238 militia groups at the time. He made recommendations that critiqued the laws to align them to the new Constitution.
3. On or around 3rd February 2014 he received a telephone call from the then Cabinet Secretary Devolution and Planning, Ms. Anne Waiguru to restructure the National Youth Service.
4. He did not know why his company was picked but it may be that direct procurement was settled upon due to the paramilitary nature of the NYS. This was actually justified by the then Director General, Mr. Rugut, and subsequently by Dr. Nelson Githinji.
5. The Ministerial Tender Committee sat and approved the procurement, after which they negotiated the amount to the contract sum of Kes. 90 Million. The bill was fair, less than 1% of the Kes. 22.4 Billion budget the restructure resulted in, and was less than what the United Nations pays African consultants. Furthermore, companies that were contracted to implement what was their own creation were paid far much more.

6. Their 5-point plan was a result of great effort and was lauded by African governments that came to benchmark with it. Allegations of plagiarism of the 5-point plan were untrue and meant to tarnish his name.
7. Ms. Jennifer Shamalla was part of the consulting team at the time, in the capacity of a visiting senior fellow at The Consulting House.
8. Before implementation of the plan, he wrote to the then Cabinet Secretary four times, telling her that the systems at that particular moment could not support the budget raise. He requested to do a pre-audit of the systems but was told by Ms. Waiguru that his job at the NYS was not to fight corruption.
9. His role at the implementation of the plan was limited to providing advice. The buck stopped with the Director General NYS and the ministry. Some of his advice was actually ignored. This included his recommendation to hire a Mr. OludheMcGoye as the new Director General ahead of Dr. Nelson Githinji. He had interviewed the two at the Kempinski Hotel.
10. He noticed the cartels were re-grouping as structures he had dismantled seemed to be creeping back, with an example of a Mr. Kemboi who returned to the service.
11. Kes. 11,875,000.00 was wired into their accounts on 23rd April, 2015. They did not know the origin of the funds at the time but assumed it was from another client who had been billed almost the same amount.
12. The 'sneaking in' of these funds to their accounts was probably a scheme to infer malice and an attempt to subvert and tarnish the restricting efforts.
13. After the Special Audit report was released, they did their own forensic audit that discovered that the funds were not from the client they had initially thought. It is then that they wrote to the Principal Secretary, up to three times, on 5th July, 29th July and 23rd August, 2016 asking for an explanation as to how these funds were paid without an invoice. They only received a response later on with details of the ministry's bank account to refund the money.
14. They refunded the money to the ministry accounts at Central Bank on 19th September, 2016. He fit this was the right thing to do in the circumstances. Should the Committee recommend interest, he would seek judicial interpretation and comply.
15. He had never met Ms. Josephine Kabura and in the fullness of time he will sue her for telling lies and defaming him.

The meeting resolved that the witness avails copies of his four letters to the Cabinet Secretary raising the red flag, his bank statement showing payment by his other client of a similar amount to the Kes. 11,875,000.00, his report recommending Mr. Oludhe as Director General and an analysis of the tranches of payments totaling the contract sum of Kes. 90 Million.

MIN No. 1217/2016: ADJOURNMENT

There being no other business, the meeting adjourned at one O'clock in the afternoon. Next sitting would be held at 3.00 pm in the afternoon.

Signed.....  Date..... 28.2.2017

(Chairperson)

MINUTES OF THE THREE HUNDRED AND FIFTEENTH (315TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 20TH SEPTEMBER, 2016 AT 3.00P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. FathiaMahbub, M.P.
3. Hon. (Capt.) Clement Wambugu, M.P.
4. Hon. Charles GeniMong'are, M.P.
5. Hon. Arthur Odera, M.P.
6. Hon. Julius Melly, M.P
7. Hon. Alice NyanchokaChae, M.P.
8. Hon. John Mbadi, M.P.
9. Hon. SilvanceOnyangoOsele, M.P.
10. Hon. KarekeMbiuki, M.P.
11. Hon. KyengoKatathaMaweu, M.P.

APOLOGIES

1. Hon. Jackson K. Rop, M.P. - Vice- Chairman
2. Hon. KaniniKega, M.P.
3. Hon. Stephen Manoti, M.P.
4. Hon. Joseph Manje, M.P.
5. Hon. Joel Onyancha, M.P.
6. Hon. Andrew Mwadime, M.P.
7. Hon. Timothy Bosire, M.P.
8. Hon. Kangogo Bowen, M.P.
9. Hon. Manson Nyamweya, M.P.
10. Hon. GonziRai, M.P.
11. Hon. David Eseli, M.P.
12. Hon. Jessica Mbalu, M.P.
13. Hon. SakwaBunyasi, M.P.
14. Hon. Abdikadir Aden, M.P.
15. Hon. Junet Sheikh Nuh, M.P.
16. Hon. Mathias Robi, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Victor Weke - Clerk Assistant II
3. Mr. Peter Mwaura - Legal Counsel
4. Mr. ChelangaMaiyo - Researcher
5. Ms. Winnie Kulei - Researcher
6. Mr. Collins Mahamba - Audio Recorder

OFFICE OF THE AUDITOR GENERAL

Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

STATE DEPT. FOR IRRIGATION

1. Mr. Patrick NduatiMwangi - Principal Secretary
2. Eng. Robinson Gaita - Director, Water Services
3. Eng. James Yatich - Deputy Director, Water Services
4. Mr. EllyYaluk
5. Ms. Nancy Getanda

MIN No. 1218/2016: PRELIMINARIES

The Chairman called the meeting to order at fifteen minutes past three O'clock in the afternoon and said a prayer. All present introduced themselves.

MIN No. 1219/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1220/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. PATRICK NDUATI MWANGI, PRINCIPAL SECRETARY STATE DEPT. FOR IRRIGATION

Mr. Patrick NduatiMwangi, the Principal Secretary, State Department for Irrigation, Ministry of Water and Irrigation submitted the following:

1. Kenya frequently suffers the twin challenges of intensive rainfall and flooding often followed by biting droughts.
2. Aware of this water security challenge, the Government in FY 2013/2014 initiated the National Water Harvesting and Storage Programme with funds allocated through the then Ministry of Devolution and Planning for construction water pans and small dams in rural Constituencies.
3. The Programme proposed construction of 1,000 water pans (average storage capacity 20,000m³) and 200 small dams (average storage capacity 150,000m³) annually over a 5-year period beginning in FY 2013-2014 with an average annual budgetary allocation of Ksh. 7.5 billion.
4. It was initially intended that the National Youth Service (NYS) implements the programme using its internal capacity given its large stock of relevant equipment which consisted of 15 dam construction units. Owing to the magnitude of the Programme, however, the then Ministry of Environment, Water and Natural Resources through Water Sector State Institutions comprising the 8 Water Service Boards and the 6 Regional Development Authorities in implementation of the Programme were brought on board to provide the technical input.

5. To ensure effective management and monitoring of the Programme, an institutional arrangement was agreed upon. A National Project Steering Committee comprising the Principal Secretaries of the National Treasury, Planning, Water and the Director General of National Youth Service was set up to oversee and provide policy direction. The Committee was supported by a Technical Coordination Committee composed of representatives from all participating Institutions.
6. Ministry of Devolution and Planning would give AIEs to the then Ministry of Environment, Water and Natural Resources as the ministry responsible for the water harvesting function which, in turn, would transfer the funds to the Corporations as its executing agents upon receipt of work plans and cash flow requirements and subject to approval by the Steering Committee.
7. Along these lines, on 14th February 2014, Ministry of Devolution and Planning published a tender notice for procurement of contractors to develop 743 water pans and small dams in 231 Constituencies with priority to arid and semi-arid lands.
8. After tender evaluation by the executing agencies, 647 water pans and 54 small dams (total 701 Projects) were approved for construction at a total cost of Ksh 3,534,979,087.
9. However, Ministry of Devolution and Planning only released Ksh 1,884,018,004 (in two tranches of Ksh 907,143,189 and Ksh 976,874,815) during F/Y 2013/2014 representing 53.2% of the total cost. The balance of Ksh 1,650,961,083 was released in FY 2014/2015.
10. Upon receipt of the funds, Ksh 1,864,126,901 was transferred to the executing agencies and Ksh 19,891,103 retained at the ministry for purposes of planning, monitoring and evaluation of the programme.
11. There was no variation from 'dams' to 'pans' as the tender advertisement was clear.
12. Projects that had stalled were unique to the Lake Victoria South Water Service Board, and this was because the board awarded 25 additional projects expecting further funding which was not received. These stalled projects would be completed in the subsequent financial year.
13. Ksh. 2 Billion had been budgeted for water harvesting and Ksh. 500 Million for water for schools project in FY 2015/16
14. In total, a surface storage capacity of over 16 million m³ was created nationally. This contributed to reduced walking distance to water points for 180,000 households and over 2,500,000 livestock and wildlife could access water. It also contributed to addressing the recurring problems of flooding, healing of degraded lands and over 75 ha of land irrigated enhancing rural household food security and incomes.

MIN No. 1221/2016: ADJOURNMENT

There being no other business, the meeting adjourned at five O'clock in the evening. Next sitting would be held on 21st September, 2016 at 2.30 pm in the afternoon.

Signed.....


(Chairperson)

Date.....

28.2.2017

MINUTES OF THE THREE HUNDRED AND SEVENTEENTH (317TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY 22ND SEPTEMBER, 2016 AT 10.00A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. David Eseli, M.P.
3. Hon. Charles GeniMong'are, M.P.
4. Hon. (Capt.) Clement Wambugu, M.P.
5. Hon. Arthur Odera, M.P.
6. Hon. KaniniKega, M.P.
7. Hon. Joseph Manje, M.P.
8. Hon. Joel Onyancha, M.P.
9. Hon. Julius Melly, M.P.

APOLOGIES

1. Hon. Jackson K. Rop, M.P. - Vice- Chairman
2. Hon. FathiaMahbub, M.P.
3. Hon. John Mbadi, M.P.
4. Hon. Silvance Onyango Osele, M.P.
5. Hon. KarekeMbiuki, M.P.
6. Hon. Kyengo KatathaMaweu, M.P.
7. Hon. Alice NyanchokaChae, M.P.
8. Hon. Stephen Manoti, M.P.
9. Hon. Andrew Mwadime, M.P.
10. Hon. Timothy Bosire, M.P.
11. Hon. Kangogo Bowen, M.P.
12. Hon. Manson Nyamweya, M.P.
13. Hon. Gonzi Rai, M.P.
14. Hon. Jessica Mbalu, M.P.
15. Hon. SakwaBunyasi, M.P.
16. Hon. Abdikadir Aden, M.P.
17. Hon. Junet Sheikh Nuh, M.P.
18. Hon. Mathias Robi, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Victor Weke - Clerk Assistant II
3. Ms. Winnie Kulei - Researcher
4. Mr. Collins Mahamba - Audio Recorder

OFFICE OF THE AUDITOR GENERAL

Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

Rev. Kimathi Kwiriga - Accountant I

STATE DEPT. FOR ICT

1. Eng. Victor Kyalo - Principal Secretary
2. Mr. Robert Mugo - Ag. CEO ICT Authority
3. Mr. Henry Mung'asia - Director Administration
4. Mr. Abraham Ondeng - Deputy Secretary

STATE DEPT. FOR PUBLIC SERVICE & YOUTH AFFAIRS

1. Ms. Lillian Mbogo- Omollo - Principal Secretary
2. Mr. Dennis Mutuku - CEO, Huduma Secretariat
3. Mr. Martin Mirero - Director ICT, Huduma
4. Mr. Henry Mwangi - Ag. Head, Govt. Digital Payments
5. Mr. David Gitau - Programme Officer, ICT Infrastructure, Huduma
6. Ms. Beatrice Chelangat - Programme Officer, Policy & Legal, Huduma
7. Mr. Kennedy Odero - Programme Officer, Information Systems, Huduma

MIN No. 1226/2016: PRELIMINARIES

The Chairman called the meeting to order at thirtyminutes past ten O'clock in the afternoon and said a prayer. All present introduced themselves.

MIN No. 1227/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1228/2016: SUBMISSION OF INFORMATION BY THE PRINCIPAL SECRETARIES ICT AND PUBLIC SERVICE & YOUTH AFFAIRS ON USE OF ICT IN HUDUMA CENTRES AND E-CITIZEN

The Principal Secretaries submitted as follows;

1. That the role of Information and Communications Technology Authority (ICTA) in the implementation of Huduma Centres and E-citizen projects was to compliment the work of the respective secretariats.

These include attending meetings of Huduma Kenya summit as stipulated under Gazette Notice 2177 of April, 2014, as well as providing technical support to the secretariat as required, and in technical evaluation committees where necessary.

Huduma Centres also rely on ICTA managed GCCN for service connectivity to government agencies.

2. Kes. 1,908,769,052.00 had so far been spent on ICT systems at Huduma Centres and the E-citizen platform. Value for money was clearly achieved from the positive feedback from members of the public (98% satisfaction rate) and various international awards received. The Huduma Kenya programme is the most extensive ICT systems and infrastructure in the Kenyan public service, enabling provision multiple government services efficiently, reliably and to the convenience of the public. The service has further bolstered the country's standing in the World Bank Global ease of doing business index.
3. The mandate of the two platforms were largely distinct as provided for in the Vision 2030, Gazette Notice 2177, Legal Notice No. 1 of 2016 and budget lines approved by Treasury. Any overlaps were simply back-end processes that were being worked on.
4. The two platforms use IFMIS for purposes of budget management, procurement, accounts and payments management. All of these systems are oracle based for easy integration.
5. Linksoft Integrated Services (EA) Ltd. was awarded a contract worth Kes. 797,796,582.71 to supply the Huduma Business Management Information Systems of various modules for effective internal management of the Huduma programme. The company's directors are Messrs. Anthony Wamae and Julie Wahome.
6. Verve KO Ltd. was awarded a contract worth Kes. 987,023,271.00 to establish Huduma Kenya service E-enabling and cost tracking systems for provision of electronic one stop shop services to citizens. The company's directors are Messrs. James Karani Nyamu and Luke Odhiambo Ouko.
7. Both procurements were through open tender and were conducted in accordance with procurement laws.

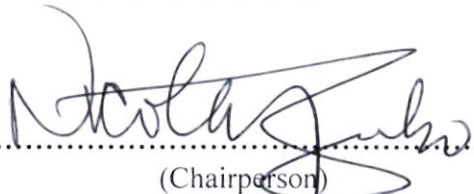
The Principal Secretary, Public Service & Youth Affairs tabled tender documents for both tenders including the advertisement, evaluation reports and contracts for the Committee's perusal.

The Committee resolved that the two Principal Secretaries re-appear after one (1) month with detailed documents of other bidders, as well as information on E-citizen.

MIN No. 1229/2016: ADJOURNMENT

There being no other business, the meeting adjourned at one O'clock in the afternoon. Next sitting would be held on 26th September, 2016 at 2.00p.m.

Signed.....



(Chairperson)

Date.....

28-2017

MINUTES OF THE THREE HUNDRED AND EIGHTEENTH (318TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON MONDAY 26TH SEPTEMBER, 2016 AT 3.00P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. David Eseli, M.P.
4. Hon. KaniniKega, M.P.
5. Hon. Joseph Manje, M.P.
6. Hon. Timothy Bosire, M.P.
7. Hon. Abdikadir Aden, M.P.
8. Hon. Andrew Mwadime, M.P.
9. Hon. Julius Melly, M.P.

APOLOGIES

1. Hon. Joel Onyancha, M.P.
2. Hon. FathiaMahbub, M.P.
3. Hon. Charles GeniMong'are, M.P.
4. Hon. (Capt.) Clement Wambugu, M.P.
5. Hon. Arthur Odera, M.P.
6. Hon. John Mbadi, M.P.
7. Hon. Silvance Onyango Osele, M.P.
8. Hon. KarekeMbiuki, M.P.
9. Hon. KyengoKatathaMaweu, M.P.
10. Hon. Alice NyanchokaChae, M.P.
11. Hon. Stephen Manoti, M.P.
12. Hon. Kangogo Bowen, M.P.
13. Hon. Manson Nyamweya, M.P.
14. Hon. Gonzi Rai, M.P.
15. Hon. Jessica Mbalu, M.P.
16. Hon. SakwaBunyasi, M.P.
17. Hon. Junet Sheikh Nuh, M.P.
18. Hon. Mathias Robi, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Ms. Winnie Kulei - Researcher
3. Mr. Collins Mahamba - Audio Recorder

OFFICE OF THE AUDITOR GENERAL

Mr.Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

MIN No. 1230/2016: PRELIMINARIES

The Chairman called the meeting to order at five minutes past three O'clock in the afternoon and said a prayer. All present introduced themselves.

MIN No. 1231/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1232/2016: SUBMISSION OF INFORMATION BY DR. NELSON GITHINJI, FORMER DIRECTOR GENERAL, NATIONAL YOUTH SERVICE

Dr. Nelson Githinji, former Director General NYS appeared before the Committee accompanied by legal counsel, **Ms. Noreen Kidunduh** and submitted as follows under oath;

1. That he was thankful for being given the opportunity to engage in his first public discussion on a matter for which he had been 'vilified and misrepresented through a well-orchestrated organizational plan whose main goal was divert the entire country from the full truth'.
2. He joined government in November 2009 from Coca-Cola Company to join State House as the Comptroller. He then became Tourism Secretary in November 2011 to February 2013, subsequently Secretary for Cooperatives before joining the NYS in May 2014.
3. The Youth Empowerment Agenda that N.Y.S. set out to accomplish was a global best practice that soon had nations coming to Kenya to understudy. Indeed several African countries benchmarked with the programme.
4. He voluntarily stepped aside in November 2015 to allow for independent investigations into the matters of corruption at the NYS. This was after he noticed a scheme to involve him in the scandal, including last minute substitution of suspects to be charged in court.
5. It had been practically impossible for him to provide the requested information relating to the documentation around request for supplementary budget of Kes. 3.5 Billion. He was kept in the dark about matter that was personally championed by then then Cabinet Secretary, Anne Waiguru.
6. In his understanding, the request for the supplementary budget was occasioned by the expansion of the NYS 5 Point Vision roll out through the Youth Empowerment Program, as a result of policy direction and scope of work definition by the Cabinet Secretary herself. The Consulting House of Prof. Mutahi Ngunyi did the CS's bidding.
7. Constant interference by the C.S. made the running of the uniformed service very difficult. Other than the personal manner with which she handled the supplementary budget, she also decreed that procurements above Kes. 2 Million be centrally handled by the Ministry directly. She also personally fired a junior officer at the NYS, a Mr. Kemboi, in total disregard of management at the agency. Moreover, she personally signed call-up notices for new recruits and even defined the modus operandi of the recruitments.
8. Kes. 551M that should have been retained as savings was utilized for operational purposes due to slow exchequer releases. Further, there was no retainer account for the savings for co-operatives

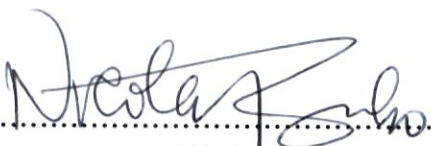

- and disbursement to the individual SACCOs was dependent on their receiving a clearance for training by the Co-operative officials. That notwithstanding, there was a plan to remit to the SACCOs their savings as soon as exchequer release normalized. This was effected in January 2016 when a savings retainer account was opened and the balance settled.
9. On the commitment of KES. 695,400,000 appropriated through the supplementary budget 2014/15 on 20th May 2015, he realized huge amounts had been drawn down in one day. This raised his curiosity because he had knowledge of consumption patterns of the service.
 10. On 21st May 2015 he queried the Heads of I.C.T. and Procurement to give an explanation on the commitments. It was established that they had been committed by Mr. Adan Harakhe, the then AIE holder. Mr. Harakhe however denied committing the funds.
 11. He then directed compliance with the procurement plan provided by the then acting Chief Finance Officer, a copy of which was similar with a hand-written one provided by Ms. Waiguru's personal assistant, a Ms. Betty Maina.
 12. On 25th May 2015, he sanctioned the involvement of Treasury and cyber-crime unit of the DCI, after an analysis of IFMIS print-outs. The then Cabinet Secretary then wrote to the DCI as well. Unbeknown to him, attempts to delete information regarding the questionable transactions were mooted by Mr. Harakhe through communication with IFMIS Director. The matter was currently before court.
 13. He was not privy to the decision to transfer KES. 1,884,018,004.00 to Ministry of Environment, Water & Natural Resources, as this was done in FY 2013/14.
 14. After his AIE status was revoked, he continued to log onto IFMIS to be fully abreast on the salient matters relating to Procurement. In this regard, he maintained a view / read status on IFMIS and resulting from that situation, made enquiries from the System on 10th April 2015, 15th May 2015 and 20th May 2015 to confirm loading of the Supplementary budget. On 15th May 2015, he attempted log-in 11 times because the system kept hanging. He in fact did all these within a matter of three minutes. He did not make any approvals and the IFMIS log could prove this.
 15. The Cabinet Secretary ruled with an iron fist and did not entertain questions. The falling out with Dr. Githinji was probably as a result of his independence. This character trait of the then CS was further reinforced when she gave him a 'tongue lashing' for calling her by her first name, rather than as 'Madam CS'. She also did not take kindly whenever the President directly called the Director General without going through her.
 16. Mr. Adan Harakhe was proposed by Mr. Hassan Noor Hassan with the approval of Ms. Waiguru. This was the ultimate humiliation for Dr. Githinji, especially being in a uniformed service. Mr. Harakhe's ICT proficiency was questionable as he often had people helping him with computer operations, including approval of payments.
 17. Suppliers who the then CS seemed to have had interests in received huge tenders which could not be vouched for, and were paid promptly. These included Bora Global and Alpha Mercantile companies. Ms. Maina, the CS's personal assistant would at times camp at the NYS pushing for payments.
 18. Another company, Out of the Box Solutions also seemed in this league because their details often contradicted. Moreover, the service they provided was not in the budget for the financial year. He witnessed the contract which was signed by the then Principal Secretary and even paid the company after demanding a written approval from the PS.
 19. On the use of supplies branch contracts, the Head of Procurement told him the contracts were not contested. He may have then approved some of them in good faith, including band equipment at Gilgil. They however failed to take them to the Ministerial Tender Committee for ratification.

20. On the use of NYS trucks, he approved their use without the knowledge that there was a third party contractor involved. However, day to day monitors was the job of the head of mechanical section.
21. He signed three or four interdiction letters of some of the uniformed staff who were implicated in the scandal. This automatically followed the public naming of the suspects by Ms. Waiguru.
22. He currently faced charges of repairing his personal vehicle at the RMA. This was however a fabrication of the truth because the invoice presented had a different engine and chassis number from his. In fact, his car was driven in and out of the garage to fit into this narrative. His 2nd court charge was 'tampering' with Mr. Harakhe; allegedly stopping him from whistle blowing.

The witness requested for a camera session with the Committee after one week, to enable him table evidence of certain companies linked with certain persons at the Ministry. The Committee acceded to this request and scheduled a camera session for Thursday 6th October, 2016 at 10.00 am.

MIN No. 1233/2016: ADJOURNMENT

There being no other business, the meeting adjourned at six O'clock in the evening. Next sitting would be held on 28th September, 2016 at 10.00a.m.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDRED AND NINETEENTH (319TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON WEDNESDAY 28TH SEPTEMBER, 2016 AT 10.00A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. David Eseli, M.P.
4. Hon. KaniniKega, M.P.
5. Hon. Andrew Mwadime, M.P.
6. Hon. Joseph Manje, M.P.
7. Hon. Timothy Bosire, M.P.
8. Hon. KarekeMbiuki, M.P.
9. Hon. Alice NyanchokaChae, M.P.
10. Hon. SakwaBunyasi, M.P.
11. Hon. Abdikadir Aden, M.P.
12. Hon. (Capt.) Clement Wambugu, M.P.

APOLOGIES

1. Hon. Julius Melly, M.P.
2. Hon. Joel Onyancha, M.P.
3. Hon. FathiaMahbub, M.P.
4. Hon. Charles GeniMong'are, M.P.
5. Hon. Arthur Odera, M.P.
6. Hon. John Mbadi, M.P.
7. Hon. Silvance Onyango Osele, M.P.
8. Hon. KyengoKatathaMaweu, M.P.
9. Hon. Stephen Manoti, M.P.
10. Hon. Kangogo Bowen, M.P.
11. Hon. Manson Nyamweya, M.P.
12. Hon. Gonzi Rai, M.P.
13. Hon. Jessica Mbalu, M.P.
14. Hon. Junet Sheikh Nuh, M.P.
15. Hon. Mathias Robi, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Victor Weke - Clerk Assistant II
3. Ms. Chelagat Tungo - Clerk Assistant II
4. Ms. Winnie Kulei - Researcher
5. Mr. Collins Mahamba - Audio Recorder

OFFICE OF THE AUDITOR GENERAL

Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

MIN No. 1234/2016: PRELIMINARIES

The Chairman called the meeting to order at thirtyminutes past ten O'clock in the morning and said a prayer. All present introduced themselves.

MIN No. 1235/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1236/2016: SUBMISSION OF INFORMATION BY MR. ADAN HARAKHE, FORMER SENIOR DEPUTY DIRECTOR GENERAL, NATIONAL YOUTH SERVICE

Mr. Adan Harakhe, the Senior Deputy Director General NYS (on interdiction) appeared before the Committee and submitted as follows;

1. He was born in 1967 in Wajir North and holds a Masters and Bachelor's degree in Arts (Educ.) from Washington International University, by correspondence. The certificates were duly accepted and authenticated by the Ministry of Education. He was also computer literate as he had attended computer classes for four weeks.
2. After completing basic training from Igoje Teachers College as a P1 teacher in 1989, he taught for two years before becoming an assistant secretary/ District Officer Cadet; rising through the ranks to District Commissioner II in 2007. He was then transferred to the Ministry of Interior and Coordination of National Government and subsequently to the Ministry of Devolution and Planning.
3. On 27th November, 2014 he was seconded to the NYS as a Senior Deputy Director General, in charge of all administrative support, including finance, procurement and human resources. This was as a result of the then re-organization of the NYS, in spite of the position not existing in the scheme of service. The Secretary to the Public Service Commission later created the position.
4. The then Principal Secretary Planning appointed him the AIE holder vide a letter dated 19th February 2015. He was thereafter defined in the IFMIS system for this purpose. On 2nd March, 2015, Dr. Githinji refused to hand over the AIE role because he had received two conflicting letters with the same reference number; one appointing Mr. Harakhe as AIE holder and another as alternate AIE holder Mr. Harakhe then visited PS Mangiti to consult on the matter and was told that the letter appointing him alternate AIE holder had now been withdrawn, leaving him as the substantive AIE holder.
5. He was not informed of the utilization of Kes. 551,750,000 cohort savings and he was not an account signatory. He however realised that this account was opened without Treasury approval and that some cohorts had been overpaid. Dr. Githinji however told him to keep off the matter.

