

19 JUL 2015



OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

THE ANNUAL ANTI-CORRUPTION REPORT
FOR
THE PERIOD 1ST JANUARY TO 31ST DECEMBER 2015

BY THE
DIRECTOR OF PUBLIC PROSECUTIONS

RARE COPY
By the leader
of majority
party, the Hon
Justice
Dunne on
17.7.16

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ABBREVIATIONS AND ACRONYMS

ACC	-	Anti-Corruption Court
ACECA	-	Anti-Corruption and Economics Crimes Act No. 3 of 3 of 2003
AML	-	Anti-Money Laundering
CDF	-	Constituency Development Fund
CF	-	Court File
CFT	-	Combating of Financing of Terrorism
CID	-	Criminal Investigations Department
CPC	-	Criminal Procedure Code
DPP	-	Director of Public Prosecutions
EACC	-	Ethics and Anti-Corruption Commission
FATF	-	Financial Action Task Force
GIZ	-	Gesellschaft für International Zusammenarbeit
GJLOS	-	Governance Justice Law and Order
IJM	-	International Justice Mission
IPOA	-	Independent Police Oversight Authority
KIP	-	Kenya Integrity Plan
KLIF	-	Kenya Leadership Integrity Forum
NACP	-	National Anti-Corruption Plan
OPDAT	-	Office of Overseas Prosecutorial Development, Assistance and Training
UNCAC	-	United Nations Convention against Corruption
UNODC	-	United Nations Office on Drugs and Crime
USDOJ	-	United States Department of Justice

CHAPTER ONE

1.0. INTRODUCTION

1.1. Preamble

I am pleased once again, to lay before the National Assembly, the 5th Annual Report with respect to the prosecution of Corruption and Economic Crimes cases handled by my office.

This report covers the period from 1st January to 31st December 2015 and is prepared in compliance with Section 37 (1) of the Anti-Corruption and Economic Crimes Act, which came into operation on 2nd May 2003. Section 37 (2) of the Act enjoins the Director Of Public Prosecutions to prepare an annual report with respect to prosecution of Corruption and Economic Crimes for the period ending 31st December, of the preceding year. Pursuant to Section 37 (3) of the Act, the report is to include a summary of the steps taken by the Director of Public Prosecutions in respect to each matter forwarded to him and the status of each case dealt with during that period. Further, Section 37 (4) of the Act requires that the report shall indicate if any recommendation of the Commission to prosecute a person for Corruption or Economic Crime was not accepted and shall set out succinctly the reasons for not accepting the recommendation.

The Act further requires that, as provided for under Section 37 (6) that the Annual Report must be laid annually before the National Assembly within the first ten sitting days of the National Assembly following the end of the year to which the report relates. Since the commencement of the Act in 2003, eleven (12) such reports have been laid before the National Assembly.

The Office of the Director of Public Prosecutions (ODPP) was established pursuant to the promulgation of the Constitution of Kenya 2010 with the objective of ensuring accountability and transparency in the functions of the state in handling criminal matters.

It is imperative that there is not only a strong and effective regulatory framework in place but also that those who are involved in corruption and Economic Crimes are brought to justice.

I am delighted that we now have in place an Economic Crimes Division of the High Court, which will play a big role in ensuring that corruption and Economic Crimes Cases are quickly disposed of.

1.2. Achievements

We have in the past year attained a number of achievements, which are ancillary to the attainment of our core mandate in the prosecution of Corruption and Economic Crimes. They include the following:

- 1.2.1. Participation in the National Task Force on Anti-Corruption
- 1.2.2. Task Team on 176 cases "list of shame"
- 1.2.3. The creation of Prosecution Teams
- 1.2.4. The sensitization of all ODPP counsel on the Anti-Corruption prosecution guidelines
- 1.2.5. Collaboration with other agencies

1.2.1. The National Task Force on Anti-Corruption

The office of the Director of Public Prosecutions was a member of the above National Taskforce and has been involved in all its activities towards enhancing the fight against corruption. Among the achievements of the Task Force are the ongoing amendments on Anti-Corruption legislation and the formulation of Anti-Corruption Policy, capacity building of the agencies mandated to fight corruption.

1.2.2. The task team on 176 files "list of shame"

Following the Presidential directive issued on 6th March 2015 on Ethics and Integrity in the Public Service, the Director of Public Prosecutions set up a dedicated team of Prosecution Counsel to work closely with EACC to comprehensively review files submitted by EACC involving public officials, analyze the same and make recommendations on the sufficiency of evidence thereon based on the investigations and undertake prosecution where there was evidence.

The team has worked round the clock and in the period reviewed 87 files, out of which 53 cases were taken to Court. The details thereof are in the report.

1.2.3. The creation of Prosecution Teams

Due to their nature, the Public interest involved and the complexity of some of the Anti-Corruption Cases, the Director of Public Prosecutions has created Prosecution Teams to ensure quality in Prosecution of Anti-Corruption Cases and that cases are expedited even where any of the team members is not available to continue with a prosecution.

The prosecution teams are comprised of both seasoned and newly employed Prosecution Counsel for purposes of ensuring that the new prosecution counsel get the necessary guidance and mentorship.

1.2.4. The Task Team on Anglo Leasing Type Contract cases.

Early in the year a joint Task team (ODPP & EACC) was formed within the Office to review and analyze five Anglo Leasing files submitted by EACC. In three (3) files, the suspected individuals and companies were arraigned in Court and the cases are proceeding and in two (2) files further investigations are being undertaken.

1.2.5. The Sensitization on the Anti-Corruption Prosecution Guidelines

During the year under review, the Office of the Director of Public Prosecutions with the support of GIZ developed Corruption Prosecution Guidelines which are yet to be officially launched. However, the guidelines are in use and countrywide sensitization is ongoing for all officers.

Further the office held a Trainers of Trainers (TOT) workshop between 22nd and 26th June, 2015 where twenty prosecutors were trained as Trainers on the said guidelines. A training and sensitization manual was developed in the same forum to guide in the activity and a countrywide sensitization programme held between 13th and 19th September, 2015. The workshops were held in Nairobi, Kisumu, Eldoret, Embu and Malindi and also brought on board participants from the EACC and CID. The second round of sensitization is ongoing.

1.2.6. Improvement of the quality of the prosecution.

On 16th December, 2015, a workshop was held at Kenya School of Government whose aim was to raise the bar in prosecution of corruption and Economic Crimes. Officers from Anti-corruption Division and Heads of all counties were sensitized on various issues affecting prosecution and how to deal with the challenges that emerge in the prosecution.

1.2.7. Collaboration - Participation at the Kenya Leadership and Integrity Forum

The ODPP was a key participant in the Task Force which reviewed, the legislative in policy and Institution framework for fighting corruption, through which the institutional set up of EACC was established vide a number of legislations set to be amended all aimed at enhancing the fight against corruption.

Through collaboration with the other sectors under the Kenya Leadership and Integrity Forum, the Office has been actively involved in the Implementation of the National Integrity Strategic Plan on Anti-Corruption and together with other stakeholders has continued to actively participate in the Annual International and Anti-Corruption day. This attests to our continued commitment towards the improvement of Governance and Integrity in this Country.

In the year, a Court Users and Committee for Corruption cases was established under the auspices of the Judiciary. The ODPP is a key player. The inaugural meeting was held on the 26th January 2016. The main aim of the Committee is bring together agendas that are key players in Criminal Justice System (corruption) for ease and fast and effective disposal of such cases.

There are undoubtedly real challenges in confronting and tackling the threats presented by economic crime and I don't pretend the issues are simple. But it is certainly not all doom and gloom. On the contrary, there is a great deal of positive action being undertaken and a spirit of cooperation both domestically and internationally that is most encouraging for the future.

The prosecution of corruption has however not been without challenges. Some of them include:-

- i. There are instances where scientific methods of investigation have not been fully explored
- ii. Inadequate capacity, a big number of the newly hired counsel are not familiar with the new procurement laws and procedures
- iii. There have been capacity challenges in the use of forensic evidence
- iv. Encountered challenges in getting expert witnesses to testify in some of the new areas
- v. We are still at the initial stages of attaining full specialization in complex organized crime i.e. Money laundering and assets forfeiture.
- vi. Not automated and challenges in data collection and collation.

Among the intervention measures that the office has continued to employ are the following:-

- i. The office has continued to conduct sensitizations in the prosecution of complex economic crime, and on the applicable laws and regulations
- ii. The office has established a Resource Centre at the Anti-Corruption and Economic Crimes Department, responsible for ensuring that the data on is updated in real time.
- iii. Prosecution Counsel have also been encouraged to make use of data registers to ensure that the status on all case files is adequately captured and documented for cross referencing.
- iv. The office has strengthened the collaboration and information sharing system with all the other law enforcement agencies to ensure early detection and speedy investigation and prosecution of corruption cases.

- v. The office has hired additional counsel and non-legal staff to ensure that all cases are handled expeditiously.

CHAPTER TWO

2.0. CHALLENGES AND INTERVENTIONS IN THE PROSECUTION OF CORRUPTION AND ECONOMIC CRIME CASES

2.1. Preamble

The prosecution of corruption and economic crime cases has been faced with numerous challenges. Below are a few of them and the interventions taken to counter them:

2.2. Lack of and/or inadequate usage of modern investigative Techniques

The following interventions are being pursued:

- Use of scientific methods of investigation
- Amendment and review of enabling legislation
- Employment of experts to apply the above stated methods of investigation

2.3. Limited Capacity.

The following is on course:

- Training on procurement laws
- Enhancing Prosecution skills
- Forensic evidence being employed.
- Expert witnesses to be sourced.
- Specialization in various areas of economic crimes being pursued.

2.4. Inadequate Sensitization on Corruption laws, guidelines and policies

The following is being done:

- Adequate Sensitization on Corruption laws, guidelines and policies and Asset forfeiture and confiscation
- Sensitization on new guidelines and policies from the judiciary and other criminal justice agencies.

2.5. Lack of coordination between prosecution, appeals and judicial review divisions

The following measures are being undertaken:

- Creation of registers
- Involvement of prosecuting counsel

2.6. Lack of collection of data, uniformity of data, varied interpretation of data, personnel, use of tools

The following remedies are being pursued.

- Continuous sensitization on data collection
- Digitization

- Dissemination of improved tools
- Timely submission of data
- Data collection as a key performance target
- Fast track case management system
- Need to network all county offices
- Need for compliance at all levels
- Tools for data collection
- Hiring of human resource
- Collaboration and sharing system with other agencies.

2.7. Delay in finalization of corruption cases

- Proper coordination with Investigating Officers on witnesses and exhibits
- Assignment of additional counsels in nearby counties
- Enhanced communication on DPP decisions on advice files in EACC matters to county Heads
- Availing of duplicate files to prosecution and accused once decision to prosecute has been made.
- Mandatory pre trial conference in all EACC & economic crime matters
- Case management pre trial with the judiciary
- Inventory of exhibits and their status
- Additional counsel.

2.8. Unstructured internal/external communication lines

The following remedies are being pursued:

- Structured communication lines;
- Guidelines on communication.

2.9. Lack of Witness facilitation

The following remedies are being pursued:

- Need for DPP to manage the witness Kitty
- Adequate budgetary provisions
- Adequate and timely facilitation

2.10. Lack of utilization of alternatives to prosecution

The following remedies are being pursued:

- Guidelines of application of ADR in criminal cases
- Use of plea bargaining rules
- Confiscation/forfeiture.

CHAPTER THREE

3.0. INTER-AGENCY COOPERATION AND COLLABORATION

3.1. Preamble

The need to enhance cooperation and collaboration as an effective tool in the fight against corruption and economic crimes is essential. In this regard, the ODPP has collaborated with the following agencies:

- (i) IPOA,
- (ii) DCI,
- (iii) EACC,
- (iv) FRC,
- (v) AG and
- (vi) ARA among others.

The ODPP has been represented at the round table meetings wherein matters concerning Money Laundering have been discussed with stakeholders:

- (i) Collaboration with the investigative agencies from the time a case is reported, through the investigation period to the prosecution and disposal thereof
- (ii) Participation in Joint collaboration workshops
- (iii) Engaging facilitators from the other actors in the war against corruption during our sensitization programs and workshops

CHAPTER FOUR

4.0. THE ORGANISATION

4.1. Mission:

The mission of the Office of the Director of Public Prosecutions is '*To serve the Government and the public in providing professional, effective and efficient prosecution services*'.

4.2. Vision

The vision of the Office of the Director of Public Prosecutions is '*To be a highly professional, effective and efficient prosecuting body in Kenya*'.

4.3. Core Values

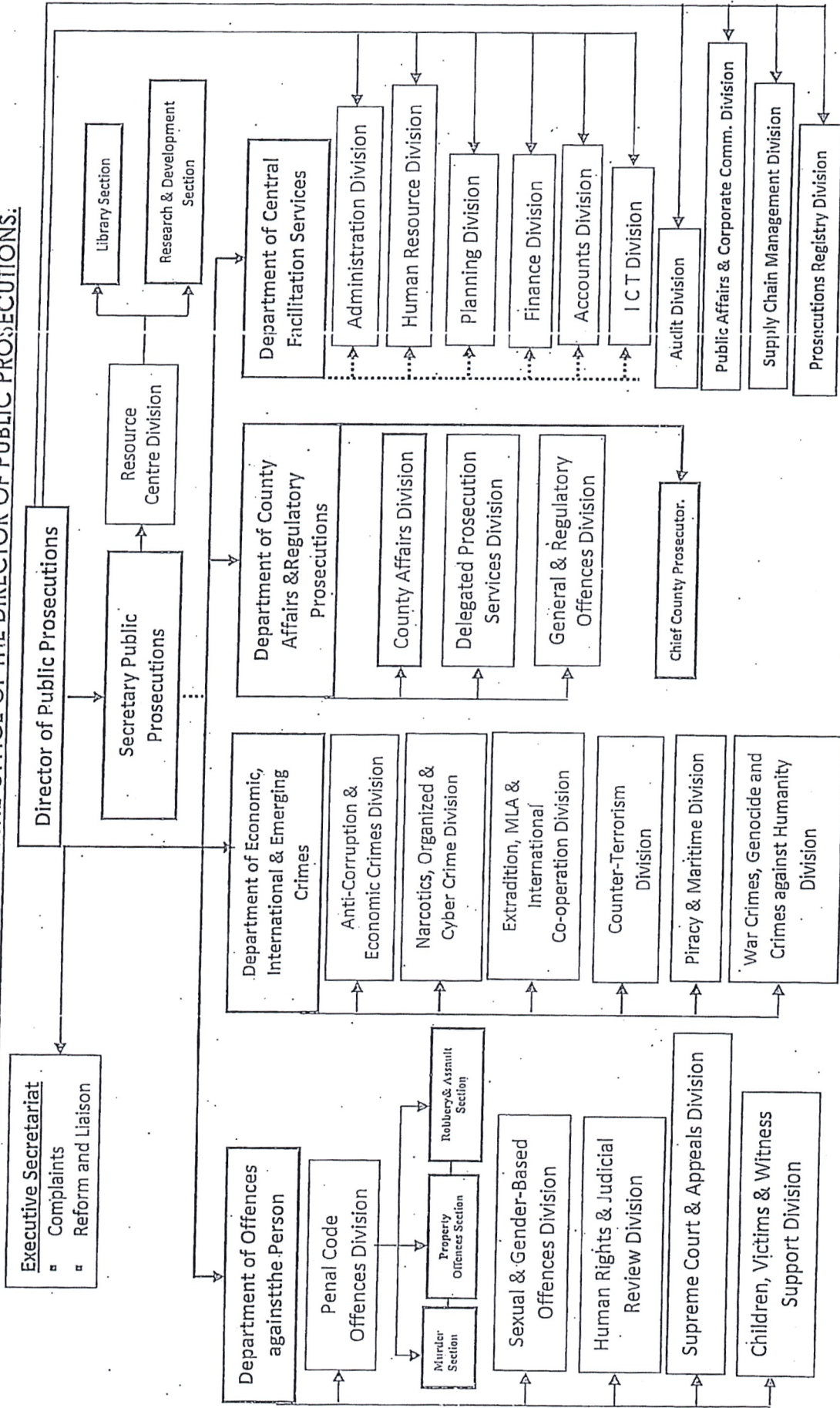
In pursuit of excellence in delivery of service, the Office of the Director of Public Prosecutions' staff will be guided by the following values:-

- The principles of integrity, transparency and accountability.
- Team spirit, discipline, respect and courtesy among staff.
- Commitment and dedication to duty.
- Professionalism in service delivery.
- Impartiality and fairness.



4.4. Organizational Structure

ORGANIZATIONAL STRUCTURE FOR THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS:



KEY:

- Administrative Reporting
- _____ Professional/Technical Reporting

CHAPTER FIVE

5.0. FILES SUBMITTED BY ETHICS AND ANTI-CORRUPTION COMMISSION

5.0.1. THE FIRST (1ST) QUARTER OF THE YEAR- 1ST JANUARY TO 31ST MARCH, 2015

5.0.1.1. EACC/AT/INQ/3/2015: NO. 1 EACC FIRST QUARTER REPORT

This was an inquiry into allegations of embezzlement of Kshs.19 million by Nairobi City County Officials.

Investigations by EACC established that on various dates between February 2014 and December 2014, the Nairobi County Chief Finance Officer and the County Secretary approved the withdrawal of a sum of Kshs. 19 million from the County's account. The investigations established that an officer withdrew the money from the office of the Chief Finance Officer. Investigations further established that the withdrawals were purported to be for payment for various goods supplied to the County and services rendered arising from several procurements as well as allowances.

The investigations further revealed that any Payment Vouchers as required did not support most of the payments and that the purported procurement for various goods and services did not in fact take place. It was further established that the suspects used the said procurements and payment for overtime and meal allowances as a cover up to embezzle money from the Nairobi County. The purported suppliers of the goods for which the alleged payments were being made confirmed that they did not supply any goods to the County nor provide any services.

The investigations established massive embezzlement of public funds and unaccounted for payments by the suspects using fictitious payees, who the Commission was of the opinion were culpable.

EACC compiled a report and forwarded to the Director of Public Prosecutions on 31st March, 2015 with recommendations that the suspects, namely the County Secretary, Chief Finance Officer, Principal Accountant, Auditor and Secretary be charged with various offences namely; Conspiracy to commit an offence of economic crime contrary to section 47A (3), of Abuse of office contrary to section 46, Fraudulent acquisition of public property contrary to section 45(1)(a) and Fraudulent making payment from public revenue for goods not supplied contrary to section 45 (2) (a) (ii) of the Anti- Corruption and Economic Crimes Act, 2003 and Uttering false documents contrary to section 353 of the Penal Code.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to support the recommended charges and directed prosecution to ensue.

Status

The suspects were charged with the offences of Conspiracy to commit an section 47A (3), of Abuse of office contrary to section 46, Fraudulent acquisition of public property contrary to section 45(1) (a) and Fraudulent making payment from public revenue for goods not supplied contrary to section 45 (2) (a) (ii) of the Anti-Corruption and Economic Crimes Act, 2003 among other charges. The case is ongoing in court.

5.0.1.2. EACC/FI/INQ/46/2014: NO. 2 EACC FIRST QUARTER REPORT

This was an inquiry into allegations that Machakos County Government single sourced services for construction of perimeter wall around the County Assembly offices at an exaggerated amount of Kshs. 29 million.

Investigations by EACC revealed that the Machakos County Assembly identified the need to fence off the County Assembly premises by putting up a perimeter wall. The County Assembly approved the budget for this construction at Kshs. 5 million, and purportedly approved the use of direct procurement for the subject contract for reason that the financial year was about to come to an end.

Investigations further revealed that the County Tender Committee (CTC) approved the use of direct procurement and floating of Quotations to pre-qualified bidders. The bids were evaluated and the tender awarded to the lowest evaluated bidder. The investigations further established that the successful bidder embarked on the works and implemented the project.

Investigations established that the decision by the Tender Committee and the County Assembly Board to approve direct procurement for this particular contract was in breach of the Public Procurement and Disposal Act and Regulations since the reason for the selection of the said method was not justifiable. It was not also the jurisdiction of the Assembly Board to perform the functions of the Tender Committee.

EACC compiled a report and forwarded to the Director of Public Prosecutions on 21st January, 2015 recommending prosecution of the officials who were culpable for the breaches of procurement processes; with the offences of Careless failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the DPP found the evidence sufficient to support the recommended charges and directed that the suspects be charged with the offence of willful failure to comply with the law relating to procurement contrary

to section 45(2) (b) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

Status

The suspects were charged in court with the offences of willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003. The case is ongoing in court.