6. After the loading of the Kes. 3.5 Billion supplementary budget, he noted that the component of infrastructure and civil works of Kes. 2 Billion had reduced by Kes. 828,600,000.00 before the procurement plan had been loaded. He asked the Head of Supply Chain, Mr. Pilisi to ensure reversals of the commitments in vain.
7. It was then that he informed Dr. Githinji, Eng. Mangiti and Ms. Waiguru of the commitments that were not done by him. The Cabinet Secretary asked him to report the matter to the Directorate of Criminal Investigations which he did.
8. He then established that commitments worth Kes. 133,200,000.00 had been done by a Ms. Regina Nyambura Muigai as the requester and approved by Mr. Wachenje, the Chief Finance Officer and the alternate AIE holder. Ms. Muigai requested another Kes. 695,400,000.00 and the system showed Mr. Harakhe had approved. He was not aware and thus sensed his password had been hacked.
9. When engaging DCI investigators, Dr. Githinji and PS Mangiti reprimanded him for involving the investigators before internal mechanisms had been exhausted.
10. PS Mangiti then introduced him to a Mr. Ben Gethi who purported to be an agent of Mr. Henry Rotich, CS Treasury. Mr. Gethi promised to sort out the issue and take care of Mr. Harakhe. Mr. Harakhe declined the offer.
11. He then visited Director IFMIS, Mr. Jerome Ochieng, seeking assistance for de-commitment of the transactions. Mr. Ochieng told him he was creating unnecessary confusion but nonetheless assigned an officer to assist him. The system could however only accept reversals from the original requester, Ms. Regina Muigai, who was uncooperative, or the approver.
12. He then wrote to CS Waiguru requesting intervention. It was then that the CS wrote to the DCI on 5th June, 2015 requesting investigations.
13. Mr. Mugwanja headed the DCI investigations team and told him IFMIS staff were uncooperative. Mr. Harakhe went there and was told by a staffer, a Mr. Kyalo, that he was making unnecessary complaints that he could not prove. The same staffer called him aside and asked him to collude with the DCI officers to 'cook something'. Mr. Harakhe refused.
14. On 14th June 2016, PS Mangiti called him at 6pm and asked for a meeting at Nakumatt Junction. The former PS threatened to fix him should he not cooperate. The next day in his office, the PS asked him to decommit Kes. 200 Million and misadvise Ms. Waiguru that he had decommitted the entire Kes. 695,400,000.00. Mr. Harakhe refused.
15. On the night of 17th June, 2015, Ms. Waiguru called and instructed PS Mangiti to meet Mr. Harakhe the following morning at Treasury and decommit all the disputed transactions. The following day they managed to do the reversals.
16. Mr. Mugwanja later told him that the Director General, Dr. Githinji and PS Mangiti were interested parties in the attempted theft. In fact, Kes. 133,200,000.00 of the attempted theft was established to have been meant for companies associated with Dr. Githinji, through his in-laws. The companies included Celebrity Foods and Sakoji Ltd. These same companies had initially benefited from part of the Kes. 791,385,000.00 irregularly paid earlier.
17. On the construction of dams to the tune of Kes. 1,884,018,004.00 by the Ministry of Environment, he was unaware since it was done before his arrival at NYS.
18. The AIE no. 757439 of Kes. 70 Million to Gilgil College was also done before his arrival at the NYS. He however established that the current PS Youth Affairs had satisfactorily responded to the query.
19. The Consulting House was directly procured by the Ministerial Tender Committee on 4th March, 2014 to provide urgent consultancy service for a cost of Kes. 40 Million. The MTC subsequently approved direct award of implementation of the 5-point plan to the same consultant on

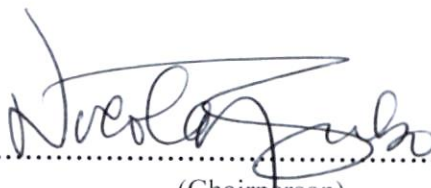

- 6th October, 2014. The overpayment of Kes. 12.5 Million was approved by the Director Finance using a copy of invoice, without following due process involving lost invoices.
20. On construction of the 3.5 kilometre road in Kibera, NYS was using three quarries in Rongai, Kiserian and Njiru. The arrangement was that the owners of the quarries would be paid a unit figure of Kes. 1000 while loaders would be paid Kes. 2000. NYS however had excavators and the subsequent payment of Kes. 791,385,000.00 was fictitious.

MIN No. 1237/2016: SUBMISSION OF INFORMATION BY BUSINESSMAN MR. BEN GETHI

The Committee resolved that due to the limited time available, Mr. Gethi provide his testimony on Tuesday 4th October, 2016 at 10.00 a.m.

MIN No. 1238/2016: ADJOURNMENT

There being no other business, the meeting adjourned at thirty minutes past five O'clock in the evening. Next sitting would be held on 29th September, 2016 at 10.00 a.m.

Signed.....  Date..... 

(Chairperson)

MINUTES OF THE THREE HUNDRED AND TWENTIETH (320TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY 29TH SEPTEMBER, 2016 AT 10.00A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. David Eseli, M.P.
4. Hon. KaniniKega, M.P.
5. Hon. Andrew Mwadime, M.P.
6. Hon. KarekeMbiuki, M.P.
7. Hon. KyengoKatathaMaweu, M.P.
8. Hon. Silvanice Onyango Osele, M.P.
9. Hon. FathiaMahbub, M.P.
10. Hon. Charles Mong'areGeni, M.P.
11. Hon. Abdikadir Aden, M.P.

APOLOGIES

1. Hon. Joseph Manje, M.P.
2. Hon. Julius Melly, M.P.
3. Hon. SakwaBunyasi, M.P.
4. Hon. (Capt.) Clement Wambugu, M.P.
5. Hon. Alice NyanchokaChae, M.P.
6. Hon. Timothy Bosire, M.P.
7. Hon. Joel Onyancha, M.P.
8. Hon. Arthur Odera, M.P.
9. Hon. John Mbadi, M.P.
10. Hon. Stephen Manoti, M.P.
11. Hon. Kangogo Bowen, M.P.
12. Hon. Manson Nyamweya, M.P.
13. Hon. Gonzi Rai, M.P.
14. Hon. Jessica Mbalu, M.P.
15. Hon. Junet Sheikh Nuh, M.P.
16. Hon. Mathias Robi, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Victor Weke - Clerk Assistant II
3. Ms. Chelagat Tungo - Clerk Assistant II
4. Ms. Winnie Kulei - Researcher
5. Mr. Collins Mahamba - Audio Recorder

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

EACC

1. Mr. Halakhe D. Waqo - Chief Executive Officer
2. Mr. David K. Too
3. Mr. Abdi Mohamed
4. Mr. David Kaboro
5. Mr. Yassin Aila
6. Mr. PischalMweu

MIN No. 1239/2016: PRELIMINARIES

The Chairman called the meeting to order at twentyminutes past ten O'clock in the morning and said a prayer.All present introduced themselves.

MIN No. 1240/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1241/2016:SUBMISSION OF INFORMATION BY MR. HALAKHE WAQO, CEO, ETHICS AND ANTI-CORRUPTION COMMISSION

Mr. Halakhe Waqo, CEO EACCappeared before the Committee accompanied by his officers and submitted as follows;

1. He was thankful for the invitation to appear before the Committee to shed more light on status of the investigations into the NYS scandal. This was especially because the amount of loss had run past Kes. 1.8 Billion currently, far more than what the public believed to be about Kes. 791 Million. Further, new information keeps emerging in the course of investigations. However, he would be reserved in his presentation of details of the status of investigations because of their sensitive nature and the desire not to jeopardize progress.
2. The EACC was currently pursuing 8 active cases on the NYS each with different level of completion as below;
 - Procurement irregularities in the award of contract to Blue Star Enterprises at Kshs. 47,600,000. The file was withthe DPP and the funds frozen.
 - Embezzlement of Kshs. 147,829,315and breach of procurement procedures during the establishment of National Youth Service Camps at Mukuru Kwa Njenga, Kiandutu (Thika) and Korogocho.Investigations were ongoing.
 - Service and maintenance of the Director General's private vehicle in June 2014 at a cost Kshs. 497,335.Case was in court.
 - Irregular procurement of accommodation and conference facilities amounting to Kshs. 4,476,000. Thefile had been returned by DPP for further investigations.

- Irregular procurement of consultancy services for user support services and sensitization campaigns to Out of Box Solutions Ltd and Round Trip Ltd at Kshs. 302,458,960. Investigations were at the tail end.
 - Theft of Kshs. 791,385,000 in the financial year 2014/2015 meant for civil works and other infrastructure; including the allegations of bribery and impropriety against former and current NYS Officials and other persons including the former Cabinet Secretary Ann Waiguru named in the affidavit of Ms. Josephine Kabura. Investigations undertaken by DCI and various persons had been charged in court. Some of the assets acquired through proceeds had been identified, traced and frozen. EACC had also conducted further investigations into corruption related offences as directed by the DPP, and the investigations were at the tail end.
 - Suspected fraud and corruption involving directors of Kenirie Ltd. for a payment of Kshs. 88,948,275.85 where the company was awarded a contract to supply Injector Pump Calibration and Jig drilling Machines. Investigations were on-going and the amount of Kshs. 88,948,275.85 preserved.
 - Irregular Tender awarded to M/s. Ritsem, M/s. Beatrom Investments and M/s. Sigi Holdings Ltd. for supply of Swing Fogs, Knapsack Sprayers and Fogging Materials at a cost of Kshs. 133.2 million. Investigations were on-going.
3. The EACC had also commenced the following 5 investigations based on emergent allegations touching on the NYS;
- Inquiry into allegations that five Companies namely Maanti Logistics, Carrotexx Enterprise, Jupecar Garments, Sallijow Enterprise, Lantex Enterprise and Pejows Agencies received Kshs. 29,937,388.65 for the payments of goods that had been allegedly supplied to the National Youth Service.
 - Inquiry into allegations of tax evasion amounting to Ksh. 69 Million by Josephine Kabura, Benson Gethi and Horizon Limited.
 - Alleged procurement irregularities and overpayment in the supply of shaping of cylindrical grinders by M/S LizzolChem Company Ltd to NYS, in the sum of Kshs. 97.7 million.
 - Inquiry into circumstances surrounding the alleged supply of 2,000 firefighting equipment by International Partnerships East Africa Limited at a cost of Kshs. 75 Million.
 - Inquiry into allegations that Tender No. INCDF/RT/062/2013-2014 was irregularly awarded to Kimendi Investments Company leading to embezzlement of Kshs. 378,625,000 for construction of three dams and four water pans in Igembe North constituency.
4. Various property believed to have been acquired from proceeds of the crimes listed above had been identified and frozen/ preserved by the High Court pending conclusion of the cases. They include top of the range vehicles, land, houses and cash held in bank accounts. These property amounts to Kes. 406,458,240.75.
5. Further, the Commission was pursuing a trail of funds amounting to Kes. 64,800,000.00 also believed to be proceeds of the above crimes.
6. Investigations on the allegations that the former Chairman Mr. Philip Kinisu had done business with the NYS were being conducted by a multi-agency team comprising the EACC, Directorate of Criminal Investigations, Kenya Revenue Authority, Asset Recovery Agency and Office of the Director of Public Prosecutions. This was to avoid possible conflict of interest by the EACC.
7. Mr. Kinisu was found to be associated with Esaki Limited, a company that supplied various items to the NYS totalling Kes. 54,389,809.00. Out of this, an amount of Kes. 2,928,181.00 had been paid during Mr. Kinisu's tenure at the EACC, on 6th June 2016. This was an obvious conflict of interest considering he did not declare as such, despite daily conversations on the NYS at the Commission.

8. The Commission was pursuing more leads and individuals and would make findings public at appropriate times. Several individuals including Mr. Mugwanja of the DCI and members of the Ministry's Ministerial Tender Committee had recorded statements.
9. IFMIS as a system had its own challenges ranging from its own competence to the capacity of its users. The matter required a broad discussion. The EACC was however preparing a systems audit to establish potential loopholes and risks, and areas of improvement. On the allegations of password hacking, they had not received any other report.
10. From their statistics, EACC had moved miles in pursuit of its mandate. Pre-emptive measures had especially saved the country from loss of billions of shillings. They had secured 166 convictions in the last four years with over 500 cases pending in court. The Commission had scaled up presence in counties to over 10, with officers stationed in Huduma Centres. They have over 600 staff and they continue to build capacity.
11. The EACC had not been held captive by any external force and was operating independently. Perception was however influenced by impostors who sought to extort money from public officers. They had arrested 40 such impostors in the last year alone.
12. The Commission submitted a systems review audit to Ms. Anne Waiguru, the former Cabinet Secretary, as she was the authority that requested for it. This report was not in the nature of a criminal investigation, but to identify potential loopholes. The same had been done to other institutions including Parliament, Ministry of Lands and Immigration.
13. He clarified that the Commission only clears individuals as per the status of information they have at any given time.
14. Emerging jurisprudence like courts barring investigators from accessing bank accounts among others posed a challenge to the Commission. The country also required legislation on mobile banking, an emerging avenue for corruption.

MIN No. 1242/2016: ADJOURNMENT

There being no other business, the meeting adjourned at one O'clock in the afternoon. Next sitting would be held at 2.30 p.m.

Signed.....
(Chairperson)

Date.....

28.2.2017

MINUTES OF THE THREE HUNDRED AND TWENTY FIRST (321ST) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY 29TH SEPTEMBER, 2016 AT 2.30P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. David Eseli, M.P.
4. Hon. KaniniKega, M.P.
5. Hon. Andrew Mwadime, M.P.
6. Hon. KarekeMbiuki, M.P.
7. Hon. FathiaMahbub, M.P.
8. Hon. Mathias Robi, M.P.
9. Hon. Manson Nyamweya, M.P.
10. Hon. SakwaBunyasi, M.P.
11. Hon. Abdikadir Aden, M.P.

APOLOGIES

1. Hon. KyengoKatathaMaweu, M.P.
2. Hon. Charles Mong'areGeni, M.P.
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4. Hon. Joseph Manje, M.P.
5. Hon. Julius Melly, M.P.
6. Hon. (Capt.) Clement Wambugu, M.P.
7. Hon. Alice NyanchokaChae, M.P.
8. Hon. Timothy Bosire, M.P.
9. Hon. Joel Onyancha, M.P.
10. Hon. Arthur Odera, M.P.
11. Hon. John Mbadi, M.P.
12. Hon. Stephen Manoti, M.P.
13. Hon. Kangogo Bowen, M.P.
14. Hon. Gonzi Rai, M.P.
15. Hon. Jessica Mbalu, M.P.
16. Hon. Junet Sheikh Nuh, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Victor Weke - Clerk Assistant II
3. Ms. Winnie Kulei - Researcher
4. Mr. Collins Mahamba - Audio Recorder

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

KENYA COMMERCIAL BANK

1. Mr. Joshua Oigara - Chief Executive Officer
2. Mr. Joseph Kanja - Group Company Secretary
3. Mr. Peter Kathanga - Ag. Director, Corporate Banking
4. Mr. Dennis Olola - Corporate Relationship Manager

SIDIAN BANK

1. Mr. Titus Karanja - Chief Executive Officer
2. Ms. Daisy Ajima - Company Secretary

MIN No. 1243/2016: PRELIMINARIES

The Chairman called the meeting to order at three O'clock in the afternoon. All present introduced themselves.

MIN No. 1244/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1245/2016: SUBMISSION OF INFORMATION BY MR. JOSHUA OIGARA, CEO, KENYA COMMERCIAL BANK

Mr. Joshua Oigara, CEO KCB submitted as follows;

1. The bank holds several government accounts to the tune of 140.
2. Its first account for the NYS was opened in 2011 and the number currently stood at 3. These were the following:
 - NYS Mechanical & Transport Fund account no. 1128674548 opened on 5th July 2011
 - NYS Huduma Cohorts Payment account no. 1178056929 opened on 19th January 2016
 - NYS Huduma Cohorts Sacco Deductions account no. 1178058158
3. The accounts had four signatories each as introduced by the agency.
4. All three accounts had requisite account opening authority, including Treasury approval, Letter from the parent Ministry and Letter from the Agency, save for the first account opened in 2011 before the Public Finance Management Act 2012, that lacked evidence of Treasury's approval.
5. The accounts received funds transfer through RTGS with instructions coming at various times on payments to be made.
6. The bank had no known account by companies or individuals linked with the NYS scandal. They will however cross-check their records.

MIN No. 1246/2016: SUBMISSION OF INFORMATION BY MR. TITUS KARANJA, CEO, SIDIAN BANK

Mr. Titus Karanja, CEO Sidian Bank appeared separately and submitted as follows;

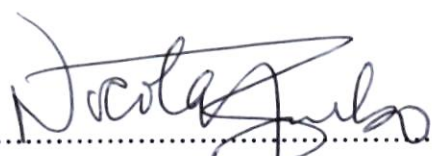

1. In April, 2016, the bank's regulator, Central Bank of Kenya (CBK) conducted a targeted inspection of Sidian Bank to determine the bank's compliance with the following;
 - Proceeds of Crime And Anti-Money Laundering Act (2009)
 - Proceeds of Crime And Anti-Money Laundering Regulations (2013)
 - Prevention of Terrorism Act (2012)
 - Prevention of Terrorism (Implementation of The United Nations Security Council Resolutions on Suppression of Terrorism) Regulations (2013)
 - Central Bank of Kenya Prudential Guideline on Anti-Money Laundering and Combating The Financing of Terrorism (CBK/PG/08)

2. The CBK established the following;
 - The board and management of the bank had not undertaken regular training on Anti-money laundering issues;
 - Internal reporting on suspicious transactions were done to the CEO rather than directly to the Financial Reporting Centre;
 - Job descriptions of all staff did not make specific mention to Anti-money laundering issues;
 - The Anti-money laundering process of the bank was not automated;
 - New products and technology employed by the bank did not adhere to Anti-money laundering regulations.

3. As a result, the CBK levied a fine of Kes. 1 Million to the bank even as it addressed the issues.
4. The targeted inspection did not however establish any relationship with the NYS or Ministry of Devolution and Planning.
5. The bank had checked its records and established that they had no accounts and/or transactions relating to any individual or company mentioned in the Auditor General's special audit report.

MIN No. 1247/2016: ADJOURNMENT

There being no other business, the meeting adjourned at five O'clock in the evening. Next sitting would be held on 3rd October, 2016 at 2.30p.m.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDREDTH AND TWENTY SECOND (322ND) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON MONDAY, 3RD OCTOBER, 2016 AT 3.00P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. FathiaMahbub, M.P.
3. Hon. Arthur Odera, M.P.
4. Hon. KaniniKega, M.P.
5. Hon. Timothy Bosire, M.P.
6. Hon. David Eseli, M.P.
7. Hon. Alice NyanchokaChae, M.P.
8. Hon. Abdikadir Aden, M.P.
9. Hon. John Mbadi, M.P.
10. Hon. KarekeMbiuki, M.P.
11. Hon. Manson Nyamweya, M.P.
12. Hon. Andrew Mwadime, M.P.

APOLOGIES

1. Hon. Jackson K. Rop, M.P. - Vice- Chairman
2. Hon. GonziRai, M.P.
3. Hon. SakwaBunyasi, M.P.
4. Hon. KyengoKatathaMaweu, M.P.
5. Hon. Joel Onyancha, M.P.
6. Hon. Julius Melly, M.P.
7. Hon. Joseph Manje, M.P.
8. Hon. Mathias Robi, M.P.
9. Hon. (Capt.) Clement Wambugu, M.P.
10. Hon. Charles GeniMong'are, M.P.
11. Hon. Jessica Mbalu, M.P.
12. Hon. Kangogo Bowen, M.P.
13. Hon. Junet Sheikh Nuh, M.P.
14. Hon. Stephen Manoti, M.P.
15. Hon. SilvanceOnyangoOsele, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Ms. Tungo Aaron - Clerk Assistant II
3. Ms. Winnie Kulei - Research Officer
4. Ms. Catherine Burure - Fiscal Analyst
5. Mr. Collins Mahamba - Audio Recorder
6. Mr. Saidi Wako - Serjeant at Arms

OFFICE OF THE AUDITOR GENERAL

1. Mr. Andy Waichigo - Deputy Director, Forensic Audit
2. Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

FAULU MICRO- FINANCE KENYA

1. Mr. Raphael Lekool - Head Risks and Compliance
2. Mr. Onesmus Thindi - Risk and Compliance Manager
3. Mr. Amos Mwangi - General Manager, Business Development
4. Mr. Robert Ndwiga - Lead Communications.

MIN No. 1249/2016: PRELIMINARIES

The Chairman called the meeting to order at ten minutes past three O'clock in the afternoon and said a prayer. All present introduced themselves.

MIN No. 1250/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1251/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. CHARLES NJUGUNA, MANAGING DIRECTOR FAULU MICRO FINANCE BANK LIMITED

Mr. Charles Njuguna appeared before the Committee and submitted the following:

1. That Faulu Bank confirms that in February, 2015, the Bank's regulator, Central Bank of Kenya conducted an inspection under section 35 of the Microfinance Act which provides that "The Central Bank may at any time, and shall, if so directed by the Minister, cause an inspection of an institution and its agencies to be made by any person authorized by the Central Bank in writing" and Section 36 of the Proceeds of Crime and Anti-Money Laundering Act (2009).
2. The general findings of the report, in relation to the Bank's compliance to Anti-Money Laundering regulation included the following:
 - i. Need to automate the AML processes to enhance monitoring and reporting
 - ii. Enhance Board oversight on AML issues
 - iii. Update job descriptions for all staff to incorporate AML responsibilities
 - iv. Enhance AML Risk Assessment for new products
 - v. Reliance on this party information to be supported by service level agreements

As a result of the above issues raised by CBK, the Bank was fined Kshs.1 Million.

3. The MD confirmed to the Committee that the Bank conclusively responded and reiterated its commitment to adhere to the AML legislations. All the issues raised by the Central Bank of Kenya had since been addressed with the exception of automation of the Bank's AML monitoring process which was currently ongoing.
4. From the foregoing, they confirmed that Faulu Microfinance Bank Ltd did not, in the period under reference, receive any funds from NYS or the Ministry of Devolution and Planning, in connection with the special audit report by the Auditor-General. To the best of their knowledge, the fine had no connection to dealings to NYS or the Ministry of Planning and Devolution.

5. That the bank did not receive any funds from NYS/Ministry of Devolution, in connection with the special audit report by the Auditor General. In conducting its customer due diligence, the bank complied with regulations on anti-Money Laundering and Combating the financing of terrorism.
6. He further informed the meeting that the bank did not receive funds from the NYS and therefore no disciplinary action had been taken relating to this matter.

The witness requested for the second session to be held in camera since information they were to table was confidential as protected by the CBK Prudential Guidelines. The Committee accepted the request after determining the information to be tabled was not in the public domain and touched on several clients of the bank.

(Information submitted is available in the National Assembly Clerk's office on request)

MIN No. 1252/2016: ADJOURNMENT

There being no other business, the meeting adjourned at ten minutes to seven o'clock in the evening. Next sitting would be held on 4th October, 2016 at 11.00 am.

Signed.....



(Chairperson)

Date.....

28.2.2017

MINUTES OF THE THREE HUNDREDTH AND TWENTY THIRD (323RD) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 4TH OCTOBER, 2016 AT 11.00A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahbub, M.P.
4. Hon. Arthur Odera, M.P.
5. Hon. Joseph Manje, M.P.
6. Hon. GonziRai, M.P.
7. Hon. KaniniKega, M.P.
8. Hon. Timothy Bosire, M.P.
9. Hon. David Eseli, M.P.
10. Hon. Alice NyanchokaChae, M.P.
11. Hon. SakwaBunyasi, M.P.
12. Hon. Abdikadir Aden, M.P.
13. Hon. John Mbadi, M.P.
14. Hon. KarekeMbiuki, M.P.
15. Hon. Mathias Robi, M.P.
16. Hon. Joel Onyancha, M.P.
17. Hon. KyengoKatathaMaweu, M.P.
18. Hon. Julius Melly, M.P

APOLOGIES

1. Hon. (Capt.) Clement Wambugu, M.P.
2. Hon. Charles GeniMong'are, M.P.
3. Hon. Jessica Mbalu, M.P.
4. Hon. Kangogo Bowen, M.P.
5. Hon. Andrew Mwadime, M.P.
6. Hon. Manson Nyamweya, M.P.
7. Hon. Junet Sheikh Nuh, M.P.
8. Hon. Stephen Manoti, M.P.
9. Hon. SilvaniceOnyangoOsele, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Ms. Tungo Aaron - Clerk Assistant II
3. Ms. Winnie Kulei - Research Officer
4. Ms. Catherine Burure - Fiscal Analyst
5. Mr. Collins Mahamba - Audio Recorder
6. Mr. Saidi Wako - Serjeant at Arms

OFFICE OF THE AUDITOR GENERAL

1. Mr. Andy Waichigo - Deputy Director, Forensic Audit
2. Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

MIN No. 1253/2016: PRELIMINARIES

The Chairman called the meeting to order at eleven O'clock in the morning and said a prayer. All present introduced themselves.

MIN No. 1254/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1255/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. BENSON GETHI WANGUI

Mr. Benson Gethi Wangui appeared before the Committee and submitted the following:

1. He has been a contractor at NYS for the last five years.
2. He disputes the portrayal of his person mischievously portrayed to the effect that he became a supplier at NYS during the Tenure of CS Waiguru, PS Mangiti and DG Nelson Githinji
3. Horizon Limited was contracted for oil and lubricant supplies by NYS back in 2014 for an initial period of two years at the end of which it was renewed on account of good service provided.
4. His second company, Ratego Technologies was contracted to supply food commodities.
5. None of his personal or company's accounts had been frozen.
6. Documents in court showed that the alleged stolen funds were lost in the Kibera project civil infrastructure funds and paid to known companies with specific period of time. Neither he nor his companies were involved in the said project.
7. On 20th July 2015, his involvement in the NYS saga began when he was arrested by four CID officers and taken to Marshals building along Harambee Avenue
8. He was asked to record a statement which he declined to record without contacting his lawyer. When he got an opportunity he contacted his law firm, Sing'oei, Murkomen and Sigei Advocates through sms. Advocate Hillary arrived in the cells and they both went to Officer Kamilu's office to record a statement on Horizon Limited. He was then taken back to the cells and later on transferred to Kileleshwa Police Station.
9. On 21st July, 2015 he was arraigned before the Chief Magistrates' Court at Milimani together with Josephine Kabura to take plea of charge which he claims he was not aware of. They however did not take the plea because the DPP had not been involved and investigation files had not been availed


10. They were driven back to BFID offices where they were locked up in the cells. Mr. Gethi's Advocate Hillary requested for his release and went further to complained as to why he was charged on a matter he was not informed or questioned. (he further stated that to date BFID have never questioned him in relation to 791 million or other funds) Officer Kimilu informed them that those were matters being handled by senior government officials and that he had forwarded Mr. Gethi's release request to Mr. Mugwanja and was waiting for his directions. He was later released on a free bond and given a date he was to report to him.
11. He confirmed to the Committee that accompanied by his advocate, he reported before him without fail on several occasions but nothing happened other than extending the bond he had earlier issued to him.
12. After perusal of the two affidavits filed by Josephine Kabura and Ann Waiguru, he informed the meeting that there was nowhere the two affidavits addressed the case at hand but focused on the relationship between the two ladies and third parties.
13. That his business at NYS was confined to Horizon Ltd supply of fuel to NYS. That was clear from the log of payments against goods and services delivered. Imputing that he applied undue pressure to get dues owes to it by NYS was a flagrant misrepresentation of facts.
14. He also informed the committee that documents table in court showed that Ms. Kaburawas the sole owner of companies which were beneficiary of alleged 791 million shillings. That he first met Kabura on 20th July 2015 at Marshals Building on 5th floor. They had never interacted before officially or non-officially and came to know her name after receiving the charge sheet on 21st July 2015.
15. He further noted from an affidavit that Ms. Ann Waiguru referred to memos written to her from Harakhe when both were officially in office. Attached were only copies of letters from Harakhe to her.
16. He stated that it was clear that CS Waiguru received regular briefings and step by step reports from BFID on the ongoing investigations which disclosed a lot of privileged information availing to her third party facts in the ongoing investigations. That she also stated under oath that she personally pushed the DCI to conclude investigations
17. That deduces that Ms. Ann Waiguru was interfering with investigations and her stating the same shows a biased opinion meant to sway decisions on the purported fraud and theft of Kshs.791 million.
18. That there were numerous media publications on the NYS saga-quoting source as Mr. Mugwanja's investigation reports on alleged lost funds. These publications painted him as a mastermind and main beneficiary of the alleged lost funds which was a false statement in it's entirety.
19. Further, he noted that Mr. Harakhe was actively vouching for another Somali-owned firm by name Dakawoo to get majority oil supply allocation to NYS. That all through, contrary to impressions created by Adan Harakhe who the Auditor-General had cited as one of the key parties in the Kshs.791 million saga, Mr. Gethi had never met the Director of Criminal Investigations (DCI) Mr. Muhoro.
20. That Mr. Harakhe in his letter documented that on 26th May 2015 he had succumbed to pressure from both his senior, PS Mangiti and DG Githinji where he had acted by calling the CID. That Mr. Harakhe further indicated that on 27th May 2015 he went to PS's office at 7.00 am where he was promised a promotion.
21. He informed the meeting that on 27th May 2015 at 10.46 am four hours later Mr. Harakhe called him twice for their first meeting. In his letters on the said Nakumatt meeting, Mr. Adan had documented that he met Mr. Gethi seated with PS which he disputed siting staff statement, CCTV footage and phone movement proving otherwise. In the said meeting Mr. Harakhe also talked of agreement with him and PS amounting to 200 m which Mr. Gethi says did not involve him.
22. That he did not understand how his name was roped into the Kshs.791m saga, monies that Mr. Harakhe confirmed to have successfully reversed.
23. That their meeting with Mr. Harakhe was short and its subject matter covered fuel payments.
24. He also informed the Committee that Mr. Mugwanja was heading a reactive investigation which had pressure to obtain quick results and had attended meetings at Ms. Waiguru's office. He further stated

- that Mr. Mugwanja's investigations were led by the suspects, and not by the evidence, he involved Ms. Waiguru in the case screening stage which was part of the follow-up investigation
25. That due to public interest and huge amounts involved the case was complex and required dynamic investigations but Mr. Mugwanja only engaged one officer corporal Sautet Matipei. Sautet was involved on all steps up to the point of swearing affidavits on assets freezing. That Mr. Sautet's main work was to hunt and link transactions that occurred differently based on similarities and proximity.
 26. That Mr. Mugwanja's investigation report had been relied on by the DPP to prefer charges on Mr. Gethi and also relied on by Madam Muthoni Kimani of Asset Recovery Agency (ARA) to link properties owned by Gethi's family and label them proceeds of crime.
 27. That Mr. Gethi's Advocate perused all documents and statements tabled in court by BFID on the NYS case that did not reveal the remotest connection to charges preferred against him. That ARA also relied on Mr. Mugwanja's report and tabled financial analyses authored by Officer Sautet Matapei. That the documents were fashioned to implicate Mr. Gethi and criminalize various properties as acquisitions from funds stolen from NYS.
 28. He also informed the meeting that he had never sent anyone to credit funds in Farouk Kibet personal account. The allegations originated from the investigators and to date no evidence had been brought to that effect.
 29. He confirmed to the Committee that he was doing business with NYS since in the financial year 2013/2014. Contract was awarded to Horizon Limited in November 2013.
 30. When asked by the Committee about the relationship between himself and Mr. John Kago, he informed the meeting that Mr. Kago was an agent, buying property and vehicles. That he bought property for Mrs. Charity Wangoi who was Ben Gethi's mum. Mr. Kago was not a business partner but he provided fund through Horizon Ltd to support family business.

The Committee observed that the witness was evading questions asked by members. He however requested to be granted another opportunity to be heard in Camera so as to present further information that could be helpful to the Committee in its investigation. The Committee considered Mr. Gethi's request and directed that a meeting be scheduled for Tuesday, 11th October, 2016 at 10.00 a.m.

MIN No. 1256/2016: ADJOURNMENT

There being no other business, the meeting adjourned at half past two O'clock in the afternoon. Next sitting would be held same day at 3.00 pm.

Signed.......... Date 28.2.2017
(Chairperson)

MINUTES OF THE THREE HUNDREDTH AND TWENTY FOURTH (324TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 4TH OCTOBER, 2016 AT 3.30P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahabub, M.P.
4. Hon. KaniniKega, M.P.
5. Hon. Timothy Bosire, M.P.
6. Hon. Alice NyanchokaChae, M.P.
7. Hon. SakwaBunyasi, M.P.
8. Hon. Abdikadir Aden, M.P.
9. Hon. John Mbadi, M.P.
10. Hon. KarekeMbiuki, M.P.
11. Hon. KyengoKatathaMaweu, M.P.
12. Hon. Julius Melly, M.P.
13. Hon. Manson Nyamweya, M.P.
14. Hon. Andrew Mwadime, M.P.

APOLOGIES

1. Hon. (Capt.) Clement Wambugu, M.P.
2. Hon. Mathias Robi, M.P.
3. Hon. Joseph Manje, M.P.
4. Hon. Joel Onyancha, M.P.
5. Hon. Arthur Odera, M.P.
6. Hon. David Eseli, M.P.
7. Hon. Charles GeniMong'are, M.P.
8. Hon. GonziRai, M.P.
9. Hon. Jessica Mbalu, M.P.
10. Hon. Kangogo Bowen, M.P.
11. Hon. Junet Sheikh Nuh, M.P.
12. Hon. Stephen Manoti, M.P.
13. Hon. SilvanceOnyangoOsele, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Ms. Tungo Aaron - Clerk Assistant II
3. Ms. Winnie Kulei - Research Officer
4. Ms. Catherine Burure - Fiscal Analyst
5. Mr. Collins Mahamba - Audio Recorder
6. Mr. Saidi Wako - Serjeant at Arms

OFFICE OF THE AUDITOR GENERAL

1. Mr. Andy Waichigo - Deputy Director, Forensic Audit
2. Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

- Rev. Kimathi Kwiriga - Accountant

PUBLIC SERVICE COMMISSION

1. Mr. Joseph Onyango - Director
2. Mr. P.M.H. Maina - Director
3. Mr. Remmy N. Mulati - Director
4. Ms. Jacqueline Manani - Chief Commission Counsel

MIN No. 1257/2016: PRELIMINARIES

The Chairman called the meeting to order at half past three O'clock in the afternoon and said a prayer. All present introduced themselves.

MIN No. 1258/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1259/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MRS. ALICE OTWALLA, PUBLIC SERVICE COMMISSION SECRETARY

Mrs. Alice Otwalla appeared before the Committee and submitted the following;

She gave a brief history of Mr. Adan Harakhe since when he joined the PSC as follows.

1. History of appointment and deployment (s) of Mr. Adan Harakhe since he joined the public service to date
 - 1985 - 1992 - Teacher under the Teachers Service Commission
 - 1992 - 1196 - District Officer Cadet, Job Group 'H' (initially appointed on temporary terms and later confirmed in appointment by the Commission)
 - 1996 - 1997 - District Officer III, Job Group 'J'
 - 1997 - 2000 - District Officer II, Job Group 'K'
 - 2000 - 2006 - District Officer I, Job Group 'L'/'M' (upgrading)
 - April - Sept 2007 - Senior District Officer Job Group 'N'
 - 2007 - 2014 - District Commissioner II/Deputy County Commissioner II, Job Group 'P'
 - 2014 - 2015 - Under Secretary, Job Group 'P'

1. That on 3rd July, 2014 the principal Secretary for Interior declared Twenty Four (24) posts in the grade for Deputy Secretary, Job 'Q' for competitive filling. Based on the indents, the posts were advertised on 17th November, 2014 with closure on 8th December 2014. Following interviews, Twenty Nine (29) Officers including Mr. Harakhe were appointed to the grade of Deputy Secretary, Job Group 'Q' on 25th March 2015
2. She further presented a brief history of Mr. Harakhe's deployment in the civil service as follows;

1992 – 1997-District Officer Cadet, Homa Bay District

1997 – 1998-District Officer II, Siaya District

1998 -North Eastern Province (Provincial Commissioner's Officer - Garissa)

1999 -Posted to Wargadud Division, Wajir District

2007 -Posted to Kipkelion District as District Commissioner II

2012 -Posted to Western Province as District Commissioner II/Deputy County Commissioner II, Bungoma East

That in November, 2014 Mr. Harakhe was posted to Ministry of Devolution and Planning as Under Secretary by the Administrator of the Scheme of Service for Administrative Officers. Under delegated powers (Job Group P and below), Administrators of Schemes of Service were empowered to deploy staff in the interest of the Service

3. On history of disciplinary action, on the above named in the public service, she informed the Committee that disciplinary control of officers at Job Group 'P' and below was delegated to authorized officers. However recommendation for dismissal and appeals lied with the Commission. Following the invitation the Officer's personal files were sourced from the Ministry and the under listed instances of disciplinary action against Mr. Harakhe were gathered from the files. The cases were handled and finalized by the Authorized Officer without escalation to the Commission.

1998 -Discontinuation of Administrative Officer's Paramilitary Course on grounds of misconduct and negligence, overstaying at home after being granted an off, consequently he was interdicted:

May, 1998 -Interdiction was lifted

Feb, 1999 -He was arrested and charged in a Court Law for storing petroleum products in premises not authorized and thereby interdicted. He was however acquitted in March, 1999

June, 1999 - Interdiction was lifted;

Oct, 2009 -Issued with a letter for gross misconduct on account of misappropriation of Government funds amounting to Kshs.6,025,000 mean for resettlement of internally Displaced Persons (IDPs) in collusion with the District Accountant;

July, 2010 -Reported to have colluded with illegal loggers and timber dealers thus promoting destruction of Forests after being bribed. Consequently, his salary was stopped. He was however exonerated following investigations on the matter;

Oct, 2014 -Cautionary letter by the County Commissioner, Bungoma for being absent without permission and insubordination; and

Oct, 2015 -Interdicted by the Director General, National Youth Service (NYS) for alleged involvement in misappropriation of public funds. Interim disciplinary measures such as interdiction and suspension are handled under delegated powers. The Commission noted the interdiction.

Mr. Harakhe along with other officers in the National Youth Service were still on interdiction pending further action by relevant institutions.

4. That the Scheme of Service and grading structure for NYS personnel provide for positions of Deputy Director (I) and (II) PG 13/Job Group R, PG 12/Job Group Q respectively. The positions had always

existed. However, on 19th May 2015, the Principal Secretary requested the creation of the post of Senior Deputy Director NYS and appointment of Mr. Adan Gedo Harakhe, P/No. 1989061122 as the Deputy Secretary to the post. On 24th June 2015 the PSC declined the request as the position did not exist in the establishment and grading of structure.

5. Subsequently on 10th July 2015, the Principal Secretary, Planning recommended the establishment of One (1) post of Deputy Director General, Administration and Operations PG/14/Job Group 'S'. This was intended to be additional to the existing position of Deputy Director General, Technical Programmes, PG/14/Job Group 'S' and appointment of Two (2) suitable officers. The Principal Secretary availed a list of Four (4) officers for the Commission to select from:-
- a. Mr. Adan G. Harakhe, P/No. 1989061122, Deputy Secretary (Job Group Q) currently deployed as Deputy To Director General, NYS;
 - b. Ms Claire ChaddahLwali, P/No. 1989077246, Senior Deputy Director NYS, (PG/12/Job Group Q);
 - c. Mr. Phillip SiongokTanui, P/No.1978031813, Senior Deputy Director III NYS (PG/12/Job Group Q);
 - d. Ms FelisterNdidaKinyati, P/No. 1978087327, Senior Deputy Director II NYS (PG/12/Job Group Q).

The Commission following a study and justification for the need of the post considered the Ministry's proposal on 15th July 2015 and made the following decisions:

- (i) Established One (1) post of Deputy Director General, Administration and Operations PG 14/Job Group 'S' in the Ministry of Devolution and Planning (National Youth Service);
 - (ii) Noted the existence of the vacant post of Deputy Director General, Technical Programmes, PG 14/Job Group 'S' in the same Department;
 - (iii) Declined the proposal that two posts be filled by two officers drawn from the list of four, forwarded by the Ministry, since the posts are competitive; and
 - (iv) In view of (iii) above directed that the positions be advertised for competitive filling and instructed the Ministry to submit the indents.
6. An officer at the newly created level was to be responsible to the Director General of National Youth Service for efficient management and control of one of the functional Branches in the Department namely; Administration, Finance, Planning & Development, Operations and Logistics, Training and Research. Duties and responsibilities would include:
- i. initiating policy formulation,
 - ii. coordination and implementation;
 - iii. performance management,
 - iv. monitoring and evaluation; financial control and reporting;
 - v. human resource management and development,
 - vi. command and supervision of uniformed and non-uniformed staff;
 - vii. staff discipline;
 - viii. project planning and implementation;
 - ix. records management and inventory control;
 - x. disaster and emergency response;
 - xi. Public and state functions;
 - xii. supervision of Service Farms;
 - xiii. overseeing Recruits Basic Training;
 - xiv. postings, re-enlistment, discipline and welfare of servicemen and women;
 - xv. overseeing service transport operations,
 - xvi. Radio communications, public relations of the Service and overseeing Research Force issues.

An officer at this level could also be deployed as Commandant, NYS College.

7. On circumstances and Procedure under which Mr. Harakhe was transferred/deployed to the National Youth Service (NYS) the secretary informed the committee that Administrators of Scheme of Service were empowered to transfer staff within the Schemes falling under their purview. Under this

arrangement, Administrative Officers could be transferred between filed service and central Government.

Mr. Adan Gedow Harakhe then Deputy County Commissioner II/District Commissioner II (Job Group P) was on 21st November 2014 transferred by the Principal Secretary from Ministry of Interior and Co-ordination of National Government to the Ministry of Devolution and Planning.

8. Following his promotion to Deputy Secretary, he was on 18th June 2015 recommended by the Central Human Resource Management Posting Committee for posting to the National Youth Service. This was approved by the Commission on 8th July 2015 in line with established procedure. The Posting did not target a single officer since it affected twenty three (23) officers. Thirteen (13) of them being Administrative Officers. Consequently, the Ministry deployed Mr. Harakhe, Deputy Secretary to the National Youth Service. The Committee acts under delegated powers.
9. On 12th August 2015 the Cabinet Secretary forwarded the indent for advertisement of the post of Deputy Director General (Ministration and Operations) - PG/14/Job Group 'S'.
10. On 1st September 2015, the Director General NYS was invited for consultation on the indent for the position.
11. In February 2016, the Commission whilst noting that the indent had overstayed notified the Cabinet Secretary responsible for Public Service, Youth and Gender Affairs to liaise with the Commission with a view to finalizing the discussion on the indent and way forward so that the post could be filled. To date the matter remained outstanding.
12. She informed the meeting that the Commission acted solely within the confines of its mandate and was not aware of "a well-orchestrated scheme to systematically transfer Mr. Harakhe to the NYS as Senior Deputy Director General, NYS for irregular reasons. Mr. Harakhe's substantive designation was and remained Deputy Secretary, Job Group 'Q'.

The Committee requested the PSC Secretary to confirm whether Mr. Harakhe was still on full salary after being interdicted and any action taken on him so far. She was further asked to submit

- i. copy of letters communicating Mr. Harakhe's interdiction,
- ii. Report on action taken on Mr. Harakhe for misappropriation of Government funds amounting to Kshs.6,025,000 meant for resettlement of internally Displaced Persons (IDPs)
- iii. Information on instructions for operation that was issued to the Ministry
- iv. Clear information on who was making requests to PSC on behalf of the PS regarding creation of new Job groups for NYS

MIN No. 1260/2016: ADJOURNMENT

There being no other business, the meeting adjourned at half past five O'clock in the evening. Next sitting would be held same day at 5.35 pm.

Signed.....


(Chairperson)

Date.....

28.2.2017

MINUTES OF THE THREE HUNDREDTH AND TWENTY FIFTH (325TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 4TH OCTOBER, 2016 AT 5.30P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahabub, M.P.
4. Hon. KaniniKega, M.P.
5. Hon. Timothy Bosire, M.P.
6. Hon. Alice NyanchokaChae, M.P.
7. Hon. SakwaBunyasi, M.P.
8. Hon. Abdikadir Aden, M.P.
9. Hon. John Mbadi, M.P.
10. Hon. KarekeMbiuki, M.P.
11. Hon. KyengoKatathaMaweu, M.P.
12. Hon. Julius Melly, M.P.
13. Hon. Manson Nyamweya, M.P.
14. Hon. Andrew Mwadime, M.P.

APOLOGIES

1. Hon. (Capt.) Clement Wambugu, M.P.
2. Hon. Mathias Robi, M.P.
3. Hon. Joseph Manje, M.P.
4. Hon. Joel Onyancha, M.P.
5. Hon. Arthur Odera, M.P.
6. Hon. David Eseli, M.P.
7. Hon. Charles GeniMong'are, M.P.
8. Hon. GonziRai, M.P.
9. Hon. Jessica Mbalu, M.P.
10. Hon. Kangogo Bowen, M.P.
11. Hon. Junet Sheikh Nuh, M.P.
12. Hon. Stephen Manoti, M.P.
13. Hon. SilvanceOnyangoOsele, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Ms. Tungo Aaron - Clerk Assistant II
3. Mr. Victor Weke - Clerk Assistant II
4. Ms. Winnie Kulei - Research Officer
5. Ms. Catherine Burure - Fiscal Analyst
6. Mr. Collins Mahamba - Audio Recorder
7. Mr. Saidi Wako - Serjeant at Arms

OFFICE OF THE AUDITOR GENERAL

1. Mr. Andy Waichigo - Deputy Director, Forensic Audit
2. Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

MIN No. 1261/2016: PRELIMINARIES

The Chairman called the meeting to order at half past five O'clock in the afternoon and said a prayer. All present introduced themselves.

MIN No. 1262/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1263/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: ENG. SILAS KINOTI, Ag. DIRECTOR GENERAL, KENYA URBAN ROADS AUTHORITY

Eng. Silas Kinoti appeared before the Committee and submitted the following:

1. That the National Youth Service was solely responsible for the sourcing and procurement/purchase of construction materials as well as provision of labour for the works. At no stage was KURA involved in the procurement process for materials, Contractors or Sub-Contractors or any other Service providers contracted by the NYS for purposes of construction of Kibera Access Road and neither did KURA recommend any suppliers of construction materials as stated in their letter to the Principal Secretary, Ministry of Lands, Housing and Urban Development as that was not part of their mandate.
2. That from the foregoing, they could not guarantee the proficiency or quality of the contractors procured by the NYS).
3. That implementation of the project was by force account where materials were procured by the NYS and delivered to site based on the schedules of dry materials prepared by KURA and sent to NYS.
4. Schedule of dry materials was used in situation where the implementing agency (NYS) did not factor overheads and profits to its implementation cost. Kura was, however, not party to verification of quantities of materials delivered to site.
5. A team of Engineers and Surveyors from KURA in liaison with staff from Materials Department of Ministry of Transport, Infrastructure, Housing and Urban Development would oversee and monitor construction progress of the works and subsequently prepare Monthly progress reports on the status of the Roads project
6. Sample Copies of the progress reports were presented to the Committee. The works were suspended before completion and as such no Completion certificate was issued.
7. He further informed the Committee that in regards to the quality of materials delivered to site and the works, KURA liaised with the Materials and Transport Department (MTRD) of the

Ministry of Transport, Infrastructure, and Housing and Urban Development to ensure that the materials and the executed works complied with the specifications.

8. All the materials delivered to site and completed works were tested and found to meet all the specifications as set.
9. The Ag. Director General informed the meeting that as a government agency mandated to design, improve and maintain roads in urban centres, he wished to clarify the specific role played by KURA in the improvement to bitumen standards of Kibera Access Roads as follows:
 - i. KURA's mandate was to provide Designs and Schedules of Dry Materials required for the construction of the road to the NYS for sourcing and procurement of the same. In addition NYS was mandated to prepare the cost of the works based on the schedule of dry materials provided by KURA as per the reference made to the letter Ref. No. MLHUD/DH/SUD/8/7/5(37) dated 30th September, 2014 from the Ministry of Lands, Housing and Urban Development.
 - ii. KURA provides Technical Expertise in design and supervision of Construction works. KURA designed and prepared Engineering design reports which were presented to the NYS through the Principal Secretary, State Department of Planning vide letter Ref No. KURA/TECH/9/1.Vol 4(132) dated 31st March, 2015. With regard to supervision, a team of Engineers and Surveyors from KURA would oversee construction of the works and subsequently prepare monthly progress reports on the status of the roads.
 - iii. Finally on Quality Control, KURA liaised with the Materials and Transport Research Department of the Ministry of Transport and Infrastructure to ensure that the works complied with the specifications. A letter was written to the Chief Engineer (Materials) to appoint and second a Materials team for quality assurance for the works. Copy of the letter Ref No. KURA/TECH/9/4/ (56) dated 5th November 2014 was presented before the Committee. Subsequently tests were carried out regularly by the team from MTRD and reports on the same provided to KURA and NYS

The Committee informed the Ag. Director General to provide documentation outlining formal engagement between KURA and NYS on the road in question. The report should also indicate who exactly owns the project since completion certificate was not signed.

MIN No. 1264/2016: ADJOURNMENT

There being no other business, the meeting adjourned at five minutes past six O'clock in the evening. Next sitting would be held on 5th October, 2016 at 10.00 am.

Signed.....
(Chairperson)

Date.....

28-2-2017

arrangement, Administrative Officers could be transferred between filed service and central Government.

Mr. Adan Gedow Harakhe then Deputy County Commissioner II/District Commissioner II (Job Group P) was on 21st November 2014 transferred by the Principal Secretary from Ministry of Interior and Co-ordination of National Government to the Ministry of Devolution and Planning.


8. Following his promotion to Deputy Secretary, he was on 18th June 2015 recommended by the Central Human Resource Management Posting Committee for posting to the National Youth Service. This was approved by the Commission on 8th July 2015 in line with established procedure. The Posting did not target a single officer since it affected twenty three (23) officers. Thirteen (13) of them being Administrative Officers. Consequently, the Ministry deployed Mr. Harakhe, Deputy Secretary to the National Youth Service. The Committee acts under delegated powers.
9. On 12th August 2015 the Cabinet Secretary forwarded the indent for advertisement of the post of Deputy Director General (Ministration and Operations) - PG/14/Job Group 'S'.
10. On 1st September 2015, the Director General NYS was invited for consultation on the indent for the position.
11. In February 2016, the Commission whilst noting that the indent had overstayed notified the Cabinet Secretary responsible for Public Service, Youth and Gender Affairs to liaise with the Commission with a view to finalizing the discussion on the indent and way forward so that the post could be filled. To date the matter remained outstanding.
12. She informed the meeting that the Commission acted solely within the confines of its mandate and was not aware of "a well-orchestrated scheme to systematically transfer Mr. Harakhe to the NYS as Senior Deputy Director General, NYS for irregular reasons. Mr. Harakhe's substantive designation was and remained Deputy Secretary, Job Group 'Q'.

The Committee requested the PSC Secretary to confirm whether Mr. Harakhe was still on full salary after being interdicted and any action taken on him so far. She was further asked to submit

- i. copy of letters communicating Mr. Harakhe's interdiction,
- ii. Report on action taken on Mr. Harakhe for misappropriation of Government funds amounting to Kshs.6,025,000 mean for resettlement of internally Displaced Persons (IDPs)
- iii. Information on instructions for operation that was issued to the Ministry
- iv. Clear information on who was making requests to PSC on behalf of the PS regarding creation of new Job groups for NYS

MIN No. 1260/2016: ADJOURNMENT

There being no other business, the meeting adjourned at half past five O'clock in the evening. Next sitting would be held same day at 5.35 pm.

Signed.....  Date..... 28.2.2017.....
(Chairperson)

MINUTES OF THE THREE HUNDREDTH AND TWENTY SIXTH (326TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON WEDNESDAY, 5TH OCTOBER, 2016 AT 10.30A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahbub, M.P.
4. Hon. Arthur Odera, M.P.
5. Hon. Joseph Manje, M.P.
6. Hon. GonziRai, M.P.
7. Hon. KaniniKega, M.P.
8. Hon. Timothy Bosire, M.P.
9. Hon. David Eseli, M.P.
10. Hon. Alice NyanchokaChae, M.P.
11. Hon. SakwaBunyasi, M.P.
12. Hon. Abdikadir Aden, M.P.
13. Hon. KarekeMbiuki, M.P.
14. Hon. KyengoKatathaMaweu, M.P.
15. Hon. Julius Melly, M.P.
16. Hon. Kangogo Bowen, M.P.
17. Hon. (Capt.) Clement Wambugu, M.P.
18. Hon. Andrew Mwadime, M.P.
19. Hon. Manson Nyamweya, M.P.
20. Hon. SilvanceOnyangoOsele, M.P.
21. Hon. Joel Onyancha, M.P.

APOLOGIES

1. Hon. Charles GeniMong'are, M.P.
2. Hon. Mathias Robi, M.P.
3. Hon. John Mbadi, M.P.
4. Hon. Jessica Mbalu, M.P.
5. Hon. Junet Sheikh Nuh, M.P.
6. Hon. Stephen Manoti, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Victor Weke - Clerk Assistant II
3. Ms. Tungo Aaron - Clerk Assistant II
4. Ms. Catherine Burure - Fiscal Analyst
5. Mr. Collins Mahamba - Audio Recorder
6. Mr. Saidi Wako - Serjent at Arms

OFFICE OF THE AUDITOR GENERAL

Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

DIRECTORATE OF CRIMINAL INVESTIGATION

1. Ms. Dorcas Marete
2. Mr. Simon Kipruto - Chief Inspector
3. Mr. Odhiambo Kamukus - Senior Superintendent
4. Mr. Sautet Jeremiah - CPL
5. Mr. Denis Obiero - Chief Inspector
6. Mr. Match Julius - Inspector
7. Mr. Peace Maithya - Inspector
8. Mr. Mungathia Joseph - PC
9. Mr. Peter Ouma - CPL

MIN No. 1265/2016: PRELIMINARIES

The Chairman called the meeting to order at half past ten O'clock in the morning and said a prayer. All present introduced themselves.

MIN No. 1266/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1267/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. NDEGWA MUHORO, DIRECTOR CRIMINAL INVESTIGATION DEPARTMENT

Mr. Ndegwa Muhoro appeared before the Committee and submitted the following;

1. That the investigations into the NYS scandal were instituted pursuant to a letter from the then CS Ministry of Devolution and Planning, Ms. Ann Waiguru. The letter referenced MDP/3/1/81 dated 5th June 2015 was addressed to the Director of Criminal Investigations regarding irregular transactions on the IFMIS of the National Youth Service.
2. The letter raised allegations regarding irregular and fraudulent commitments and approval of sums of money exceeding Kes. 800,000,000/- (eight hundred million) using stolen identity of the approver i.e. AIE Holder Mr. Harakhe.

3. On receipt of the said letter, he assigned Mr. Joseph K. Mugwanja, AIG, MBS then the Head of the Banking Fraud Investigations Unit (BFIU) to commence investigations into the allegations who proceeded to form a team comprising of officers from BFIU and Cyber-crimes.
4. The team proceeded to NYS Headquarters where they interviewed Mr. Adan Harakhe, regarding 21 irregular commitments amounting to Kes 828,000,000 made in the IFMIS system from NYS supplementary Budget of 3.5 billion. Mr. Harakhe reported that someone had used his user name and password in the system without authority. The commitments made had been irregularly requested by a NYS procurement staff namely Regina Mungai.
5. The investigation team seized the computers of six users who were suspected to have accessed the IFMIS system including that one of the AIE holder Mr. Adan Harakhe. The team recorded statements from various staff of NYS and recovered IFMIS system print outs of 20th and 21st May, 2015 which indicated that there was commitment for the item on civil works and infrastructure which were to be financed from supplementary budget.
6. In the course of investigations, six companies, which were to benefit from the 18 transactions, were identified from the IFMIS system printouts. They were;
 - i. Form Home Builders,
 - ii. Reinforced Concrete Technologies,
 - iii. Roof and All Trading,
 - iv. Draco Capital,
 - v. Tegmen Trading and
 - vi. Grummium Engineers
7. The meeting was informed that investigation carried out established that three transaction numbers; 4632, 4633 and 4636 amounting to Kes 172,500,000 for supply of; fogging materials, motorized knapsack sprayer and boom sprayer had been adjudicated by the Ministerial Tender Committee [MTC] and awarded to the three suppliers. It also emerged that other disputed 18 transactions with reference numbers between 4507 and 4531 amounting to Kes 695,400,000 had not been tabled before the MTC.
8. The Director of IFMIS was requested to avail an audit trail report from IFMIS. He provided report, which indicated that the 18 transactions were committed by Regina NyamburaMungai and allegedly approved by Adan Harakhe. The amounts to be paid to each of the six companies were indicated in the IFMIS system report.
9. Also, investigators recovered copies of LPOs (quadruplicate) against the 18 transactions, which revealed that the amount in the IFMIS report was different from the one on the LPOs (quadruplicate). A digit zero had been introduced fraudulently at the end of the amount figures to inflate the total amount against each transaction number. Further investigations with the Registrar of Company revealed the ownership of the Companies.
10. He further stated that investigation established that on 15th May 2015 other commitments had been made in the IFMIS against three transaction numbers 4409, 4410 and 4472.
 - a) The LPOs (quadruplicate) book copies for NO.4410 was Kes 2,085,000/; while the IFMIS amount was Kes 20,850,000.
 - b) The LPO book copy for No.4472 was Kes. 2,475,000 while the amount in the IFMIS was Kes 24,750,000.
 - c) The LPO book copy for No. 4409 could not be traced but the IFMIS amount was Kes. 24,080,000.

The total commitment for these three transaction numbers was Kes 69,680,000/.
11. The Director of IFMIS provided an audit report in respect of the three transaction numbers, which showed that the requisitions were made by Regina NyamburaMungai and approved by SamuelWechenjethe NYS Director of finance. The three commitments were in favour of Josephine Kaburalrunge's company namely Form Homes Builders.