5.0.1.3. EACC/MSA/FI/INQ/14/14: NO. 3 EACC FIRST QUARTER REPORT

This was an inquiry into allegations that the Moi International Airport Manager misappropriated Kshs. 11 million meant for construction of a Police shelter at the Airport's toll station gate.

Investigations by EACC established that the Moi International Airport Security Committee identified the need for a police shelter at the toll station gate to shield the officers manning the gate from the sun, create a rest room and a search area. Contrary to the allegations made, the investigations established that a sum of Kshs. 4 million was expended for the construction of a temporary shelter since there were no available funds to cater for the construction of a larger and permanent structure. The project for the larger shelter was shelved until such time when the Kenya Airports Authority would provide and approve sufficient funds for the project. The investigations further established that the Kshs. 4 million was properly accounted for. No culpability was established either on the part of the Airport Manager or any other officer involved in the project for the alleged misappropriation of public funds.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 5th February 2015 with recommendations that the file be closed.

Upon perusal of the file, the Director of Public Prosecutions found that the evidence was insufficient to warrant prosecution of the suspect and directed that the investigation file be closed with no further action.

Status

The file was returned to EACC with directions to close.

5.0.1.4. EACC/FI/INQ/50/2013: NO. 4 EACC FIRST QUARTER REPORT

This was an inquiry into allegations that the Eldoret South Constituency Tender Committee irregularly awarded a Tender for the Construction of Kaptumo-Kapkoiga Road Project at Kshs. 2, 500,000/= during Financial year 2010/2011.

Investigations by EACC established that the aforementioned project was one of the CDF funded projects for which Kshs. 2.5 million was set aside. The investigations

further established that due procurement procedures were followed in identifying the contractor and in the award of the contract and the project was completed.

However, before payment was made to the contractor, a report of alleged irregularities was made to the Commission. The Commission was of the opinion that the only pending issue in the matter was the inspection of the road project and certification of the work done to determine whether it met the tender requirements and ascertain how much money should be paid to the contractor thereof. No culpability was established about any of the officials involved in the said road project.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 12th February 2015 with recommendations that the inquiry file be closed.

Upon perusal of the file; found that there was insufficient evidence to warrant prosecution of the suspects and directed that the inquiry file be closed.

Status

The file was returned to EACC with directions to close.

5.0.1.5. EACC/FI/INQ/78/2014: NO. 5 EACC FIRST QUARTER REPORT

This was an inquiry into bribery allegations and abuse of office in the Department of Immigration; in the case of a Chinese National.

Investigations by EACC established that officers from the Immigration Department arrested a Chinese national for living and working in Kenya without a valid work permit. The Chinese national was also charged with contravention of the immigration laws. Investigations further established that after the said national was charged, it was alleged that the immigration officers involved in the case had solicited for a benefit, and the case against the Chinese national was withdrawn.

Investigations by EACC did not reveal any evidence of bribery or abuse of office against the Immigration Department officers to warrant their prosecution. However, the investigations revealed that there were several challenges in the implementation of the Citizens and Foreign Nationals Management Service Act; and specifically with regard to the issuance of work permits to foreigners.

EACC compiled a report and forwarded to the Director of Public Prosecutions on 16th January 2015 recommending closure of the file due to insufficient evidence to prove the allegations made. The Commission further recommended that the Cabinet Secretary (CS), Ministry of Interior and Co-ordination of National Government promptly facilitate the implementation of section 3 of the Kenya Citizens and Foreign Nationals Management Services Act so that the Department

of Immigration Services (DOIS) may through the CS formulate new policies, review the existing policies and guidelines for better running of the affairs of the DOIS.

Upon perusal of the file, the Director of Public Prosecutions found that the evidence was insufficient to warrant prosecution of the suspects and directed that the investigation file be closed with no further action.

Status

The file was returned to EACC with directions to close.

5.0.1.6. EACC/FI/INQ/04/2013: NO. 6 EACC FIRST QUARTER REPORT

This was an inquiry into allegations of irregular procurement of broadcast equipment at the Kenya Institute of Education (KIE) now Kenya Institute of Curriculum Development (KICD).

Investigations by EACC established that the Kenya Institute of Curriculum Development (KICD) through its user department identified the need to modernize its printing equipment and broadcast equipment. The institute's management approved these needs and funds were accordingly allocated for to commence procurement. KICD correctly applied both methods of tendering of the Public Procurement and Disposal Act, 2005 and Public Procurement and Disposal Regulations, 2006 in procuring the goods, and finally executed the relevant written contracts with the successful bidder.

The investigations did not establish any culpability on the part of any of the officers or bidders involved in the procurement to warrant any prosecution or other action.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 16th February 2015 recommending closure of the inquiry file.

Upon perusal of the file, the Director of Public Prosecutions found that the evidence was insufficient to warrant prosecution of the suspects and directed that the investigation file be closed with no further action.

Status

The file was returned to EACC with directions to close.

5.0.1.7. EACC//FI/INQ/53/2014: NO. 7 EACC FIRST QUARTER REPORT

This was an Inquiry into allegations of misrepresentation to the National Social Security Fund Board of Trustees by a representative of the Central Organisation of Trade Unions Kenya [COTU – (K)]

The investigations commenced after an allegation was made to EACC to the effect that a representative of Central Organization of Trade Unions (K) (COTU) misrepresented himself as a Trustee of the NSSF Board of Trustees while in reality he was not.

Investigations by EACC revealed that there was no evidence of such alleged misrepresentation and that the said Trustee was properly appointed as such. There was no culpability established to warrant any action against the said trustee.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions recommending closure of the inquiry file.

Upon perusal of the file, the Director of Public Prosecutions found that the evidence was insufficient to warrant prosecution of the suspects and directed that the investigation file be closed with no further action.

Status

The file was returned to EACC with directions to close.

5.0.1.8. EACC/FI/INQ/77/2014: NO. 8 EACC FIRST QUARTER REPORT

This was an inquiry into allegations of mismanagement, misapplication, and misappropriation of Constituency Development Fund by Budalangi Constituency Development Committee.

The complaint made to EACC was that Khajulu Dispensary, which had been constructed using funds from the CDF, was converted into a Special School. Investigations by EACC established that after the construction of the Khajulu dispensary; it was not handed over to the Ministry of Health. An arrangement was thereafter arrived that the said dispensary be used to house a special school pending allocation of land for the same.

Investigations further revealed that, there was consensus between all the stakeholders that the Khajulu Dispensary temporary be used to accommodate a special school. No culpability was established in this matter.

EACC compiled and forwarded to the Director of Public Prosecutions on 5th February, 2015 recommending for the closure of the file.

Upon perusal of the file, the DPP found that the evidence was insufficient to warrant prosecution of the suspects and directed that the investigation file be closed with no further action.

Status

The file was returned to EACC with directions to close.

5.0.1.9. EACC/MSA/FI/INQ/11/2014: NO. 9 EACC FIRST QUARTER REPORT

This was an inquiry into allegations of corruption against the County Director of Environment, Mombasa County and the Director General, National Environment Management Authority for allegedly demanding for a bribe of Kshs.2,000,000/=.

Investigations by EACC revealed that the NEMA County Director of Environment declined to issue an operation license to some companies operating plants in Mombasa. The complainant alleged that even after meeting the conditions given by NEMA in order for the permit to be issued, no permit was issued and instead the County Director solicited from him a benefit of Kshs. 2,000,000, which he was to give to the Director General NEMA.

However, owing to the lapse of time from the time of the alleged solicitation in August 2013 and December 2013 when the complaint was made, the Commission was not able to ascertain the veracity of the complaint of solicitation.

The evidence obtained however raised internal issues regarding inspections and issuance of permits issues, which needed to be addressed internally by NEMA.

A report was compiled by EACC and forwarded to the Director of Public Prosecutions on 28th January 2015 recommending closure of the inquiry file with a caution and or advisory to the National environmental Management Authority to ensure conformity with the policies and administrative manuals that they develop in implementation of their mandate.

Upon perusal of the file, the Director of Public Prosecutions found that the evidence was insufficient to warrant prosecution of the suspects and directed that the investigation file be closed with no further action.

Status

The file was returned to EACC with directions to close.

5.0.1.10. EACC/MSA/FI/INQ/015/2014: NO. 10 EACC FIRST QUARTER REPORT

This was an inquiry into allegations of irregular disposal of auction goods and abuse of office against the Kenya Revenue Authority Customs Officer who conducted the Public Auction.

Investigations by EACC established that the suspect was an employee of the Kenya Revenue Authority stationed at the Customs Warehouse in Kilindini. The Investigations revealed that whereas the successful bidders at the auction, which realized a sum of Kshs. 20 million, were required to pay 25% cash deposit at the fall of the hammer, the suspect did not adhere to this requirement. Instead, he allowed some bidders to pay the requisite deposit later giving them undue advantage and in breach of the rules of auction set by KRA.

Investigations further established that the suspect failed to comply with the applicable procedures and guidelines relating to sale and/or disposal of property.

EACC compiled a Report forwarded to the Director of Public Prosecution on 25th February, 2015 recommending that the suspect be charged to comply with the offence of wilful failure to comply with applicable procedures and guidelines relating to sale and/or disposal of public property contrary to section 45 (2) (b) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, 2015, the Director of Public Prosecutions found that there was sufficient evidence to support the proposed charges and directed prosecution to ensue.

Status

The suspect was charged with the offence of willful failure to comply with applicable procedures and guidelines relating to sale and/or disposal of public property contrary to section 45 (2) (b) of the Anti- Corruption and Economic Crimes Act, 2003. The case is ongoing.

5.0.1.11. EACC/MSA/INQ/FI/19/2014: NO. 11 EACC FIRST QUARTER REPORT

This was inquiry into allegations of obstruction of EACC officers by Police Officers at Mariakani Weigh Bridge from conducting under cover surveillance and intelligence gathering.

Investigations by EACC commenced after the Commission received complaints from the stakeholders regarding rampant corruption perpetuated by the Weighbridge Traffic Police officers' and SGS employees. It was reported that they colluded to demand heavy bribes from overloaded truck drivers with excess axle load in order to allow them pass through the Mariakani Weighbridge contrary to the Axle Load Control rules and regulations that are strictly enforced by the Kenya National Highways Authority (KenHa).

Investigation further established that the suspects are all Police Officers stationed at Mariakani Weigh Bridge. The investigation established that after the surveillance a sting operation was conducted by EACC. However, during the operation, the police officers at the Weigh bribed obstructed the EACC officers and some shot at them.

EACC compiled a report and forwarded to the Director of Public Prosecutions on 4th March 2015 with recommendations that the suspects be charged with the offences of obstruction contrary to section 66(1) (a) and Concealing evidence contrary to section 66(2) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to support the offences and directed prosecution ensue.

Status

The suspects were charged with the offences of obstruction contrary to section 66(1) (a) and Concealing evidence contrary to section 66(2) of the Anti-Corruption and Economic Crimes Act, 2003. The case is ongoing.

5.0.1.12. EACC/ELD/FI/INQ/6/2014: NO. 12 EACC FIRST QUARTER REPORT

This was an inquiry into allegations that a land parcel in Eldoret along Ronald Ngala Street within Eldoret Township, UasinGishu County which is public land, was grabbed by private individuals using fake documents.

Investigations by EACC established that the subject parcel was initially un-alienated government land, which was alienated twice to different individuals. The first alienation was done in 1998, registration done and certificate of lease issued in the names of individuals. A second alienation was done over the same parcel and registration done in 2002 to trustees of a political organisation. A dispute over ownership arose which ended up in the High Court of Eldoret but before it was determined, the concerned parties agreed to settle the matter out of court. They agreed to sell the property and share the proceeds.

Investigations further revealed the land in question though originally public land was available for alienation and thus the allocation done. It however appeared that two allotments were made in respect of the same land-giving rise to the dispute. The investigations did not establish that the land in question was irregularly/unlawfully acquired to warrant any action against the persons concerned.

EACC compiled a report and forwarded to the Director of Public Prosecutions on 13th March 2015 with recommendations for closure of the inquiry file.

Upon perusal of the file, the Director of Public Prosecutions found that the evidence was insufficient to warrant prosecution of the suspects and directed that the investigation file be closed with no further action.

Status

The file was returned to EACC with directions to close.

5.0.1.13. EACC/FI/INQ/57/2006: NO. 13 EACC FIRST QUARTER REPORT

This was an Inquiry into allegations of procurement irregularities in the award of the tender for building of Ngei Road shopping Centre in Machakos to a bidder in the year 2006.

Investigations by EACC established that the Municipal Council of Machakos advertised a tender in 2006 for the construction of a shopping centre. Upon receipt of bids, the same were evaluated and the award of the tender was made to the lowest evaluated bidder. The investigations did not establish any breaches in the procurement process. No culpability found about any of the officers involved in the procurement to warrant any action against them. EACC compiled a report and forwarded to the Director of Public Prosecutions on 30th March 2015 recommending closure of the inquiry file.

Upon perusal of the file, the Director of Public Prosecutions found that the evidence was insufficient to warrant prosecution of the suspects and directed that the investigation file be closed with no further action.

Status

The file was returned to EACC with directions to close.

5.0.1.14. EACC/AT/INQ/101/2014: NO. 14 EACC FIRST QUARTER REPORT

This was an inquiry into allegations of misappropriation of public funds at County Assembly of Machakos.

Investigations by EACC established that eight Members of Machakos County Assembly (MCAs) drew imprest for foreign travel but they did not travel as required. At the time the investigations commenced, the MCAs had not refunded the money, but later refunded it.

EACC was of the opinion that since the MCAs were paying back the imprest received, their prosecution was not tenable.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 30th March 2015 recommending the closure of the inquiry file.

Upon perusal of the file, the Director of Public Prosecutions found that the evidence was insufficient to warrant prosecution of the suspects and directed that the investigation file be closed with no further action.

Status

The file was returned to EACC with directions to close.

5.0.1.15. EACC/INQ/12/2014: NO. 15 EACC FIRST QUARTER REPORT

This was an inquiry into allegations of corruption against Traffic Police officers based at Kabete Police Station.

Investigations by EACC revealed that the suspects are all police officers, employees of National Police Service (NPS) based at Kabete Police Station, Traffic Section. Investigations established that whereas some Public Service Vehicle

operators were alleged to have given money to the suspects, they declined to record their statements as witnesses. It would therefore be difficult to prove that the suspects received any benefit from them.

EACC was of the considered opinion that the evidence obtained would not support a prosecution of the suspects. However, the conduct of the suspects who are traffic police officers was wanting and they failed to carry out their duties in a way that maintained public confidence in the integrity of their office as required under the Public Officer Ethics Act.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 30th January 2015 with recommendations that the National Police Service Commission take administrative action against the suspects.

Upon perusal of the file, the Director of Public Prosecutions found that the evidence was insufficient to sustain prosecution of the suspects and directed that administrative action be taken against them.

Status

The file was returned to EACC with directions to deal with the matter administratively.

5.0.1.16. EACC/INQ/13/2014: NO. 16 EACC FIRST QUARTER REPORT

This was inquiry into allegations of corruption against Traffic Police officers attached to Ruiru Police Station.

Investigations by EACC revealed that the suspects are all police officers, employees of National Police Service (NPS) as Traffic Police Officers attached to Ruiru Police Station.

Investigations further revealed that the suspects in course of their duties were found in possession of suspect money which serial number matched with the notes given to various public service vehicle operators by EACC. Whereas, the said operators were not willing to record statements as witnesses, the investigations established that the money recovered from the suspects was acquired in the course of corrupt conduct in terms of Section 47(1) of the Anti-corruption and Economic Crimes Act.

EACC compiled a report and forwarded to the Director of Public Prosecutions on 30th January 2015 with recommendations that the suspects be charged with the offence of dealing with suspect property contrary to section 47 of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to support the proposed charges and directed prosecution to ensue.

Status

The suspects were charged with the offence of dealing with suspect property contrary to section 47 of the Anti-Corruption and Economic Crimes Act, 2003. The case is ongoing.

**5.0.1.17. EACC/CR.021/67/2014: NO. 17 EACC FIRST QUARTER REPORT
C/F No. Mombasa ACC. No.9/2014**

This was an inquiry into allegations of corruption against a Traffic Police Officer attached to Changamwe Traffic Base.

Investigations by EACC revealed that the suspect, a police officer, an employee of National Police Service (NPS) corruptly solicited from the complainant, for a benefit of Kshs.3000/= as an inducement for release of his motor cycle which had been detained at the police post/booth on allegation that he was riding it without a valid insurance cover. The investigations established the solicitation and receipt of a benefit.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 5th February 2015 with recommendations that the suspect be charged with the offence of soliciting for and receiving a benefit contrary to section 39(3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to support the proposed charges and directed prosecution to ensue.

Status

The suspect was charged with the offence of soliciting for and receiving a benefit contrary to section 39(3) (a) of the Anti-Corruption and Economic Crimes Act, 2003. The case is ongoing.

5.0.1.18. EACC/NYR/INQ/OPS/03/2014: NO. 18 EACC FIRST QUARTER REPORT

This was an inquiry into allegations of corruption against Police Officers attached to Rumuruti Police station.

Investigations by EACC established that the suspects were police officers attached to Rumuruti Police station. It was alleged by the complainant that they detained a motor cycle belonging to the complainant and when he sought its release, they corruptly solicited for a benefit of Kshs.5000/=. The investigations however did not establish the alleged solicitation of a benefit.

Nonetheless, the Commission was of the considered opinion that whereas the evidence obtained would not support a prosecution of the suspects, their conduct as public officers was in breach of the requirements of sections 3(2)(a) and (b) and 7 of the Leadership and Integrity Act, 2012.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 6th February 2015 with recommendations that the National Police Service Commission take administrative action against the suspects.

Upon perusal of the file, the Director of Public Prosecutions found that the evidence was insufficient to sustain prosecution of the suspects and directed that administrative action be taken against them.

Status

The file was returned to EACC with directions that administrative action be taken against the suspects.

5.0.1.19. CR. 440/602/2014: NO. 19 EACC FIRST QUARTER REPORT C/F. No. MACHAKOS ACC. 4/2014

This was an inquiry into allegations of corruption against an employee of the Judiciary, Machakos High Court.

Investigations by EACC established that the suspect, who is a Subordinate officer at the Machakos High Court corruptly solicited for a benefit of Kshs.4000/= from the complainant as an inducement to facilitate the fixing of a hearing date in a case pending at the Machakos High Court in which the complainant was the appellant. The suspect also corruptly received a benefit.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 13th February 2015, with the recommendation that the suspect be charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39(3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to support the recommended charges and directed that prosecution ensue.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39(3) (a) of the Anti-Corruption and Economic Crimes Act, 2003. The case is ongoing.

5.0.1.20. CR. 021/83/2014: NO. 20 EACC FIRST QUARTER REPORT
MOMBASA ACC. NO. 10/2014

This was an inquiry into allegations of corruption against an employee of the Kenya Revenue Authority and an employee of an Accountant's Firm.

Investigations by EACC established that one of the suspects, a Kenya Revenue Authority employee corruptly solicited for a benefit of Kshs. 500,000 as an inducement to reduce domestic tax levied against the complainant. Investigations also established that the employee of the Accountant's firm acted as the agent of the Kenya Revenue Authority's employee. The suspects also received a benefit.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 16th February, 2015 with recommendations that the suspects be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to support the proposed charges and directed that the suspects be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

Status

The suspects were charged in court with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003. The case is now ongoing.

5.0.1.21. CR. 021/20/669/2014: NO. 21 EACC FIRST QUARTER REPORT
NYERI COURT FILE ACC. NO. 27/2014

This was an inquiry into allegations of corruption against a Secretary at Thika District Education Office.

Investigations by EACC established that the suspect, who is a Secretary at Thika District Education office within Kiambu County, solicited from the complainant a benefit of Kshs.1000/- as an inducement to release the complainant's daughter's Birth Certificate. Investigations further revealed that the suspect received a benefit.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 19th February, 2015 with recommendations that the suspect be charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to support the recommended charges and directed that prosecution ensues.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003. The case is ongoing.

**5.0.1.22. CR.145/221/2014: NO. 22 EACC FIRST QUARTER REPORT
COURT FILE NAIROBI ACC. 22/2014**

This was an inquiry into allegations of corruption against a Police Constable attached at Capitol Hill Police Station.

Investigations by EACC established that the suspect a Police Officer based at Capitol Hill Police Station, Kilimani Division, corruptly solicited a benefit of Kshs.25,000/= from the complainant as an inducement so as not to charge him with the offence of stealing. The investigation also established that the suspect corruptly received a benefit.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 24th February, 2015 with recommendations that the suspect be charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found sufficient evidence to support the recommended charges and directed that the suspects be charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003. The case is ongoing.

**5.0.1.23. CR.145/226/2014: NO. 23 EACC FIRST QUARTER REPORT
NAIROBI ACC. NO. 25/2014**

This was an Inquiry into allegations of corruption against a Senior Chief Huruma Location and an Elder Huruma Chief's camp respectively.

Investigations by EACC established that the first suspect who is a Senior Chief, Huruma Location and an employee of the Ministry of Interior and Coordination of National Government, used the village elder as an agent to solicit for and receive a benefit on his behalf. The solicitation was as an inducement to release the tools, which the Chief had impounded from the complainant on allegations that he was operating a business without his authority. The investigations also established that the suspects received a benefit.

EACC compiled and forwarded a report to the Director of Public Prosecution on 23rd February, 2015 with recommendations that the suspects be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to support the proposed charges and directed that the suspects be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003.

Status

The suspects were charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003. The case is ongoing.

5.0.1.24. CR.145/215/2014: NO. 24 EACC FIRST QUARTER REPORT MILIMANI ACC. NO. 23/2014

This was Inquiry into allegations of corruption against a Senior Chief, East Leigh North Location.

Investigations by EACC established that the suspect is a Senior Chief, employee of Ministry of Interior and Coordination of National Government, corruptly solicited for a benefit of Kshs. 20,000 from the complainant as an inducement to write introduction letters the Registrar of Births in favour of the complainant's cousins who needed to register as Kenyan citizens.

Investigations further established that the suspect received a benefit.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 27th February, 2015 with recommendations that the suspect be charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to support the proposed charges and directed that the

suspect be charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003. The case is ongoing.

**5.0.1.25. CR. 440/603/2014: NO. 25 EACC FIRST QUARTER REPORT
NAIROBI ACC. NO. 5/2014**

This was an inquiry into allegations of corruption against two officers of the Land Adjudication office, Kyamuoso section in Makueni County.

Investigations by EACC established that the suspects were a Land Adjudication Assistant Officer and a Chairman of the Kyamuoso Land adjudication Committee who were collecting an unlawful fee of Kshs.50 shillings from 1300 landowners in order to sign land adjudication records.

Investigations further established that the suspects used their positions in a public office to solicit for a benefit from the landowners.

EACC compiled and forwarded a Report to the Director of Public Prosecutions on 10th March, 2015 with recommendations that the suspects be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (b) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to support the proposed charges and directed that the suspects be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (b) of the Anti- Corruption and Economic Crimes Act, 2003.

Status

The suspects were charged in court with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (b) of the Anti- Corruption and Economic Crimes Act, 2003. The case is ongoing.

**5.0.1.26. CR. 790/280/2014: NO. 26 EACC FIRST QUARTER REPORT
NAKURU ACC. NO. 10/2014**

This was an inquiry into allegations of corruption against a Driver in Baringo County

EACC commenced investigations upon receipt of a report that a driver with the Baringo County was using a GK water booster to supply water for other purposes

other than what he was authorized. It was further alleged the vehicle movement was not authorized in the work ticket and the suspect was selling water for a Kshs.5000/- fee and issuing receipts for a Kshs.1000/= lesser amount than what he received.

Since the persons involved in the sting operation were all EACC officers, there would be challenges in proving the charges of corruptly soliciting for a benefit against the suspect who would raise the defence of entrapment.

Nonetheless, the investigations revealed that the suspect carried out his duties in a manner that brought disrepute to his integrity, which is against Section 9 of the Public Officer Ethics Act.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 10th March 2015 with recommendations that administrative action be taken against the suspect.

Upon perusal of the file, the Director of Public Prosecutions found that there was insufficient evidence to warrant a prosecution against the suspects and directed that administrative action be taken against the suspects

Status

The file was returned to EACC with directions to deal with the matter administratively.

5.0.1.27. CR. 145/244/2014: NO. 27 EACC FIRST QUARTER REPORT CF MILIMANI ACC. NO. 28/2014

This was an inquiry into allegations of corruption against a City Constable, Nairobi City County.

Investigations by EACC established that the suspect, a constable, City Inspectorate, Nairobi City County corruptly solicited for a benefit of Kshs.15, 000/- as an inducement from the complainant to release a motor cycle, which he had detained for being parked in a non-designated area.

Investigations further established that there was sufficient evidence to support the charges of solicitation for and receiving a benefit against the suspect.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 11th March, 2015 with recommendations that suspect be charged with the offences of corruptly soliciting for and receiving a benefit.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to support the proposed charges and directed that the suspects be charged with the offences of corruptly soliciting for and receiving a

benefit to section 39 (3) (b) of the Anti- Corruption and Economic Crimes Act, 2003.

Status

The suspect was charged in court with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (b) of the Anti- Corruption and Economic Crimes Act, 2003. The case is ongoing.

**5.0.1.28. CR. 032/27/2014: NO. 28 EACC FIRST QUARTER REPORT
ACC. MIGORI CF NO. 60/2015**

This was an inquiry into allegations of corruption against a Traffic Sub-Base Commander, Isebania.

Investigations by EACC established that the suspect, the Isebania Traffic Sub Base Commander corruptly solicited for a benefit of Kshs.5000.00 from the complainant as an inducement to facilitate the release of a motor vehicle, which had been detained for obstruction. The investigations also established that the suspect received a benefit.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 19th March, 2015 with recommendations that that the suspect be charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (b) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to support the proposed charges and directed that the suspect be charged with the offences of corruptly soliciting for and receiving a benefit to section 39 (3) (b) of the Anti- Corruption and Economic Crimes Act, 2003.

Status

The suspect was charged in court with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (b) of the Anti- Corruption and Economic Crimes Act, 2003. The case is ongoing.

**5.0.1.29. CR. 831/387/2014: NO. 29 EACC FIRST QUARTER REPORT
ELDORET COURT FILE ACC. NO.4/2014**

This was an inquiry into allegations of corruption against a Constituency Development Fund Secretary and a Committee Member respectively.

Investigations by EACC established that the suspects who are officials of CDF in Likuyani Constituency had corruptly solicited for a benefit of Kshs. 20, 000/= to sign

three cheques amounting to Kshs. 231, 796/= meant to pay suppliers and contractor for a CDF funded dining hall project for a school.

Investigations further revealed that there is sufficient evidence to support the charges of solicitation and agreeing to receive a benefit against the suspects.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 19th March, 2015 with recommendations that the suspects be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (b) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to support the recommended charges and directed that prosecution ensues.

Status

The suspects were charged in court with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (b) of the Anti- Corruption and Economic Crimes Act, 2003. The case is ongoing.

5.0.1.30. CR. 145/254/2014: NO. 30 EACC FIRST QUARTER REPORT MILIMANI COURT FILE ACC.NO 26/2014

This was an inquiry into allegations of corruption against a Personal Assistant to the Nairobi City County Government Executive Officer formerly in charge of the Transport Department.

Investigations by EACC established that the suspect, a Personal Assistant to the Nairobi City County Government Executive Officer, formerly in charge of the Transport Department corruptly solicited for a benefit of Kshs.100,000/= as an inducement for facilitation in resolving a parking/loading zone dispute involving two Matatu Sacco's along Mwimbi Road in Nairobi.

Investigations further established that the suspect used his position to influence as a Personal Assistant to corruptly solicit for a benefit as an inducement to resolve the parking zone dispute. The suspect however did not receive the benefit during the trap operation carried out by EACC, after he became suspicious of the operation.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 24th March, 2015 with recommendations that the suspect be charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (b) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to support the proposed charges and directed that the suspect be charged with the offence of corruptly soliciting for a benefit to section 39 (3) (b) of the Anti- Corruption and Economic Crimes Act, 2003.

Status

The suspect was charged in court with the offences of corruptly soliciting for a benefit contrary to section 39 (3) (b) of the Anti- Corruption and Economic Crimes Act, 2003. The case is ongoing.

5.0.2. THE SECOND (2ND) QUARTER OF THE YEAR - 1ST APRIL TO 30TH JUNE, 2015

5.0.2.1: ODPP/CAM/015/5/283: NO. 1 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations that the Kisumu County Speaker and Kisumu County Assembly Service Board irregularly contracted an agent at a cost of Kshs. 15,400,000.00 to facilitate the travel of 70 Members of the County Assembly (MCAs) and Members of Staff to Singapore, Israel and China.

Investigations by EACC established that the procurement of the private agent by the Kisumu County Assembly Board to facilitate conferences in three destinations was irregular. There was no due regard to the public procurement regulations and the said agent was engaged without due competition. The method of procurement the County Assembly Service Board used was irregular, and further the Board usurped the mandate of the Tender Committee to make the award of the contract to the said agent. Investigations further established that the Kisumu Assembly Speaker received money from the said agent, which was an inducement for the said irregular award.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 10th April, 2015 recommending that the Members of the Kisumu County Assembly Service Board be charged jointly with the offence of willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003. It was further recommended that the Speaker of the Kisumu County Assembly, her husband and the directors of the private agent be charged with the offence of conspiracy contrary to section 317 of the Penal Code.

Upon perusal of the file, the Director of Public Prosecutions found there was sufficient evidence to warrant prosecution of the suspects and directed that the case be prosecuted to its logical conclusion.

Status

The following suspects were charged with the offence of willful failure to comply with the laws relating to procurement contrary to section 45(2) (b) as read with sec 48(1) of the Anti-Corruption Economic Crimes Act No. 2003; E1- Anne Adul, E2- Nelco Masanya Sagwe, D7- Samuel Onyango Ongow, D8- Edwin Philip Anayo, D 15- Margaret Mbuya Jobita.

The following suspects persons were charged with the offence of conspiracy to defraud contrary to section 317 of the Penal Code: E1- Anne Adul, D17-

Elijah Adul, E3- Emanuel Ofieno, E4- Mildred Miriam Omondi, M/S factor Connect Ltd.

Two suspects and their company were charged with the offence of Fraudulent Acquisition contrary to section 45(1) of the Anti-Corruption Economic Crimes Act No. 2003.

The Accused were acquitted and the ODPP has filed an appeal.

5.0.2.2. EACC/FI/INQ/103/2014: NO. 2 EACC SECOND QUARTERLY REPORT

This was an Inquiry into allegations of alleged misappropriation of Kshs. 15.9 million grant by the Ministry of Industrialization to Export Processing Zone Authority (EPZA).

Investigations established by EACC that EPZA procured the services of a consultant to undertake the design, bid evaluation and construction supervisor of works at the Athi-River. Investigations further established that due regard to the requirement of the Public Procurement and Disposal Act, 2005 (PPDA) and Regulations were observed in the said procurement. The consultant performed the contract satisfactorily and payments were duly made. The investigation did not establish any culpability on the part of the officers involved in the procurement to warrant any criminal prosecution or other action against them.

Upon perusal of the file, the Director of Public Prosecutions found no criminal culpability on the part of the officers involved and concurred with EACC recommendation to close the files.

Status

The inquiry file was returned to EACC with directions that the file be closed.

5.0.2.3. ODPP/CAM/015/5/291: NO. 3 EACC SECOND QUARTERLY REPORT

This was Inquiry into allegations of irregularities in awarding NSSF Tender No.04/2010-2012 for the Design, Supply, Installation and Commissioning of appropriate Electronic Surveillance System — Closed Circuit Television (CCTV) & Restricted Access Control Systems to Micro City Computers Ltd at a tender sum of Kshs.244,825,708.

Investigations by EACC established that after the need for CCTV cameras was identified, NSSF commenced procurement proceedings. Due process, which included approval by the Board, Development of Tender Documents, Advertisements, and Invitation for tender, sale of

tender documents, Opening of Tenders by a Committee, Evaluation by a Committee and Notification of Award, was complied with. The proposals (Financial and Technical) were submitted and were found to meet the threshold. Investigations further established although an award was made to the successful bidder, the contract was not concluded hence the legal contractual relationship was not established. The proceedings were terminated at the point when the Managing Trustee wrote to the successful bidder relaying the information of inability to proceed with the project due to budgetary constraints.

Upon perusal of the file, the Director of Public Prosecutions found no evidence to warrant prosecution of the officers concerned and directed that the file be returned for closure as recommended. However he directed that administrative action be taken against the Accounting Officer, the Chairman, six members of the Fund Tender Committee and Procurement manager.

Status

The inquiry file was returned to EACC with directions for administrative action.

5.0.2.4. ODPP/CAM/015/5/289: NO. 4 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations that the Deputy Commissioner and the District Clerk misappropriated relief food meant for the needy and vulnerable people Garissa Sub County.

Investigations by EACC established that the suspects colluded to acquire relief food meant for the needy and vulnerable people of Garissa Sub-County.

They both prepared the list of beneficiaries in which they knowingly included names of non-existent groups of persons as beneficiaries. The Sub-County Relief Food Distribution Committee believing the list contained genuine beneficiaries approved it. The Deputy County Commissioner and the District Clerk prepared food permits and S11 forms for collection of the relief food, using an unauthorized Government vehicle collected food, took it to the Deputy County Commissioner's office, and failed to distribute it as required.

A Report was compiled by EACC and forwarded to Director of Public Prosecutions on 27th April, 2015 with recommendation that the Deputy County Commissioner and the District Clerk at the County Government be charged with the offence of fraudulent acquisition of Public Property

contrary to Section 45(1) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found there was sufficient evidence to warrant prosecution of the suspects and directed prosecution to ensue.

Status

The Deputy County Commissioner and the District Clerk at the County Government were charged with the offence of fraudulent acquisition of Public Property contrary to Section 45(1) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003. The matter is part heard in court.

5.0.2.5. EACC/FI/INQ/63/ 2013: NO. 5 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations that the Acting Chief Executive officer of the Youth Enterprise Development Fund (YEDF) chaired a Committee that approved Procurement of Hatcheries worth Kshs. 200 million and further signed an addendum for payment knowing very well that these were not approved by the Board.

Investigations by EACC established that the Acting CEO of the Youth Enterprise Development Fund Board (YEDF) approved the purchase of hatcheries worth Kshs. 200 million whereas the said purchase had not been approved by the YEDF Board. Investigations established that the Board only discovered about the said procurement when the contract with supplier of the hatcheries had already been executed by the Chief Executive Officer. Investigations further established that, the first installment of the advance payment was made to the supplier without the company submitting the advance payment bond as per the terms of contract hence exposing the Fund to great risk. Investigations also revealed that the CEO sourced storage facilities for the hatcheries without following the requisite procurement procedures.

A Report was compiled by EACC and forwarded to Director of Public Prosecutions on 7th May, 2015 with recommendation that the Chief Executive Officer be charged with the offences of abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003 and engaging in a project without prior planning Contrary to Section 45 (2) as read together with section 48 of the Anti-Corruption and Economic Crimes Act Cap 65 Laws of Kenya.

Upon perusal of the file, the DPP found that there was sufficient evidence to sustain the proposed charges and accepted the recommendation for prosecution against the suspect.

Status

The suspect was charged with the offence of abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003 and engaging in a project without prior planning Contrary to section 45(2) as read together with section 48 of the Anti-Corruption and Economic Crimes Act Cap 65 Laws of Kenya. The case is ongoing.

5.0.2.6. ODPP/CAM/015/5/299: NO. 6 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of irregular purchase of Kilifi Governor's Residential House, by the Kilifi County Government at Kshs. 168,000,000 during the financial year 2013/2014.

Investigations by EACC established that due regard to the requirements of the PPDA, 2005 and Regulations thereto were observed in the procurement of the Kilifi Governor's residential house. There was no quantifiable monetary loss incurred by the procuring entity when procuring the Kilifi Governor's House. Further investigations established that the two independent valuations done on the same property returned a value indicating that the price offered by the owners of the premises was reasonable. The evidence obtained also did not establish that the officers involved in the procurement process were culpable, for any wrongdoing.

A Report was compiled by EACC and forwarded to Director of Public Prosecutions on 7th May 2015 with recommendation that the inquiry file be closed.

Upon perusal of the file, the Director of Public Prosecutions found there is no sufficient evidence to warrant prosecution of the suspects and directed that the case be closed. In addition, he directed that administrative action be taken against the procurement officers involved in the purchase of the Governor's residence.

Status

The inquiry file was returned to EACC with directions that the file be closed and administrative action to be taken against the procurement officers.

5.0.2.7. EACC/FI/INQ NO.51/2014: NO. 7 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of irregular purchasing of 15 pre-used vehicles, Subaru Outback Motor Vehicles and 1 Toyota Land Cruiser for the Machakos County Executive Members through single Sourcing during the Financial Year 2013/2014.

Investigations by EACC established that the process of procurement was done by the office of the Governor and not the user department, which are the Ministry of Transport, Roads and Infrastructure. The Interim Tender Committee (ITC) contravened the law by endorsing the use of direct procurement for procuring the subject vehicles thus not ensuring that there was fair competition and that the prices at which the said vehicles were acquired was with the prevailing market rates. Further, the ITC endorsed the award of this tender to M/s Extreme Autos Limited through unlawful procurement method. Investigations further revealed that there was no market survey that was carried out and the supplier was handpicked. Investigations further established that the vehicles were never inspected before delivery and the delivery dates are not clearly indicated. The generation of the LPO was irregular since it was done way after the vehicles had been delivered and the payments by the finance officers were highly inconsistent.

A Report was compiled by EACC and forwarded to Director of Public Prosecutions on 11th May 2015 with recommendation that the suspects namely; the Assistant Director of Youth training at the Ministry of Education Science and Technology, the Interim Head of Supply Chain Management of Machakos County Government, the Chief of Staff for Machakos County Government, the Acting Director of Administration and Planning in the department of Health and Emergency Services, a Senior ICT Officer working with the Ministry of Devolution in the Directorate of Personnel Management (PSTD), the County Secretary for Machakos County Government be charged jointly with the offence of willful failure to comply with the law relating to procurement contrary to Section 45 (2)(b) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003, and the Governor of Machakos County Government be charged with the offence of abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon perusal of the file, the DPP found that there was sufficient evidence to support the recommended charges and directed that prosecution ensues against all the County officials culpable for the irregularities. About the Governor, the Director of Public Prosecutions

advised that the matter should await the determination of the petition filed by the Governor in the High Court where orders were given barring any action against him.

Status

The Assistant Director of Youth training at the Ministry of Education Science and Technology, the Interim Head of Supply Chain Management of Machakos County Government, the Chief of Staff for Machakos County Government, the Acting Director of Administration and Planning in the department of Health and Emergency Services, a Senior ICT Officer working with the Ministry of Devolution in the Directorate of Personnel Management (PSTD), the County Secretary for Machakos County Government be charged jointly with the offence of willful failure to comply with the law relating to procurement contrary to Section 45 (2)(b) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003, and the Governor of Machakos County Government be charged with the offence of abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. The case is ongoing.

The Governor filed an application for judicial review challenging the decision to prosecute and seeking prohibition. The final determination of the Application (Appeal) is awaited.

5.0.2.8: ODPP/CAM/015/5/301: NO. 8 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of full payment by Turkana County Government for work not done in respect of rehabilitation of Kaputir-Loyapai-Kainuk Road.

Investigations by EACC established that the process of procurement was fully followed up to the point of the award of contract for the rehabilitation of the aforementioned road, which involved gravelling and grading. However, the gravelling of the road was not done yet the contractor received the full payment of the sum of Kshs.9, 023,711 thereby benefiting for work not done. The contractor through the Manager whose role was to negotiate contracts raised invoices which were paid promptly by the County Treasury vide three (3) interim payment certificates. Investigations established that the payments were made based on false completion certificates prepared by the suspects purporting that gravelling of the road had been completed whereas no works were done.

A report was compiled by EACC and forwarded to Director of Public Prosecutions on 12th May 2015 with recommendation that the County

Executive Ministry of Roads, Transport, Housing and Public Works, Turkana County Government is charged with offences of Willful failure to comply with the law relating to the procurement contrary to Section 45(2)(b), And Abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act No.3 of 2003. The other suspects be charged with the offence of fraudulent acquisition of public property contrary to section 45(1) (a) as read with section 48(1) and (2) of the Anti-Corruption and Economic Crimes Act, 2003. The Superintendent of Roads in the Ministry of Roads, Transport, Housing and Public Works be charged with the offence of fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48 (1) and (2) of the Anti-Corruption and Economic Crimes Act, 2003. The County Executive Ministry of Roads, Transport, Housing and Public Works, Turkana County Government and the Superintendent of Roads in the Ministry of Roads, Transport, Housing and Public Works be charged with the offence of knowingly giving a misleading document to one's principal contrary to section 41(2) as read with section 48(1) and (2) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the DPP found that there was sufficient evidence to sustain the proposed charges and directed prosecution ensues.