12. On further investigations, they did not find any evidence that road construction and building materials had been supplied by the six merchants to NYS. It confirmed fraudulent introduction of zeros to the IFMIS amounts, suggesting a conspiracy to commit a felony of stealing Kes. 695,400,000 and 69,680,000/ respectively and attempted stealing of the same amounts.
13. The Director informed the Committee that further analysis of printouts from NYS Accounts Department and CBK G-pay system established that previous payments amounting to Kes 791,385,000 had been made by NYS to Josephine Kaburalrungu's three companies as follows:
 - a) Form Homes Builders Kes. 218,925,000
 - b) Reinforced Concrete Technologies Kes. 320,160,000
 - c) Roof and ALL Trading Kes 252,300,000Total paid out was Kes 791,385,000
14. The investigation team recovered further LPO book copies in respect of the above transactions vis-à-vis IFMIS audit trail report that revealed the same modus operandi of inflating the total amounts payable to the companies by introducing zero in the amount on each transaction.
15. The investigating team traced the amounts to beneficiary accounts all domiciled at Family Bank KTDA Branch where the Kes 791,385,000/ had been transmitted via the G-pay system.
16. The investigating team further recovered bank records which confirmed that payments were made to companies' accounts opened by Josephine Kabura and that fund withdrawn or transferred to other persons and companies as per the attached assorted Bank Account Documents.
17. An analysis of the money transfers by the suspect from one bank account to another carried out by the CID and a chart and a table was tabulated indicating details of how the fraudulently acquired funds from NYS were laundered. The three stages of money laundering, which were, placement, layering and integration were complete. Josephine Kaburalrungu was the sole signatory of the three bank accounts as per the attached bank account statements of the said three companies that were presented to the Committee.
18. In the course of investigation, 25 payment vouchers with invoices, delivery notes, inspection and acceptance certificates, triplicate LPO's requisition and counter receipts and a copy of a forged Supply Branch circular all which were used to process the payment totalling Kes.791,385,000 were obtained from the Principal Secretary Ministry of Devolution and Planning, Eng. Peter Mangiti. Addition of zeros was also evident on the duplicate and triplicate LPOs, delivery notes and invoices in respect of the quantity, units and amount columns.
19. He further informed the Committee that the payment vouchers with the supporting documents, the book copies of LPOS, the duplicate LPOS from the stores and other exhibits were submitted to the Document Examiner who confirmed vide his report forgery involving the introduction of zero on each transaction amount. He further identified the culprit to this forgery to be Regina Mungai.
20. Two expert reports were requested for and provided by the investigations team. One of the reports from the IFMIS Consultants confirmed that Regina Mungai made the commitment though it was inconclusive as to the person who approved the payments captured in their system. The other report was from Ministry of Works, Road Engineer and Quantity Surveyor in respect of the total value of materials used which they estimated at Kes 78,857,835.

21. The staff of NYS and Ministry of Devolution and Planning who had participated in processing the payments was interviewed and their statements recorded to establish the part played by each of them.
22. On conclusion of investigation the Committee was informed that it was established that, the payment of Kes.791, 385,000 was fraudulent due to the following reasons:
 - a. The circular from the Supplies Branch was forged as per the statement of the Director of Supplies Branch Arch. Wesley MokuaNyariki.
 - b. The payment was not adjudicated by the Ministerial Tender Committee [MTC] as required,
 - c. There was fraudulent introduction of zeros on LPOs and other documents used to process the payment,
 - d. The materials supplied were excavated by NYS personnel at the quarry, loaded by NYS excavators to their trucks and transported to Kibera Road Construction Site by the same trucks. There was no input of the suppliers to that extent.
23. On conclusion of the set of investigations, the investigators recommended the charging of several persons.

The following were the preferred charges as presented to the Committee by the Director of CID:

 - a. Stealing C/Sec. 268(i) as read with Sec. 275 of the penal code with respect to Kes 791,385,000;
 - b. Conspiracy to defraud C/Sec. 317 of the penal code; and
 - c. Engaging in Criminal Activity C/Sec. as read with Section 4(1) of the prevention of organized Crime Act 2010
24. The Committee was informed that on completion of investigations, the police file was forwarded to the DPP for advice who recommended that the suspects be charged as recommended by the investigating officers. The suspects were subsequently charged vide CR 113/196/2015 CF 1905/2015 as the predicate file involving theft of Kes 791,385,000. The case was listed for further hearing on 28th and 30th November and 1st December 2016.
25. Concurrent with the above investigation, the investigation team opened a parallel investigation on financial focusing on money trail and identification of proceeds of crime and the persons involved. The investigation led to tracing of properties, which were then placed, on prohibition against transfers or dealings in any manner.

A list of persons charged with money laundering offences vide CR 113/52/2016 CF 301/2016 was submitted to the Committee. The hearing of the cases was set for hearing on 7th November 2016. In addition, a list of accounts that were traced, and frozen was also presented before the Committee.
26. It was also reported that Director, Asset Recovery Agency was incorporated and has since commenced forfeiture proceedings in the High Court.
27. Another file focusing on the roles of Family Bank and its staff deemed to have acted in violation of Proceeds of Crime and Anti-money Act has been completed and forwarded to DPP. In the month of February 2016, the file was taken over by Multi Agency Team.
28. The Committee was also informed that;
 - i. Predicate file involving Kes. 791,385,000 (CR. CR. 113/196/2015 CF. 1905/2015) was currently Pending Before Court and was coming up for hearing on 28th and 30th of November and 1st December 2016.
 - ii. Money laundering case file CR.113/52/2016 CF. 301/2016) was also pending before court and it was set for hearing on the 7th November 2016.
 - iii. The team had also launched investigations into 21 other companies over suspected fraudulent payments amounting to Kes 999,291,824.

29. That investigation regards some 8 companies purported to have had tenders that were allegedly adjudicated by MTC with a total receipt of Kes 107,868,210 were at an advanced stage with files waiting to be forwarded to the DPP. The companies involved were as follows;

- a. Learning Gate Trading – Kes. 15,920,050.
- b. Classroom Technology - Kes. 21,933,800/-
- c. Braincraft Trading - Kes. 11,891,500/-
- d. Examatrix Solutions - Kes. 7,939,750/-
- e. Ambition Learning Equipment - Kes. 5,989,600/-
- f. Smart Board Learning Equipment - Kes. 23,852,530/-
- g. Mindful Learning Equipment – Kes. 1,892,100
- h. New Tool Mart Trading - Kes. 18,448,880

Total Kes. 107,868,210/-

30. That the funds were paid between periods running from 9th December 2014 to 19th December 2014 and all were channelled through the eight company accounts held at Family Bank KTDA Branch with the sole signatory being Josephine Kaburalrungu. The payments were supported by fake MTC minutes apparently produced by the claimant to support the fraudulent payments.

Genuine MTC minutes and the payment vouchers for all the eight companies had been recovered and kept as exhibits.

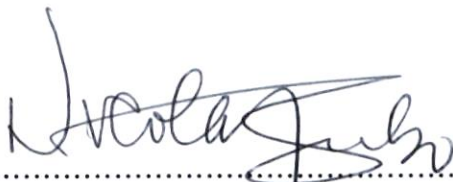
An Inquiry File No 77/2016 was opened with allegations as raised by Josephine Kabura being investigated. The file had been forwarded to the DPP for advice and directions after conclusion of the investigations.

Following the submissions made by the CID Director, the Committee felt it right to invite Mr. Keriako Tobiko, Director Public Prosecution and Mr. Adan Noor to reappear before the Committee and give further evidence on the NYS inquiry.

MIN No. 1268/2016: ADJOURNMENT

There being no other business, the meeting adjourned at five minutes past one o'clock in the afternoon. Next sitting would be held on 6th October, 2016 at 10.30 am.

Signed.....



(Chairperson)

Date.....

28-2-2017

MINUTES OF THE THREE HUNDRED AND SEVENTH (307TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY, 4TH AUGUST, 2016 AT 10.00 A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. Kanini Kega, M.P.
4. Hon. Timothy Bosire, M.P.
5. Hon. Kyengo Katatha Maweu, M.P.
6. Hon. Sakwa Bunyasi, M.P.
7. Hon. David Eseli, M.P.
8. Hon. Kangogo Bowen, M.P.
9. Hon. Arthur Odera, M.P.
10. Hon. Joseph Manje, M.P.
11. Hon. Abdikadir Aden, M.P.
12. Hon. Gonzi Rai, M.P.
13. Hon. Kareke Mbiuki, M.P.
14. Hon. Jessica Mbalu, M.P.
15. Hon. Alice Nyanchoka Chae, M.P.
16. Hon. Andrew Mwadime, M.P.

APOLOGIES

1. Hon. John Mbadi, M.P.
2. Hon. Julius Melly, M.P.
3. Hon. (Capt.) Clement Wambugu, M.P.
4. Hon. Fathia Mahbub, M.P.
5. Hon. Mathias Robi, M.P.
6. Hon. Manson Nyamweya, M.P.
7. Hon. Junet Sheikh Nuh, M.P.
8. Hon. Stephen Manoti, M.P.
9. Hon. Charles Geni Mong'are, M.P.
10. Hon. Silvanice Onyango Osele, M.P.
11. Hon. Joel Onyancha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Ms. Chelagat Tungo - Clerk Assistant II
3. Mr. Peter Mwaura - Legal Counsel
4. Mr. Chelanga Maiyo - Researcher
5. Ms. Winnie Kulei - Researcher
6. Mr. John Mungai - Audio Recorder

NATIONAL TREASURY

Mr. Tom Khakame

OFFICE OF THE AUDITOR GENERAL

1. Mr Raphael Ikame - Parliamentary Liaison Officer
2. Mr Addy Waichigo - Manager Audit
3. Mr. Francis Gichure - Manager Audit

CENTRAL BANK OF KENYA

1. Dr. Patrick Njoroge - Governor
2. Mr. Gerald Nyaoma - Director, Supervision
3. Mr. Matu Mugo - Assistant Director, Supervision
4. Ms. Grace Okara - Communications Officer
5. Mr. Peter Okong'o - Communications Officer
6. Mr. Charles Gachichio - PA to Governor

MIN No. 1184/2016: PRELIMINARIES

The Chairman called the meeting to order at thirty minutes past ten O'clock in the morning and said a prayer followed by introductions by all present. The agenda was adopted as proposed by Hon. Abdikadir Aden, MP and seconded by Hon. Timothy Bosire, MP.

MIN No. 1185/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1186/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: CENTRAL BANK OF KENYA (CBK)

Dr. Patrick Njoroge, Governor, Central Bank of Kenya appeared before the Committee accompanied by his officers, and submitted the following;

1. He was pleased with the invitation and was glad to honour it to enable him shed light on matters under investigations by various agencies, including Parliament. His earlier invitations had been hampered by other engagements and was grateful the committee accommodated his request to reschedule the meeting. He was comfortable to provide information in the presence of the media.
2. Further to the written information he had earlier provided, the supplementary questions were based on verification of NYS payments made from the Ministry of Devolution accounts held at the CBK.
3. Ministries, Departments and Agencies of Government (MDAs) including the NYS, had accounts totalling about 1250 at the CBK. The accounts are operated based on signing mandate provided by the MDA, with funding coming directly from Treasury.
4. Payments are made through IFMIS, a system domiciled and controlled at the National Treasury. Payment requests are sent to the CBK and processed through the G-PAY system (now Internet



Banking) in an encrypted way. These payments are then routed through Real Time Gross Settlement (RTGS), or the Kenya Electronic Payment Settlement System (KEPPS) for payments above one million Kenya shillings, ending up in commercial banks to credit payee accounts. CBK remits instructions as received, with no capability to note errors.

5. To mitigate against the possibility of errors, payments are made through a T+1 window, i.e. transaction day plus one more day. The Bank also has automated systems to limit fraud by unauthorised personnel.
6. The 2nd way to mitigate against fraud is through payee banks querying payments. The usual procedure is for the commercial banks to write to the CBK, who then channels the queries to the Director General Accounting Services at Treasury. It is Treasury that contacts the paying MDA. It is the responsibility of the commercial banks to do due diligence.
7. In the case of specific NYS payments, Development Bank of Kenya and the GT Bank made queries concerning payments to their clients.
8. Development Bank sent an email to the CBK on 28th May 2015 when payment of Kes. 47.9 Million was transmitted to their client, Bora Global Limited. Treasury confirmed payment on 3rd June 2015.
9. GT Bank wrote to CBK via email on 17th August 2015 querying payment of Kes. 86.04 Million to their client, Out of the Box Solutions. CBK wrote to Treasury on 18th August 2015 requesting confirmation. Several calls were made as a follow up in vain. There was no response from Treasury.
10. The CBK had instituted various disciplinary measures on commercial banks that were found to have had some infractions on their part concerning anti-money laundering regulations. Family Bank, K-rep Bank (now Sidian) and Faulu Micro-Finance were penalised Kes. 1 Million each, the maximum allowed by law.
11. The CBK also forced Family Bank to release 9 executives that were vetted and found to be complacent and unsuitable for office.
12. Mr. Joseph Mugwanja, the then Head of Anti-banking fraud unit did not report to him as he was answerable to the Head of the Directorate of Criminal Investigations. Staff of the CBK were questioned during investigations.
13. The CBK does not prescribe limits of cash holdings that commercial banks should hold as cash. What is provided for is the prudential/liquidity requirements of 20% of deposits.
14. Large transactions that raise suspicion should be reported to the Financial Regulatory Commission (FRC) for investigation and possible prosecution, and not the CBK, to safeguard integrity of investigations.
15. The CBK has never been investigated for money laundering since the Goldenberg inquiry.
16. The CBK Board is not fully constituted but that was the prerogative of the appointing authority, His Excellency the President. This however did not hamper operations of the Bank because matters they handle are largely operational. They have not done anything outside existing policy.
17. The CBK continues to improve its systems and supervision mechanisms.

The Committee resolved that the Governor provide supporting documents provided by the Ministry of Devolution and Planning on the payments cleared for the Development Bank. He would also avail the complete trail of email conversation between the CBK staff, Treasury and the GT Bank.

MIN No. 1187/2016: ADJOURNMENT

There being no other business, the meeting adjourned at two O'clock in the afternoon. Next sitting would be held on 9th August, 2016 at 10.00 a.m.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDREDTH AND TWENTY SEVENTH (327TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY, 6TH OCTOBER, 2016 AT 10.30 A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahbub, M.P.
4. Hon. Arthur Odera, M.P.
5. Hon. Joseph Manje, M.P.
6. Hon. GonziRai, M.P.
7. Hon. KaniniKega, M.P.
8. Hon. Timothy Bosire, M.P.
9. Hon. David Eseli, M.P.
10. Hon. Alice NyanchokaChae, M.P.
11. Hon. SakwaBunyasi, M.P.
12. Hon. Abdikadir Aden, M.P.
13. Hon. John Mbadi, M.P.
14. Hon. KarekeMbiuki, M.P.
15. Hon. Mathias Robi, M.P.
16. Hon. Joel Onyancha, M.P.
17. Hon. KyengoKatathaMaweu, M.P.
18. Hon. Julius Melly, M.P

APOLOGIES

1. Hon. (Capt.) Clement Wambugu, M.P.
2. Hon. Charles GeniMong'are, M.P.
3. Hon. Jessica Mbalu, M.P.
4. Hon. Kangogo Bowen, M.P.
5. Hon. Andrew Mwadime, M.P.
6. Hon. Manson Nyamweya, M.P.
7. Hon. Junet Sheikh Nuh, M.P.
8. Hon. Stephen Manoti, M.P.
9. Hon. SilvaniceOnyangoOsele, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Ms. Tungo Aaron - Clerk Assistant II
3. Ms. Winnie Kulei - Research Officer
4. Ms. Catherine Burure - Fiscal Analyst
5. Mr. Collins Mahamba - Audio Recorder
6. Mr. Saidi Wako - Serjeant at Arms

OFFICE OF THE AUDITOR GENERAL

1. Mr. Andy Waichigo - Deputy Director, Forensic Audit
2. Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

MIN No. 1269/2016: PRELIMINARIES

The Chairman called the meeting to order at quarter to eleven O'clock in the morning and said a prayer. All present introduced themselves.

MIN No. 1270/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1271/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: DR. NELSON GITHINJI, FORMER DIRECTOR GENERAL, NYS

The witness had appeared before the Committee on Monday 26th September, 2016 at 3.00 pm where he made his submissions and further requested for a camera session with the Committee after one week, to enable him table evidence of certain companies linked with certain persons at the Ministry. The Committee acceded to this request and scheduled a camera session.

(Information submitted is available in the National Assembly Clerk's office on request)

The Committee resolved to write to the Attorney General requesting for a list of all companies from Registrar of Companies that were mentioned in the submission.

MIN No. 1272/2016: ADJOURNMENT

There being no other business, the meeting adjourned at twenty minutes past one O'clock in the afternoon. Next sitting would be held on 6th October, 2016 at 3.30 pm.

Signed.....



(Chairperson)

Date.....

28.2.2017

MINUTES OF THE THREE HUNDREDTH AND TWENTY EIGHTH (328TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY, 6TH OCTOBER, 2016 AT 3.00 P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahbub, M.P.
4. Hon. Arthur Odera, M.P.
5. Hon. Joseph Manje, M.P.
6. Hon. KaniniKega, M.P.
7. Hon. Timothy Bosire, M.P.
8. Hon. SakwaBunyasi, M.P.
9. Hon. Abdikadir Aden, M.P.
10. Hon. KarekeMbiuki, M.P.
11. Hon. Jessica Mbalu, M.P.
12. Hon. Mathias Robi, M.P.
13. Hon. Andrew Mwadime, M.P.
14. Hon. Manson Nyamweya, M.P.
15. Hon. Julius Melly, M.P.

APOLOGIES

1. Hon. GonziRai, M.P.
2. Hon. (Capt.) Clement Wambugu, M.P.
3. Hon. John Mbadi, M.P.
4. Hon. Charles GeniMong'are, M.P.
5. Hon. Joel Onyancha, M.P.
6. Hon. Alice NyanchokaChae, M.P.
7. Hon. KyengoKatathaMaweu, M.P.
8. Hon. David Eseli, M.P.
9. Hon. Kangogo Bowen, M.P.
10. Hon. Junet Sheikh Nuh, M.P.
11. Hon. Stephen Manoti, M.P.
12. Hon. SilvaneeOnyangoOsele, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Ms. Tungo Aaron - Clerk Assistant II
3. Ms. Winnie Kulei - Research Officer
4. Ms. Catherine Burure - Fiscal Analyst
5. Mr. Collins Mahamba - Audio Recorder
6. Mr. Saidi Wako - Serjeant at Arms

OFFICE OF THE AUDITOR GENERAL

1. Mr. Andy Waichigo - Deputy Director, Forensic Audit
2. Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

MIN No. 1273/2016: PRELIMINARIES

The Chairman called the meeting to order at half past three O'clock in the afternoon and said a prayer. All present introduced themselves.

MIN No. 1274/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1275/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. JAPHTER RUGUTT, FORMER DIRECTOR GENERAL, NYS.

Mr. Japhter Rugutt appeared before the Committee and submitted the following:

1. That the decision to restructure NYS was an on-going concern from the year 2012 and perhaps even earlier. A document dated July 2012 presented to the Committee, indicated an internal effort to review the operations of the National Youth Service, to take over an expanded and enriched mandate, and to make the service more versatile so as to contribute to the attainment of the Kenya Vision 2030.
2. He was appointed the Director General, National Youth Service in February 2013 but could not leave his previous station as Provincial Commissioner, Central Province immediately because of the General Elections at the beginning of March, 2013. He therefore, took over his new position during the third week of March, 2013.
3. On taking over the stewardship of the service, he immediately embraced the expressed aims of the Institution, including realigning it to the desired expectation by expanding its mandate and embracing the youth agenda as expressed in the manifesto of the new Government.
4. In May 2013, he prepared a brief on the capacity, challenges and prospects of the National Youth Service which he shared internally with officers of the Service, as well as with the leadership of the Ministry of Devolution and Planning. A copy of the same was presented to the Committee.
5. In the month of June 2016, he caused the production of another document on the terms and conditions of service for Uniformed Officers of the National Youth Service. This was also shared internally with the officers of the Service, and on a subsequent date with the Salaries and Remuneration Commission. A copy of the same document was presented to the Committee.

6. Another document dated August 2013 outlining the proposed projects for the NYS and was a testimony of internal efforts at Institutional reorganization to bring the service to speed with the changing circumstances that was prepared under his tenure was also presented before the committee.
7. He stated that in the course of these internal attempts of restructuring the NYS, he received instructions communicated during a meeting in which he was in attendance in the month of November that the National Youth Service be Restructured, Rebranded and Re launched, to be in line with the new vision, as contained in the documents referred to above. These were essentially internal efforts at the National Youth Service.
8. Towards this, he was to work with Hon. Abdikadir Mohamed, Senior Legal Advisor, Legal and Legislative Affairs, State House. They both grafted a team which together worked through the month of November and December 2013 and produced the document which he submitted a copy to the Committee for their perusal.
9. In his view, that was the document that was best placed to take the National Youth Service to the next level. His team submitted this document to the office of the Senior Advisor, Legal and Legislative Affairs since Hon. Abdikadir Mohamed was fairly busy in the month of January 2014, with the Parastatal Reform Programme.
10. He further received instructions from the Cabinet Secretary, then in Charge of Devolution and Planning to involve a Consultant, The Consulting House, in the Restructuring of National Youth Service. He clarified that the request did not emanate from a procurement need within the Institution, since for their intents and purposes, their perception towards restructuring were captured in the earlier stated document. A critique and evaluation of that document would have revealed the gaps, and perhaps, then the need to engage a Consultant.
11. A Consultancy team, representing The Consulting House, presented itself to the Director General's office at the National Youth Service Headquarters, Ruaraka, at the end of the month of January or the beginning of the month of February. He informed the meeting that because of the pressure and obvious urgency with which this was being directed to his office, he sought the counsel and advice of the Principal Secretary, State Department of Planning, Eng. Peter Mangiti. The Principal Secretary advised him to raise the issue vide a memo which he did vide an Internal Memo Ref. NYS/PROC/4/1(36) dated 3rd February, 2014.
12. That in the memo, he was careful to include all the provisions that would allow the National Youth Service as a procuring entity, to do so without flouting procurement regulations since this was taking the form of single-sourcing of a service.
13. That the Consulting House subsequently provided an originating Note and a Technical Proposal and from this, the Terms of Reference for the Consultancy was formulated. Copies including a proposed price schedule were submitted to the Committee.
14. The first document produced after the interaction between the team of consultants, and the officers of the National Youth Service (who were under strict instructions to cooperate) was produced on 15th February, 2014 and shared both internally and with the political leadership at the National level.
15. Further, the meeting was informed that the feedback to their own document which they had submitted earlier was received back at the Ministry Headquarters from the Chief of Staff and Head of Public Service on 24th March, 2014 and marked to Director General for discussion by the Principal Secretary on 26th March 2014. By the momentum of the events triggered by the Consultancy were already pulling a totally different direction, and it was no longer possible to apply the earlier document. A copy of the feedback to the document was submitted to the Committee
16. The final document of what was rolled out on 19th May 2015, as the Five-Point Vision of the National Youth Service. That was done one week after the Director General left the Service.
17. He pointed out that as visualized internally at the National Youth Service, the process of restructuring of the Service was meant to be phased, and a long term growth plan. By then, when

the documents were being developed, NYS was in the middle of the financial year 2013/14. A procurement plan for the financial year (FY) following (2014/15) would need to have been developed in June/July at the turn-over of the budget cycle and especially if the restructuring was approved and rolled out as it eventually was. He left before that was done.

18. However, he recalled chairing a number of meetings with Sectional and Departmental Heads in the period between January and April 2014 where they examined the internal capacity of the National Youth Service, and what needed to be done to enhance that capacity in order to cope with the new roles National Youth Service was expected to play. Unfortunately, he did not have access to documents developed from those meetings, though he was aware minutes and reports were done. He left the National Youth Service before the restructuring process had its final approval.
19. The Director General informed the meeting that in the course of over twenty five (25) years in the Public Service, it had been ingrained in him that transfers and redeployment were normal and sometimes part of the growth of an individual within the service. That he personally moved at least 15 (fifteen) times, to a number of different locations within the country in the course of duty.
20. He received notice of his impending transfer on Friday 9th May 2014, at about 6.00 pm from the Principal Secretary, State Department of Planning. He was in the middle of preparations to host the Chinese Prime Minister who was set to visit National Youth Service on Sunday 11th May, in the morning. He had just finished discussions with the Chinese Ambassador who had visited National Youth Service to finalize the internal programmed for the Premier's visit.
21. The Principal Secretary was of the view that the Director General should continue and finish the arranged State Function, then the PS would give him his posting letter on the following Monday 12th May 2014. They arranged for him to go to the National Youth Service Headquarters at Ruaraka on Saturday 10th May for a dress rehearsal and brief of the reception process. The PS went for the meeting at 2.00 pm, but while they were doing the rehearsal, there seems to have been other developments. The incoming Director General also arrived at the site of the reception for a similar brief and rehearsal, indicating that he was under instruction to preside over the event. He took over the office on the morning of Sunday 11th May, and was introduced to the officers and staff in the absence of Mr. Rugut. He got his letter on Monday 12th May 2014 about 9.00 am when there was already an officer in the office. However, he accomplished the handing over process.

MIN No. 1276/2016: ADJOURNMENT

There being no other business, the meeting adjourned at ten minutes past six O'clock in the evening. Next sitting would be held on 10th October, 2016 at 2.30 pm.

Signed.....  Date..... 28.2.2017

(Chairperson)

MINUTES OF THE THREE HUNDRED AND TWENTY NINTH (329TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON MONDAY 10TH OCTOBER, 2016 AT 4.00P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. KaniniKega, M.P.
4. Hon. FathiaMahbub, M.P.
5. Hon. Andrew Mwadime, M.P.
6. Hon. Timothy Bosire, M.P.
7. Hon. Arthur Odera, M.P.
8. Hon. John Mbadi, M.P.
9. Hon. Jessica Mbalu, M.P.
10. Hon. Manson Nyamweya, M.P.

APOLOGIES

1. Hon. Alice NyanchokaChae, M.P.
2. Hon. Abdikadir Aden, M.P.
3. Hon. SakwaBunyasi, M.P.
4. Hon. David Eseli, M.P.
5. Hon. Mathias Robi, M.P.
6. Hon. KarekeMbiuki, M.P.
7. Hon. KyengoKatathaMaweu, M.P.
8. Hon. Charles Mong'areGeni, M.P.
9. Hon. Silvance Onyango Osele, M.P.
10. Hon. Joseph Manje, M.P.
11. Hon. Julius Melly, M.P.
12. Hon. (Capt.) Clement Wambugu, M.P.
13. Hon. Joel Onyancha, M.P.
14. Hon. Stephen Manoti, M.P.
15. Hon. Kangogo Bowen, M.P.
16. Hon. Gonzi Rai, M.P.
17. Hon. Junet Sheikh Nuh, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Ms. Chelagat Tungo - Clerk Assistant II
3. Mr. ChelangaMaiyo - Researcher
4. Mr. Collins Mahamba - Audio Recorder

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

OFFICE OF THE AUDITOR GENERAL

- Mr. Raphael Ikame - Parliamentary Liaison Officer

GUARANTY TRUST BANK

1. Ms. IbukunOdegbaike - Chief Executive Officer
2. Mr. Cecil Miller - Advocate
3. Ms. Ruth Muiruri - Company Secretary
4. Mr. Mark Maina - Director Operations
5. Ms. Mary Mulili - Director Corporate Affairs
6. Ms. Anne Kabugi - Corporate Relationship Manager
7. Ms. Maureen Sande - Public Relations Officer (Redhouse Group)

MIN No. 1277/2016: PRELIMINARIES

The Chairman called the meeting to order at ten minutes past four O'clock in the afternoon. All present introduced themselves.

MIN No. 1278/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1279/2016: SUBMISSION IN-CAMERA BY MS. IBUKUN ODEGBAIKE, CEO, GTBANK

The witness requested for the session to be held in camera since information they were to table was confidential as protected by the CBK Prudential Guidelines. The Committee accepted the request after determining the information to be tabled was not in the public domain and touched on several clients of the bank.

(Information submitted is available in the National Assembly Clerk's office on request)

MIN No. 1280/2016: ADJOURNMENT

There being no other business, the meeting adjourned at forty minutes past seven O'clock in the evening. Next sitting would be held on 11th October, 2016 at 10.00a.m.