Status

The following accused persons were charged with the following offences:- County Executive Ministry of Roads, Transport, Housing and Public Works, Turkana County Government was charged with offences of Willful failure to comply with the law relating to the procurement contrary to Section 45(2)(b), And Abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act No.3 of 2003. The other suspects were charged with the offence of fraudulent acquisition of public property contrary to section 45(1) (a) as read with section 48(1) and (2) of the Anti-Corruption and Economic Crimes Act, 2003. The Superintendent of Roads in the Ministry of Roads, Transport, Housing and Public Works was charged with the offence of fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48 (1) and (2) of the Anti-Corruption and Economic Crimes Act, 2003. The County Executive Ministry of Roads, Transport, Housing and Public Works, Turkana County Government and the Superintendent of Roads in the Ministry of Roads, Transport, Housing and Public Works was charged with the offence of knowingly giving a misleading document to one's principal contrary to section 41(2) as read with section 48(1) and (2) of the Anti-Corruption and Economic Crimes Act, 2003.

The case is ongoing.

5.0.2.9. EACC/FI/INQ/45/2013: NO. 9 EACC SECOND QUARTERLY REPORT

This was an Inquiry into allegation of irregular withdrawal of Kshs. 3,000,000 (Three million shillings) from KCB Account Number 1134443684, Kitengela Branch, held by Kenya Meat Commission, a State Corporation.

Investigations by EACC established that the Company Secretary accompanied the Managing Commissioner and the Chief Accountant to Kitengela Branch to carry out a transaction to pay certain debtors. It was established that the three, together with one person, who is not a subject to investigations, were nominated as the signatories to the said account. Investigations further established that the sum of Kshs. 3 million was withdrawn in the name of the Company Secretary because the Managing Commissioner did not have his National ID on him at that time and that immediately the funds were withdrawn the same were handed over to the Managing Commissioner in the presence of the Chief Accountant within the precincts of the Banking Hall. Investigations established that the money withdrawn was not accounted for.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 13th May, 2015 recommending that the suspects be charged with the offences of Abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2003, Unlawfully acquiring public property contrary to section 45(1) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; and Conspiracy to commit and offence of corruption contrary to section 47A (3) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the DPP found the evidence sufficient to support the proposed charges prosecution to ensue against the suspects.

Status

The suspects were charged with the offences of Abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2003; Unlawfully acquiring public property contrary to section 45(1) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; and Conspiracy to commit and offence of corruption contrary to section 47A (3) of the Anti-Corruption and Economic Crimes Act, 2003. The case is ongoing.

5.0.2.10. EACC/KSM/INQ/FI/04/2014: NO. 10 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations that Nyamira County Assembly irregularly procured and awarded Medical Insurance Covers for Members of County Assembly through single sourcing and at an inflated rate of Kshs. 30M (thirty million).

Investigations by EACC established that the procurement for provision of medical cover was done through a Request for Quotations and no tenders were floated. The procedure used did not comply with the Procurement Law and Regulations as the amount involved called for an open tendering process and not Request for Quotation; and the Tender Committee in breach of the Public Procurement and Disposal Act awarded the contract. Investigations further revealed that there was no Inspection and Acceptance Committee contrary to the provisions of the Public Procurement and Disposal Regulations, 2006. Investigations established that no Local Service Order was issued to the service providers awarded the contract.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 15th May, 2015 with recommendation that members of the Nyamira County Assembly Tender Committee be charged with the offence of Careless failure to comply with applicable procedures and guidelines relating to procurement and tendering of contracts contrary to section 45 (2) (b) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003. The Acting Clerk and the Principal Finance Officer be charged jointly with the offence of willful failure to comply with the applicable procedures and guidelines relating to management of funds contrary to section 45(2) (b) as read with section 48 (1) (a) of the Anti-Corruption and Economic Crimes Act, 2003. Separately the Principal Finance Officer be charged with the offence of fraudulently making payment from public revenue contrary to section 45(2) (a) (iii) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found there was sufficient evidence to warrant prosecution of the suspects and directed prosecution to ensure.

Status

The members of the Nyamira County Assembly Tender Committee be charged with the offence of failure to comply with applicable procedures and guidelines relating to procurement and tendering of contracts contrary to section 45 (2) (b) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003. The Acting Clerk and the

Principal Finance Officer charged jointly with the offence of willful failure to comply with the applicable procedures and guidelines relating to management of funds contrary to section 45(2) (b) as read with section 48 (1) (a) of the Anti-Corruption and Economic Crimes Act, 2003. Separately the Principal Finance Officer be charged with the offence of fraudulently making payment from public revenue contrary to section 45(2) (a) (iii) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003. The matter is scheduled to be heard in June 2016.

5.0.2.11. EACC/FI/INQ/01/2013: NO. 11 EACC SECOND QUARTERLY REPORT

This is was inquiry into alleged loss of public funds in the project of tarmacking of the Kamukuywa-Kapatana-Kapsokwony-Sirisia Road.

Investigations by EACC established that the project was advertised on the print media on 10th January, 2007. Investigations also established that the tender had attracted four (4) applicants who were all present during the pre-bid sit visit conducted on 12th February, 2007. Investigations established that after due procurement process, the contract was awarded to the successful tenderer at a contract sum of Kshs.2,699,623,837.35 for the construction to bitumen standards of Kamukuywa-Kaptama-Kapsokwony-Sirisia(D285/D265) roads.

The Committee's decision was communicated to the user department — Chief Engineer Roads on 13th April, 2007 and the successful and unsuccessful bidders were notified of the award whereby the successful bidder promptly accepted the offer. However, at the commencement of works on the road, the Resident Engineer proposed a redesigning of the project on the ground that the consultant who had done the designing had failed to take into account certain parameters. The Cabinet Secretary for Roads who was the Permanent Secretary, Ministry of Roads and Public Works signed a Memorandum of Understanding between his Ministry and a Construction Company that the Resident Engineer was to, in effect re-design the project, which he did. This decision taken ignored the fact that the design that had previously been done and for which the Government paid Kshs.33 million, a fact well within the knowledge of the suspect. The re-designing was to cost the Government additional costs, which were not factored in for the project.

Investigations by EACC further established the Resident Engineer in charge of the project informed the Ministerial Tender Committee that the re-designing would not have any cost implications, a fact he knew was misleading. The Evidence obtained revealed that the suspects were culpable for abuse of office.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 22nd May, 2015 recommending that the suspects, the then Permanent Secretary, Ministry of Roads, the Chief Engineer, Roads and the Resident Engineer, Kamukuywa - Kaptama-Kapsokwony - Sirisia road be charged jointly with the offence of Abuse of office contrary to section 101 as read with section 102A of the Penal Code, whereas the Chief Engineer, Roads be charged with the offence of giving a false document to a principal contrary to section 41 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the proposed charges and directed prosecution to ensue.

Status

The then Permanent Secretary, Ministry of Roads, the Chief Engineer, Roads and the Resident Engineer, Kamukuywa-Kaptama-Kapsokwony-Sirisia road were charged jointly with the offence of Abuse of office contrary to section 101 as read with section 102A of the Penal Code, whereas the Chief Engineer, Roads was charged with the offence of giving a false document to a principal contrary to section 41 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act. The suspects filed a Judicial Review application seeking to prohibit their prosecution which was dismissed. The case is ongoing.

5.0.2.12. EACC/FI/INQ/063/2015: NO. 12 EACC SECOND QUARTERLY REPORT

This was inquiry into allegations of irregular leasing of Kenya Veterinary Vaccine Production Institute (KEVEVAP) Land at Tigoni in Limuru.

Investigation by EACC established that KEVEVAPI received a letter from a farmer requesting to be allowed to clear and do farming on a portion of KEVEVAPI land in Limuru. A similar request was received from Kenya Agricultural Research Institute (KARI), proposing that they be allowed to use 20 acres of the land for a potato research. The Committee then recommended that the requests be considered and approved by the Full Board of Directors. Evidence obtained revealed that a letter of offer granting the request was given to the farmer and he entered into a contract with the Institute. The letter was given by the Managing Director and Head of Procurement before the requisite approval was given by the Board. Whereas it was alleged that the Cabinet Secretary for Agriculture was the one who had leased the land from KEVEVAPI, investigations revealed that he was not neither involved nor did he influences the approval given to the private farmer to lease the land.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 22nd May 2015 recommending that the Managing Director be charged with the offence of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes, 2003. It was further recommended that the Managing Director and the Head of Supply Chain Management be charged jointly with the offence of willful failure to comply with the law or applicable procedures and guidelines relating to procurement, contrary to section 45 (2) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes, 2003:

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence and accepted and directed prosecution to ensue.

Status

The Managing Director was charged with the offence of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes, 2003. Similarly, the Managing Director and the Head of Supply Chain Management were charged jointly with the offence of willful failure to comply with the law or applicable procedures and guidelines relating to procurement, contrary to section 45 (2) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes, 2003. The case is ongoing.

5.0.2.13. EACC/NYERI/FI/INQ/1/2014: NO. 13 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations that the Embu County Secretary and three other County Officials awarded contracts for the Rehabilitation of the Embu Municipal Stadium without following the applicable procurement procedures.

Investigations by EACC established that the procurement process about the rehabilitation of the Embu Stadium and construction of a perimeter wall was flawed. The direct procurement of the contractor was not approved by the Tender Committee. Investigations further established that no tenders were invited and some of the contractors who purportedly bid for the two projects confirmed that they did not bid an indication that the bids were not genuine documents. There was no tender opening exercise in this procurement and the contractor engaged by the Embu County was not in the approved list of pre-qualified contractors for the County and the Evaluation Committee that evaluated the bids was not properly constituted as only two persons evaluated the bids instead of the three provided for in the Public Procurement and Disposal Act.

Investigations further established that the award of the contract for the rehabilitation of the Embu Stadium was irregularly made by the County Secretary; who also tried to implore upon the members of the Tender Committee and other county officials to tamper with documents.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 21st May, 2015 recommending that the suspects be charged with the offence of Conspiracy to Commit an offence of economic crime contrary to section 47A as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003, the County Secretary Embu County Government be charged with the offences of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003 and willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to warrant prosecution of the suspects and directed prosecution to ensue.

Status

The suspects were charged with the offence of Conspiracy to Commit an offence of economic crime contrary to section 47A as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003, the County Secretary Embu County Government was charged with the offences of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003 and willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003. The case is ongoing.

5.0.2.14. ODPP/CAM/015/5/326: NO. 14 EACC SECOND QUARTERLY REPORT

This was an Inquiry into allegations that Multi Media University (MMU) irregularly awarded the contract for reroofing to Multimedia Hotel for Kshs.10,030,770/= without following Public Procurement and Disposal Act 2005 and the 2006 regulations.

Investigations established that the proposal for works was presented to the Tender Committee meeting where the request was accepted and approved but subject to the management's approval of the project proposal. The Committee also approved use of 2009/2010 pre-qualified list of suppliers in addition to responsive bidders who participated in the Tender for the Perimeter Fence and the Gymnasium. which were

through the Open Tendering method. It was agreed that that Tender uses the Restricted Tendering method so as to enhance competitiveness in the bidding. As such, the Tender Committee in this case did not go wrong when they used the prequalified six suppliers for the Tender for the Perimeter and Gymnasium as the Open Tender method was used to identify them during prequalification.

In addition, the Tender Committee used the four prequalified suppliers in a service that qualified in the year 2009/2010 thus making a total of ten suppliers. This was to fulfill the provisions of section 53 (3) of the PPDR. The Clerk of Works confirmed that the work was done to his satisfaction and as per the Bill of Quantities (BQs) and the contract. As such, the PPSA 2005 and PPDR 2006 were not flouted. The Hotel was reroofed and works done.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 25th May, 2015 recommending that the inquiry file be closed.

Upon perusal of the file, the Director of Public Prosecutions found no evidence to warrant prosecution and directed that the inquiry file be closed.

Status

The inquiry file was returned to EACC with directions for closure.

5.0.2.15. ODPP/CAM/015/5/325: NO. 15 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of irregular withdrawal of Kshs. 1.6 million from Lamu West CDF Project Management Committee account allocated for construction of a cattle dip.

Investigations by EACC established that the Cattle Dip Project in Lamu West was approved by the Lamu West CDF Committee and a sum of Kshs. 2,000,000/= (two million shillings) was approved for the project. The same was cleared and authorized by the CDF Fund Accounts Manager who prepared a voucher instructing the Lamu District Accountant to prepare a cheque of Kshs.2 million in favour of the construction of the Cattle Dip, which cheque was later deposited in Kenya Commercial Bank (KCB). Investigations established that since the funds in the said account had still not been utilized and the Personal Assistant to the Lamu West Constituency Member of Parliament approached the Project Management Committee Members with a view to borrow Kshs.1, 675,000/= from the project's account to be transferred to the CDF office account.

Investigations established that a promise was made by the Personal Assistant that the said amount would be reimbursed once the funds were allocated and sent to the Lamu CDF office from the National Assembly. Investigations further revealed that it is clear that Lamu Constituency Fund Committee Members and Cattle Dip Project Management Committee members had schemed to transfer the said funds from the PMC account without due procedure. It is also clear that the Accounts Manager and the Treasurer facilitated the said transfer. The Accounts Manager confirms that after the unwarranted transfer of funds, the same were in custody of the CDF Committee Treasurer. Investigations further established that Kshs.1,005,000/- was transferred from the Lamu West Constituency office account to a Bookshop, a business name registered in the name of the Member of Parliament's wife from the Lamu West Constituency office account. The MP is also a signatory of the Bookshop's bank account. The investigations established that the MP used the said Kshs.1, 005,000/- for his own personal use.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 27th May 2015 recommending that the Lamu West Constituency Fund Committee Members and the Co-operative Cattle Dip Project Management Committee Members be charged jointly with offences of conspiracy to commit an offence of Economic Crime contrary to Section 47A as read with Section 48 of the Anti-Corruption and Economic Crimes Act, 2003, irregular re-allocation of allocated funds within the Constituency Development Fund contrary to Section 30 of the Constituencies Development Act No.3 of 2013 and misappropriation of Constituency Development Funds Contrary to Section 48 of the Constituencies Development Fund Act No.3 of 2013. It was further recommended that the Member of Parliament of Lamu West Constituency be charged with the offence of abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to support the recommended charges and directed prosecution to ensue.

Status

The suspects were charged with the offence of Conspiracy to commit an offence of economic crime contrary to section 47A as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003, Misappropriation of constituency development fund contrary to section 48 of the Constituencies Development Fund Act 3 of 2013 and Irregular re-allocation of allocated funds within the constituency development fund contrary to section 30 of the Constituencies Development Fund Act 3 of 2013.

The member of parliament was additionally charged with the offence of abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. The case is ongoing.

5.0.2.16. EACC/FI/INQ/52/2015: NO. 16 EACC SECOND QUARTERLY REPORT

This was an Inquiry into allegations of Financial, Human Resource Management and Procurement irregularities in the Narok County Government.

Investigations by EACC established that the Narok County Council Government had entered into an agreement with Equity Bank Limited for provision of Revenue Collection Services using the pre-paid Smart Card system which agreement was terminated following a disagreement. The termination of the agreement was contested in court vide High Court of Kenya at Nairobi Milimani, Civil Case No.266 of 2013 and a decision was entered in favour of Narok County Government and the matter was referred to arbitration. Investigations established that due process was followed in the procurement of automation of revenue collection services by the Narok County Government. Investigations further established that the revenue collected from the Mara Triangle is deposited into the County Revenue KCB Narok Branch, and neither the Governor of the County Government nor any other County official are directors and signatories of the accounts of the County Government and Mara Conservancy.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 4th June, 2015 recommending that the inquiry file be closed for lack of evidence to support any prosecution or any other action.

Upon perusal of the file, the DPP found gaps and deficiencies in the investigations and that further investigations.

Status

The file was returned to EACC with directions that further investigations to be carried out in the identified areas.

5.0.2.17. EACC/FT/INQ/234/2014: NO. 17 EACC SECOND QUARTERLY REPORT

This was an Inquiry into allegations of use of funds exceeding approved budget by the County Assembly against the Makueni County Governor and His Executive Committee for the purchase of a milk plant for the Kikima Dairy.

Investigations by EACC established that the provisions of the Public Procurement and Disposal Act as far as the procurement of the project is concerned were not strictly followed. Investigations established that the negotiations between the County Government and the winning bidder were entered into and subsequently a contract price of Kshs.5,950,000 was agreed upon even before the tender had been awarded and a notification of the award given.

Further investigations established that the Tender Committee purported to award the contract to the winning bidder even though a proper evaluation of the tender had not been carried out in accordance with the Public Procurement and Disposal Regulations. The evidence obtained established that the County Secretary and the members of the Makueni County Government Tender Committee were culpable for the infractions of the procurement law and regulations.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 28th May, 2015 recommending that the employees of the Makueni County Government and Members of the Tender Committee be charged with the offences of conspiracy to commit an Economic Crimes contrary to section 47A, Willful failure to comply with the law relating to the Procurement contrary to section 45.(2) (b) and Knowingly giving a misleading document to one's principal contrary to section 41 (2) as read with section 48 (1) and (2) of the Anti-Corruption and Economic Crimes Act, 2003. It was further recommended that the Acting County Secretary be charged with the offences of Abuse of office contrary to section 46 and willful failure to comply with the law relating to the Procurement contrary to section 45(2) (b) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the DPP found the evidence sufficient to warrant prosecution and directed that the suspects be charged with the proposed charges.

Status

The employees of the Makueni County Government and Members of the Tender Committee were charged with the offences of conspiracy to commit an Economic Crimes contrary to section 47A, Willful failure to comply with the law relating to the Procurement contrary to section 45 (2) (b) and Knowingly giving a misleading document to one's principal contrary to section 41 (2) as read with section 48 (1) and (2) of the Anti-Corruption and Economic Crimes Act, 2003. The Acting County Secretary was charged with the offences of Abuse of office contrary to section 46 and willful failure to comply with the law relating to the Procurement contrary to section 45(2)

(b) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003. The case is ongoing.

5.0.2.18. ODPP/CAM/015/5/330: NO. 18 EACC SECOND QUARTERLY REPORT

This was an Inquiry into allegations of irregular award of secret allocation of permits to import sugar against Cabinet Secretary in the Ministry of Agriculture, Livestock and Fisheries.

Investigations by EACC established that the Kenya Sugar Board Directorate, which is mandated to issue licenses, for purposes of accountability, established an ad-hoc Regulation and Compliance Committee to consider applications for issuance of permits to import sugar. Investigations established that after the said committee approved the issuance of several permits, an official of the Sugar Directorate would then issue permits as recommended. Investigations established that the Cabinet Secretary in the Ministry of Agriculture, Livestock and Fisheries has no role in such decision-making; and thus did not issue any irregular sugar import permits as alleged. Investigations however revealed that there are lapses in the issuance of sugar import permits owing to absence of Regulations. The investigations did not establish any culpability on the part of the Cabinet Secretary.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 4th June, 2015 recommending that the inquiry file be closed. The Commission however recommended that there is need for the Ministry of Agriculture, Livestock and Fisheries to liaise with the Office of the Attorney General to formulate watertight regulations either under the Crops Act or Agriculture Fisheries and Food Authority Act to guide the process of issuance of the permits.

Upon perusal of the file, the Director of Public Prosecutions found no evidence to warrant prosecution and directed that the inquiry file be closed and for the Ministry to liaise with AG's Office, for the administrative action.

Status

The inquiry file was returned to EACC with directions for closure and the relevant administrative action.

5.0.2.19. ODPP/CAM/015/5/333: NO. 19 EACC SECOND QUARTERLY REPORT

This was an Inquiry into allegations of corruption against the Cabinet Secretary, Ministry of Energy and Nairobi Senator in a tender award at Kenya Pipeline Company (KPC)

Investigations by EACC established that the existing KPC Line 1 pipeline was commissioned in 1978 or thereabouts, and since then regular intelligent pigging is carried out to assess the condition of the pipeline. In the course of one such pigging, it was decided that it was not economically viable to continue using the pipeline because of the high cost of maintenance. Following this decision, the KPC management and the Board decided that it was necessary to replace it with a new pipeline. A decision was made to procure a consultant to carry out design of a new pipeline to cater for demand up to year 2044, prepare tender documents for procurement of a contractor and supervise the implementation of the project.

That a consultant to do the aforementioned was procured through competitive bidding and a contract signed in mid-2012. The consultant carried out the design, which was reviewed and approved by KPC based on which they prepared tender documents for the procurement of a contractor. Investigations established that due process was complied with in the procurement of a contractor who was awarded the tender at a contract price of USD 484,502,886.40. The evidence obtained also revealed that the Public Procurement Administrative Review Board after hearing complaints about the procurement process gave the same a clean bill of health and allowed the procuring entity to enter into contract with successful bidders. The contract was signed on 1st July, 2014 after several court cases. The evidence did not establish any acts of corruption by the Cabinet Secretary and the Senator to warrant any action against them.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 4th June 2015 recommending that the file be closed with no further action.

Upon perusal of the file, the Director of Public Prosecutions found no sufficient evidence to warrant prosecution and directed that the file be returned for closure as recommended. He further directed that investigations be carried out in respect of the allegation that the Cabinet Secretary, Ministry of Energy and the Managing Director, Kenya Power and Lighting Company Limited have been receiving bribes in the award of several tenders.

Status

The inquiry file was returned to EACC with directions that the file be closed and for further investigations as directed.

5.0.2.20. EACC/FI/INQ/40/ 2015: NO. 20 EACC SECOND QUARTERLY REPORT

This was an Inquiry into allegations of irregular award of a contract award to a Clearing and Forwarding Company by the Cabinet Secretary for Transport and Infrastructure.

Investigations by EACC established that sometime in 2012, the Government of Kenya and the China Road and Bridge Corporation (CRBC) entered into a contract for the construction of the Standard Gauge Railway (SGR). The contract with CRBC was a turnkey contract in which CRBC was contracted as an engineering, procurement and construction (EPC) contractor. CRBC was at liberty to procure their own labour and contractors and other services, which included investigations, further revealed that some of the contractors engaged by CRBC included Clearing and Forwarding Agents to clear goods for the construction. Investigations established that the Cabinet Secretary and the Ministry of Roads did not have any control over CRBC about the above function. The investigations did not establish that the aforementioned Clearing and Forwarding Company was engaged by CRBC. Further that the Cabinet Secretary was related to the said company.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 4th June 2015 recommending that the inquiry file be closed.

Upon perusal of the file, the Director of Public Prosecutions found no sufficient evidence to warrant prosecution and directed that the file be returned for closure as recommended.

Status

The inquiry file was returned to EACC with directions for closure.

5.0.2.21. EACC/FI/INQ/63/2013: NO.21 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations that top Government Officials, Members of Parliament and State/Public Officers were beneficiaries of Public Land Parcel No. L.R. 3586/3 IR 31187 with double allocation to Horatius Da Gama Rose M/s Muchanga Investment Ltd and Jos Konzolo of M/s Tele source. Com Ltd.

Investigations by EACC established that the subject property was owned by a private person, and was later transferred to other persons upon demise of the initial owner. The said transfer was affected by the bank, which was the administrator of the estate of the original owner.

Investigations further established that in unclear circumstances, the land was again transferred to another person who the investigations have established had long died at the time of the alleged said transfer. The evidence obtained revealed that the bona fide owners decided to subdivide the land in several plots with an intention of disposing them off. However, this owner later recalled the said subdivision and indicated that they wanted the land as one block. However, in again unclear circumstances and with the connivance of officials from the Lands office, the land was transferred to another company. This was affected through fraud and conspiracy and use of false documents.

EACC further alleged that there was interference of investigations by the Cabinet Secretary Ministry of Land who was summoned and statements were recorded.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 10th June, 2015 recommending that the Chief Registrar, Deputy Chief Land Registrar, Senior Deputy Director of Survey and Registrar of Titles be charged jointly with the offences of conspiracy to defraud contrary to section 317 of the Penal Code, breach of trust by a person employed in the public service contrary to section 127 of the Penal Code and concealing deeds contrary to section 288 of the Penal code and concealing evidence under section 66(1) (c) as read with section 66 (2) of the Anti-Corruption and Economic Crimes Act. It was further recommended that the Director of the Company that currently also holds a title deed in regard to the subject land and his lawyer and the company be charged with the offence of conspiracy to defraud contrary to section 317 of the Penal Code, obtaining registration by false pretenses contrary to section 320 of the Penal Code and uttering false documents contrary to section 353 of the Penal Code. The Cabinet Secretary Ministry of Lands, Housing and Urban Development be charged with the offence of obstruction contrary to section 66(1) (a) as read with section 66 (2) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon perusal of the file, the DPP found the evidence sufficient to warrant prosecution of the suspects and directed prosecution to ensue

Status

The Chief Registrar, Deputy Chief Land Registrar, Senior Deputy Director of Survey and Registrar of Titles were charged jointly with the offences of conspiracy to defraud contrary to section 317 of the Penal Code, breach of trust by a person employed in the public service contrary to section 127 of the Penal Code and concealing deeds contrary to section 288 of the Penal code and concealing evidence under section

66(1) (c) as read with section 66 (2) of the Anti-Corruption and Economic Crimes Act. Further the Director of the Company that currently also holds a title deed in regard to the subject land and his lawyer and the company were charged with the offence of conspiracy to defraud contrary to section 317 of the Penal Code, obtaining registration by false pretenses contrary to section 320 of the Penal Code and uttering false documents contrary to section 353 of the Penal Code. The Cabinet Secretary Ministry of Lands, Housing and Urban Development was charged with the offence of obstruction contrary to section 66(1) (a) as read with section 66 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003. On being charged the suspects filed an application for Judicial Review seeking prohibition of the prosecution, the application was dismissed. The former Cabinet Secretary further challenged the prosecution in the ELC and obtained orders staying the prosecution.

5.0.2.22. ODPP/CAM/015/5/339: NO. 22 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations that the County Government of Trans Nzoia irregularly acquired Vipul House in Kitale at a cost of Kshs. 500 million on the pretext that the said building would be used as the Kitale Referral Hospital.

Investigations by the EACC established that pursuant to the County Tender Committee meeting of 3rd June, 2014, that approved the purchase of the building, the County Government of Trans-Nzoia wrote to the owners of the property informing them of the award. An agreement was drawn between the vendor and the County Government and a deposit of 105 million was paid to the vendor. The County Government used direct procurement in procuring the said building. They however failed to inform the Public Procurement Oversight Authority of the decision to use direct procurement method within the stipulated period, which was a minor infraction.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 9th June, 2015 recommending that the file be closed with no further action.

Upon perusal of the file, the Director of Public Prosecutions found gaps and deficiencies in the investigations and directed that further investigations be carried out in the areas identified.

Status

The file was returned to EACC for further investigations to be carried out.

5.0.2.23. ODPP/CAM/015/5/338: NO. 23 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations that the Ganze Member of Parliament and the Constituency Development Funds Manager jointly with others Misappropriated funds from the CDF Account through purported Constituency Development Fund projects in the Financial Year 2013/2014 and conferring benefits themselves and causing loss of public funds amounting to Kshs. 45 million.

Investigations by EACC established that although Ganze CDFC sought approval from the CDF Board for the implementation of the various projects in Ganze Constituency, these projects were not implemented. Investigations established that the Ganze MP in collusion with other officials of the CDF approved several payments to various contractors for projects that were non-existent. Investigations further established that several documents were falsified in a bid to justify and authenticate the said payments which were not approved by the CDFC members. These included minutes of tender Committee minutes, which were not held, and payment vouchers. Investigations also established that there were no tenders advertised for the purported projects in respect of which payments were made.

Investigations further established that after payments were made to the several contractors and suppliers, some of the money received was paid back to the MP for Ganze, the Fund manager and other officials. The money was paid out through the bank and Mpesa transactions. The contractors and suppliers also received and retained the CDF funds whereas they had not rendered any services, supplied any goods or done any works to warrant received of public funds.

That the Constituency Development Fund Manager, the Accounts Clerk, The Member of Parliament for Ganze Constituency and the Supply Chain Manager at Ganze jointly with contractors and suppliers actively participated in the embezzlement and misappropriation of funds and assets of the Ganze Constituency Development Fund causing loss of public funds and resources.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 10th June, 2015 recommending that the employees of the Ganze Constituency Development Fund be charged jointly with the offences of conspiracy to commit an offence of Economic Crimes contrary to section 47A, the Fund Manager, Accounts Clerk and the Supply Chain Manager be charged jointly with the offences of knowingly giving a misleading document to one's principal contrary to section 41 (2) engaging

in a project without prior planning contrary to section 45 (2) (c) fraudulently making payments from public revenue contrary to section 45 (2) (b) as read with section 48 (1) (a) of the Anti-Corruption and Economic Crimes Act, 2003, breach of trust by a person employed in the public service contrary to section 127 of the Penal Code and fraudulent false accounting by a clerk or servant employed in the Public Service contrary to section 330 (b) of the Penal Code.

It was further recommended that the Ganze Member of Parliament, Fund Manager, Accounts Clerk and the Supply Chain Manager be charged jointly with the offences of abuse of office contrary to section 46, failure to comply with the law/applicable procedures and guidelines relating to procurement and tendering of contracts or incurring of expenditures contrary to section 45(2) (b) and failure to comply with the law/applicable procedures and guidelines relating to management of funds or incurring expenditures contrary to section 198 (b) as read with section 199 of the Public Finance Management Act, 2012; the Ganze Member of Parliament, the Fund Manager, Accounts Clerk, the Supply Chain Manager and the Kilifi County Government Economist be charged jointly with the offence of misappropriation of Constituency Development Funds contrary to section 48 of the Constituencies Development Fund Act No.3 of 2013.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to warrant prosecution of the suspects and directed prosecution to ensue.

Status

The suspects were charged with the following offences:-

Conspiracy to commit an offence of economic crimes contrary to section 47A as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003; Knowingly giving a misleading document to one's principal contrary to section 41(2) as read with section 48(1) and (2) of the Anti-Corruption and Economic Crimes Act, 2003; Abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; Engaging in a project without prior planning contrary to section 45(2) (C) as read with section 48(1) (a) of the Anti-Corruption and Economic Crimes Act, 2003; Fraudulently making payments from the public revenue contrary to section 45(2) (b) as read with section 48(1) (a) of the Anti-Corruption and Economic Crimes Act, 2003; Fraudulently making payments from the public revenue contrary to section 196 (5) as read with section 196 (6) of the Public Finance Management Act 2012; Failure to comply with the law/procedures and guidelines relating to procurement and tendering of contracts or incurring of expenditures contrary to section 45(2) (b) as read with section 48(1) (a) of the Anti-Corruption and Economic

Crimes Act, 2003; Failure to comply with the law/procedures and guidelines relating to management of funds or incurring of expenditures contrary to section 198 (b) as read with section 199 of the Public Finance Management Act, 2012; Misappropriation of constituency development funds contrary to section 48 of the constituencies development fund Act No 3 of 2013; Breach of trust by a person employed in the public service contrary to section 127 of the penal code; and Fraudulent false accounting by a clerk or servant employed in the public service contrary to section 330 (30) of the penal code. The case is ongoing in court.

5.0.2.24. EACC/FI/INQ/46/2015: NO. 24 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations that the Managing Director of the National Water Conservation and pipeline Corporation irregularly procured the structural cabling of NWPC Headquarters office block as well as employed unqualified staff members.

Investigations by EACC revealed that the construction and completion of the NWPC Headquarters Office Block was provided for in its procurement Plan for the Financial Year 2012-2013. Investigations established that after the contract was awarded for the construction of the main Corporation Headquarters Office Block, it was later discovered that there was need to sub-contract for the installation of structural cabling in the same building. Investigations established that the tendering for the said additional works was carried out within the provisions of the Public Procurement and Disposal Act; and the contract awarded to the lowest evaluated bidder.

With regard to the employment of unqualified employees by the Managing Director, NWPC, investigations established that the said employees had genuine certificates. There were no irregularities in their employment.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 24th June, 2015 recommending that the inquiry file be closed.

Upon perusal of the file, the DPP found the evidence sufficient to warrant prosecution of the suspects and directed that prosecution to ensue.

Status

The DPP directed EACC to arraign the suspects before court. However, before prosecution commenced, the suspects filed an application for Judicial Review seeking prohibition of the intended prosecution and interim orders were granted staying prosecution. The application is yet to be determined.

5.0.2.25. EACC/ NYR/ FI/INQ/ 01/ 2015: NO. 25 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of irregular procurement of Technical Audit Services from a consultant by the County Government Nyeri.

Investigations by EACC established that the consultant engaged by the Nyeri County to carry out the technical audit services was not a pre-qualified consultant for the year 2014/2015. Investigations further established that the Chief Executive Member (CEC) for Roads and Infrastructure unilaterally handpicked and invited the consultant to undertake the consultancy works yet the procurement process had not commenced. It is clear that the suspect breached procurement rules by failing to obtain the requisite approval to use restricted tendering from the Tender Committee before he wrote to the consultant inviting them to undertake the Consultancy Audit services. Investigations further established that the Tender Committee did not approve the award of the contract to the consultant. Investigations further established that in spite of the procurement of the aforementioned contractor being flawed, the CEC Finance authorized payment to the consultant.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 19th June, 2015 recommending that the County Executive Secretary, Land, Housing and Infrastructure Development, County Executive Secretary — Finance and Economic Planning and the Chief of Staff jointly be charged with the offences of Willful failure to comply with the law or applicable procedures and guidelines relating to procurement, contrary to section 45 (2)(b) as read with section 48(1) (a) of the Anti-Corruption and Economic Crimes, 2003 and Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes, 2003.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspects. Before the case the charges could ensue, the suspects filed an application for Judicial Review seeking prohibition of the intended prosecution. The application is yet to be determined.

Status

The County Executive Secretary, Land, Housing and Infrastructure Development, County Executive Secretary — Finance and Economic Planning and the Chief of Staff jointly were charged jointly with the offences of Willful failure to comply with the law or applicable procedures and guidelines

relating to procurement, contrary to section 45.(2)(b) as read with section 48(1) (a) of the Anti-Corruption and Economic Crimes, 2003 and Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes, 2003. The Application for judicial review orders is yet to be determined.

5.0.2.26. EACC/GSA/FI/INQ/01/ 2015: NO. 26 EACC SECOND QUARTERLY REPORT

This was an inquiry into alleged irregular leasing ambulance services by Garissa County Government from Emergency Plus (E-Plus) Medical Services Ltd, a Company owned by the Kenya Red Cross.

Investigations by EACC established that after the need arose for the purchase of ambulances by the Garissa County Government, a tender was advertised for interested persons to sell ambulances. Investigations however revealed that before the completion of the procurement process, the Governor of Garissa and other County Officials engaged negotiations with E-Plus Medical Services Limited, a company affiliated to the Kenya Red Cross for the lease of ambulance services. This was a departure from the initial process, which envisaged purchase of ambulances. The hire of ambulance services from the said company was not budgeted for nor approved by the County Assembly. Investigations further established that the open tendering process for the purchase of ambulances was thus shelved and E-PLUS Medical Services was directly procured to lease ambulance services to the Garissa County Government. The Governor of Garissa and other County officials negotiated and signed a contract for the lease of ambulance services at a monthly cost of Kshs. 600,000 per ambulance for six ambulances. There was no budgetary allocation for this engagement, the Supplementary budget for the County was passed two months after the County Government had already entered into a contract with the Kenya Red Cross and the latter had already billed the County for services rendered in March and April, 2014. Investigations further established that the Tender Committee of the Garissa County purported to award the contract to E-PLUS after purporting to evaluate bids from several ambulance providers. These other providers were categorical that they did not place any bids to lease ambulance services to the County. The purported award by the Tender Committee was thus a sham and a means to justify the contract with E-PLUS Medical Services Limited. It was also established that in engaging the said company no due regard was made to the prevailing market prices to confirm whether the payments made to the company were within the market prices.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 25th June, 2015 recommending that Governor of Garissa County Government be charged with the offences of Abuse of office contrary to section 46 and Careless failure to comply with the law relating to management of public funds contrary to section 45(2) (b) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003; The Members of the Garissa County Government Tender Committee be charged with the offence of Willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003. It was further recommended that the Chief officer of Health, Garissa County Government be charged with the offence of Engaging in a project without prior planning contrary to section 45(2) (c) as read with section 548 of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to warrant prosecution of the suspects and directed that prosecution to ensue.

Status

The suspects were charged with the following offences:-

Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act of 2003, careless failure to comply with the law relating to management of public funds contrary to section 45(2) (b) as read with section 48 of the Anti-Corruption and Economic Crimes Act of 2003.

Willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003, engaging in a project without prior planning contrary to section 45(2) (c) as read with 548 of the Anti-Corruption and Economic Crimes Act, 2003.

The DPP directed EACC to arraign the suspects before the court. Before the charges could be filed in court, one of the suspects filed an application for judicial review seeking prohibition of the intended prosecution and obtained stay orders. The Application was dismissed and an Appeal was filed by the suspect at Court of Appeal.

5.0.2.27. EACC/EL/INQ/8/2014: NO. 27 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations that current Governor of Muranga swore a false declaration in the self-declaration form set out in the First Schedule under the Leadership and Integrity Act, 2012 and submitted the same to the Ethics and Anti-Corruption Commission on 11th December, 2012.

Investigations by EACC established that the Governor personally filled and signed the self-declaration form dated 11th December, 2012 under oath and submitted the same to the Ethics and Anti-Corruption Commission on the 11th December, 2012. In the said declaration, the suspect affirmed that he had not been convicted of any criminal offence a fact he knew was false. Investigations established that he had been convicted and sentenced to pay a fine of Kshs.400,000/= in default to serve six months in prison in criminal case no.2322 of 2010 at the Makadara Chief Magistrates Court on 3/8/2012.

A Report was compiled by EACC and forwarded to Director of Public Prosecutions on 20th April, 2015 with recommendation that the suspect be charged with the offences of False declaration contrary to Section 11 of the Oaths and Statutory Declarations Act and Providing false information to the Ethics and Anti-Corruption Commission contrary to Section 46 (1) (b) of the Leadership and Integrity Act, 2012 as read with Section 46 (2) of the same Act.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to warrant prosecution of the suspects and directed prosecution to ensue.

Status

The Director of Public Prosecutions directed that the suspect be charged with the recommended charges. However before prosecution commenced, the suspect filed an application for Judicial review seeking prohibition of the intended prosecution and interim orders were granted to stay prosecution. The application is yet to be determined.

5.0.2.28. EACC/EL/INQ/1/2015: NO. 28 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of breach of Chapter Six of the Constitution of Kenya and the provisions of the Ethics and Integrity Act, 2013 by the MP Nandi Hills and nominated MP at the Gilgil Weigh Bridge.

Investigations by EACC established that the MP Nandi Hills and a nominated MP at the Gilgil Weighbridge in Gilgil Sub-County within Nakuru jointly intimidated the Duty Manager, by invoking the name of the President and other Senior Government Officials with the intention of causing him to release a motor vehicle Registration No. KHMA 005A which had been impounded for violation of the Provisions of Section 12 (1) of the Kenya Roads Act. Investigations further established that the MP Nandi Hills created disturbance by repeatedly shouting and uttering abusive

words to the officers operating the weighbridge demanding the release of the truck.

A report was compiled by EACC and forwarded to Director of Public Prosecutions on 4th May, 2015 recommending that the MP for Nandi be charged with the offence of creating disturbance in a manner likely to cause a breach of the peace contrary to Section 95(1) (b) of the Penal Code and the two be jointly charged with offences of incitement to disobedience of the law contrary to Section 96 (c) of the Penal Code and intimidation contrary to section 228 (1) of the Penal Code.

Upon perusal of the file, the DPP found evidence sufficient to support the charges as recommended and directed prosecution to ensure that the matter be referred to the National Assembly for disciplinary action against the two suspects.

Status

The MP for Nandi was charged with the offence of creating disturbance in a manner likely to cause a breach of the peace contrary to Section 95(1) (b) of the Penal Code and the other two suspects were jointly charged with offences of incitement to disobedience of the law contrary to Section 96 (c) of the Penal Code and intimidation contrary to section 228 (1) of the Penal Code. The matter is ongoing.

5.0.2.29. EACC/OPS/INQ/11/2013: NO. 29 EACC SECOND QUARTERLY REPORT

This was an inquiry into alleged financial impropriety at the National Police Service Commission.

Investigations by EACC established that when the need arose for the National Police Service to lease office space, the Commissioners commenced a search for suitable premises. This was contrary to the provisions of the Public Procurement and Disposal Act and Regulations which places the responsibility on the Tender Committee. The NPSC directly procured the lease of the premises contrary to due procedure. Investigations further established that the National Police Service Commission also directly procured a contractor to partition the said leased premises. Investigations also established that persons who bid for the partitioning works used the documents of a company in which they were not directors or officers.

A Report was compiled by EACC and forwarded to Director of Public Prosecutions on 7th May, 2015 with recommendation that (i). The Chairman, Commissioners and Chief Executive Officer (NPSC), and the County Works

Officer and Chief Superintendent be charged jointly with the offence of willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003. (ii). The persons who bid for the partitioning works be charged jointly with the offence of fraudulent acquisition of public benefit contrary to section 45 (1) (a) of the Anti-Corruption and Economic Crimes Act, 2003 and Engaging in fraudulent practice in procurement proceedings contrary to section 41 (1) and (4) as read with section 137 (1) (b) of Public Procurement and Disposal Act, 2005.