Signed.....  Date..... 

MINUTES OF THE THREE HUNDREDTH AND THIRTIETH (330TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 11TH OCTOBER, 2016 AT 10:00A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahbub, M.P.
4. Hon. Arthur Odera, M.P.
5. Hon. GonziRai, M.P.
6. Hon. KaniniKega, M.P.
7. Hon. Timothy Bosire, M.P.
8. Hon. David Eseli, M.P.
9. Hon. Alice NyanchokaChae, M.P.
10. Hon. SakwaBunyasi, M.P.
11. Hon. John Mbadi, M.P.
12. Hon. KarekeMbiuki, M.P.
13. Hon. Mathias Robi, M.P.
14. Hon. Joel Onyancha, M.P.
15. Hon. KyengoKatathaMaweu, M.P.
16. Hon. Kangogo Bowen, M.P.
17. Hon. Julius Melly, M.P.
18. Hon. (Capt.) Clement Wambugu, M.P.
19. Hon. Charles GeniMong'are, M.P.
20. Hon. Andrew Mwadime, M.P.
21. Hon. Manson Nyamweya, M.P.

APOLOGIES

1. Hon. Abdikadir Aden, M.P.
2. Hon. Joseph Manje, M.P.
3. Hon. Jessica Mbalu, M.P.
4. Hon. Junet Sheikh Nuh, M.P.
5. Hon. Stephen Manoti, M.P.
6. Hon. SilvaniceOnyangoOsele, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Ms. Tungo Aaron - Clerk Assistant II
3. Ms. Winnie Kulei - Research Officer
4. Ms. Catherine Burure - Fiscal Analyst
5. Mr. Collins Mahamba - Audio Recorder
6. Mr. Saidi Wako - Serjeant at Arms

OFFICE OF THE AUDITOR GENERAL

Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Rev. Kimathi Kwiriga - Accountant
2. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer

MIN No. 1281/2016: PRELIMINARIES

The Chairman called the meeting to order at half past ten O'clock in the morning and said a prayer. All present introduced themselves.

MIN No. 1282/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1283/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. BENSON GETHI WANGUI



The witness had earlier appeared before the Committee and had requested for the session to be held in camera since information he was to table was confidential. The Committee accepted the request after determining the information to be tabled was not in the public domain.

The committee was displeased by the way the witness made his submission. He was not free and willing to disclose more information to help the Committee proceed with its investigations. The secretariat was tasked to officially write to Mr. Ben Gethi and compel him to produce the documents and information in accordance to article 195 of the Constitution.

(Information submitted is available in the National Assembly Clerk's office on request)

MIN No. 1284/2016: ADJOURNMENT

There being no other business, the meeting adjourned at ten minutes to one O'clock in the afternoon. Next sitting would be held on 12th October, 2016 at 2.30 pm.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDRED AND THIRTY FIRST (331ST) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON WEDNESDAY 12TH OCTOBER, 2016 AT 2.30P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. David Eseli, M.P.
4. Hon. KaniniKega, M.P.
5. Hon. Andrew Mwadime, M.P.
6. Hon. KyengoKatathaMaweu, M.P.
7. Hon. KarekeMbiuki, M.P.
8. Hon. (Capt.) Clement Wambugu, M.P.
9. Hon. Kangogo Bowen, M.P.
10. Hon. Alice NyanchokaChae, M.P.
11. Hon. Julius Melly, M.P.
12. Hon. Timothy Bosire, M.P.
13. Hon. John Mbadi, M.P.
14. Hon. Jessica Mbalu, M.P.
15. Hon. FathiaMahbub, M.P.
16. Hon. Arthur Odera, M.P.
17. Hon. SakwaBunyasi, M.P.

APOLOGIES

1. Hon. Mathias Robi, M.P.
2. Hon. Abdikadir Aden, M.P.
3. Hon. Manson Nyamweya, M.P.
4. Hon. Charles Mong'areGeni, M.P.
5. Hon. SilvanceOnyangoOsele, M.P.
6. Hon. Joseph Manje, M.P.
7. Hon. Joel Onyancha, M.P.
8. Hon. Stephen Manoti, M.P.
9. Hon. GonziRai, M.P.
10. Hon. Junet Sheikh Nuh, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Mr ChelangaMaiyo - Researcher
3. Mr. Collins Mahamba - Audio Recorder

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. KimathiKwiriga - Accountant I

SIDIAN BANK

1. Mr. Titus Karanja - Chief Executive Officer
2. Ms. Daisy Ajima - Company Secretary
3. Ms. NjeriMwangi - Head of Marketing
4. Ms. EvelyneOgutu - Communication Consultant

MIN No. 1285/2016: PRELIMINARIES

The Chairman called the meeting to order at three O'clock in the afternoon. All present introduced themselves.

MIN No. 1286/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1287/2016: SUBMISSION OF INFORMATION BY MR. TITUS KARANJA, CEO, SIDIANBANK

Mr. Titus Karanja, CEO Sidian Bank appeared before the Committee and submitted on oath as follows;


1. He acknowledged the inconsistency of his submission during his previous appearance before the Committee. It was however not a deliberate attempt to mislead the Committee.
2. The bank's filter system could only have exposed names that appeared in the Auditor General's report or those that received money from the Ministry of Devolution and Planning, and not third level recipients.
3. They however noted from their partner Faulu Bank's submission that they had remitted money from one of their client's, Ogola and Co. Advocates to a Ms. Charity WanguiGethi. They therefore forwarded this information to the Committee on 4th October, 2016, before receiving the invite to appear, demonstrating their good faith.
4. The client indeed sent money to Ms. Charity WanguiGethi, and produced sale agreements to support his transactions.
5. The bank marketed the account which was opened as an advocate's client account on 7th March 2014. The customer submitted all requisite due diligence documentation.
6. The account was conducted satisfactorily; i.e. regularly and the money belonged to clients, ranging between Kes. 10-50 Million cash receipts. Most were for land conveyancing purposes, and were often fixed in trust as is practise.
7. On 16th and 17th March, 2015, the bank received Kes. 40 Million and Kes. 23,513,000.00 respectively from a Mr. John KagoNdungu's account at Family Bank. He stated it was a land transaction, and produced an agreement for sale for the property. The money was actually finally paid to a Michael Daud and Associates Advocates, the vendors advocates.
8. The money stayed with the bank for a reasonable period, one month, reasonable enough time to conclude a land transaction.

9. On 25th May, 2015, the account received Kes. 10 Million and Kes. 40 Million for purchase of a house. The money came from Goodluck 2011 Enterprises and Mr. John KagoNdungu respectively. Upon the bank requesting for the sale agreement, the client said the deal fell through and would use the funds for alternative investments. On 28th May 2015 they sent the monies to Kenya Commercial Bank to the account of Old Mutual and to Faulu Kenya for investment purposes.
10. All these transactions looked regular and did not raise a red flag to the bank.
11. The CBK report had been tabled to validate the previous submission that the Kes. 1 Million fine was not related to NYS funds.
12. The bank did another filter of names, including those that appeared in the press, and did not find any more matches.
13. A court order was received on the client's account giving a freeze order. Kenya Revenue Authority also requested to examine the account for purposes of tax investigation.

MIN No. 1288/2016: ADJOURNMENT

There being no other business, the meeting adjourned at ten minutes past four O'clock in the afternoon. Next sitting would be held on 13th October, 2016 at 2.30p.m.

Signed.....



(Chairperson)

Date.....

28.2.2017

MINUTES OF THE THREE HUNDRED AND THIRTY SECOND (332ND) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY 13TH OCTOBER, 2016 AT 2.30P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. David Eseli, M.P.
4. Hon. KaniniKega, M.P.
5. Hon. Andrew Mwadime, M.P.
6. Hon. KyengoKatathaMaweu, M.P.
7. Hon. Alice NyanchokaChae, M.P.
8. Hon. Timothy Bosire, M.P.
9. Hon. John Mbadi, M.P.
10. Hon. FathiaMahbub, M.P.
11. Hon. Arthur Odera, M.P.
12. Hon. SakwaBunyasi, M.P.
13. Hon. Manson Nyamweya, M.P.
14. Hon. Julius Melly, M.P.
15. Hon. (Capt.) Clement Wambugu, M.P.
16. Hon. Kangogo Bowen, M.P.

APOLOGIES

1. Hon. Jessica Mbalu, M.P.
2. Hon. KarekeMbiuki, M.P.
3. Hon. Mathias Robi, M.P.
4. Hon. Abdikadir Aden, M.P.
5. Hon. Charles Mong'areGeni, M.P.
6. Hon. Silvanice Onyango Osele, M.P.
7. Hon. Joseph Manje, M.P.
8. Hon. Joel Onyancha, M.P.
9. Hon. Stephen Manoti, M.P.
10. Hon. Gonzi Rai, M.P.
11. Hon. Junet Sheikh Nuh, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Mr ChelangaMaiyo - Researcher
3. Mr. Collins Mahamba - Audio Recorder

TREASURY

Mr. Geoffrey Mwitari - Parliamentary Liaison Officer

OFFICE OF THE AUDITOR GENERAL

Raphael Ikame - Parliamentary Liaison Officer

M.M. GITONGA & ADVOCATES

1. Mr. Martin MuthomiGitonga- Managing Partner
2. Mr. Dennis Mureithi Kimathi- Legal Counsel

MIN No. 1289/2016: PRELIMINARIES

The Chairman called the meeting to order at three O'clock in the afternoon. All present introduced themselves.

MIN No. 1290/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No.1291/2016: SUBMISSION OF INFORMATION BY MR. MARTIN M. GITONGA, MANAGING PARTNER, M.M. GITONGA & ADV.

Mr. Martin MuthomiGitonga, Managing Partner, M.M. Gitonga & Advocates appeared before the Committee and submitted on oath as follows:



1. He is happy for the opportunity to clarify his role in the NYS matter. The media has hitherto been unforgiving in misreporting claims against the law firm. His client's identity is paramount and requests camera session to disclose the client's name.
2. He joined the bar in 2013 after graduating from the university in 2010 and had been working hard to build his firm.
3. He has neither been charged in a court of law as has been reported in the media, nor have his assets been frozen.
4. That the firm never received any funds whatsoever from the NYS or the Ministry of Devolution and Planning for services rendered or otherwise. Moreover, the firm had not received any funds from any of the affected companies said to have irregularly obtained funds from the NYS.
5. The firm was never involved in the laundering of illicit funds from the NYS. The governing law, Proceeds of Crime and Anti-money Laundering Act, Chapter 59 B of the laws of Kenya clearly defines what money laundering entails.
6. Section 3 of the Act states inter alia that a person must know or ought to reasonably have known that property is or forms part of the proceeds of crime.
7. Section 7 of the Act states inter alia that a person commits an offence where the person knowingly transports, transmits, transfers or receives a monetary instrument or anything of value to another person with intent to commit an offence.
8. Furthermore, Section 2 of the Act defines institutions who reporting responsibility rests with. Advocates or law firms are not one of the designated reporting agencies. Section 45 of the Act

provides for the obligation to verify a customer's identity, and provides for reasonable measures to establish the said identity. These measures include obtaining the customer's national identity card and certificate of incorporation or registration certificate.

9. On or about March 2015 a local mobile telecommunication company well known to the firm approached the firm to act for it in a deal where an investor was to buy 380,000 shares of the company, representing 10% stake, at Kes. 157,500,000.00. The company owns Tangaza, a mobile money transfer service and their valuation was based on their own self-assessment.
10. The investment amount was then reduced by half to Kes. 78,750,000.00 for 5% stake of the company.
11. At this stage, the investor's agent, a Mr. John Kago transferred Kes. 78,000,000.00 to the firm's account held with Prime Bank Limited. The firm was to hold the funds pending conclusion of the deal, giving the company confidence of the investor's capacity to meet their part of the deal.
12. The mobile firm then submitted confidential information and trade secrets to the investor for purposes of due diligence.
13. Unfortunately the investor was not satisfied with the results of its due diligence, particularly the company structure, and intellectual property ownership thereof. The deal then fell through.
14. In the circumstances, the firm was duty bound to refund the money to the investor. On negotiation, it was verbally agreed that the firm would retain Kes. 400,000.00 for its services.
15. On or about 3rd June 2015, the investor's agent Mr. John Kago instructed the firm to refund the funds less the retainer of Kes. 400,000.00.
16. The instructions were to transfer Kes. 30 Million to Faulu Kenya DTM Limited account no. 08201550007, another Kes. 30 Million to Faulu Kenya Limited account at Cooperative Bank of Kenya, and Kes. 17.6 Million to Old Mutual Money Market Fund account no. 1102369705 at Kenya Commercial Bank Limited.
17. On or about 4th June 2015 the firm remitted the funds. The firm then had no further dealings with Mr. John Kago. He had never met Mr. John Kago and has not met him yet.
18. He had known the telecommunication company for a while through a high profile mutual friend and therefore gained their confidence over time. In fact, their offices had shared a building before.
19. The firm's accounts were frozen three months later because investigations linked companies or individuals that may have handled the funds. When investigators retrieved Mr. John Kago's statements, they found the transaction linking the firm with the individual.
20. Investigators then rushed to court without asking the client the circumstances. He did not challenge the freezing in court because he did not want the negative publicity that would have come with it. Moreover, the account did not have client's funds.
21. Mr. John Kago entrusted him with the funds without prior meeting because he was introduced by the company. Moreover, the selling company would only have been more confident of the deal if the funds were with a firm he knew and trusted.
22. The law firm did not prepare the agreement, which looked lay, but was still an enforceable legal agreement. He gave the advice to the client, who had however already generally agreed with the investor.
23. His letter to Mr. John Kago confirming transmission of funds was done on 27th August 2015, more than two months after the fact because he was in the process of setting up the firm and was putting his records in order.

MIN No. 1292/2016: ADJOURNMENT

There being no other business, the meeting adjourned at six O'clock in the evening. Next sitting would be held on 17th October, 2016 at 2.30p.m.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDRED AND THIRTY THIRD (333RD) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON MONDAY 17TH OCTOBER, 2016 AT 3.00P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. David Eseli, M.P.
4. Hon. Kanini Kega, M.P.
5. Hon. Andrew Mwadime, M.P.
6. Hon. Kyengo Katatha Maweu, M.P.
7. Hon. Alice Nyanhoka Chae, M.P.
8. Hon. Timothy Bosire, M.P.
9. Hon. John Mbadi, M.P.
10. Hon. Fathia Mahbub, M.P.
11. Hon. Arthur Odera, M.P.
12. Hon. Sakwa Bunyasi, M.P.
13. Hon. Manson Nyamweya, M.P.
14. Hon. Julius Melly, M.P.
15. Hon. (Capt.) Clement Wambugu, M.P.
16. Hon. Kangogo Bowen, M.P.

APOLOGIES

1. Hon. Jessica Mbalu, M.P.
2. Hon. Kareke Mbiuki, M.P.
3. Hon. Mathias Robi, M.P.
4. Hon. Abdikadir Aden, M.P.
5. Hon. Charles Mong'are Geni, M.P.
6. Hon. Silvanice Onyango Osele, M.P.
7. Hon. Joseph Manje, M.P.
8. Hon. Joel Onyancha, M.P.
9. Hon. Stephen Manoti, M.P.
10. Hon. Gonzi Rai, M.P.
11. Hon. Junet Sheikh Nuh, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Mr. Chelanga Maiyo - Researcher
3. Mr. Collins Mahamba - Audio Recorder

TREASURY

Mr. Geoffrey Mwitari - Parliamentary Liaison Officer

OFFICE OF THE AUDITOR GENERAL

Raphael Ikame - Parliamentary Liaison Officer

M.M. GITONGA & ADVOCATES

1. Mr. Martin Muthomi Gitonga- Managing Partner
2. Mr. Dennis Mureithi Kimathi- Legal Counsel

MIN No. 1293/2016: PRELIMINARIES

The Chairman called the meeting to order at quarter past three O'clock in the afternoon. All present introduced themselves.

MIN No. 1294/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1295/2016: SUBMISSION OF INFORMATION BY MR. PATRICK OGOLA, MANAGING PARTNER, OGOLA & MUJERA ADVOCATES (FORMALY OGOLA AND COMPANY ADVOCATE).

Mr. Patrick Ogola appeared before the Committee and submitted on oath as follows;

1. That he met Mr Ben Gethi in the year 2013; he was acting for the Vendor who was selling 2 Apartments located along Forest Road in Nairobi. Mr Gethi's sister was buying one of the units and he accompanied her to Mr. Ogola's office to help her negotiate legal fees with me.
2. The transaction was concluded in about 4 weeks and Mr Gethi accompanied his sister to go pick up their Title. He said he was happy with Mr. Ogola's services and promised to send more work his way in the future.
3. On or about 16th March 2015, Mr. Ogola's received a call from Mr. Ben Gethi who instructed him to act for his mother Charity Gethi in the purchase of a property known as L.R. Number 21/1/97 in Rosslyn Estate Nairobi that was being sold for the sum of KShs. 60,000,000.00.
4. Mr. Gethi advised him that Messrs. Michael, Daud & Associates would act as vendor's advocates in the transaction and informed him that the purchase price; stamp duty and all my costs would be transferred by one of Mr. Gethi's business associates.
5. That Mr. Ogola provided Mr. Gethi with his firm's Bank Account details for the purpose of the foretasted transaction, being an account at K-Rep Bank Ltd (now Sidian Bank Ltd) and on or about 16th March 2015, Mr. Ogola received a sum of 40,000,000 from Mr. John Kago and a further sum of Kshs 23,513,000 on or about 17th March 2015. This made for a total sum of Kshs 63,513,000 which was the total sum required to complete the transaction.
6. On or about 16th March 2015, Mr. Ogola contacted Ms. Glinis Kigera, an Advocate then practising in the firm of **Michael Daud & Associates** who were acting for the Vendor. They exchanged correspondence and proceeded to commence the sale transaction for the property. Mr.

Ogola prepared the Sale Agreement and the Transfer for the property and forwarded the same to the said firm of advocates for their approval. He also confirmed to them that he was holding the purchase price for the property on behalf of the buyer.

7. The said advocates advised Mr. Ogola that their client lived in Tanzania and they would advise on a date on which he would be in Kenya to conclude negotiations and execute the transaction documents. In the interim they had done a search and found that the property was charged to Transnational Bank. Michael Daud & Associates proceeded to engage with the bank to procure the release of the titles to facilitate the sale.
8. On 7th April 2015 Mr. Ogola received a call from his mother who lived in Mombasa who was unwell and had been rushed into theatre for emergency surgery. Mr. Ogola left Nairobi immediately and while he was in Mombasa attending to his mother's treatment, he was contacted by Mr. Gethi, who informed him that Vendor was in the country to conclude the property transaction. Mr. Ogola explained his circumstances and the meeting was conducted in his absence.
9. Mr Gethi called him thereafter and advised him that due to the urgency and inflexibility of the Vendor; he had decided to engage the firm of **Michael Daud & Associates** to take over from Mr. Ogola; and they would act for both parties in the transaction. He had already paid the sum of Ksh 12,000,000 as a deposit so Mr. Ogola was expected to send the sum of Kshs 50,400,000 to **Michael Daud & Associates** and send the Kshs 12,000,000.00 to another account at Faulu Kenya Limited.
10. The Sale Agreement and Transfer documents that Mr. Ogola had prepared were discarded and a fresh set of transaction documents prepared by **Michael Daud & Associates**. Mr. Ogola was however instructed to monitor the transaction to its conclusion and he promised to send him other transactions to handle. He followed up the transaction with the **Michael Daud & Associates** and was provided with written confirmation that the transaction was concluded and property had been transferred to Charity Wangui Gethi.

He submitted to the Committee copies of documents relating to the aforesaid transaction.

11. On or about 20th May 2015, Mr. Ogola received a call from Mr. Gethi in which he advised him that he wished to purchase another property. Just as before, the purchase price would be transferred to Mr. Ogola's client account by his business associate, Mr. Kago and more details would follow.
12. Mr. Ogola received Kshs 40,000,000 from Mr. Kago and Kshs 10,000,000 from a company known as Good Luck Twenty Enterprises, which Mr. Kago advised was his Company. On or about 27th May 2015, Mr. Ogola received a call from Mr. Gethi who advised him that the property transaction had fallen through and he would advise Mr. Ogola as to where to send the money. Mr. Ogola later received the relevant account details from Mr. Kago and duly forwarded the money to accounts at Old Mutual Money Market Fund and Faulu Kenya DTM Limited.
13. The circumstances of Mr. Ogola's handling these monies were solely in my capacity as conveyancing Advocate. Handling, holding and transferring large sums of money on behalf of clients was an integral part of a conveyancing practice. That Mr. Ogola's law firm handled property transactions for numerous clients who include listed companies, banks, multi-national corporations, foreign embassies and individuals. That he maintained and operated a Client Account for purposes of handling client transactions and

Mr. Ogola's provided to the Committee supporting documentation for every transfer to bank as per the requirements of the law.

14. He informed the meeting that he was not a registered supplier at NYS; he had never received any payments from NYS and had not to his knowledge handled any money from NYS. That Mr John Kago, who sent him the money, had not been charged with stealing any money from NYS. That Mr. Ogola had read through the Special Report prepared by the Auditor General and noted that Good Luck Twenty Limited who sent him Kshs 10,000,000 was not listed as a supplier who received a suspicious payment. That he was therefore at a complete loss as to how the monies sent to his account

and paid out in the regular course of my business were tied to monies suspected to have been stolen at NYS.

15. On the ownership of motor vehicle registration number KCB 750Z he informed the meeting that there had been quite a bit of publicity relating to the said motor vehicle. He further described the circumstances under which the motor vehicle came to be registered in his name as follows:

- i. That in the course of the abovementioned transactions Mr. Ben Gethi and Mr. John Kago made a number of visits to Mr. Ogola's offices. He escorted them to the parking lot on several occasions and noted that they always drove high-end motor vehicles.
- ii. Upon inquiry Mr. Kago informed Mr. Ogola that he ran a business of renting out high-end vehicles. The business cycle was such that he would keep the cars for 2-3 years then sells them so that he could purchase a newer model.
- iii. Their discussion regarding the vehicles culminated in his offer to sell to Mr. Ogola one of his vehicles being, Motor Vehicle Registration Number KCB 750Z, a Range Rover which would be up for sale in about 18 months.
- iv. They entered into a Sale Agreement with Mr. Kago for the purchase of the said Motor Vehicle and also signed a Transfer which was held by Mr Kago.

A copy of the Sale Agreement executed by Mr. Kago and Mr. Ogola was submitted to the Committee.

- v. He stated that that was a term of the Sale Agreement that Mr. Kago would grant him the period of 18 months to raise the purchase price for the Motor Vehicle during which time Mr. Kago would maintain ownership and possession of the said Motor Vehicle. Mr. Ogola had not paid any money towards the purchase of Motor Vehicle Registration Number KCB 750Z and the car was not yet his
- vi. That Mr. Ogola did not know the circumstances under which the transfer forms for Motor Vehicle Registration Number KCB 750Z came to be submitted for registration and could only speculate that this was done to pressure him not to back out of the transaction
- vii. That the ownership of the motor vehicle had been confirmed in an Affidavit sworn by Mr. Kago in response to the Asset Recovery Agency's Application in **HC Misc. Civ. Application 524 of 2015 – Milimani** and the DPP in its response to Applications filed by Mr. Ogola's firm seeking the opening of its Bank Accounts, being **HC Misc. Crim. Applications 133 of 2016, 134 of 2016 & 135 of 2016 – Milimani**, had acknowledged that Mr. Ogola did not have possession of the said vehicle.



Copies of the said pleadings were submitted to the Committee for their perusal.

- viii. He further stated that the circumstances surrounding the transactions were freely volunteered by Mr. Ogola to the Investigators and the Sale Agreement freely provided. He also explained to the Investigators that the Traffic Act recognized that for vehicles; unlike land or other fixed assets; the name on the log book was only *prima facie* evidence of ownership
- ix. That in Section 8 of the Traffic Act which states that :“*The person in whose name a vehicle is registered shall, unless the contrary is proved, be deemed to be the owner of the vehicle*”
- x. On 27 November 2015 Mr. Ogola received a call from CPL Sautet advising him that he had obtained a Court Order and that he required Mr. Ogola to surrender the Motor Vehicle to the nearest Police Station. He said that he was sure that Mr. Ogola was hiding the Motor Vehicle and that he had directed the Police Flying Squad to shoot him if they found him with the car.
- xi. Over the last 1 year Mr. Ogola had been subjected to investigations by the Banking Fraud Investigation Department. He was harassed, intimidated, threatened and finally openly told that he would need to bribe them to secure a report clearing Mr. Ogola of any wrong doing.

Herefused to do so and he believed that it was solely for that reason that Mr. Ogola was named as suspect in the matter and had been charged with the offence of Money Laundering.

- xii. That several affidavits had been sworn by CPL Sautet making damning allegations against Mr. Ogola without providing any supporting evidence. These affidavits were leaked to the press and on social media; but never served to Mr. Ogola.
- xiii. That three (3) of Mr. Ogola's bank accounts and one (1) account belong to one of his clients had been frozen irregularly and despite Mr. Ogola's offering explanation and supporting documentation for every transaction that he had been asked about; and despite the incontrovertible fact that Kshs 103 Million that Mr. Ogola received in Sidian Bank was all paid out in the course of transactions; these accounts remained frozen to date.
- xiv. That because he refused to offer a bribe, Mr. Ogola had been subjected to public humiliation; was called a thief and a money launderer. That his name was splashed in the press as "NYS lawyer" who was spending Kshs 27 Million to buy clothes from Hong Kong.
- xv. Mr. Ogola's further submitted that he was also told that he may have ties with terrorists and ordered to submit himself for investigation by the Anti-Terrorism Agency. He was told that his name was sent to Interpol to see if he had any ties to international organised crime. Anti-Terrorism Agency investigated him and cleared him of any wrong doing; but his accounts were still not opened.
- xvi. He was then summoned to the Kenya Revenue Authority for investigation. Mr. Ogola provided the Kenya Revenue Authority will all the information and documentation that they required and they advised him that they would contact him if they needed further information.
- xvii. That on one particular day he was summoned to the **Banking Fraud Investigation Department** in the morning; the **Anti-Terrorism Agency** at noon and **KRA** in the afternoon. When he realized that he was under threat of arrest, he sought the intervention of the High Court and made an application for Judicial Review. He obtained an interim injunction barring his arrest but then several other persons who had also been listed applied to be enjoined to Mr. Ogola's case and diluted his arguments. The case was argued in the absence of Mr. Ogola's Lead Counsel who had requested for a 1 week adjournment and judgment delivered overturning his injunction. He was finally charged with 4 counts of money laundering; 2 counts of which relate to the transactions that he had explained above, and 2 other counts relating to monies and transactions that he was a complete stranger to.
He presented to the Committee a charge sheet that was prepared by the initial team of Investigators
- xviii. He informed the meeting that he was aware that there were allegations of misconduct made against the investigation team that was headed by a Mr. Mungwanja; that this team was disbanded and that a Multi-Agency Team was then set up to take over and re-investigate. That he was aware that this Multi-Agency Team did conclude its investigation as relation to himself and that they made fresh recommendations to the Director of Public Prosecution.
- xix. That he had through his lawyers written several letters to the office of the Director of Public Prosecution requesting that they re-look at the facts evidence and recommendations made by the Multi-Agency Task Force; rather than continue to frustrate his business and subject Mr. Ogola to an extremely malicious prosecution. None of his petitions had been responded to and my letters had been ignored.

There being no other business, the meeting adjourned at six O'clock in the evening. Next sitting would be held on 18th October, 2016 at 10.00a.m.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDREDTH AND THIRTY FOURTH (334TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 18TH OCTOBER, 2016 AT 10:00A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. Jackson K. Rop, M.P. - Vice- Chairman
2. Hon. FathiaMahbub, M.P.
3. Hon. Arthur Odera, M.P.
4. Hon. GonziRai, M.P.
5. Hon. KaniniKega, M.P.
6. Hon. Timothy Bosire, M.P.
7. Hon. David Eseli, M.P.
8. Hon. Alice NyanchokaChae, M.P.
9. Hon. SakwaBunyasi, M.P.
10. Hon. John Mbadi, M.P.
11. Hon. KarekeMbiuki, M.P.
12. Hon. Mathias Robi, M.P.
13. Hon. Joel Onyancha, M.P.
14. Hon. KyengoKatathaMaweu, M.P.
15. Hon. Kangogo Bowen, M.P.
16. Hon. Julius Melly, M.P.
17. Hon. (Capt.) Clement Wambugu, M.P.
18. Hon. Charles GeniMong'are, M.P.
19. Hon. Andrew Mwadime, M.P.
20. Hon. Manson Nyamweya, M.P.