Upon perusal of the file, the Director of Public Prosecutions found no sufficient evidence to warrant prosecution and directed that the file be returned for closure. Further, he directed that administrative action be taken against the persons involved in breaching the procurement rules.

Status

The inquiry file was returned to EACC with directions that the inquiry file be closed and administrative action be taken.

5.0.2.30. ODPP/CAM/015/5/304:NO. 30 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of corruption against Harrison KajariaKima, a Revenue Collector at the County Council of Olkejuado.

The investigation by EACC established that the suspect corruptly solicited for a benefit of Kshs.30, 000/= from the complainant as an inducement to settle a land dispute between the complainant, a church minister and a businessperson at Namanga. Investigations established that the suspect solicited for a benefit and sent his agents to collect the bribe on his behalf. However, at the time of the arrest of the suspects, two of them concealed the trap money.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 13th May, 2015 recommending that the suspect be charged with the offences of corruptly soliciting for a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. The other two suspects are charged with the offences of concealing evidence contrary to section 66 (1) (c) as read with section 66 (2) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to warrant prosecution of the suspects and directed that the case be filed and prosecuted to its logical conclusion.

Status

The suspects were charged with the offences of conspiracy to commit an Economic Crime i.e. to receive a bribe contrary to Section 47 A as read with section 48(1) of Anti-Corruption Economic Crimes Act No. 2003.

The suspects were also charged with the offence of concealing evidence contrary to section 66(1) (c) as read with Section 66(2) of Anti-Corruption Economic Crimes Act No. 2003. The case is ongoing.

5.0.2.31. EACC/AT/INQ/17/2015: NO. 10 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegation that a former Minister for Transport, used his office to acquire a Kenya Railways House that had been set aside for purchase by former employees of the Corporation.

Investigations by EACC established that house number K8 Kileleshwa is leased to an employee who works with the Ministry of Interior and National Coordination and that he has been living in the same house from 2008. Investigations established that the said lessee has entered into a tenancy agreement with Kenya Railways Corporation since 2014. The occupant applied to lease the house and the procedure for renting was complied with. There was no evidence that the former Minister in any way influenced the said transaction by virtue of being the Minister for Transport, or used his office to deprive Kenya Railways Corporation staff of a house belonging to the Corporation as alleged. It was confirmed that he does not appear in the Corporation's records about the houses.

A report was compiled by EACC and forwarded to Director of Public Prosecutions on 14th May, 2015 with a recommendation that the inquiry file be closed.

Upon perusal of the file, the DPP found no criminal culpability on the part of the suspect and directed that the inquiry file be closed.

Status

The file was returned to EACC with directions to close.

5.0.2.32. ODPP/CAM/015/5/313: NO. 32 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of corruption against Anne Wanjiku Ndungu a Registration Clerk at the Births and Deaths Registration Office in Githunguri Sub County.

Investigation by EACC established that the suspect corruptly solicited for a benefit of Kshs. 2,000/= from the complainant as an inducement to facilitate the processing of Birth Certificate application forms. Investigations established the solicitation and receipt of a benefit.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 13th May, 2015, recommending that the case against the suspect proceed to its logical conclusion.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to warrant prosecution of the suspect(s) and directed that the case be prosecuted to its logical conclusion.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003. The case is ongoing.

5.0.2.33. ODPP/CAM/015/5/310: NO. 33 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of irregular allocation of parcel of Land IRN (L.R.8934/10) at Maraboi Trading Center to a former Minister for Lands.

Investigations by EACC established that the term for the lease of the parcel of land, which was initially allocated, to the family of the former Minister expired and no person expressed interest in the said parcel of land IRN (L.R.8934/10) at Maraboi Trading Center. The parcel of land was free for allotment to any applicant who expressed interest including the former Minister and he therefore applied for allotment. The allotment was transparent having gone through the County Council of Kipsigis Sub-Committee of Works, Town Planning and Markets Committee held on 18th November, 2008 in whose jurisdiction it was located. No irregularities were established in the said allocation of the land and neither the former Minister nor any of the officers involved in the allocation were culpable.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 19th May, 2015 with recommendation that the inquiry file be closed.

Upon perusal of the file, the Director of Public Prosecutions found the evidence insufficient to form the basis of any criminal charge and directed that the inquiry file be closed.

Status

The inquiry file was returned to EACC with directions for closure.

5.0.2.34. EACC/AT/INQ/15/2015: NO. 34 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations that the Former Secretary to the Cabinet used his office to irregularly acquire a Kenya Railways Corporation's House set aside for purchase by former employees of the said Corporation.

Investigations established that former Secretary to the Cabinet leased a house from the Kenya Railways Corporation. The house is situated within Kileleshwa. Investigations further established that the Secretary entered into a two year Tenancy Agreement with Kenya Railways in 2009 and since then he has been paying rent, which qualifies him as a tenant and not the owner of the said house. The evidence further reveals that the suspect refurbished the house without the permission of the Corporation due to the Corporation's inability to observe its obligations of ensuring timely maintenance and repairs of the house to make it habitable. This notwithstanding, the renovation has enabled the Corporation to fetch rent equivalent to that paid for similar KR houses in that area which is a beneficial to the Corporation. The investigation did not establish that the Secretary used his office to have the house leased to him nor did he acquire the house as alleged.

Upon perusal of the file, the Director of Public Prosecutions found no criminal culpability on the part of the suspect and directed that the inquiry file be closed.

Status

The inquiry file was returned to EACC with directions to close.

5.0.2.35. EACC/OPS/INQ/NYR/1/2015: NO. 35 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of corruption against a Medical Doctor working at the Meru Level 5 Teaching and Referral Hospital.

Investigations by EACC established that the suspect who is a Medical Doctor, Meru Level 5 corruptly solicited for a benefit of Kshs.25,000.00/= from the complainant as an inducement to supervise an exhumation and perform a postmortem of the body of her deceased son solicitation and receipt of a benefit were established.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 21st May, 2015 recommending that the suspect be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

Upon perusal of the file, the DPP found the evidence sufficient to warrant prosecution of the suspect and directed prosecution to ensue.

Status

The suspect was charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003. The case is ongoing.

5.0.2.36. ODPP/CAM/015/5/317: NO. 36 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of corruption against an Assistant Director of Medical Services in the Health Services Department of Mombasa County Government.

Investigations by EACC established that the suspect who is an Assistant Director of Medical Services in the Health Services Department of Mombasa County Government corruptly solicited for a benefit of Kshs.1,000/= from the complainant as an inducement in order to complete a P3 form for the complainant, solicitation and receipt of a benefit by the suspect were established.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 22nd May, 2015 recommending that the suspect be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

Upon perusal of the file, the DPP found the evidence sufficient to warrant prosecution of the suspects and directed that the case preferred be prosecuted to the logical conclusion:

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003. The case is ongoing.

5.0.2.37. ODPP.CAM/015/5/316: NO. 37 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations that the Cabinet Secretary, Ministry of Lands, Housing and Urban Development conspired with valuers working in her Ministry and the alleged owner and vendor of Plot Number Mombasa MN/1/397 (Waitiki Farm) to inflate the cost of the said plot earmarked for purchase by the Government.

Investigations by EACC established that the property Mombasa/Mainland North/1/397 belongs to Kencent Holdings Ltd. It is situated at Northern side of Mombasa County in Shanzu area famously known as Kwa Mbulo and measures approximately 86.84 acres. The said property was bought through a public auction way back on 10th November, 2006 in consideration of the sum of Kshs.43,945,000/-. Investigations established that squatters trespassed on the said land. Since it was becoming increasingly impossible for the bona fide owner of the land to occupy the same, the Government offered to purchase the land to settle the squatters.

Investigations further revealed that the proposal for the sale of the said property to the government was agreed upon by the Cabinet Secretary. An offer to sale the said property was tabled to her for consideration of the sum of Kshs.20, 000,000/- per acre. Thereafter, the Cabinet Secretary held a meeting with the Ministerial Tender Committee to deliberate on the issue of purchasing the said property and the Committee approved the purchase of the said properties at the Government Valuation price. Investigations established that negotiations with the owner went on with the Cabinet Secretary and were subsequently escalated to the Office of the President. She then held several meetings with the owner to negotiate on the said offer.

The owner was offered Kshs.1, 000,000,000/- but he declined for the reasons that the same was on the lower side way beyond the offer in the valuation. Investigations further established that the Cabinet Secretary, Ministry of Lands and Urban Development made a request for allocation of 2 billion from the Agricultural Settlement Fund for purposes of the purchase of Waitiki Farm at Kshs.1,000,000,000/- but property LR Number Mainland North 1/397 was kept pending for consideration. An additional sum of Kshs.1.1 billion was approved for the settlement Fund Trustees to enable the Ministry of Lands, Housing and Urban Development to acquire land for settlement of squatters.

The evidence did not establish that the offer price for the land was inflated nor was any collusion established between the Cabinet Secretary, the valuers and the owners of the subject property. There

was no culpability established on the part of the Cabinet Secretary, Ministry of Lands and Urban Development and the owner of the Waitiki Farm, to warrant any action against them.

Upon perusal of the file, the Director of Public Prosecutions found no criminal culpability on the part of the Cabinet Secretary or any other person directed that the inquiry file be closed.

Status

The inquiry file was returned to EACC with directions to close.

5.0.2.38. EACC/EL/4/ 2015: NO. 38 EACC SECOND QUARTERLY REPORT

This was inquiry into allegations of irregular appointments of Members to the National Social Security Fund Board by Cabinet Secretary for Labour.

Investigations by EACC established that Cabinet Secretary for Labour appointed members to the Board of Trustees of the NSSF whereas they held positions in public office. This was contrary to the provisions of the NSSF Act contravening the provisions and regulations of the Act and the Constitution. The Cabinet Secretary alleged that he was not aware that the appointees were public officers.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 25th May, 2015 recommending that the Cabinet Secretary for Labour be charged with the offence of Abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act No.3 of 2003.

Upon perusal of the file, the Director of Public Prosecutions found the evidence insufficient to form the basis of the charges recommended by EACC or any other charge and directed that the inquiry file be closed.

Status

The inquiry file was returned to EACC with directions to close.

5.0.2.39. EACC/AT/INQ/12/2012: NO. 39 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of abuse of office and failure by the Management of Kenya Airport Authority to comply with the provisions of Public Procurement and Disposal Act, 2005 and Regulations, 2006 together with other statutory provisions in the procurement of proposed Greenfield Terminal Project, Tender Number: KAA-ES/JKIA/658-DB.

Investigations by EACC established that Kenya Airports Authority (KAA) in the year 2011 identified the need to expand the Jomo Kenyatta International Airport (JKIA) terminal so as to meet the demands of passenger increase, safety and other security related issues. KAA Board of Directors (BOD) approved the construction of the green-field passenger terminal complex and associated works as JKIA at a budget of USD 499,730,725.40. KAA commenced the necessary procurement process and finally awarded the tender to Engineering Group Company in joint venture with an International Engineering Corporation. However, the KAA BOD resolved in a Board meeting to terminate the procurement process mainly because the Ministries of Finance and Transport had not given their respective concurrence for the process. The winning bidder got wind of the termination and filed a reference at the Public Procurement Administrative Review Board (PPARB) challenging the decision. PPARB finally ruled in favour of the winning bidder directing KAA to sign the contract for the subject project within twenty-eight days of that decision. Investigations further revealed that the Tender Committee on 27/7/2012 cancelled the tender process before the delivery of PPARB ruling and the signing of the contract. The said Tender Committee action accorded will with section 36 of PPDA, which entitles a procuring entity to cancel a procurement process at any time before the signing of a contract.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 25th May, 2015 with the recommendation that the inquiry file be closed with no further action.

Upon perusal of the file, the Director of Public Prosecutions found no criminal culpability on the part of the KAA officers and concurred with EACC's recommendation to close the file.

Status

The inquiry file was returned to EACC with directions for closure.

5.0.2.40. EACC/EL/INQ/02/ 2015: NO. 40 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of Breach of Chapter Six of the Constitution and Provisions of the Leadership and Integrity Act 2012 against the Senator of Nairobi County.

Investigations by EACC established that on 26th December, 2014, a truck registration number KBY 259P. was ferrying water passed through the Mtwapa Weigh Bridge. The said truck was ferrying water to the residence of the Senator of Nairobi County. At the Weigh Bridge, the truck was weighed and found to have exceeded the axle load by 6440 kg. The

driver of the truck was instructed to park the aside. It was at that juncture that the Senator stormed the Weigh Bridge demanding that the truck be released. He threatened the officers on duty at the Weigh Bridge. After making a lot of noise, the suspect was seen making several calls and later the officers were instructed to release the truck by an Engineer of the Kenya National Highways Authority (KenHa). It was established that the suspect created disturbance in a manner likely to cause a breach of the peace, intimidation and incitement to disobedience of the law and that his conduct contravened Chapter Six of the Constitution to warrant action by the Speaker of the Senate.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 25th May, 2015 recommending that the matter be referred to the Directorate of Criminal Investigations. Secondly, with regard to breach of Chapter Six of the Constitution, the Commission recommended that the Senate, being the responsible Commission take appropriate administrative action against the suspect.

Upon perusal of the file, the DPP found no criminal culpability on the part of the suspect and was the matter suitable for administrative action against the suspects and concurred with EACC that administrative action be taken against the suspect.

Status

The file was returned to EACC with directions that administrative action be taken against the Senator.

5.0.2.41. CR.811/919/2014, ACC.6/2014: NO. 41 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of corruption against a prosecutor at Kitale Law Courts.

The investigation by EACC established that the suspect corruptly solicited for a benefit of Kshs.60, 000/- as an inducement so as not to object an application for bail terms in relation to four members of staff of a Co-operative Society who had been arrested and charged with an offence of Conspiracy to defraud to Section 317 of the Penal Code. Investigations by EACC established the solicitation and receipt of a benefit by the suspect.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 28th May, 2015 recommending that the suspect be charged with the offences of corruptly soliciting for and receiving a benefit contrary

to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon perusal of the file, the DPP found sufficient evidence to warrant prosecution of the suspect to support the charges.

Status

The suspect was charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. The case is ongoing.

5.0.2.42. CR.148/6/2015: NO. 42 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of Corruption against a Labour Inspection Officer based at the Sub-County Labour Office Industrial Area-Nairobi.

The investigations by EACC established that the suspect corruptly solicited for a benefit of Kshs. 100,000/- so as to forbear the complaint from depositing Kshs. 1,980.412/- being the total amount of money that his employees were allegedly underpaid. The investigations established the solicitation and receipt of a benefit.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 28th May, 2015 recommending that the suspect be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon perusal of the file the DPP found the evidence sufficient to support the charges and directed prosecution to ensue.

Status

The suspect was charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. The case is ongoing.

5.0.2.43. EACC CR.148/7/2015: NO. 43 EACC SECOND QUARTERLY REPORT

This was inquiry into allegations of corruption against a Technician at the Nairobi City Water and Sewerage Company.

Investigations by EACC established that the suspect who is a Technician, Nairobi City Water and Sewerage Company corruptly solicited for a

benefit of Kshs. 30,000/- as an inducement to facilitate the connection of a sewer line in the complainant's premises. Investigations established that the suspect also received a benefit.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 5th June, 2015 recommending that the case against the suspect proceed to its logical conclusion.

Upon perusal of the file, the DPP found the evidence sufficient to warrant prosecution and directed that the suspect be charged with the proposed charges.

Status

The suspect charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. The case is ongoing.

5.0.2.44. ODPP/CAM/015/5/342 CF NO.813/14: NO. 44 EACC SECOND QUARTERLY REPORT

This was inquiry into allegations of corruption against Gabriel Ouma Ngira, Senior Support staff at Bunyala District Education Office.

Investigations by EACC established that the suspect corruptly solicited for a benefit of Kshs.15, 000/- from the complainant as an inducement to facilitate employment of the complainant's wife as a P1 teacher. Investigations established the solicitation and receipt of a benefit.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 17th June, 2015, recommending that the suspect be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to warrant prosecution of the suspect and directed that the case be prosecuted to its logical conclusion.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to Section 39 (3) (a) as read with section 48(1) of Anti-Corruption Economic Crimes Act No. 2003. The case is ongoing.

5.0.2.45. CR.242/13/2015: NO. 45 EACC SECOND QUARTERLY REPORT

This was inquiry into allegations of corruption against Paul Ngunjiri Thuo the Chief of Kahutha Location.

Investigation by EACC established that the suspect solicited for a benefit of Kshs.7, 000/- from the complainant as an inducement so as to release confiscated planks of timber back to the complainant and to forbear reporting him to the Kenya Forest Service for illegal logging. Investigations established that the suspect received a benefit.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 22nd June, 2015 recommending that the suspect be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon perusal of the file, the Director of Public Prosecutions found sufficient evidence to warrant prosecution of the suspect and directed that the case be prosecuted to its logical conclusion.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to Section 39 (3) (a) as read with section 48(1) of Anti-Corruption Economic Crimes Act No. 2003. The case is ongoing.

5.0.2.46. EACC/INQ/14/2015: NO. 46 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of corruption against the Senator for Siaya County in the matter of Property LR.1870/1/217 in Westland's Nairobi.

Investigations established by EACC that the property LR.1870/1/217 was registered in the name of a private owner sometime in 2006. The land ceased to be public land when the City Council of Nairobi allocated the same to a private Company. With regard to the bribery allegations against the Senator, investigations did not establish that the Senator for Siaya County was involved in acts of corruption about the transactions involving the subject land. There was no culpability established on the part of the Senator to warrant any action against him.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 23rd June, 2015, recommending that the inquiry file be closed.

Upon perusal of the file, the DPP found no basis for prosecution and directed that the inquiry file be closed.

Status

The inquiry file was returned to the EACC with directions for closure.

5.0.2.47. INQUIRY NO.10/2013: NO. 47 EACC SECOND QUARTERLY REPORT

This was an inquiry into allegations of corruption against officers of the Anti-Counterfeit Agency in the manner in which Exhibits were disposed of in respect of a Criminal Case before the Principal Magistrate's Court, Winam-Kisumu.

Investigations by EACC established that the Anti-Counterfeit Agency preferred charges of counterfeit against a hardware dealer in Kisumu. The said case was however withdrawn after the complainant in the case reached an out of court settlement with the persons charged. Whereas the Court did not make an order that the goods in question be released to the owner of the hardware, the Deputy Director Enforcement, Prosecution and Legal Services, at the Anti-Counterfeit Agency released the goods. He failed to observe the provisions of Section 27 and 28 of Anti-Counterfeit Act, 2008 in disposing off exhibits in question.

A Report was compiled by EACC and forwarded to Director of Public Prosecutions on 23rd April, 2015 with recommendation that the Deputy Director Enforcement, Prosecution and Legal Services be charged with the offence of abuse of office contrary to Section 46 as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the DPP found gaps and deficiencies in the investigations and directed further investigations to be carried out along the identified areas.

Status

The file was returned to the EACC with directions that further investigations be carried out.

5.0.3. THE 3RD QUARTER OF THE YEAR - 1ST JULY TO 30TH SEPTEMBER, 2015

5.0.3.1. ODPP/CAM/015/5/365: NO. 1 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of Procurement irregularities and abuse of office against the Chief Executive Officer (CEO) of Kenya Trade Network Agency.

Investigations by EACC established that the Chief Executive Officer (CEO) of Kenya Trade Network Agency approved air tickets at KEN TRADE for non-staff members. One member was travelling from United Kingdom to Kenya to take up a job with KEN TRADE while the other one was issued the air ticket to facilitate his travel from Kisumu to Nairobi and back, to have a discussion with the CEO about a complaint that he had made on the unfair employment of the General Managers at KEN TRADE. Investigations further established that after a tender was awarded for the refurbishment of the offices, during the course of execution of the contract, it was realized that some works namely ceiling decoration and services installation had not been factored. As a result, another tender was awarded to include acoustic ceiling, gypsum ceiling decoration, air condition improvement and washrooms at KEN TRADE headquarters. Investigations established that the CEO authorized a Contractor, to commence the said additional works before approval by the Tender Committee. Investigations established that after the Tender Committee deliberated on the tender, it did not approve the award to the contractor identified by the CEO. This was notwithstanding the fact that the contractor had done the work. Investigations established that the CEO was in breach of the Public Procurement and Disposal Act and Regulations by awarding a contract to a contractor without the requisite approval by the Tender Committee.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 7th July, 2015 recommending that the Chief Executive Officer, KEN TRADE be charged with the offences of abuse office contrary to section 46 and failure to comply with the applicable procedures and guidelines relating to procurement contrary to section 45(2) (b) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to support the recommended charges and directed prosecution to ensue.

Status

The Chief Executive Officer, KEN TRADE was charged with the offences of abuse office contrary to section 46 and failure to comply with the applicable procedures and guidelines relating to procurement contrary to section 45(2) (b) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003. The case is ongoing.

5.0.3.2. ODPP/CAM/015/5/359: NO. 2 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of alleged misappropriation of Kshs.34 million Development grant by the Ministry of Industrialization to Export Processing Zone Authority (EPZA).

Investigations by EACC established that the Ministry of Trade and Industry disbursed funds in the form of Government Grants to EPZA totaling to Kshs.51,000,000.00 in three tranches. The funds were meant for EPZA infrastructure project consultancy services for construction of a sewer line within the EPZA premises. EPZA confirmed that the money was received in their National Bank account. The funds were posted in EPZA's cashbook on respective dates of receipt and finally recognized in their audited financial statements for the financial year 2011/2012. Investigations further revealed that after a competitive process, a company was awarded the contract (tender No. EPZA/2/OP/CON/2010/11) to offer consultancy services for Design and Preparation of Bid Documents for Infrastructure Services at a contract price of Kshs.34, 158,584.00. EPZA and the company signed a contract agreement on 8th June, 2011 and commenced and completed the works as stipulated in the contract agreement and submitted the final design report to EPZA in February, 2012. From the Kshs.51,000,000.00 received by EPZA in form of Government grants, the company was paid Kshs.34,158,583.00 for offering consultancy services for Design and Preparation of Bid Documents for Infrastructure Services of Phase II. The payments were made after its work was evaluated and found satisfactory. EACC submitted a report to the Director of Public Prosecutions for review.

Upon perusal of the file, the Director of Public prosecutions found no criminal culpability on the part of the officer concerned and accepted EACC recommendation to close the inquiry file.

Status

The file was returned to EACC with directions to close.

5.0.3.3. ODPP/CAM/015/5/361: NO. 3 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of obstruction against the Clerk of the Vihiga County Assembly and the Vihiga County Assembly Senior Accountant.

Investigations by EACC established that the Clerk of Vihiga County Assembly directed Procurement officers not to hand over to EACC investigators; the documents that had been requested by Commission in respect of allegations of embezzlement of public funds and abuse of office at the County Assembly. Investigations established that the documents were instead taken by the Senior Accountant of the Vihiga County Assembly who failed to hand over the whole

batch of requested documents. Instead, she gave to the EACC investigators a few documents and promised to release the rest later, which she did not. Investigations further revealed that the Clerk instructed all the staff in the Procurement Unit to remain indoors so as not to be seen by the EACC investigators who were carrying out investigations. The Clerk also gave false information to the EACC investigators indicating that since the Procurement Officers were out of office, he could not retrieve the documents requested for. He further frustrated the EACC investigators' efforts to record relevant statements from employees and officials of the County Assembly by instructing them not to report on duty. This conduct by the suspects amounted to obstruction of EACC Investigators and giving misleading information.

A Report was compiled by EACC and forwarded to Director of Public Prosecutions on 10th July, 2015 with recommendation that (i) The Clerk of the Vihiga County Assembly and the Senior Accountant be charged with the offence of failing to comply with a written notice to provide information/documents contrary to section 27(3) as read with section 27(4) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. (ii) The Clerk of the Vihiga County Assembly be charged with the offences of obstruction contrary to section 66(1) (a) as read with section 66(2) and deceiving an investigator acting under the Anti-Corruption and Economic Crimes Act, No. 3 of 2003 contrary to section 66(1) (b) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. (iii) The Vihiga County Assembly Senior Accountant be charged with offences of concealing and altering documents contrary to section 66(1) (c) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act No.3 of 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspects.

Status

(i) The Clerk of the Vihiga County Assembly and the Senior Accountant were charged with the offence of failing to comply with a written notice to provide information/documents contrary to section 27(3) as read with section 27(4) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. (ii) The Clerk of the Vihiga County Assembly was charged with the offences of obstruction contrary to section 66(1) (a) as read with section 66(2) and deceiving an investigator acting under the Anti-Corruption and Economic Crimes Act, No. 3 of 2003 contrary to section 66(1) (b) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. (iii) The Vihiga County Assembly Senior Accountant was charged with offences of concealing and altering documents contrary to section 66(1) (c) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act No.3 of 2003. The case ongoing.

5.0.3.4. ODPP/CAM/015/5/364: NO. 4 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of fraudulent acquisition of public money belonging to Chepkurkur S. A. Primary School in Mt. Elgon Constituency, Mt. Elgon Sub-County within Bungoma County by the area Member of Parliament.

Investigations by EACC established that the Deputy President donated money to Chepkurkur S. A. Primary School and the money was handed over to the area MP whose desire was to establish a girls rescue Centre. Chepkurkur S. A. Primary School management wanted to put up a boarding section for the girls. Investigations established that the MP, invited professionals who registered a community center under the Ministry of Gender, Children and Social Development. Upon registration of the Centre and the opening of the account at Kenya Commercial Bank Kimilili, the MP, deposited the cash donation of Kshs.500, 000 to the Centre's account and the cheque donation to the school's account since the cheque had been drawn in the school's name. Investigations further established that the money is now with the Primary School Board of Management for the implementation of the project. Investigations did not establish that the area MP fraudulently acquired public money.

A Report was compiled by EACC and forwarded to Director of Public Prosecutions on 14th July, 2015 with recommendation that the inquiry file be closed.

Upon perusal of the file, the Director of Public prosecutions found the evidence insufficient to warrant prosecution and directed that the inquiry file be closed.

Status

The file was returned to EACC with directions to close.

5.0.3.5. ODPP/CAM/015/5/360: NO. 5 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of irregular procurement of a fully furnished residential property for the Hon. Chief Justice/President of the Supreme Court.

Investigations by EACC established that after the need arose to acquire a residence for the Chief Justice, procurement process commenced to identify a suitable residential premise. Investigations further established that whereas the Evaluation committee recommended that the tender for the purchase of a residence for the Chief Justice be awarded to the lowest evaluated bidder, the tender was awarded to a non-responsive bidder at a higher bid price. At the time the Judiciary purchased the property Runda131, it was still charged to a bank for Kshs.80, 000,000/- and thus encumbered. Investigations further revealed that whereas the tender was for a fully furnished residential property, the award made was exclusive of furniture. Investigations further established that there was no valuation of the property that Judiciary purchased to guarantee that the price

paid for it was within the prevailing market prices; and there was no sufficient budgetary allocation for the purchase.

Further investigations established that the Chief Registrar, Deputy Chief Registrar and Members of the Judiciary Tender Committee were culpable for the irregularities in the procurement for the Chief Justice's residence.

A Report was compiled by EACC and forwarded to Director of Public Prosecutions on 15th July, 2015 with recommendation that the then Chief Registrar and the Accounting Officer of the Judiciary be charged with the offences of abuse of office contrary to section 46 and willful failure to comply with the law relating to management of funds contrary to section 45(2) (b) of the Anti-Corruption and Economic Crimes Act, 2003. The Chief Registrar, the Deputy Chief Registrar and the other suspects who are employees of the Judiciary be charged with the offence of engaging in a project without prior planning contrary to section 45(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003; and the members of the Judiciary Tender Committee be charged with the offence of willful failure to comply with the law and applicable procedures relating to tendering of contracts contrary to section 45(2) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution of the suspects and directed prosecution to ensue:

Status

The then Chief Registrar and the Accounting Officer of the Judiciary was charged with the offences of abuse of office contrary to section 46 and willful failure to comply with the law relating to management of funds contrary to section 45(2) (b) of the Anti-Corruption and Economic Crimes Act, 2003. The Chief Registrar, the Deputy Chief Registrar and the other suspects who are employees of the Judiciary were charged with the offence of engaging in a project without prior planning contrary to section 45(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003; and the members of the Judiciary Tender Committee was charged with the offence of willful failure to comply with the law and applicable procedures relating to tendering of contracts contrary to section 45(2) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003. The case is ongoing.

5.0.3.6. ODPP/CAM/015/5/363: NO. 6 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of corruption against officers of the County Government of Isiolo.

Investigations by EACC established that the Head of Procurement and Supply Chain Management of the County Government initiated the procurement of empty branded gunny sacks by the County Government of Isiolo by way of restricted tendering rather than open tendering, without the requisite authorization of the standing Tender Committee of the County Government of Isiolo. This was in breach of the Public Procurement and Disposal Act and Regulations.

Investigations further established that the Isiolo County Chief Executive Committee Member in charge of Finance and Economic Planning and the Head of the Isiolo County Treasury authorized expenditure for the branding of relief food packaging, without the requisite authorization of the Isiolo County Executive Committee.

A report was compiled by EACC and forwarded to Director of Public Prosecutions on 14th July, 2015 recommending that the Isiolo County Executive Committee Member in charge of Finance and Economic Planning and the Interim Head of Procurement and of Supply Chain Management be charged with the offences of carelessly failing to comply with laws, applicable procedures and guidelines relating to the incurring of expenditures contrary to Section 45(2) (b), engaging in a project without prior planning, contrary to Section 45(2) (c) and abuse of office contrary to section 46 as read together with Section 48(1) and section 48(2) of the Anti-Corruption and Economic Crimes Act, 2003. It was further recommended that the members of the Tender Committee be charged with the offences of carelessly failing to comply with laws relating to the management of funds by a public entity, contrary to section 45(2) (b) as read together with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the County Government Officials jointly with the directors of and the company awarded the contract for the supply of the gunny bags with the offence of conspiracy to commit an economic crime, contrary to Section 47A(3) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found the evidence sufficient to support the recommended charges and directed prosecution to ensue.

Status

The Isiolo County Executive Committee Member in charge of Finance and Economic Planning and the Interim Head of Procurement and of Supply Chain Management were charged with the offences of carelessly failing to comply with laws, applicable procedures and guidelines relating to the incurring of expenditures contrary to Section 45(2) (b), engaging in a project without prior planning, contrary to Section 45(2) (c) and abuse of office contrary to section 46 as read together with Section 48(1) and section 48(2) of the Anti-Corruption and Economic Crimes Act, 2003. Further, the members of the Tender Committee were charged with the offences of carelessly failing to comply with laws relating to the

management of funds by a public entity, contrary to section 45(2) (b) as read together with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the County Government Officials jointly with the directors of and the company awarded the contract for the supply of the gunny bags were charged with the offence of conspiracy to commit an economic crime, contrary to Section 47A(3) of the Anti-Corruption and Economic Crimes Act, 2003 Prosecution to ensue, Charge sheet amended accordingly. The hearing of the matter ongoing.

5.0.3.7. ODPP/CAM/015/5/358: NO. 7 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations that the Investment Secretary used her office to deprive former employees of the Kenya Railways Corporation House Number LR.3734/89 that had been set aside for purchase under the Tenant Purchase Scheme.

Investigations by EACC established that at the time the suspect made an offer to purchase the house, she was the Investment Secretary and did not hold any position with the Kenya Railways Corporation Board. However, the evidence obtained has not shown that she in any way used her position to acquire the house. The decision to sell her the house at Kshs. 6.5 million was made by Kenya Railways after she made an offer thereof. The investigation did not reveal that she influenced the decision to sell the house to her at the abovementioned price. She paid the consideration to Kenya Railways and the payment was acknowledged. The Commission was of the considered opinion that the evidence obtained in the investigations did not disclose culpability on the part of the Investment Secretary or any other officer of Kenya Railways to warrant criminal prosecution or any other action against her.

A Report was compiled by EACC and forwarded to Director of Public Prosecutions on 15th July, 2015 with recommendation that the inquiry file be closed.

Upon perusal, the Director of Public prosecutions found the evidence insufficient to warrant prosecution of the suspect and directed that the inquiry file be closed.

Status

The file was returned to EACC with directions to close.

5.0.3.8. ODPP/CAM/015/5/383: NO. 8 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegation of irregular procurement of Motor Vehicles Insurance covers by the Head of Supply Chain Management at the County Government of Nyamira.

Investigations by EACC established that the County Head of Supply Chain Management procured motor vehicle comprehensive insurance cover on 10th

January, 2014, which was before the commencement of the previously mentioned irregular tendering process. Further, she flouted the provisions of the Public Procurement and Disposal Act (PDDA) as she did not involve the Tender Committee in the procurement; and she did not seek the Tender Committee's authority to directly procure the 'temporary' cover thus committing the County Government of Nyamira to contractual obligations with UAP Insurance Company through an oral contract:

A Report was compiled and forwarded to the Director of Prosecutions on 27th July, 2015, recommending that the suspect be charged with the offence of abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

Upon perusal of the file, the Director of Public Prosecutions found gaps and deficiencies in the investigations and directed further investigations along the identified areas.

Status

The file was returned to EACC with directions that further investigations be carried out.

5.0.3.9. ODPP/CAM/015/5/387: NO. 9 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations against the Chief Executive Officer of the National Water Conservation and Pipeline Corporation (NWCPC) of impropriety of funds meant for construction of Murony/Siyoi Dam in West Pokot County in the Compensation of Land owners displaced by the Dam Construction Project.

Investigations established that the allegation of impropriety of funds as far as the compensation for the parcels of land is concerned is not supported by available evidence. Investigations established that the compulsory acquisition including survey and valuation of the identified land was undertaken through a lawful process. It was carried out in accordance with Section 162 (2) of the Land Act, No.6 of 2012 wherever applicable. Further, the land owners accepted the awards and were all compensated through payments made in the individual and or joint accounts hence there is no pending claim. The investigation did not establish embezzlement of funds about the compensation of landowners displaced by the dam construction project.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 27th July, 2015, recommending that the inquiry file be closed.

Upon perusal, the Director of Public prosecutions found no criminal culpability on the part of the suspect and directed closure of the file as recommended.

Status

The DPP returned the file to EACC with directive to close.

5.0.3.10. ODP/CAM/015/5/386: NO. 10 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations that the Board of Trustees of the National Social Security Fund (NSSF) irregularly approved a budget of Kshs.5, 053,520,321.06 for the regularization of Tassia II Housing Scheme and awarded the tender for the scheme's infrastructure development to China Jiangxi International Kenya Limited.

Investigations established that the Board in its meetings made a resolution that the management should aggressively pursue payment for the Kshs.920, 000 for the in the Tassia estate with the help of the City Council which implies a regularization of the resolutions that were passed by circulation. The level of collection of the finances from the plot owners could not be ascertained. It is noteworthy that the High Court in Judicial Review Case No.218 of 2014 indicated that the tenants were expected to meet the costs of infrastructure, which therefore meant that if the NSSF were to realize all the collections, it would not have to spend an amount from the Fund on infrastructure. The binding nature of the contract would mean that the NSSF would only be exposed to pay the contractual amount in case of default. The previously mentioned notwithstanding, infrastructural development is a process that the NSSF cannot avoid in the transfer of title. In the absence of the transfer of the rights of ownership, NSSF would continue incurring expenses for land that it owns but not in actual possession through payment of rates and ground rent.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 30th July, 2015, recommending that administrative action be taken against the Managing Trustee for exposing the Fund to contractual obligations when not all the funds to finance the project had been collected from the tenants.

Upon perusal of the file, the DPP found gaps and deficiencies in the investigations and directed further investigations along the identified areas.

Status

The file was returned to EACC with directions to conduct further investigations.

5.0.3.11. ODP/CAM/015/5/385: NO. 11 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of manipulation of Payroll by Executive of Isiolo County through employment of casual workers.

Investigations by EACC established that the County Government of Isiolo appointed plant operators and fire engine personnel without due regard to the

applicable laws. The County Public Service Board was not involved in the recruitment of the said personnel, which was an affront of the County Government Act, 2013. The evidence pointed to the fact that the Governor and the County Secretary perpetrated the breach of the applicable law. This is evident from their action of actively participating in the identification of the employees. However, the actual action of employment and signing of the letters of appointment and authorization of payments among other things was done by the County Secretary.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 10th August, 2015, recommending that the County Secretary be charged with the offence of abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

Upon perusal, the Director of Public prosecutions found that the evidence was insufficient to warrant prosecutions and directed close of the inquiry file.

Status

The file was returned to EACC with directions to close.

5.0.3.12. ODPP/CAM/015/5/384: NO. 12 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of irregular procurement in the tender for the construction of the Library and ICT Resource Centre at the Kiambu Institute of Science and Technology (KIST) for Kshs.65 Million.

Investigations by EACC established that the project was commenced after a proper procurement process that led to the contract being awarded to the Contractor and Sub-Contractors. However, the Contractor was issued with instructions to vary the works from the original Bills of Quantities by introducing a first floor cast slab. The effect of the variation was such that there were disputes, which are still unresolved, and a subject of an arbitration cause; and the project was not completed to be usable by the procuring entity. It is evident that the action to vary the works was a decision that was taken by the County Works Officer and the Principal of Kiambu Institute of Science and Technology without the requisite approval by the Tender Committee.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 3rd August, 2015, recommending that the County Works Officer and the Principal of Kiambu Institute of Science and Technology be charged jointly with the offence of willful failure to comply with the law relating to the procurement contrary to section 45(2) (b) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003. The County Works Officer be charged separately with the offence of knowingly giving a misleading document

to one's principal contrary to section 41 (2) as read with section 48(1) and (2) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the DPP found gaps and deficiencies in the investigations and directed further investigations along the identified areas.

Status

The file was returned to EACC with directions to conduct further investigations.

5.0.3.13. ODPP/CAM/015/5/393: NO. 13 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations that the Principal (AFP) of Rongo University College and his Deputy Principal have populated the Institution with their relatives and are practicing nepotism and tribalism in the Institution.

Investigations by EACC established that Rongo University College being a constituent college of Moi University, all recruitment procedures are guided by Moi University recruitment policy and procedure. Investigations also revealed that the council is in charge of all recruitment, though the same Council has delegated its powers to committees chaired by the Deputy Principal, Principal and by the Committee on Human Resource.

Investigations further revealed that due regard on the Rules, Regulations of Rongo University College were observed in the recruitment of the said employees, and the evidence obtained did not establish that the officers involved in the recruitment process were culpable, for any wrongdoing.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 27 August 2015, recommending that the file be closed.

Upon perusal, the Director of Public prosecutions found no criminal culpability on the part of the officers concerned and directed the inquiry file to be closed.

Status

The file was returned to EACC with directions to close.

5.0.3.14. ODPP/CAM/015/5/394: NO. 14 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations that Makueni County Assembly spent Kshs.10,000,000 on a ghost Medical Cover for 48 Members of the County Assembly (MCA'S) and the Speaker of the County Assembly.

Investigations by EACC established that the tender for the medical cover for Members of the County Assembly (MCAs) and for the County Assembly Staff members were all awarded to an insurance company at Kshs.8, 631,693.00 and

Kshs.2, 638,784.00 respectively and that the amounts were premiums for sum assured. Investigations established that the invoice by the Insurer submitted to the County bore the names of another Insurer. After explanations were sought, the insurer awarded the contract explained that the latter was their underwriter and hence they were entitled to handle services on their behalf.

Investigations further established that the introduction of AAR as underwriter by Afro centric to Makueni County Assembly was not irregular since the merger had been accepted by the Insurance Regulatory Authority. The investigations established that the insurer appointed by the County Assembly was not a ghost company.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 27th August 2015 recommending that the file be closed. The Commission also recommended that an advisory be made to the Makueni County Assembly to strictly adhere to the Public Procurement and Disposal Regulations in appointments of committee members, since the Commission noted that the members of the Tender Committee were the same people who were appointed as Tender Evaluation Committee contrary to section 16 (4) of the PPDR, 2006.

Upon perusal of the file, the Director of Public Prosecution found gaps and deficiencies in the investigations and directed further investigations along the identified areas.

Status

The file was returned to EACC with directions that further investigations be carried out.

5.0.3.15. ODPP/CAM/015/5/395: NO. 15 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of irregular award of the tender for the construction of A104-CDF office Road Project at Kshs.500, 000 to a contractor by the Eldoret South Constituency Development Fund Tender Committee (CDFC) during the Financial Year 2010/2011.

The investigations by EACC established that the above-mentioned road was amongst six roads identified for rehabilitation by the Eldoret South CFDC and it was agreed that they be funded in the FY 201/2011. The Constituency Development Fund Board approved the road projects and disbursed funds for the projects. Tenders for the roads were advertised. Interested bidders submitted their bids and a contract were awarded to the successful bidder, which was pre-qualified for the FY2011/2012. The Company commenced the works but was stopped after the roads became subject of investigation by EACC following allegations that the said works were procured irregularly. No payments have been

made to the contractor to date although it had performed some of the work. It was established that proper procurement procedure was followed in the award of the tender for the road construction. The Commission was of the opinion that the evidence obtained was not sufficient to sustain any charge against the Eldoret South CDPC members.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 28th August 2015 recommending that the inquiry file be closed. Upon perusal, the Director of Public Prosecutions found that the evidence was insufficient to warrant prosecution and directed closure of the file as recommended.