APOLOGIES

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Abdikadir Aden, M.P.
3. Hon. Joseph Manje, M.P.
4. Hon. Jessica Mbalu, M.P.
5. Hon. Junet Sheikh Nuh, M.P.
6. Hon. Stephen Manoti, M.P.
7. Hon. SilvaniceOnyangoOsele, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Ms. Tungo Aaron - Clerk Assistant II
3. Ms. Winnie Kulei - Research Officer
4. Ms. Catherine Burure - Fiscal Analyst
5. Mr. Collins Mahamba - Audio Recorder
6. Mr. Saidi Wako - Serjeant at Arms

OFFICE OF THE AUDITOR GENERAL

Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Rev. Kimathi Kwiriga - Accountant
2. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer

MIN No. 1297/2016: PRELIMINARIES

The Chairman called the meeting to order at half past ten O'clock in the morning and said a prayer. All present introduced themselves.

MIN No. 1298/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1299/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. SAMUEL MNDANYI WACHENJE FORMER SENIOR DEPUTY DIRECTOR FINANCE

Mr. Samuel Wachenje appeared before the Committee and submitted the following;

1. He informed the committee that during the year 2014 the Government of the Republic of Kenya came up with a policy to entrench affirmative action. This was meant to empower the youth, women and the disabled through access to thirty percent (30%) of Government Procurement Opportunities (AGPO).
2. That the Youth aspect, of the policy was implemented through the Ministry of Devolution and Planning and in particular the NYS
3. To achieve the desired effects the NYS was to be restructured such that the recruitment of volunteer Youth was enhanced from 4,000 to 21,870 recruits annually. This required an overhaul of the materials, food, shelter and other services required to sustain the huge increase in numbers. The NYS budget was overhauled as follows:

- | | | | |
|-----|-------------|---|---------------------|
| (a) | 2013 - 2014 | - | Kshs.13,053,202,443 |
| (b) | 2014 - 2015 | - | Kshs.22,803,431,222 |

The sums of money referred were applied to enhance and achieve the above policy which was being implemented.

4. The NYS placed orders through form works S12 to the Ministry of Public Works, Supplies Branch to supply it with various items to be used by the recruits and community youths involved in youth empowerment programmes. The goods/materials were supplied and payment effected.

Documents supporting the supply of goods and payments made were presented to the Committee

5. NYS Procurement Plan for the financial year 2013/2014 and 2014/2015 were in the custody of Head of Supplies Chain Management Officer at NYS Being on suspension and he was not able to access them.

6. On procurement of goods/Services worth Kshs.609,252,761.60 he informed the meeting that the expenditure was to procure training materials for the trainees in the service including, uniforms, foodstuff and branding the new look NYS
 7. The items were procured through prequalified companies with the Ministry of Public Works Supplies Branch. The suppliers had term contracts with the supplies branch
 8. That Local Purchase Orders (LPOs) were raised by the Supplies chain Department at the NYS and the goods were supplied, acknowledgement of the same was done by the issuance of departmental inspection and acceptance committee certificates.
 9. That payment was then accordingly made on the strength of the contract documents, LPOs, delivery notes, invoices, inspection and acceptance certificate duly signed and certification by the head of supplies chain management that the goods had been received as per the given specifications
 10. On payment of Kshs.360, 315,000 to NYS Permanent Staff the meeting was informed that the payment was affected to the NYS Permanent Staff being food rations to those members of staff who were supervising community youths at Kibera, Mathare, Kiandutu in Thika and Korogocho.
 11. That the sum of Kshs.551,750,000 was utilized in NYS operations when there was delay in the release of money to NYS from the exchequer to pay community youth, huduma kitchen, staff involved in Lamu securitization, construction of water pans, personnel wages and Kibera road committee allowances. The youth were agitated and they were demanding their payment. The above sum of money was however refunded to the savings account in January 2016
 12. Further, Mr Samuel Wachenje informed the meeting that as an alternate AIE holder, he did not participate in the commitment of the sum of Kshs.695, 400,000. That he didn't have the advantage of knowing the chronology or documents on how the commitment was done.
 13. Mr Wachenje was unable to provide copies of contracts, invoices, and payment vouchers for delivery of goods to NYS during the period under inquiry since all the documents were in the possession and custody of supplies chain department at NYS and therefore did not have access to the documents.
- The meeting was adjourned at 1.45 p.m.

MIN No. 1300/2016: APPEARANCE BY MR. HENDRICK PILISI; FORMER NYS PRINCIPAL PROCUREMENT OFFICER AT 3. 00 P.M

Mr. Hedrick Pilisi appeared before the Committee and informed the meeting that he was not feeling well and that he was from seeing a doctor in hospital. However, he had to present himself before the committee to request for a reschedule of his hearing to a later date.

The meeting noted that Mr. Pilisi was a very important witness who needed to appear before the Committee in a sound state of health so as to make his submissions. His request was considered by Members and was asked to reappear before the Committee on Wednesday 26th October, 2016 at 2.00 p.m.

MIN No. 1301/2016: ADJOURNMENT

There being no other business, the meeting adjourned at quarter to four O'clock in the afternoon. Next sitting would be held on 24th October, 2016 at 2.30 pm.

Signed.....


(Chairperson)

Date.....

28.2.2017

MINUTES OF THE THREE HUNDREDTH AND THIRTY FIFTH (335TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON MONDAY, 24TH OCTOBER, 2016 AT 2:30P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. FathiaMahbub, M.P.
4. Hon. Alice NyanhokaChae, M.P.
5. Hon. SakwaBunyasi, M.P.
6. Hon. David Eseli, M.P.
7. Hon. KarekeMbiuki, M.P.
8. Hon. Abdikadir Aden, M.P.
9. Hon. Joseph Manje, M.P.

APOLOGIES

1. Hon. Arthur Odera, M.P.
2. Hon. Mathias Robi, M.P.
3. Hon. John Mbadi, M.P.
4. Hon. Joel Onyancha, M.P.
5. Hon. KyengoKatathaMaweu, M.P.
6. Hon. Kangogo Bowen, M.P.
7. Hon. Julius Melly, M.P.
8. Hon. (Capt.) Clement Wambugu, M.P.
9. Hon. Charles GeniMong'are, M.P.
10. Hon. Andrew Mwadime, M.P.
11. Hon. Manson Nyamweya, M.P.
12. Hon. GonziRai, M.P.
13. Hon. KaniniKega, M.P.
14. Hon. Timothy Bosire, M.P.
15. Hon. Jessica Mbalu, M.P.
16. Hon. Junet Sheikh Nuh, M.P.
17. Hon. Stephen Manoti, M.P.
18. Hon. SilvanseOnyangoOsele, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Ms. Tungo Aaron - Clerk Assistant II
2. Mr. Victor Weke - Clerk Assistant II
3. Ms. Winnie Kulei - Research Officer
4. Mr. Collins Mahamba - Audio Recorder

OFFICE OF THE AUDITOR GENERAL

Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Rev. Kimathi Kwiriga - Accountant
2. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer

MIN No. 1302/2016: PRELIMINARIES

The Chairman called the meeting to order at twenty minutes to three O'clock in the afternoon and said a prayer. All present introduced themselves.

MIN No. 1303/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1304/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. LAMIN MANJANG, MD AND CEO STANDARD CHARTERED BANK

Mr. Lamin Manjang appeared before the Committee accompanied by:

- i. Ms. Noela Lubano - Advocate
- ii. Ms. Beth Warui - Financial Crime Compliance
- iii. Ms. Grace Mburu - Manager Compliance
- iv. Mr. Tom Indimuli - Head of External Relations

The witness requested for the session to be held in camera since information they were to table was confidential as protected by the CBK Prudential Guidelines. The Committee accepted the request after determining the information to be tabled was not in the public domain and touched on several clients of the bank.

(Information submitted is available in the National Assembly Clerk's office on request)

MIN No. 1305/2016: ADJOURNMENT

There being no other business, the meeting adjourned at twenty minutes past four O'clock in the afternoon. Next sitting would be held on 25th October, 2016 at 10.30 a.m.

Signed.....



(Chairperson)

Date.....

28.2.2017

MINUTES OF THE THREE HUNDRED AND THIRTY SIXTH (336TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY 26TH OCTOBER, 2016 AT 10.00A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. KaniniKega, M.P.
4. Hon. FathiaMahbub, M.P.
5. Hon. Andrew Mwadime, M.P.
6. Hon. Timothy Bosire, M.P.
7. Hon. Arthur Odera, M.P.
8. Hon. Alice NyanchokaChae, M.P.
9. Hon. Abdikadir Aden, M.P.
10. Hon. SakwaBunyasi, M.P.
11. Hon. David Eseli, M.P.
12. Hon. KyengoKatathaMaweu, M.P.
13. Hon. Charles Mong'areGeni, M.P.
14. Hon. Joseph Manje, M.P.
15. Hon. Kangogo Bowen, M.P.
16. Hon. (Capt.) Clement Wambugu, M.P.
17. Hon. Manson Nyamweya, M.P.

APOLOGIES

1. Hon. Julius Melly, M.P.
2. Hon. Jessica Mbalu, M.P.
3. Hon. KarekeMbiuki, M.P.
4. Hon. John Mbadi, M.P.
5. Hon. Mathias Robi, M.P.
6. Hon. Silvanice Onyango Osele, M.P.
7. Hon. Joel Onyanacha, M.P.
8. Hon. Stephen Manoti, M.P.
9. Hon. Gonzi Rai, M.P.
10. Hon. Junet Sheikh Nuh, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Ms. Chelagat Tungo - Clerk Assistant II
3. Ms. Winnie Kulei - Researcher
4. Mr. Collins Mahamba - Audio Recorder

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

OFFICE OF THE AUDITOR GENERAL

- Mr. Raphael Ikame - Parliamentary Liaison Officer

MIN No. 1306/2016: PRELIMINARIES

The Chairman called the meeting to order at thirty minutes past ten O'clock in the morning. All present introduced themselves.

MIN No. 1307/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1308/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MS. JOSEPHINE KABURA

The Chairman informed the Committee that the witness, Ms. Josephine Kabura, had not honored the third invitation to appear and give evidence before the Committee. Her advocate, Mr. F. Omino wrote to the Clerk's office on the 24th October, 2016 indicating that he had not been successful in tracing her client. He requested for a further reschedule to allow him time to reach Ms. Kabura.

The Clerk's office responded to this request in writing and demanded that Ms. Kabura honor her invitation failure to which summons would be issued.

The Committee noted that the witness had acted in contempt of the Committee by failing to honor her invitations despite several of her requests having been accommodated. This was in contravention of Article 125 of the Constitution, Standing Order no. 191, and the Powers and Privileges Act.

The Committee resolved that summons be issued by the Clerk's office compelling the witness to appear before it, failure to which a demand for her arrest would be issued to the Inspector General of Police.

MIN No. 1309/2016: BENCHMARKING VISIT BY MEMBERS OF THE BUSIA PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE



The Committee held discussions and exchanged matters of best practice with their Busia counterparts with the following members of the Busia County Assembly's PAIC;

1. Hon. Maurice Chetambe - Chairman
2. Hon. Gardy Jakaa - Vice-chairman
3. Hon. Ernest Obola - Member
4. Hon. Apio Monica Mung'ala - Member
5. Hon. Charles Wakhungu - Member
6. Mr. Siatta Gerald - Committee Clerk

- 7. Mr. John Naboue - Researcher
- 8. Ms. Dester Murabula - Secretary
- 9. Mr. Elijah Mwaro - Hansard Reporter
- 10. Mr. James Karani - Serjaent-at-arms

MIN No. 1310/2016: ADJOURNMENT

There being no other business, the meeting adjourned at thirty minutes past one O'clock in the afternoon. Next sitting would be held at 3.00p.m.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDRED AND THIRTY SEVENTH (337TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY 26TH OCTOBER, 2016 AT 3.00P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. Kanini Kega, M.P.
4. Hon. Fathia Mahbub, M.P.
5. Hon. Andrew Mwadime, M.P.
6. Hon. Timothy Bosire, M.P.
7. Hon. Arthur Odera, M.P.
8. Hon. Alice Nyanchoka Chae, M.P.
9. Hon. Joseph Manje, M.P.
10. Hon. Abdikadir Aden, M.P.
11. Hon. David Eseli, M.P.
12. Hon. Kareke Mbiuki, M.P.
13. Hon. Kyengo Katatha Maweu, M.P.
14. Hon. Manson Nyamweya, M.P.

APOLOGIES

1. Hon. Sakwa Bunyasi, M.P.
2. Hon. Julius Melly, M.P.
3. Hon. Charles Mong'are Geni, M.P.
4. Hon. Kangogo Bowen, M.P.
5. Hon. (Capt.) Clement Wambugu, M.P.
6. Hon. Jessica Mbalu, M.P.
7. Hon. John Mbadi, M.P.
8. Hon. Mathias Robi, M.P.
9. Hon. Silvanice Onyango Osele, M.P.
10. Hon. Joel Onyancha, M.P.
11. Hon. Stephen Manoti, M.P.
12. Hon. Gonzi Rai, M.P.
13. Hon. Junet Sheikh Nuh, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Ms. Chelagat Tungo - Clerk Assistant II
3. Mr. Chelanga Maiyo - Researcher
4. Mr. Collins Mahamba - Audio Recorder

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

OFFICE OF THE AUDITOR GENERAL

- Mr. Raphael Ikame - Parliamentary Liaison Officer

STATE DEPARTMENT OF PUBLIC WORKS

1. Prof. Arch. Paul Mwangi Maringa - Principal Secretary
2. Mr. Sebastian Mookia - Ag. Officer in Charge, Supplies Dept.
3. Ms. Joyce Ala - Principal Supply Chain Management Officer
4. Arch. Wesley Nyariki - Former Head of Supplies Branch (on interdiction)

MIN No. 1311/2016: PRELIMINARIES

The Chairman called the meeting to order at three O'clock in the afternoon. All present introduced themselves.

MIN No. 1312/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1313/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: PROF. ARCH. PAUL MWANGI MARINGA, PRINCIPAL SECRETARY, STATE DEPT. FOR PUBLIC WORKS

The Accounting Officer noted that he had initially appeared before the Committee on 25th August, 2016, and his re-appearance was premised on his being accompanied by Arch. Wesley Nyariki, the alleged author of the forged supplies branch contract that was used by the NYS to procure various items.

Arch. Wesley Nyariki submitted as follows:

1. He was a qualified architect having graduated from the University of Nairobi in 1991 with a bachelor's degree in architecture. He joined government in the Ministry of Public Works in December, 1993 as an assistant architect, and obtained professional registration in 1996, subsequently being promoted to the position of Architect I, a position he served in for 13 years. He was then promoted to the rank of a superintendent architect and in 2010, to the position of senior superintendent architect. He was then posted to several stations in Central Kenya and the ministry headquarters. In February 2013 he was appointed to head supplies branch, as the administrative head with procurement officers working below him. He was interdicted in March 2016 due to anomalies in the tender processes of the year 2014.
2. The mandate of supplies branch was to procure common user items, i.e. those goods that are easily transferable without change of specifications. Tenders of these goods are advertised annually for the

items in national media. Supplies branch then signs contracts for goods at unit prices. It is the requisitioning entity that then determines how much they need and tenders for them.

3. The procuring entity does not go through all the procurement processes because supplies branch already has. What is required is for the ministerial tender committee to approve the procurement.
4. Supplies branch can also procure for a government entity provided they wire the money to their account. In this case, LPO's originate from the supplies branch.
5. Construction materials that are included in supplies branch contracts are those that have been manufactured, for example cement. Raw items like ballast and quarry stones are excluded.
6. The circular that was used by the NYS to procure construction materials for the 3.5 kilometre Kibera road was fake. He saw the circular for the first time when he was interviewed by officers of the Auditor General during investigations. It seemed that preceding pages of the circular were doctored and attached to the last page that had his signature.
7. On the order of Kes. 222,122,919.00, he had only supplied three LPO's by the time he was interdicted. Various 'S12' requisition forms had been filled for various items.
8. He conceded having been in charge of supplies branch when the tenders the Principal Secretary deemed fraudulent were processed.

The Principal Secretary added as follows:

9. Arch. Nyariki together with two other officers had been suspended after an audit he had commissioned internally revealed massive irregularities. A sample of 125 tenders found that letters of offer had not been signed up to two years later. Further, most of the tenders were awarded to unqualified firms, with some having been earlier disqualified or having not bid at all. The prices were grossly exaggerated, ranging from 100% up to 5000%! An example was a fire fighting equipment costing roughly Kes. 3 million being procured for Kes. 18 Million.
10. He confirmed that the State Department was holding Kes. 172 Million out of Kes. 221,098,209.00 received from NYS, in their stores & service fund account at the Central Bank. This amount received varied from what had been reported of Kes. 222,122,919.00 by Kes. 1,024,710.00 which they could not trace in their records.

The Committee requested the Principal Secretary to avail the following documents before the Committee in a week's time;

- The internal audit report he had commissioned on tenders issued by supplies branch since 2013;
- An inventory of tenders opened on the 4th and 11th October, 2016



MIN No. 1314/2016: ANY OTHER BUSINESS

1. The Chairman sought clarity from the Principal Secretary on the award of tenders of police housing, including allegations that a bidder had sponsored a trip to China for the Principal Secretary and other officers. The PS clarified that the alleged bidder, Ciftec, had actually not bid for the tender but was seeking a public/private partnership. The trip to China was a due diligence trip organized by the State Department of Interior and the Police, and comprised 10 members, 5 of which were from the State Department of Public Works acting as consultants. Ciftec paid for travel and accommodation, and when they offered per diems, the PS called home to cancel processing of the same that he initially understood was to be catered for by government. This was his first and last trip yet with the government, as he had enforced a policy of non- frequent travel by senior officers.

2. The Chairman informed the Committee that the Director of Public Prosecutions had requested that he appear in the tail-end of the NYS investigation. This would enable him give a comprehensive contribution to the inquiry. The Committee accepted the request.
3. The Chairman informed the meeting that Ms. Josephine Kabura, the witness who had skipped the previous sitting had reached out through his lawyer and requested to be allowed to appear voluntarily. This was after the Committee had resolved to issue summons. The Committee accepted this request and tasked the Chairman to set an acceptable date of her appearance, to the convenience of the Committee.

MIN No. 1315/2016: ADJOURNMENT

There being no other business, the meeting adjourned at thirty minutes past five O'clock in the evening. Next sitting would be held on 26th October, 2016 at 2.30p.m.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDRED AND THIRTY EIGHTH (338TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON WEDNESDAY 26TH OCTOBER, 2016 AT 3.00P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. Fathia Mahbub, M.P.
4. Hon. Andrew Mwadime, M.P.
5. Hon. Arthur Odera, M.P.
6. Hon. Abdikadir Aden, M.P.
7. Hon. David Eseli, M.P.
8. Hon. Kyengo Katatha Maweu, M.P.
9. Hon. Sakwa Bunyasi, M.P.
10. Hon. (Capt.) Clement Wambugu, M.P.
11. Hon. Julius Melly, M.P.
12. Hon. Manson Nyamweya, M.P.

APOLOGIES

1. Hon. Joseph Manje, M.P.
2. Hon. Kareke Mbiuki, M.P.
3. Hon. Alice Nyanchoka Chae, M.P.
4. Hon. Kanini Kega, M.P.
5. Hon. Timothy Bosire, M.P.
6. Hon. Charles Mong'are Geni, M.P.
7. Hon. Kangogo Bowen, M.P.
8. Hon. Jessica Mbalu, M.P.
9. Hon. John Mbadi, M.P.
10. Hon. Mathias Robi, M.P.
11. Hon. Silvanice Onyango Osele, M.P.
12. Hon. Joel Onyancha, M.P.
13. Hon. Stephen Manoti, M.P.
14. Hon. Gonzi Rai, M.P.
15. Hon. Junet Sheikh Nuh, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Ms. Chelagat Tungo - Clerk Assistant II
3. Mr. Chelanga Maiyo - Researcher
4. Ms. Winnie Kulei - Researcher
5. Mr. Collins Mahamba - Audio Recorder

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

OFFICE OF THE AUDITOR GENERAL

- Mr. Raphael Ikame - Parliamentary Liaison Officer

MIN No. 1316/2016: PRELIMINARIES

The Chairman called the meeting to order at ten minutes past three O'clock in the afternoon. All present introduced themselves.

MIN No. 1317/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1318/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. HENDRICK PILISI, FORMER HEAD OF PROCUREMENT, NATIONAL YOUTH SERVICE

Mr. Hendrick Nyongesa Pilisi, the former Head of Procurement at the NYS appeared accompanied by **Ms. Jane Wangeci Gichuki**, and submitted as follows:

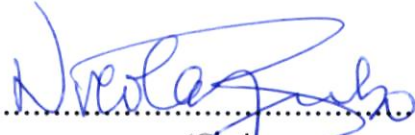

1. He thanked the Committee for rescheduling his appearance from the initial date due to his ill health at the time.
2. He holds an Msc degree in Procurement and Logistics, a Bachelors of Arts in Economics and Sociology. He was due to attain a Doctorate of Business Administration from JKUAT. He also holds a professional qualifications in procurement from the Chartered Institute of Purchasing and Supplies.
3. He joined the government in 1994 as a supplies officer rising through the ranks culminating in the position of a Principal Supply Chain Management Officer. He was currently on interdiction.
4. His position as head of procurement was meant to ensure economy, efficiency, transparency and accountability. He adhered to this until 2014 when the direct involvement of the then Cabinet Secretary on supervisory matters of the service began to manifest. The service was restructured with a high turnover of senior personnel, include those heading procurement at the Ministry. The CS deployed her personal advisors to various departments to monitor proceedings. All this was meant to obtain a conducive environment for malpractice. It is instructive to note that some procurements were initiated, done, concluded and passed over to NYS by the Ministry.
5. The Kibera slum upgrade works were earmarked to be completed by 12th December, 2014 when H.E the President was due to officially hand over the projects to the communities. Despite the urgency, systems were not in place to facilitate timely availability of construction materials as envisaged in the procurement laws.
6. Because of the attendant risks above, he contacted EACC to appraise them of the challenges at the NYS. He met them at their offices and they promised to act clandestinely and keep him informed. They however did not get back to him. He was therefore surprised when the EACC appeared before

the Committee and feigned ignorance. Further, the companies tabled by EACC were selectively acted on because those linked to powerful individuals were given preferential treatment and promptly paid. The manner in which EACC proceeded with its operations was also suspect; they prosecuted a tender committee for upholding a decision of the evaluation committee in a certain tender award. They in fact turned the evaluation committee into state witnesses.

7. The NYS had an existing procurement plan which had some aspects of it in sync with the 5-point plan. Some of the pillars of the 5-point plan were however not in the procurement plan.
8. On the procurement of construction materials for Kes. 791 Million, the service was tasked with construction of posho mills, police posts, beyond zero clinics, social halls, modern houses, fish tanks and gunny bags in all the villages. A river course way was also to be constructed, foot bridges and connecting foot paths. This led to a high demand of construction materials which could not be procured in time, compounded by the lack of bills of quantities.
9. On 18th November, 2014, a personal advisor to the former CS confronted Mr. Pilisi for not expediting the process. He was summoned to the former CS's office and instructed to use existing supply branch contracts. However, the only existing contracts for construction materials were delivered by a gentleman purporting to be the CS's personal assistant. The only companies in these contracts that could supply construction materials were Form Home Builders, Roof and All Trading and Reinforced Concrete Technologies. The firms were engaged by the use of supplies branch contracts which he could not imagine were forged because the firms were already in the IFMIS system.
10. Since the government had no quarries, they had to use existing contracts, which in fact quoted lesser unit costs than those of obtained quotations, by Kes. 985.00.
11. In this contracts, the NYS was to lease its machinery and equipment to the contractors, with the Director Paramilitary Training requested to calculate the hire charges. A team of material engineers identified the suitable quarries in Njiru and Rongai. The materials were delivered and ascertained by the Inspection and Acceptance Committee.
12. After the presidential launch on 12th December, 2014, Mr. Pilisi stopped the procurements awaiting professional bills of quantities. This earned him a show cause letter from the Cabinet Secretary. He was then suspended and later verbally reinstated by Ms. Betty Maina, the personal assistant to the Cabinet Secretary.
13. Payment of Kes. 221,098,209.00 was made for goods to support the roll-out of the Kibera slums upgrading programme and the national dam construction works. The money was sent to supplies branch but full delivery of goods was not done because stock had ran out.
14. He provided a breakdown of supplies made by the use of a supplies branch contract to the tune of Kes. 609,252,761.60. This included procurement of Kes. 101,009,135.60 to Brand Associates procured directly by the Ministry Headquarters.
15. The Consulting House was directly procured for Kes. 40 Million following a request from the then Director General Mr. Japhter Rugut. The firm had however already been engaged by the ministry. The contract for implementation of the 5-point plan was done at the ministry headquarters. In fact, there was another contract of Kes. 192,501,017.00 that was being discussed at the ministry. He left the service on interdiction before this contract was executed.
16. Out of the Box Solutions was procured at Kes. 302,458,690.00 for sensitization campaigns to enhance access to 30% of government procurement opportunities to youth, women and persons with disabilities. This procurement was done directly by the ministry.

MIN No. 1319/2016: ADJOURNMENT

There being no other business, the meeting adjourned at thirty minutes past five O'clock in the evening. Next sitting would be held on 27th October, 2016 at 10.00a.m.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDRED AND THIRTY NINTH (339TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY 27TH OCTOBER, 2016 AT 10.00A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. Fathia Mahbub, M.P.
4. Hon. Joseph Manje, M.P.
5. Hon. Andrew Mwadime, M.P.
6. Hon. Abdikadir Aden, M.P.
7. Hon. Kanini Kega, M.P.
8. Hon. Mathias Robi, M.P.
9. Hon. (Capt.) Clement Wambugu, M.P.
10. Hon. Gonzi Rai, M.P.
11. Hon. Arthur Odera, M.P.
12. Hon. Kyengo Katatha Maweu, M.P.
13. Hon. Sakwa Bunyasi, M.P.
14. Hon. Manson Nyamweya, M.P.
15. Hon. Kareke Mbiuki, M.P.
16. Hon. Timothy Bosire, M.P.
17. Hon. David Eseli, M.P.

APOLOGIES

1. Hon. Julius Melly, M.P.
2. Hon. Alice Nyanchoka Chae, M.P.
3. Hon. Charles Mong'are Geni, M.P.
4. Hon. Kangogo Bowen, M.P.
5. Hon. Jessica Mbalu, M.P.
6. Hon. John Mbadi, M.P.
7. Hon. Silvanice Onyango Osele, M.P.
8. Hon. Joel Onyancha, M.P.
9. Hon. Stephen Manoti, M.P.
10. Hon. Junet Sheikh Nuh, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Ms. Chelagat Tungo - Clerk Assistant II
3. Mr. Collins Mahamba - Audio Recorder

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

OFFICE OF THE AUDITOR GENERAL

- Mr. Raphael Ikame - Parliamentary Liaison Officer

MIN No. 1320/2016: PRELIMINARIES

The Chairman called the meeting to order at thirty minutes past ten O'clock in the morning. All present introduced themselves.

MIN No. 1321/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1322/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. JOHN KAGO

Mr. John Kago, a businessman, appeared accompanied by his advocate **Mr. Moses Owuor**, and submitted as follows under oath:

1. He was born in Nyeri in February 1958 and thereafter studied in Kihatha Primary School, Kimathi Secondary School and Gaichanjeru High School for his A 'levels. He was then employed at the Ministry of Water Development in 1979 and posted to Embu and Machakos as an accounts clerk. In 1997 he sought greener pastures by joining Kenya Commercial Bank as a driver, a position he held until his suspension when the NYS matter came to light.
2. He has been a businessman since 1988 when he bought his first car from savings, a Datsun, which he used for taxi business. In 1989 he opened a butchery in Machakos but it failed to prosper. This is the point at which he resigned from government to join KCB. At the bank, he started engaging in buying and selling of second hand vehicles before embarking on importing cars from Japan for sale. He is also an estate agent and runs a business by the name of Good luck 2011 Enterprises, dealing in the sale of high end personal cars.
3. He has had no direct or indirect link with the NYS either as a shareholder or director of any of the companies alleged to have received funds stolen from the NYS.
4. He met Ms. Josephine Kabura through his normal business dealings in 2014 around October, after which she loaned him Kes. 60 Million at the rate of 10% interest per month. This money was deposited in his account held at Family Bank. He had repaid this principal amount, together with Kes. 6 Million interest for the one month for which he held it, in cash. He knew Ms. Kabura as a shylock and had no knowledge of her alleged involvement with the NYS.
5. Ms. Charity Wangui Gethi was a property client of his. It is for this reason that he handled funds from Ms. Gethi, and transferred them to M.M. Gitonga & Co. Advocates, and Ogola & Ogola Advocates. Ms. Gethi gave him most of the monies in cash. He had no business or personal relationship with Mr. Ben Gethi. All monies alleged to have been received from Mr. Ben Gethi to his bank accounts were a fabrication of a Mr. Sautet of the Anti-fraud Banking Unit.

6. In 2015 he bought a motor vehicle Range Rover registration KCB 750Z for car hire purposes. Mr. Patrick Ogola saw the car and expressed interest in buying it. They signed a sale agreement and filled in the registration transfer form, to commit that the car would not be sold to a third party. The car would however remain in Mr. Kago's possession until full payment of the purchase price within 18 months.
7. The vehicle was currently in the possession of a Mr. Ileri Kaburu who had hired it but was not driving it because the police had threatened to shoot on sight anyone found with it.
8. He had three other motor vehicles for his car hire business, a Mercedes 350, Land cruiser 8-seater vehicle and a Toyota Fielder.
9. Corporal Sautet Matapei had sworn a false affidavit on charges of money laundering related to a Jeep motor vehicle registration no. KCD 241Q, and receipt of monies that he could demonstrate he did not receive. Cpl. Sautet denied him the chance to prove his case.

The Committee directed that Mr. Kago avail the following information within one week;

- a) **His bank statements from KCB and Family Bank from 2013 to date;**
- b) **Particulars of property bought on behalf of Charity Gethi**

The Committee also directed the witness to deliver the range rover to the Assets Recovery Agency by Monday 31st October, 2016 and file a confirmation with the Committee.

MIN No. 1323/2016: ADJOURNMENT

There being no other business, the meeting adjourned at ten minutes to one O'clock in the afternoon. Next sitting would be held at 2.30p.m.

Signed.....
(Chairperson)

Date..... 28.2.2017

MINUTES OF THE THREE HUNDRED AND FOURTIETH (340TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY 27TH OCTOBER, 2016 AT 3.00P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. Fathia Mahbub, M.P.
4. Hon. Kanini Kega, M.P.
5. Hon. Mathias Robi, M.P.
6. Hon. Arthur Odera, M.P.
7. Hon. Kyengo Katatha Maweu, M.P.
8. Hon. Sakwa Bunyasi, M.P.
9. Hon. Manson Nyamweya, M.P.
10. Hon. Kareke Mbiuki, M.P.
11. Hon. Andrew Mwadime, M.P.
12. Hon. Joseph Manje, M.P.
13. Hon. Timothy Bosire, M.P.
14. Hon. Abdikadir Aden, M.P.
15. Hon. Gonzi Rai, M.P.
16. Hon. David Eseli, M.P.

APOLOGIES

1. Hon. (Capt.) Clement Wambugu, M.P.
2. Hon. Julius Melly, M.P.
3. Hon. Alice Nyanchoka Chae, M.P.
4. Hon. Charles Mong'are Geni, M.P.
5. Hon. Kangogo Bowen, M.P.
6. Hon. Jessica Mbalu, M.P.
7. Hon. John Mbadi, M.P.
8. Hon. Silvance Onyango Osele, M.P.
9. Hon. Joel Onyancha, M.P.
10. Hon. Stephen Manoti, M.P.
11. Hon. Junet Sheikh Nuh, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Victor Weke - Clerk Assistant II
2. Ms. Chelagat Tungo - Clerk Assistant II
3. Mr. Collins Mahamba - Audio Recorder

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

OFFICE OF THE AUDITOR GENERAL

- Mr. Raphael Ikame - Parliamentary Liaison Officer

FINANCIAL REPORTING CENTRE

1. Mr. Alex Nandi - Interim Director/ CEO
2. Mr. Patrick Mugo - Head of Analysis
3. Mr. John Koskai Karei - Analyst

MIN No. 1324/2016: PRELIMINARIES

The Chairman called the meeting to order at twenty minutes past three O'clock in the afternoon. All present introduced themselves.

MIN No. 1325/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1326/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. ALEX NANDI

Mr. Alex Nandi, Interim Director, The Financial Reporting Centre appeared before the Committee accompanied by his officers, and submitted as follows:

1. The Financial Reporting Centre (FRC) was established in April 2012 under the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA), Section 21. Its key mandate is to combat money laundering and terrorism financing under the Prevention of Terrorism Act.
2. The FRC works with several agencies listed under the first schedule of the POCAMLA law. They do not investigate but just collect information and prepare reports for submission to investigatory agencies. The FRC is also a regulator of financial transactions by setting up regulations, providing a preventive angle.
3. The FRC has received 42 suspicious transaction reports from 15 banks regarding NYS transactions. He however felt it not prudent to table the information publicly as prescribed by Section 20 (1) of the POCAMLA law.
4. After an analysis of these transactions, the FRC disseminated 19 financial intelligence reports to the EACC and the DCI for further investigation and prosecutions.

The Committee considered the Interim Director's reservations concerning withholding of information on the financial intelligence reports they submitted to the EACC and the DCI, and resolved that he produces the reports to the Committee by 3rd November, 2016. He would also provide an analysis of suspicious transaction reports filed by financial institutions.

MIN No. 1327/2016: A.O.B

The Committee noted with concern the emerging scandal concerning misuse of funds by the Ministry of Health. It resolved that the Auditor General be requested to conduct a special audit report on the same for its consideration.

MIN No. 1328/2016: ADJOURNMENT

There being no other business, the meeting adjourned at five O'clock in the evening. Next sitting would be held on Tuesday 1st November, 2016 at 9.00a.m.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDRED AND FOURTY FIRST (341ST) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY 1ST NOVEMBER, 2016 AT 9.00 A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. Kanini Kega, M.P.
4. Hon. Fathia Mahbub, M.P.
5. Hon. Timothy Bosire, M.P.
6. Hon. Joseph Manje, M.P.
7. Hon. Abdikadir Aden, M.P.
8. Hon. David Eseli, M.P.
9. Hon. Kareke Mbiuki, M.P.
10. Hon. John Mbadi, M.P.
11. Hon. Stephen Manoti, M.P.
12. Hon. Sakwa Bunyasi, M.P.
13. Hon. Julius Melly, M.P.
14. Hon. Charles Mong'are Geni, M.P.
15. Hon. Andrew Mwadime, M.P.
16. Hon. Alice Nyanchoka Chae, M.P.
17. Hon. Kangogo Bowen, M.P.
18. Hon. Kyengo Katatha Maweu, M.P.
19. Hon. Manson Nyamweya, M.P.
20. Hon. (Capt.) Clement Wambugu, M.P.
21. Hon. Jessica Mbalu, M.P.
22. Hon. Silvance Onyango Osele, M.P.
23. Hon. Joel Onyancha, M.P.
24. Hon. Gonzi Rai, M.P.

APOLOGIES

1. Hon. Arthur Odera, M.P.
2. Hon. Junet Sheikh Nuh, M.P.
3. Hon. Mathias Robi, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Asst.
2. Ms. Chelagat Tungo - Clerk Assistant II
3. Mr. Chelanga Maiyo - Researcher
4. Ms. Winnie Kulei - Researcher
5. Ms. Catherine Gathi - Fiscal Analyst
6. Mr. Peter Mwaura - Legal Officer
7. Mr. Collins Mahamba - Audio Recorder
8. Mr. Saidi Wako - Serjeant at Arms

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

OFFICE OF THE AUDITOR GENERAL

- Mr. Raphael Ikame - Parliamentary Liaison Officer

MIN No. 1329/2016: PRELIMINARIES

The Chairman called the meeting to order at half past nine O'clock in the morning. All present introduced themselves.

MIN No. 1330/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1331/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MS. JOSEPHINE KABURA IRUNGU, BUSINESS LADY

Ms. Josephine Kabura, accompanied by her lawyer, **Advocate Franklin Omino** submitted as follows;

1. She was born in 1981 in Kiharo, Murang'a County and went to Kiangati Primary school and thereafter joined Chania High School. In 2001 she joined KCA University where she studied both Diploma and higher Diploma and graduated in 2004. She was then hired by Home Systems Limited which is a subsidiary of Kenya Data Network where she worked for over 6 years before resigning to run her own businesses
2. Her business entailed supply of IT related items and accessories to Ministries and other Government entities.
3. She stated that she had no blood relationship with former CS, Ms. Ann Waiguru. Although she was introduced to the NYS business by the former CS. Who promised to give her more work as opportunities presented themselves.
4. She was given an LPO by Mr Hassan Noor which she serviced and started working with NYS.
5. She owned over twenty (20) Companies, namely;
 - i. Learning Gate Trading
 - ii. Benchmark Coaching
 - iii. Examatrix Solution
 - iv. Ambition Learning Equipments
 - v. Inspired Training Technology
 - vi. Classroom Technologies
 - vii. Critical Mass Electrical
 - viii. Gilgrain General Supplies
 - ix. Bright Thinking Traders
 - x. Smartboard technology

- xi. Startling Trading
 - xii. Tucking Stitch Emporium
 - xiii. Mindful Learning Equipments
 - xiv. Big Kent Company
 - xv. Essential Prodigy Trading
 - xvi. Reinforced Concrete Technologies
 - xvii. Roof and All Trading
 - xviii. Form Home Builders
 - xix. Braincraft Tradings
 - xx. Gilnak Gen Supplies
6. Gilnak General Supplies and other few Companies were fully registered whereas more than ten companies were not fully incorporated. She was a sole proprietor to most of her companies. The purpose of having so many companies was to increase her chances of business and tender awards, from the Ministries.
 7. There was neither prequalification nor tendering process at the supplies branch. Restricted tender process was being followed and thus she was called and issued with LPO's to supply the needed goods. None of her companies was registered in the NYS list of prequalified companies.
 8. She insisted on going by her earlier sworn affidavit, where she stated that she held regular Sunday meetings with Mr. Harakhe, Hassan Noor and other officials at NYS Head Quarters where they shared and brainstormed on the deliveries of goods and services as well as issues on pending supplies and payments and upcoming LPOs
 9. Her companies did not have any contracts with NYS. She carried out business using LPO's only as binding documents.
 10. She knew John Kago as a good friend for some time but they had no blood relations. She gave him a loan of Kshs. 60m which he refunded. The money was drawn from the businesses she was running. She further informed the meeting that she had never engaged in any other business with Mr Kago before. In addition, **she affirmed that they had a written agreement which she pledged to submit before the Committee.** He was to repay the money within one year at an interest rate of 10% per month attached to it.
 11. From previous submission the Committee noted that Ms Kabura had given Mr John Kago over 150 million shillings but she was not willing to disclose more information about it to the Committee.
 12. Following transactions made in her bank accounts for instance, withdrawals from Form Home Builders Ltd, she claimed that she was able to carry the large sums of money that she withdrew on her own without any assistance. She would carry using 3 bags and would carry one bag at a time from the bank and transport using a cab to various destinations to pay for goods and services. The bag could carry between ten and twenty million shillings.
 13. **She carried out so many transactions in her bank accounts but could not remember details of most of them and would submit before the Committee once she interrogates the documents.**
 14. She further confirmed that excavation and transportation of materials from the quarries were done by the NYS. Her work was mainly to supply materials for roads. NYS had established different quarries located in Rongai and her work was to facilitate and make payments for the materials. There were no receipts issued as proof of payment and was not able to account for the payments.
 15. On another note, she informed the meeting that she only got to meet Mr Ben Gethi on the day when they were arrested. She never knew him before then.
 16. When tasked to give an explanation as to how she had spent Kshs. 1.6 billion and requested to provide receipts as well as a breakdown of how much taxes she had paid to KRA, Ms. Kabura confirmed to the Committee that she had never paid any tax returns to KRA.

17. That the RTG's made were to pay for other businesses including vector controls. The individuals were suppliers of other materials and services.

The Committee compelled Ms. Kabura to provide all statements bearing all transactions in pursuant to Article 125 of the constitution for the period within the NYS investigations for her companies below;

1. Learning Gate Trading
2. Benchmark Coaching
3. Examatrix Solution
4. Ambition Learning Equipments
5. Inspired Training Technology
6. Classroom Technologies
7. Critical Mass Electrical
8. Gilgrain General Supplies
9. Bright Thinking Traders
10. Gilnark General Supplies

MIN No. 1332/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE MADE IN CAMERA:

Through her lawyer Ms. Kabura requested for another session to be held in camera since information she was to table was confidential. The Committee accepted the request but unfortunately the witness was not willing to open up and share more information.

The Committee was displeased by the manner in which Ms. Kabura responded to questions raised before her. She took the Committee casually and was not willing to answer questions raised candidly and to the satisfaction of the Committee.

She was deemed to have been used as a conduit that took taxpayers money and transferred to other individuals.

She was accompanied by a lawyer who misguided her in responding to questions raised by the Committee.

MIN No. 1333/2016: ANY OTHER BUSINESS

Mr. Peter Mwangi, Chief Executive Officer, Old Mutual Ltd was scheduled to appear before the Committee at 3.00 p.m. but the meeting could not take place because the earlier scheduled meeting took longer than anticipated to conclude. The Committee therefore requested to have the meeting rescheduled to another date.

MIN No. 1334/2016: ADJOURNMENT

There being no other business, the meeting adjourned at thirty minutes past five O'clock in the evening. Next sitting would be held on 26th October, 2016 at 2.30 p.m.

Signed..... Date.....

(Chairperson)

28.2.2017

MINUTES OF THE THREE HUNDRED AND FOURTY SECOND (342ND) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY 1ST NOVEMBER, 2016 AT 4.00 P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. Kanini Kega, M.P.
4. Hon. Fathia Mahbub, M.P.
5. Hon. Timothy Bosire, M.P.
6. Hon. Joseph Manje, M.P.
7. Hon. Abdikadir Aden, M.P.
8. Hon. David Eseli, M.P.
9. Hon. Kareke Mbiuki, M.P.
10. Hon. John Mbadi, M.P.
11. Hon. Stephen Manoti, M.P.
12. Hon. Mathias Robi, M.P.
13. Hon. Sakwa Bunyasi, M.P.
14. Hon. Julius Melly, M.P.
15. Hon. Charles Mong'are Geni, M.P.
16. Hon. Andrew Mwadime, M.P.
17. Hon. Alice Nyanchoka Chae, M.P.
18. Hon. Kyengo Katatha Maweu, M.P.
19. Hon. Silvance Onyango Osele, M.P.
20. Hon. Joel Onyancha, M.P.
21. Hon. Gonzi Rai, M.P.

APOLOGIES

1. Hon. Kangogo Bowen, M.P.
2. Hon. Arthur Odera, M.P.
3. Hon. Manson Nyamweya, M.P.
4. Hon. (Capt.) Clement Wambugu, M.P.
5. Hon. Jessica Mbalu, M.P.
6. Hon. Junet Sheikh Nuh, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Asst.
2. Ms. Chelagat Tungo - Clerk Assistant II
3. Mr. Chelanga Maiyo - Researcher
4. Ms. Winnie Kulei - Researcher
5. Ms. Catherine Gathi - Fiscal Analyst
6. Mr. Peter Mwaura - Legal Officer
7. Mr. Collins Mahamba - Audio Recorder

8. Mr. Saidi wako - Serjeant at Arms

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

OFFICE OF THE AUDITOR GENERAL

Mr. Raphael Ikame - Parliamentary Liaison Officer

ASSET RECOVERY AGENCY

1. Mr. Peter Ngumi - State Counsel
2. Mr. Mohamed Adow - State Counsel
3. Ms. Esther Muchiri - State Counsel
4. Mr. Vincent Oiche - Clerk

MIN No. 1335/2016: PRELIMINARIES

The Chairman called the meeting to order at quarter past four O'clock in the afternoon. All present introduced themselves.

MIN No. 1336/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1337/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MS. MUTHONI KIMANI, DIRECTOR ASSET RECOVERY AGENCY

Ms. Muthoni Kimani submitted as follows;

1. The Asset Recovery Agency was established under Section 53 of the Proceeds of Crime and Anti Money Laundering Act. No.9 of 2009 (POCAMLA) as a semi- autonomous body under the office of the Attorney General. That the mandate of ARA was to identify, trace, freeze and recover all proceeds of crime as set out in Section 54
2. The Agency relies heavily on investigators and prosecutors reports in to carry out their mandate thus making it hard to operate. The Agency started with Civil cases and relied on police powers to have mentioned assets seized. Initially the Agency did not have the capacity to execute its mandate efficiently and effectively.
3. The Agency is one of the Law enforcement agencies constituted under the Multi_ Agency Team (MAT) in November 2015 to enhance the investigation and prosecution of corruption and economic crimes.
4. On or before November, 2015 the Agency received instructions from DCI through the Banking Fraud Unit to freeze certain Assets traced during the investigations into the embezzlement of Kshs. 791, 385,000 from NYS
5. Some of the assets which were preserved, seized and or frozen by ARA included;
 - i. Range Rover Vogue KCB 750Z worth Kshs. 23, 489,000 belonging to Patrick Ogolla and John Kago

- ii. Prohibited sale of Plot LR No. 8361/12 in Thika worth Ksh. 35m for Charity Wangui Gethi
 - iii. Eden Times Restaurant in Moi Avenue at LR209/412/1/Mercury worth Kshs. 16m belonging to Ms. Charity Wangui Gethi
 - iv. Muthaiga North and House and plot LR No. 14902/38 worth Kshs. 45m for Ms. Charity Gethi
 - v. House at Rosslyn Estate LR No. 21/1/97 worth Kshs. 63,513,000 owned by Ms. Charity Wangui
 - vi. Masionette House at Kasarani LR No. 20857/190 bought by Mr. Sam Wachanje alias Sam Mwadime worth kshs. 21850,000 registered under Susan Mkiwa Mndanyi
6. That in accordance with POCAMLA the Agency instituted forfeiture proceedings in respect of the assets preserved by the Agency.
 7. In October, 2016 the DCI attached four police officers to assist and enhance the Agency's operations both covert and overt, to trace and seize assets from suspects and criminals.
 8. That the Court orders prohibiting the transfer of the vehicles had been registered with NTSA. The detailed list of the motor vehicles under preservation orders had been circulated country wide in the police stations, traffic base vide police signal dated 17/10/2016. A letter was dispatched to NTSA instructing them to cancel the vehicle licences.
 9. That the letter dispatched to the Association of Kenya Insurers requesting for particulars of each vehicle's insurance.
 10. Another letter was written by the police to Mwananchi Microlink Limited requesting for details of charge after investigations and search for the vehicles established that the two vehicles KCE 852T and KCD 536P registered in the name of Paul Kinuthia Gachoka were charged.
 11. She further informed the meeting that the Agency faced some challenges including;
 - i. Removal of the lead investigating officers derailed the progress and filing of further civil recovery proceedings.
 - ii. Multiple Court proceedings challenging the freezing and preservation orders (before the High Court and Magistrate Court
 - iii. Inadequate capacity in ARA and inadequate appreciation of POCAMLA and the role of ARA in the criminal justice systems
 - iv. Legislative gaps in the institutional framework for the efficient performance of ARA.
 12. They were only dealing with assets mentioned in the 791m scandals mentioned. She now has Police officers who can quickly move in and interrogate any assets emanating from criminal activities and reported to ARA
 13. The Agency took up cases of public interests and those cases to which they were able to manage the assets
 14. The Agency is currently offering technical training to enable officers handle the asset recovery process efficiently. They are also working hand in hand with the Judiciary for quick execution and coordination in terms of asset recoveries.
 15. Though the Agency was handicapped in many ways, they worked very hard to carry out their duties and achieve their mandate.

MIN No. 1338/2016: ADJOURNMENT

There being no other business, the meeting adjourned at thirty minutes past five O'clock in the evening. Next sitting would be held on 2nd November, 2016 at 10.00a.m.

Signed..... Nicola Zubi Date..... 28.2.2017

(Chairperson)

MINUTES OF THE THREE HUNDRED AND FOURTY THIRD (343RD) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON WEDNESDAY 2ND NOVEMBER, 2016 AT 10.00 A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. Kanini Kega, M.P.
4. Hon. Fathia Mahbub, M.P.
5. Hon. Timothy Bosire, M.P.
6. Hon. Joseph Manje, M.P.
7. Hon. Abdikadir Aden, M.P.
8. Hon. David Eseli, M.P.
9. Hon. Kareke Mbiuki, M.P.
10. Hon. John Mbadi, M.P.
11. Hon. Stephen Manoti, M.P.
12. Hon. Mathias Robi, M.P.
13. Hon. Sakwa Bunyasi, M.P.
14. Hon. Julius Melly, M.P.
15. Hon. Charles Mong'are Geni, M.P.
16. Hon. Andrew Mwadime, M.P.
17. Hon. Alice Nyanchoka Chae, M.P.
18. Hon. Kyengo Katatha Maweu, M.P.
19. Hon. Silvance Onyango Osele, M.P.
20. Hon. Joel Onyancha, M.P.
21. Hon. Gonzi Rai, M.P.
22. Hon. Kangogo Bowen, M.P.
23. Hon. (Capt.) Clement Wambugu, M.P.

APOLOGIES

1. Hon. Arthur Odera, M.P.
2. Hon. Manson Nyamweya, M.P.
3. Hon. Jessica Mbalu, M.P.
4. Hon. Junet Sheikh Nuh, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Asst.
2. Ms. Chelagat Tungo - Clerk Assistant II
3. Mr. Chelanga Maiyo - Researcher
4. Ms. Winnie Kulei - Researcher
5. Ms. Catherine Gathi - Fiscal Analyst
6. Mr. Peter Mwaura - Legal Officer
7. Mr. Collins Mahamba - Audio Recorder

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

OFFICE OF THE AUDITOR GENERAL

- Mr. Raphael Ikame - Parliamentary Liaison Officer

MIN No. 1339/2016: PRELIMINARIES

The Chairman called the meeting to order at twenty five minutes past ten O'clock in the morning. All present introduced themselves.

MIN No. 1340/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1341/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: ENG. PETER MANGITI, FORMER PS PLANNING;

Eng. Peter Mangiti, former PS Planning submitted as follows;

1. That the NYS empowerment programme of Government was a noble and potential game changer on empowerment of youth in the country, and as a person who was part of its implementation; he endeavoured to enthusiastically contribute to the realization of the dream.
2. The NYS, just like the entire Ministry, suffered from systematic sabotaging of the organizational structure and reporting lines that emanated from the leadership style at the Ministry from the onset.
3. That the failures including fraud that have bedevilled the institution were as a result of this leadership style and vested personal interests.
4. On rationale for increase of budgetary allocation and further allocation of Supplementary Budget he informed the meeting that the basis was the Government's Youth Transformation and empowerment agenda, which National Youth Service was now expected to spearhead. To prepare the NYS for this role, a 5-point transformation framework was developed through a consultancy support.
5. That the document developed by the Consultant was the basis of activities and work plans developed for the NYS, which resulted in increased allocation in the period under review. However, activities for the revised budget of KShs.3.5billion obtained by the Ministry towards the end of the Financial year, while in principle had a basis in the overall work plan, did not emanate from the National Youth Service as the implementing agency. This money was requested for directly by the then Cabinet Secretary with neither the input of NYS nor the PS's as the Accounting Officer, such that when the supplementary budget was

granted, the CS gave instructions through one of her advisors Betty Maina to the DG NYS on how the money was to be allocated in the IFMIS **(He submitted a handwritten note with instructions)**.

He further submitted that on matters NYS, the CS exercised direct control and also through her advisors, and the Consultant: The Consulting House, who reported directly to her.

6. Regarding the Ministry's Procurement Plan related to NYS for FY 2013/2014 and FY 2014/2015 and subsequent alignment to the 5-point vision he informed the meeting that;
 - i. In line with the requirements of Treasury and as a Cabinet directive, the ministry prepared annual work plans and procurement plans from the program – based budget appropriated by the National Assembly.
 - ii. The work plan and procurement plans were prepared by the respective departments in line with their allocations and program targets, consolidated by the procurement unit and reviewed by the state department before his signature. Thereafter, the State Department would forward it to Cabinet through the Cabinet Secretary for endorsement before loading into IFMIS system to trigger release of funds by the National Treasury.
 - iii. That the implementation of 5-point vision for NYS commenced in the FY 2014/2015, and it was the year in which alignment to the vision took place by identification and planning for the implementation of the specific targets of the vision to be implemented that year.
 - iv. The Consultant helped to define key transformation areas in NYS
7. On rationale for centralization of procurement at NYS he submitted that as the Accounting Officer, and as a technical person, the PS did not find it prudent to centralize procurement given the structure and activities of NYS, where the main activities and populations of the Service were for the most part in far-flung units. This was a directive given by the Cabinet Secretary, citing an executive decision that he had no authority to question.
8. That the transfer of Mr. Japhter Rugut from the NYS was executed through the Central Posting Committee chaired by the Chief of Staff and Head of Public Service. He was at that time a member of the Committee and conveyed its decision to Mr. Rugut formally. However, prior to that, he had called Mr. Rugut to his office and informed him on what was in the offing and prepared him for it. This happened when the Consulting House Consultants were already on board.
9. He informed the Committee that Mr. Adan Harakhe was headhunted by the CS Anne Waiguru with the assistance of Hassan Noor who was the Director of Administration in the Ministry. He was brought into the Ministry through the Central Posting Committee under the Chairmanship of the Chief of Staff and Head of Public Service, Joseph Kinyua. That to his knowledge Mr. Harakhe was never promoted on Eng. Mangiti's authority, as insinuated in earlier presentations made to the committee by the Secretary, Public Service Commission. Furthermore, such a promotion went beyond his Terms of Reference.
10. On reasons for revocation of appointment of Dr. Nelson Githinji as AIE Holder and replacement with Adan Harakhe, he submitted that it was the Heads of Departments and Directorates who were appointed

AIE holders by the Accounting Officer. However, in consideration of exigencies of work, a subordinate but senior person could be appointed, but with very clear reporting instructions since the head of directorate/department had to retain overall responsibility. That he made that very clear in his appointment letter to Harakhe.

He further stated that in that particular circumstance, it was the Cabinet Secretary who gave this directive during a Senior Staff meeting held on 18th February 2015

11. He learnt about the involvement of the Consultant, the Consulting House when the then DG Mr. Japhter Rugut briefed him about the directive of the Cabinet Secretary that a consultant take over the restructuring and rebranding of NYS. He advised the DG that the relevant provisions of the procurement law and regulations must be adhered to and proper justification made for the choice of procurement method.
12. Based on the requisition and the negotiated terms of engagement, the Ministerial Tender Committee made a determination and award and forwarded an award letter for his signature, followed by the Consultancy Contract.
The Terms of Reference for the consultancy included development of a new strategic direction for the effective utilization of the NYS as a catalyst for transformative youth development in the country, and implementation support services to the NYS.
13. Given that the process of payments for goods and services through IFMIS was an elaborate process requiring processing and /or authorization by specifically appointed personnel, it was impossible for this payment of Kshs. 12.5m to Consultancy House to have been made erroneously. It therefore pointed to possible collusion with intention to fraud by the concerned officers. As Accounting Officer, it was difficult for him to detect such an occurrence since he had no direct operational role in the processing and approval of payments in the IFMIS system.
14. On procurement and payment of contract for supply of goods and services worth Kes 791,385,000 for construction of 3.5km Road in Kibera he reiterated that the 3.5km road in Kibera was to be undertaken by NYS personnel and equipment in cooperation with other government agencies to demonstrate the potential for NYS to undertake such works at costs lower than the market. When the works commenced, he made it clear to the NYS that they would execute the works using NYS personnel and equipment while getting construction materials from suitable source quarries with the assistance of the KURA who were implementing partners.
15. He also stated that given that the sourcing of materials deviated from what had been the initially agreed method of delivering the road, and the fact of inflation of rates through wrong entries into the IFMIS system as unearthed by the investigations, there was definitely no value for money on these works.
16. On procurement for supply of goods or services worth Kshs.609, 252,760.60 related to various supplies he indicated that the procurements and subsequent payments did not emanate from approvals through the Ministerial Tender Committee, through which he would be made aware of their existence. Those

officers within NYS and specifically the AIE holders at that time bore responsibility for using this method of procurement and subsequently approving payments.

17. Regarding fraudulent payment of Kes.240, 751,576.06 purportedly to Youth cohorts, he submitted that if the payments were fraudulent, then the concerned persons may not have adhered to instructions given.
18. The initiative for sensitization of beneficiaries of the 30% spend directive (AGPO) by the executive was driven directly by the Cabinet Secretary. The procurement of Publicity Services for Kes.302,458,690.00 to Out of the Box Ltd went through an open tender process. Since the activity fell under the budget programmatic area of Women and Youth Empowerment, under which NYS also fell, the budgetary provision for the activity was under the NYS item for consultancy services.
19. On use of a forged Supplies Branch Circular for the procurement of goods/services worth Kes.222, 122,919, he stated that should the payments be found to be fraudulent, individual responsibility should prevail.
20. On irregular payment of Kes.360, 315. 00 to permanent staff of NYS he informed the meeting that according to the design of the program, and in compliance with labor laws, only the community youth (cohorts) working with the NYS servicemen and women in the respective community projects were eligible to be paid daily wages, out of which a portion was retained as savings in their respective registered SACCOs. Further, he stated that if any payments were made to permanent NYS staff, then individual responsibility should prevail.
21. He stated that if reallocation of Kes.551, 750,000 to fund NYS activities took place, then it was an NYS internal decision that did not obtain the authority of the Accounting Officer. That the management and transfers of wages to cohorts was an operational responsibility of the NYS as the implementing agency.
22. On operations of bank accounts by the NYS without Treasury Approval he informed the meeting that he had given clear instructions to the DG NYS on the matter when it came to his attention that proper procedure was not being followed in the opening and operation of accounts by NYS and therefore expected the laid down procedure to be followed.
23. On chronology of actions he took as Accounting Officer to mitigate loss of public funds when the matter of fraudulent transactions in IFMIS was first raised, he submitted before the committee an outline of the steps he had taken touching on the following;
 - a) *Dissuasion of Harakhe on involvement of DCI;*
 - b) *Threats to Harakhe on Follow-Up with DCI;*
 - c) *Initial notification to DCI to commence investigations;*
 - d) *De-commitment of fraudulent payments;*

He further submitted that:

- He had directed that all pending bills from NYS and other directorates of the State department be subjected to re-audit by the State Department internal Audit unit before being considered for payment

- He gave instructions that all payments whose basis was Supplies Branch Contracts should not be honoured until the National Audit Office had carried out forensic audit on the same
- He wrote to the National Audit Office to carry out forensic audit on payments that the internal audit unit had found not to be properly supported, including supplies branch contracts;
- On observing that Inspections and Acceptance Certificates are the weakest link in accountability for payments, he put an internal team together, led by the procurement unit, to design a standard Inspection and Acceptance Certificate, which he proposed to the National Treasury to consider and adopt as an accounting document just like LSOs LPOs that were in use across government. He was not aware whether Treasury ever considered the suggestion.

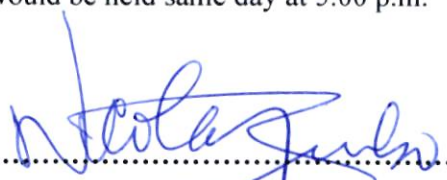
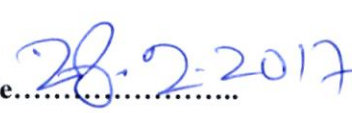
24. Regarding failure by the Ministerial Tender Committee to ratify NYS procurements above the prescribed threshold he stated that other than procurement using purported supplies branch contracts, he was not aware of any procurement above the prescribed thresholds that were not processed by the Ministerial Tender Committee.

In his concluding remarks, he informed the meeting that he was open to investigations and will appreciate a thorough forensic audit to confirm any allegations. That he had no interest on the NYS tenders and that the audit would exonerate him from constant malicious propaganda and negative publicity regarding the beneficiary companies of the stolen funds namely: **BORA GLOBAL, FAHAZA LTD, BLUE STAR, LUKENYA EARTH MOVERS, ALPHA MERCANTILE, BRAND ASSOCIATES, GREENBERG HOLDINGS, BRANDSPARK SUPPLIES, FRESCO INTERNATIONAL, ETC.** In addition, he was confident that such a detailed audit, including the money and paper trails, would unmask the real schemers of the looting at NYS.

He presented copies of memos, letters, invoices, LPOs, LSOs, and other documentary evidence to support his submission before the Committee.

MIN No. 1342/2016: ADJOURNMENT

There being no other business, the meeting adjourned at ten minutes to five O'clock in the evening. Next sitting would be held same day at 5.00 p.m.

Signed.......... Date..........
 (Chairperson)

MINUTES OF THE THREE HUNDRED AND FORTY FOURTH (344TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON WEDNESDAY 2ND NOVEMBER, 2016 AT 5.00 P.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. Kanini Kega, M.P.
4. Hon. Fathia Mahbub, M.P.
5. Hon. Timothy Bosire, M.P.
6. Hon. Joseph Manje, M.P.
7. Hon. Abdikadir Aden, M.P.
8. Hon. David Eseli, M.P.
9. Hon. Kareke Mbiuki, M.P.
10. Hon. John Mbadi, M.P.
11. Hon. Stephen Manoti, M.P.
12. Hon. Mathias Robi, M.P.
13. Hon. Sakwa Bunyasi, M.P.
14. Hon. Julius Melly, M.P.
15. Hon. Charles Mong'are Geni, M.P.
16. Hon. Andrew Mwadime, M.P.
17. Hon. Alice Nyanchoka Chae, M.P.
18. Hon. Kyengo Katatha Maweu, M.P.
19. Hon. Silvance Onyango Osele, M.P.
20. Hon. Joel Onyancha, M.P.
21. Hon. Gonzi Rai, M.P.

APOLOGIES

1. Hon. Kangogo Bowen, M.P.
2. Hon. Arthur Odera, M.P.
3. Hon. Manson Nyamweya, M.P.
4. Hon. (Capt.) Clement Wambugu, M.P.
5. Hon. Jessica Mbalu, M.P.
6. Hon. Junet Sheikh Nuh, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Ms. Chelagat Tungo - Clerk Assistant II
2. Mr. Chelanga Maiyo - Researcher
3. Mr. Peter Mwaura - Legal Officer
4. Mr. Collins Mahamba - Audio Recorder
5. Mr. Saidi Wako - Serjeant at Arms

TREASURY

- 1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
- 2. Rev. Kimathi Kwiriga - Accountant I

OFFICE OF THE AUDITOR GENERAL

- Mr. Raphael Ikame - Parliamentary Liaison Officer

MIN No. 1343/2016: PRELIMINARIES

The Chairman called the meeting to order at ten minutes past five O'clock in the evening. All present introduced themselves.

MIN No. 1344/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1345/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MR. JEREMY AWORI, MANAGING DIRECTOR, BARCLAYS BANK;

Mr. Jeremy Awori, Managing Director, Barclays Bank appeared before the Committee accompanied by:

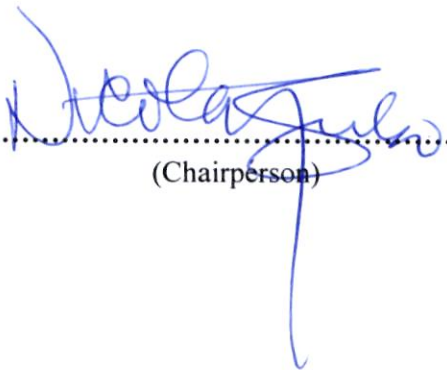

- 1. Mr. Waweru Mathenge - Head of Legal and Secretarial Services
- 2. Mr. Laban Omangi - Head of Compliance
- 3. Mr. Paul Ndingi - Company Secretary
- 4. Ms. Ann Nderi - Corporate Relations
- 5. Mr. Noah Cheptumo - Senior Manager, Forensics
- 6. Mr. Samuel Lasoi - Head of Financial Crime
- 7. Mr. Cecil Miller - Advocate

The witness requested for the session to be held in camera since information they were to table was confidential as protected by the CBK Prudential Guidelines. The Committee accepted the request after determining the information to be tabled was not in the public domain and touched on several clients of the bank.

(Information submitted is available in the National Assembly Clerk's office on request)

MIN No. 1346/2016: ADJOURNMENT

There being no other business, the meeting adjourned at ten minutes past seven O'clock in the evening. Next sitting would be held 3rd November, 2016 at 10.00 am.

Signed.....  Date..... 

(Chairperson)

MINUTES OF THE THREE HUNDRED AND FOURTY FIFTH (345TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY 3RD NOVEMBER, 2016 AT 10.00 A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. Kanini Kega, M.P.
4. Hon. Fathia Mahbub, M.P.
5. Hon. Timothy Bosire, M.P.
6. Hon. Joseph Manje, M.P.
7. Hon. Abdikadir Aden, M.P.
8. Hon. David Eseli, M.P.
9. Hon. Kareke Mbiuki, M.P.
10. Hon. John Mbadi, M.P.
11. Hon. Mathias Robi, M.P.
12. Hon. Sakwa Bunyasi, M.P.
13. Hon. Julius Melly, M.P.
14. Hon. Charles Mong'are Geni, M.P.
15. Hon. Andrew Mwadime, M.P.
16. Hon. Alice Nyanchoka Chae, M.P.
17. Hon. Silvanice Onyango Osele, M.P.
18. Hon. Gonzi Rai, M.P.
19. Hon. (Capt.) Clement Wambugu, M.P.
20. Hon. Kangogo Bowen, M.P.
21. Hon. Jessica Mbalu, M.P.
22. Hon. Kyengo Katatha Maweu, M.P.

APOLOGIES

1. Hon. Stephen Manoti, M.P.
2. Hon. Joel Onyancha, M.P.v
3. Hon. Arthur Odera, M.P.
4. Hon. Manson Nyamweya, M.P.
5. Hon. Junet Sheikh Nuh, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Asst
2. Ms. Chelagat Tungo - Clerk Assistant II
3. Mr. Chelanga Maiyo - Researcher
4. Mr. Peter Mwaura - Legal Officer
5. Catherine Burure - Fiscal Analyst
6. Mr. Collins Mahamba - Audio Recorder
7. Mr. Saidi Wako - Serjeant at Arms

TREASURY

1. Mr. Geoffrey Mwitari - Parliamentary Liaison Officer
2. Rev. Kimathi Kwiriga - Accountant I

OFFICE OF THE AUDITOR GENERAL

1. Mr. Raphael Ikame - Parliamentary Liaison Officer
2. Mr. Andy Waichigo - Manager Audit

MIN No. 1347/2016: PRELIMINARIES

The Chairman called the meeting to order at twenty five minutes past ten O'clock in the morning. All present introduced themselves.

MIN No. 1348/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1349/2016: SUBMISSION OF EVIDENCE ON THE SPECIAL AUDITOR GENERAL'S REPORT ON ACCOUNTS OF THE NATIONAL YOUTH SERVICE: MS ANN WAIGURU, FORMER CS MINISTRY OF DEVOLUTION AND PLANNING;

Ms. Ann Waiguru, former CS Devolution and Planning submitted under oath as follows;

1. She informed the meeting that Mr. Ben Gethi had earlier stated that she was the one who "fixed" him with regards to NYS matter through the DCI. In her facts about the matter, she stated that Mr. Gethi was facing 6 charges from 4 different agencies being,
 - i. Attempted fraud of Kshs. 828.6 million and theft of kshs. 791 million from NYS funds by DCI
 - ii. Money laundering by BFIU
 - iii. Tax evasion by KRA
 - iv. Lack of delivery of election material to IEBC

That Mr. Gethi could not explain the coincidence between withdrawals of monies by Josephine Kabura and deposits of similar amounts into his account.

That he could not explain why he was transacting large amounts of money in cash

2. She said that Dr Nelson Githinji had stated that he was not in control of NYS because he was removed as an AIE holder, claimed he was innocent and didn't know what was happening and also claimed that Mr Harakhe reported to her and that she worked through Mr. Harakhe. According to her facts, Ms Waiguru informed the meeting that Dr Githinji was the AIE holder when kshs. 791 million was stolen from NYS. That Dr. Githinji was arraigned in court for forging government documents during his tenure as the DG NYS, by having his personal car serviced as if it was a government vehicle and that Dr. Githinji was the

service Commander of the NYS drawing his mandate and Authority from the NYS act and the appointing Authority.

She submitted to the Committee, sample correspondence between herself and the DG

3. She informed the Committee that Mr Samuel Wachenje had claimed that he signed off the payments under duress from her. She was quick to correct his statement by stating that she had never spoken to Mr. Wachenje as he was not within her reporting line. That he had been found with Kshs. 10 million in his account, Asset Recovery Agency found a property worth kshs. 21.8 million in Kasarani, a plot in Ruiru worth kshs. 3.8 million, 3 Toyota Prado worth a combined value of Kshs. 13.5 million between 2014 and 2015 and that he could not explain the source of funds. That during the raid by EACC on 1st December, 2015, he was found to be in possession of about kshs. 5 million in cash.
4. She also stated that Mr. Hendrick Pilisi had claimed that she issued verbal instructions and that he was supervised by her advisors. She submitted before the Committee copies of correspondence addressed to the DG showing all her instructions in writing.
5. She further submitted that Eng. Peter Mangiti had claimed that she micro- managed him and blamed her for the loss in NYS. She stated her facts on that matter as follows;
 - i. That all instructions by herself to the PS were in writing and in line with her mandate
 - ii. That Eng. Mangiti as the former Principal Secretary was the accounting officer of the Ministry. That according to the PFM Act, section 68(1), an accounting officer for the national government, entity, Parliamentary Service Commission and the Judiciary should be accountable to the National Assembly for ensuring that the resources for the respective entity for which he or she was the accounting officer are used in a lawful, authorised, effective and efficient manner.
 - iii. There was no proof of such correspondence from him to Ms Waiguru or anyone else according to the requirement of the law.
 - iv. That Eng. Mangiti had lied to the Committee in the past by submitting a fake asset register of the Ministry of Devolution and Planning in November, 2015 that sent the country reeling with rage. That he then went on national TV and admitted to submitting an erroneous register and requested for more time to submit the true register.
6. In addition, she informed the meeting that Ms. Josephine Kabura had made outrageous claims on her alleged interactions with various persons in the execution of the heist in NYS. On this note, Ms. Waiguru informed the meeting that Ms. Kabura had been recommended for charges by the DCI on perjury for lying under oath with regards to her affidavit. Ms. Waiguru informed the meeting that she was on record that she had never met or interacted with Ms. Josephine Kabura.

She submitted a copy of her responding affidavit responding to the allegation by Josephine Kabura as well as a network map of phone communication between Ben Gethi, Josephine Kabura and other persons in the network.

7. On systematic accelerated deployment of Mr. Adan Harakhe to the non-existent position of Senior Deputy Director, she informed the meeting that the allegations were untrue. She stated that the actual facts were as follows;

- i. That Mr. Harakhe was transferred to the Ministry in November, 2014.
- ii. That she had never met Mr. Harakhe before he went to the Ministry.
- iii. That he was appointed as a Deputy Director, reporting to the Director General NYS
- iv. The manner in which he was transferred was in accordance with the common procedure of transfers involving civil servants.
- v. When Mr. Harakhe was transferred to NYS he was not the AIE holder. He was appointed the AIE holder on 19th February, 2015 and was established in the system on 24th February, 2015.
- vi. That during the time when NYS lost Kshs. 791 million, the substantive AIE holder was Dr Nelson Githinji and the alternate AIE holder was Mr. Wachenje, the finance director.
- vii. That even after Dr. Githinji's appointment as AIE holder was revoked on 19th February, 2015, he continued to have access to the IFMIS and made approvals as late as 20th May, 2015
- viii. That when Mr Harakhe was the AIE holder, they were able to stop the attempted fraud of Kshs. 695 million
- ix. That the PSC supported the re-organization and engineering of the NYS and approved the proposed organization structure and established the Deputy Director General Administration and Operation and Deputy Director General Technical Programmes vide letter reference no. PSC/2/1/VOL 111 of 18th June, 2014 and letter ref No. PSC/2/NYS/35(5) of 15th July, 2015

She submitted a copy of letter from PSC to the Ministry approving the proposed organizational structure as well as a copy of central posting order transferring Mr. Harakhe from the Ministry of Interior and Coordination of National Government.

8. On reasons for the revocation of the appointment of Dr. Nelson Githinji as the AIE holder and replacement with Mr. Adan G. Harakhe, Ms Waiguru informed the meeting as follows;

- i. That reference was made to the letter dated 19th February, 2015 by the PS planning to the DG, revoking his AIE. In the letter he cited the need for the DG to have sufficient time to provide oversight and drive the institution.
- ii. That there were concerns about the DG's of the programme. It was incisive to note that one of the concerns that had been raised was the cost of the Kibera project, this was after the DG confirmed that a toilet had cost Kshs2.2Million and the road costed Kshs33.5 Million per km despite the fact that NYS was using its own machinery and own labour.
- iii. That in a memo dated 22nd January, 2015 addressed to the PS, Ms Waiguru had raised the issue of the costing of the road which was much higher.
- iv. That in another memo dated 22nd January, 2015 addressed to the PS she also raised the issue of general costing being very high and the need to look into it as well as reminding the PS of his obligations as the accounting officer.

- v. That in subsequent meetings held on 9th February, 2015 and 18th February, 2015 the matters were discussed and it was agreed that the functions of leading the organization and undertaking administrative functions be split to allow the DG focus on driving the vision and steering the organization.

She submitted copies of the memos, minutes of the said meeting as well as letters by PS Planning to the Committee for their perusal.

9. On questions relating to procurement, she answered the questions by clarifying the roles and functions of a Cabinet Secretary vis a viz the roles and functions of the Principal Secretary according to Article 152(2) and 226(2) of the Constitution, Section 12 of the National Government Coordination Act 2013, section 67 and 68(1) of the PFM Act 2012 as well as section 27 (2) of the Public Procurement and Disposal Act of 2005 and section 7 of the subsidiary regulations of 2006 outlined the functions of the Principal Secretary and on the other hand, Article 153(2) of the Constitution and section 9 and 10 of the National Government Co-ordination Act 2013 outlines the roles of the Cabinet Secretary is responsible for policy formulation, direction and coordination. The cabinet secretary does not engage in the procurement process at any stage, and does not even receive any documentation with regard to the procurement plans
10. Regarding rationale for the increase in budgetary allocation for the period under review, she informed the meeting that she made the request for the supplementary budget as the Cabinet Secretary responsible for the NYS and proceeded to defend the same in Parliament in line with her mandate.
11. That in line with the 5-point plan, the government was expanding and revamping the institution, introducing a new way of community engagement and expanding the types of projects it undertook. Thus there was an;
- i. Expansion from the recruit base of only 4,000 to over 20,000 per annum. For the NYS to accommodate the increased number, it needed to expand the facilities including accommodations, beds, bed linens, uniforms, food, and personal effects for recruits, etc.
 - ii. Engagement of over 80,000 community youth every year, earning a daily wage of kshs. 471
 - iii. Requirement for tools and materials for community projects during national service
- That the budgetary increase was to cover the expansion in expenditures occasioned by the fivefold increase in numbers
12. That it was normal for Cabinet Secretaries to request the CS for finance at the National Treasury to consider the Ministry's request. In that case, the letter would be drafted by the respective PS and forwarded to the Ministry for signing.
- She submitted to the Committee detailed presentation of the 5-point plan, memos by PS and letter to the National Treasury seeking additional funds.**
13. She informed the meeting that the transfer of Mr Japther Rugut as Director General from the NYS and his replacement BY Dr Githinji was in no way a controversial but a normal practice in line with

government regulations and procedures. That the transfers were undertaken through the Central Posting Unit.



She submitted to the Committee copies of correspondence on the said transfers.

14. She finally submitted that she had no interest in any of the firms that won tenders for the supply of goods and services to NYS or did business for the Ministry.

The Committee directed Ms. Waiguru to amend the table she had submitted to the Committee on the breakdown of Kshs. 791 million by capturing all the AIE holders and their alternates for the period under investigation before re-submitting it to the Committee.

MIN No. 1350/2016: ADJOURNMENT

There being no other business, the meeting adjourned at ten minutes to five O'clock in the evening. Next sitting would be held on Tuesday 11th November, 2016 at 10.00 a.m.

Signed.......... Date..........
(Chairperson)

MINUTES OF THE THREE HUNDRED AND FIFTY SECOND (353RD) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY 6TH DECEMBER, 2016 AT 11.00 A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. Abdikadir Aden, M.P.
4. Hon. David Eseli, M.P.
5. Hon. Fathia Mahbub, M.P.
6. Hon. Gonzi Rai, M.P.
7. Hon. Kangogo Bowen, M.P.
8. Hon. (Capt.) Clement Wambugu, M.P.
9. Hon. Alice Nyanchoka Chae, M.P.

APOLOGIES

1. Hon. Joseph Manje, M.P.
2. Hon. Junet Sheikh Nuh, M.P.
3. Hon. Timothy Bosire, M.P.
4. Hon. Stephen Manoti, M.P.
5. Hon. Mathias Robi, M.P.
6. Hon. Jessica Mbalu, M.P.
7. Hon. Andrew Mwadime, M.P.
8. Hon. John Mbadi, M.P.
9. Hon. Kareke Mbiuki, M.P.
10. Hon. Kanini Kega, M.P.
11. Hon. Sakwa Bunyasi, M.P.
12. Hon. Kyengo Katatha Maweu, M.P.
13. Hon. Julius Melly, M.P.
14. Hon. Manson Nyamweya, M.P.
15. Hon. Arthur Odera, M.P.
16. Hon. Charles Mong'are Geni, M.P.
17. Hon. Joel Onyancha, M.P.
18. Hon. Silvance Onyango Osele, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Ms. Winnie Kulei - Researcher
3. Mr. Chelang'a R. Maiyo - Researcher
4. Mr. Collins Mahamba - Audio Recorder

OFFICE OF THE AUDITOR GENERAL

1. Mr. Raphael Ikame - Parliamentary Liaison Officer

TREASURY

1. Mr. Geoffrey Mwitari - Chief Accountant

MIN No. 1384/2016: PRELIMINARIES

The Chairman called the meeting to order at thirty minutes past eleven o' clock in the morning. A prayer was said followed by introductions by all present.

MIN No. 1385/2016: CONFIRMATION OF MINUTES

The agenda item was deferred to the next meeting. There were thus no matters arising.

MIN No. 1386/2016: SUBMISSION OF INFORMATION BY MR. HILLARY KIPROTICH SIGEI, THE MANAGING PARTNER SINGOEI, MURKOMEN & SIGEI ADVOCATES

The Submission on the National Youth Service (NYS) Special Audit report, 2015

Mr. Hillary Kiprotich Sigei, the Managing partner **Sing'oei, Murkomen & Sigei Advocates** appeared before the Committee and submitted on oath as follows;

1. He acknowledged having received kes. 8 Million From Out of the Box Solutions through their advocate client Account held at Co-operative bank, Parliament road branch.
2. That to ensure full disclosure the firm also received kes.7 Million from the same client deposited into their account held at Family bank retail branch
3. He further submitted that as an Advocate firm they were approached by one Ben Gethi to represent him in the case before the Banking Fraud Investigation Unit (BFIU) on a matter he was involved in money laundering.
4. The committee was informed that the firm ceased to represent Ben Gethi in Court on the matter from 25th Sept, 2015 due to the involvement of other advocates. The firm is yet to be paid the legal fees for the service rendered
5. He noted that the money paid in by the Out of the Box Solution was transmitted to M/S. Kigen & Company Advocates in Eldoret for purchase of property as instructed by the client.
6. A total of Kes. 13 Million Was transferred to M/S. Kigen Advocates to facilitate the purchase of the parcel of land (Title deed attached).
7. On the presentation of the bank statements as requested by the committee, he noted that the firm needed express authority from the concerned clients. But he was overruled by the committee and compelled to submit these documents. The committee invoked Article. 125(2) of the Constitution on the submission of evidence before a Committee of Parliament.
8. He further submitted that the client Out of the Box Solution is under investigation by the EACC as relates the parcel of land in Eldoret. The law firm also appeared before the EACC to shed light on the matter.
9. The instructions given by the client for representation in court were verbal and therefore formed the basis of appearance before the matter, Ben Gethi

10. As of any knowledge or relationship with Josephine Kabura, he informed the committee that he does not know Josephine Kabura nor represented her in their course of a duty as an Advocate firm.
11. That any further information sought by the committee the firm is ready and willing to submit at the request of the Committee.
12. He thanked the committee for according him time to make this submission which goes well in unravelling the loss of funds in the National Youth Service.

MIN No. 1387/2016: COMMITTEE OBSERVATIONS

Members noted that there were inconsistencies in the submission made to the committee and requested that the following should be provided;

- a) Bank statements for the period January, 2013 to date on the Advocates client Account held in Family bank and Cooperative bank.
- b) Written instructions by the client OBSL for the purchase of land in Eldoret.
- c) Land valuation report.
- d) Land transaction arrangements including the agreements thereof.
- e) The invoices detailing the conveyance fee paid to Singoei, Murkomen & Sigei Advocates and M/S. Kigen Company Advocates.
- f) Explanations on the individual transactions as relate to the submitted bank statements both Cash and RTGs.
- g) The firm's relationship and dealings with Mbugua, Atundo & Macharia Advocates.

Based on the above deliberations and request made the witness is scheduled to appear on Thursday 15th December, 2016 having submitted the above documents.

MIN No. 1388/2016: ADJOURNMENT

There being no other business, the meeting adjourned at Twenty minutes past One O'clock in the afternoon. Next sitting would be held on 8th December, 2016 at 2.30 p.m.

Signed.....
(Chairperson)

Date.....

28.2.2017.

MINUTES OF THE THREE HUNDRED AND FIFTY EIGHTH (358TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON TUESDAY, 14TH MARCH, 2017 AT 11.00 A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS.

PRESENT

1. Hon. (Eng.) Nicolas Gumbo, M.P. - Chairman
2. Hon. Jackson K. Rop, M.P. - Vice- Chairman
3. Hon. Manson Nyamweya, M.P.
4. Hon. (Capt.) Clement Wambugu, M.P.
5. Hon. John Mbadi, M.P.
6. Hon. Gonzi Rai, M.P.
7. Hon. Kareke Mbiuki, M.P.
8. Hon. Dr. David Eseli, M.P.
9. Hon. Andrew Mwadime, M.P.
10. Hon. Timothy Bosire, M.P.
11. Hon. Mathias Robi, M.P.
12. Hon. Abdikadir Aden, M.P.
13. Hon. Arthur Odera, M.P.
14. Hon. Sakwa Bunyasi, M.P.
15. Hon. Junet Sheikh Nuh, M.P.
16. Hon. Kyengo Katatha Maweu, M.P.

APOLOGIES

1. Hon. Julius Melly, M.P
2. Hon. Fathia Mahbub, M.P.
3. Hon. Kanini Kega, M.P.
4. Hon. Joseph Manje, M.P.
5. Hon. Alice Nyanchoka Chae, M.P.
6. Hon. Jessica Mbalu, M.P.
7. Hon. Stephen Manoti, M.P.
8. Hon. Charles Mong'are Geni, M.P.
9. Hon. Kangogo Bowen, M.P.
10. Hon. Silvanice Onyango Osele, M.P.
11. Hon. Joel Onyancha, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Victor Weke - Clerk Assistant II
3. Ms. Chelagat Tungo - Clerk Assistant II
4. Mr. Chelanga Maiyo - Researcher
5. Mr. Ian Otieno - Audio Recorder

NATIONAL TREASURY

Rev. Kimathi Kwiriga

MIN No. 1409/2017: PRELIMINARIES

The Chairman called the meeting to order at four minutes past eleven o'clock in the morning and said a prayer.

MIN No. 1410/2017: CONFIRMATION OF MINUTES


The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN No. 1411/2017: ADOPTION OF THE REPORT OF THE PUBLIC ACCOUNTS COMMITTEE ON THE SPECIAL AUDIT REPORT OF MAY 2016 ON THE ACCOUNTS OF THE NATIONAL YOUTH SERVICE

The Committee unanimously adopted the report with amendments.

MIN No. 1412/2017: ADJOURNMENT

There being no other business, the meeting adjourned at half past twelve in the afternoon. Next sitting would be held on notice.

Signed.......... Date.....14.3.2017.....
(Chairperson)