Status

The file was returned to EACC with directions to close.

5.0.3.16. ODPP/CAM/015/5/404: NO. 16 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of misappropriation of over Kshs.28 million in paying for uncompleted/undone work at the Langas Market by a Kericho County Government (CEC) for Lands Housing and Physical Planning in a project funded by the Kenya Slum Upgrading Program (KENSUP).

Investigations by EACC established that an International Company was awarded the contract for the construction of the market by the Ministerial Tender Committee on 19th April 2012 via contract No.MH/KENSUP/04/2011. The payment of Kshs.3,811,599.00/- was properly processed in favour of the contractor after the Clerk of Works of Uasin Gishu County Government and the Contractors' representative prepared the first valuation on 5th October 2012. The 2nd, 3rd and 4th valuations were prepared by the County Executive for Lands Housing and Physical Planning and payment in that respect processed by the Assistant Director and Directorate of Housing who confirmed that he processed the payment vouchers totalling to Kshs.28,340,228.70.

That the payment made was irregular since the County Executive for Lands Housing, Physical Planning had no authority to prepare the valuations, and the payment was made for work not done. The terms of the contract were severely breached and even after concerns were made concerning unsatisfactory work, the suspect ignored the advice and made valuations. These valuations were approved by the Assistant Director in the Housing Directorate whilst knowing that the CEC had no authority to do any valuations. The evidence revealed that documents were forged and the two suspects acted conspiring with the directors of the contractor to embezzle money about the market project.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 28th August, 2015 recommending that the then Senior Architect

in the defunct Municipal Council of Eldoret and now the CEC for Lands, Housing and Physical Planning be charged with the offences of abuse of office contrary to section 46 and failure to comply with the law/applicable procedures and guidelines relating to management of public funds or incurring of expenses contrary to section 45(2) (b) as read with section 48(1)(a) of the Anti-Corruption and Economic Crimes Act, 2003. The Assistant Director, Directorate of Housing be charged with the offences of fraudulently making excessive payment from Public Revenue contrary to section 45(2) (a) failure to comply with the law/applicable procedures and guidelines relating to management of public funds or incurring of expenses contrary to section 45(2) (b) and abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. A Senior Architect in the defunct Municipal Council of Eldoret, Assistant Director, Directorate of Housing, a Limited Liability Company registered as in Kenya and Directors of FOMCO International Limited be charged jointly with the offence of conspiracy to commit an Economic crime contrary to section 47(A) (3) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; and the company and its directors be charged jointly with the offence of fraudulent acquisition of public funds contrary to section 45(1) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution of the suspect as recommended and directed prosecution to ensue.

Status

The suspects were charged with the charges enumerated above. The case is pending in Court.

5.0.3.17. ODPP/CAM/015/5/403: NO. 17 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations against the Chief Executive Officer of the National Water Conservation and Pipeline Corporation (NWCP) for impropriety of funds in the construction of Muruny/Siyoi Dam in West Pokot County.

Investigations by EACC established the process of procurement for the construction of the Muruny-Siyoi Dam was legitimate, the procuring entity having followed all the procurement processes as is stipulated under the Public Procurement and Disposal Act and Regulations thereto. Further, the project was within the plan and was sufficiently budgeted for and the money disbursed has so far been utilized in accordance with the contract.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 28th August 2015 recommending that the inquiry file be closed without any further action.

Upon perusal of the file, the Director of Public prosecutions found that there was insufficient evidence to warrant prosecution and concurred with EACC's recommendation to close the file.

Status

The file was returned to EACC with direction to close.

5.0.3.18. ODPP/CAM/015/5/400: NO. 18 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of corruption against officers of the Nursing Council of Kenya who had been operating a secret bank account that was not known to Nursing Council of Kenya Board (NCK).

Investigations by EACC established that the Workforce account was officially opened in 2003 and it was secretly being operated by two officers of Nursing Council of Kenya; the Officer in charge of Finance Department and former Registrar at Nursing Council of Kenya respectively. They both secretly wrote to the bank on 22nd September 2014 instructing the Manager to close the account when the former Registrar at NCK was asked to give the financial status of NCK to the Acting Registrar. Numerous cash withdrawals from the Workforce account have been traced with corresponding deposits in the Officer of Finance Department's bank accounts held at Barclays Bank Queensway branch. The cashbooks and reports to the Finance Committee of the Board provided the Finance officer reflected only two bank accounts, one in Cooperative Bank, and the other in Barclays Bank. This deliberately concealed the activities of the Workforce account from the Finance Committee and the Board. Investigations further established that, the funds received by NCK from the donor were withdrawn from the Work Force account within the first two months i.e. between December 2013 and January 2014 whereas the project was to run up to October, 2014; an indication that the suspects withdrew and used the donor money for other purposes and thereafter sourced for funds from other sources to run the project that was ongoing.

A Report was compiled and forwarded to the Director of Public Prosecutions on 4th September, 2015 recommending that the then Registrar of Nursing Council of Kenya and the officer in charge of Finance Department be charged jointly with the offences of fraudulent acquisition of public property contrary to section 45(1) (a) abuse office contrary to section 46 and conspiracy to commit an Economic Crime contrary to section 47(a) (3) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. The Commission further recommended that the Officer in charge of Finance Department be charged with the offences of failure to comply with a written notice to produce records contrary to section 28(9) (a) as read with section 28(9) of and knowingly using a misleading document to one's principal contrary to section 41(1) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

EACC further reported that it would institute recovery proceedings against the suspects in respect of the embezzled funds.

Upon perusal of the file, the Director of Public Prosecution found gaps and deficiencies in the investigations and directed further investigations to be conducted along the identified areas.

Status

The file was returned to EACC with directions that further investigations be carried out.

5.0.3.19. ODPP/CAM/015/5/402: NO. 19 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations that the Cabinet Secretary for Energy and the Managing Director, Kenya Power and Lighting Company respectively, embezzled Kshs.90 million transferred by KPC to KPLC.

Investigations established that the only payment made to KPLC by KPC was in respect of payment of electricity bills for power consumed by KPC in its various operations and pumping stations. The head of budget and finance at KPLC confirmed that indeed KPLC billed KPC for energy consumed and contractual services. The statement of finances and the report of the auditor general about KPLC for the year 2012-2014 were also obtained. They did not show that any amount of Kshs.90 million was received by KPLC. Further investigations revealed that there is nothing to show that indeed a sum of Kshs.90 million was transferred from KPC to KPLC and later fraudulently acquired by the suspects. The evidence obtained did not establish that the Cabinet Secretary for Energy and the Managing Director of Kenya Power and Lighting Company were culpable for fraudulent acquisition of Kshs.90 million to warrant any action against them.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 7th September 2015 recommending that the inquiry file be closed without any further action.

Upon perusal of the file, the Director of Public Prosecution found gaps and deficiencies in the investigations and ordered further investigations along the identified areas.

Status

The file was returned to EACC with directions that further investigations be carried out.

5.0.3.20. ODPP/CAM/015/5/401: NO. 20 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of irregular acquisition of a parcel of land belonging to Kenya Commercial Bank by a lawyer and a former Chief of Staff at the office of the Prime Minister.

Investigations by EACC revealed that the property in question was not acquired by the suspect but by the tenant as per the terms of a consent that was recorded in court after KCB and the tenant negotiated and agreed to settle the dispute amicably. There is no evidence linking the suspect with the transactions involving the sale and transfer of the said property as confirmed by the records obtained from the lands department.

A Report was compiled and forwarded to the Director of Public Prosecutions on 7th September, 2015 recommending that the inquiry file be closed.

Upon perusal of the file, the Director of Public Prosecution found gaps and deficiencies in the investigations and directed further investigations along the identified areas.

Status

The file was returned to EACC with directions that further investigations be carried out.

5.0.3.21. ODPP/CAM/015/5/411: NO. 21 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegation that the Migori County Government irregularly awarded a contract to Speedway Technical Company Limited for the supply of water pipes through single sourcing and made a payment of Kshs.7, 004,500.00 before delivery of the pipes.

Investigations by EACC revealed that the Head of Supply Chain Management, whose duties include advising the County Government on the procurement regulations advised the County Director of Water at the County Government of Migori and the Deputy Director at the Migori County Government to undertake direct procurement in the supply and delivery of the water pipes while fully aware that the legal requirements to justify the use of such an alternative procurement procedure applicable had not been satisfied.

That direct procurement was used in the procurement of the relevant water pipes without the procuring entity obtaining the written approval of its Tender Committee as provided for in the Public Procurement and Disposal Act, 2005. Further, the Tender Committee of the Migori County Government was never involved in the procurement process for the supply and delivery of the relevant water pipes. Investigations further established that the water pipes were not

inspected by an Inspection and Acceptance Committee as provided for in the Public Procurement and Disposal Regulations, 2006, yet a payment voucher was issued, and payment subsequently made.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 8th September, 2015 recommending that the Head of Supply chain Management, County Director of Water and Deputy Director of Water be charged with the offences of willful failure to comply with the law and regulations relating to procurement contrary to Section 45 (2) (b) and abuse of office contrary to Section 46 as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The suspects were charged with the charges enumerated above. The case is pending in Court.

5.0.3.22. ODPP/CAM/015/5/410: NO. 22 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of corruption against officers of the County Assembly of Nyeri.

Investigations by EACC revealed that the Annual Procurement Plan showed that the Nyeri County Assembly had appropriately planned for the expenditure because of the procurement of the two motor vehicles. While procuring the two motor vehicles, the County Assembly of Nyeri adhered to the terms of the Supply Circular issued by the Supplies Branch of the Ministry of Public Works. The receipt and the statement of Account are clear that the entire sum paid by the County Assembly of Nyeri to Toyota Kenya Limited because of the two motor vehicles was Kshs.14,236,640.56/=. The purchased motor vehicles were inspected prior to delivery and a Vehicle Inspection Report prepared. There was no evidence of impropriety on the part of the County officers involved in the purchase of the said vehicles.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 9th September 2015 recommending that the inquiry file be closed. Upon perusal of the file, the Director of Public prosecutions found no evidence to warrant prosecution and directed that the inquiry file be closed.

Status

The inquiry file was returned to EACC with directions to close.

5.0.3.23. ODPP/CAM/015/5/409: NO. 23 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of conflict of interest by the Engineering Manager, Kenya Pipeline Corporation in the Period 2012 to 2014.

Investigations by EACC revealed that KPC commenced procurement about several items required by the Engineering Department. Investigations further established that the suspect who is the Engineering Manager made the requisitions for the said items. Investigations established that in all the four procurements, the contracts were awarded to a company associated with the suspect as either a director or shareholder, or his children were shareholders. Investigations further revealed that the suspect did not disclose his interest in the said company and in some instances participated in the deliberations for the award. This amounted to conflict of interest and was in breach of the Public Procurement and Disposal Act and the Anti-Corruption and Economic Crimes Act, 2003. Further evidence revealed that the suspect received a quantifiable benefit from the said contracts.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 9th September, 2015 recommending that the Engineering Manager be charged with the offences of failure to disclose a private interest to one's principal contrary to Section 42(1) and knowingly holding a private interest in a contract connected with a public body contrary to Section 42 (3) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue.

Status

The engineering Manager was charged with the recommended charges. The case is ongoing.

5.0.3.24. ODPP/CAM/015/5/412: NO. 24 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegation of violation of procurement laws in the process of Development of 900 – 1,000 MW coal fired power plant at Lamu by Public Officers of the Ministry of Energy and Petroleum under public private partnership arrangement.

Investigations by EACC revealed that when the Public Private Partnerships Act, 2013 came into force in February 2013, the project were listed amongst the National Priority list of the Public Private Partnerships with KENGEN as the contracting authority. The Public Private Partnership list of priority projects was tabled before the cabinet and approved prior to publishing on Public Private Partnership website and on major newspapers on 31st December 2013. The

Ministry of Energy and Petroleum commenced the implementation of the development of a 960 – 1000 MW coal fired power plant in Lamu by floating tender Number MOEP/RFP/152013-14. Thereafter it placed advertisement of Expression of interest for the project in the regional newspaper between 28th September and 4th October 2013.

Twenty six (26) applicants expressed interest, which were evaluated by a team of officers appointed by the accounting officer of the Ministry. The Evaluation shortlisted nine (9) firms and after re-evaluation exercise, one firm (HCIG Energy Investments Company Limited) was found to qualify for short listing which brought the total number of short listed firms to ten. Investigation established that there was no evidence to support the allegation of sneaking in of the Gulf Consortium at the Request for Proposal stage since the tendering process was above board. That although one of the bidders included in their consortium was a company, which was in a prior consortium that did not qualify, this was allowed under the Public Private Partnership Regulations. The Public Private Partnerships Unit and the Attorney General also gave an opinion confirming that there was no illegality in the procurement process. No irregularities were detected about the said procurement to warrant any action against any of the officers involved.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 15th September 2015 recommending that the inquiry file be closed. Upon perusal, the Director of Public prosecutions found no criminal culpability on the part of the officers concerned and directed that the inquiry file be closed.

Status

The file was returned to EACC with directions to close.

5.0.3.25. ODPP/CAM/015/5/416: NO. 25 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations that the speaker of the County Assembly of ElgeyoMarakwet took allowances purporting to have travelled to Atlanta-Georgia, United States of America, a trip he never went.

Investigations by EACC established that the Speaker of the County Assembly of Elgeyo-Marakwet was invited to attend a conference in Atlanta, Georgia from August 11th to 15th 2013. He received an imprest of Kshs.258, 144.60in-respect of the conference whereby the money was banked in his account at Equity bank, Iten Branch on 8th August 2013. Investigations however established that the Speaker did not travel for the conference due to Visa challenges. He did not surrender the money in spite of being aware that he did not take the trip. He refunded the money after EACC commenced the investigations against him in 2014. It is further on record that he was advised accordingly when the trip aborted.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 16th September, 2015, recommending that the suspect be charged with the offence of failure to comply with the law/applicable procedures and guidelines relating to management of public funds or incurring of expenditure contrary to section 45(2) (b) as read with section 48(1) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The suspect was charged with the offence of failure to comply with the law/applicable procedures and guidelines relating to management of public funds or incurring of expenditure contrary to Section 45(2) (b) as read with section 48(1) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

The case is ongoing in Court.

5.0.3.26. ODPP/CAM/015/5/417: NO. 26 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of irregular procurement of furniture at Nyeri County Assembly for both the Office and the 30 Wards from Seiwa Furniture and Interior Designers worth Kshs.13, 787,436.

Investigations by EACC established that the annual procurement plan for FY 2013/2014 shows that the Nyeri County Assembly had appropriately planned for the expenditure on account of the procurement of office furniture for the County Assembly and 30 ward offices estimated at a cost of Kshs.15 million under the vote head-319010301 County Assembly Administration title 3111000 purchase of furniture and general equipment. As such, the budgetary and procurement planning was in accordance with the terms of Section 26(3) (a) of the Public Procurement and Disposal Act, 2005. On 7th August 2013, the County Assembly of Nyeri put a tender notice in local dailies inviting sealed tenders from interested firms for pre-qualification of suppliers, contractors and consultants for FY 2013/2014. Among the tenders advertised was tender No. NCA/P/16/2013/2014 – prequalification of supply and delivery of furniture, fittings and office equipment. Further, the Committee analyzed various quotations among them quotation for supply and delivery of furniture for County Assembly of Nyeri 30 wards and block A, B and C offices. They resolved to award the tender to the lowest bidder which was Seiwa Furniture and Interior Designers at a cost of Kshs.13,460,778 and County Assembly Board was notified where they decided to visit the bidder where due diligence was carried out.

Further evidence established that the specifications on the LPOs conformed to the quantities delivered. It was also confirmed that the materials for furniture were brought to the County Assembly offices where the furniture was assembled to fit into different offices. From the evidence obtained no offence of conflict of interest was disclosed; section 42 of the ACECA, any offences under section 38 as read together with section 41 of the ACECA and section 40 as read together with section 44 of the ACECA.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 23rd September 2015 recommending that the inquiry file be closed. Upon perusal of the file, the Director of Public Prosecutions found no evidence to warrant prosecution and directed the inquiry file to be closed.

Status

The file was returned to EACC with directions to close.

5.0.3.27. ODP/CAM/015/5/418: NO. 27 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegation of inappropriate conduct by Second Secretary – Legal, Embassy of Kenya Stockholm Sweden in breach of the Constitution of Kenya, the Leadership and Integrity Act, by use of abusive language against a public officer.

Investigations by EACC established that an EACC investigator sent an email to the suspect who is based in the Kenya Embassy Sweden requesting further details to enable EACC process his request for approval to operate a foreign bank account. Investigations established that the officer instead of responding to the request sent an email back to the EACC officer using vulgar language. The suspect did not deny that he sent the abusive email to a public officer, but alleged that he thought the public officer was an internet fraudster and he mistook the request for a PIN number to be his bank PIN. Investigations established that the conduct of the suspect was in violation of the Leadership and Integrity Act, which requires that public officers treat other public officers and members of the public with courtesy and respect. His conduct amounted to breach of the General Leadership and Integrity Code, the Public Officer Ethics Act and the Ministry of Foreign Affairs (MFA) Code of Ethics.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 25th September, 2015 recommending that the matter be referred to the Public Service Commission (being the Responsible Commission) to take appropriate administrative action against the Second Secretary – Legal, Embassy of Kenya Stockholm Sweden for violations of Chapter Six of the Constitution and more particularly Sections 11 (b), 7 (1) and 24 of LIA, Section 9 (1) of the Public Officer Ethics Act, as well as breach of the Ministry of Foreign Affairs and

International Trade Staff Code of Conduct and Ethics, and the Code of Regulations for Civil Service.

Upon perusal of the file, the Director of Public Prosecutions found no criminal culpability on the part of the suspect and directed that the inquiry file be dealt with administratively.

Status

The file was forwarded to the Public Service Commission for administrative action to be taken.

5.0.3.28. ODPP/CAM/015/5/421: NO. 28 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegation of irregular allocation of Mwembe Tayari Public Market Block VXIII/MI/552 to private ownership by the Governor of Mombasa.

Investigation by EACC established that the Mwembe Tayari Market situated in property BLOCK XVIII/552 is a public property owned by the then Municipal Council of Mombasa. The same is currently managed by its successor the County Government of Mombasa. Investigations established that it was the top-roof of the said property that has been leased to the former Member of Parliament for East African Assembly and the businessman for a period of 99 years since 1996, for purposes of developing parking bay for their customers visiting their business centre (Nawal) adjacent to it. However, the parking bay is dormant due to the damages occasioned by fire in 2003. Investigations did not establish any irregularities in the leasing of the rooftop of the said market to warrant any action against the officials. However, the main concern that arose in relation to the property is the pending proposal by the lessees to renovate, reconstruct, and develop the market into a modern first class market after lawful approval variation of use of the said property from its original purpose. Negotiations between the traders, the lessees, and the Governor of Mombasa County Government are still ongoing. The investigation did not reveal any irregularities.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 30th September 2015 recommending that the inquiry file be closed.

Upon perusal of the file, the Director of Public Prosecution found gaps and deficiencies and directed EACC to conduct further investigations

Status

The file was returned to EACC with directions that further investigations be carried out.

5.0.3.29. ODPP/CAM/015/5/420: NO. 29 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of corruption during the National Police recruitment exercise on 14th July 2014 at Mukuyuni Centre Bungoma North Sub County.

Investigations by EACC established that all the recruitment exercise took place at DC's office which is in the same compound within Mukuyuni's Chief's Office. Whereas it was alleged that there were irregularities in the recruitment, the investigations did not reveal any. Investigations further revealed that Mukuyuni Centre was not in the list of the Centres whose recruitment exercise was annulled by the National Police Service Commission for irregularities during the 14th July, 2014 recruitment exercise.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 23rd September 2015 recommending that the inquiry file be closed.

Upon perusal of the file, the Director of Public prosecutions found that the evidence was insufficient to warrant prosecution and directed closure of the inquiry file.

Status

The DPP returned the inquiry file to EACC with directions to close.

5.0.3.30. ODPP/CAM/015/5/357: NO. 30 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of corruption against a Kenya Power and Lighting Staff.

Investigation by EACC established that the suspect solicited for a benefit of Kshs.50,000/- from the complainant as an inducement so as to forebear him from influencing an inflation of complainant's electricity bill to an arbitrary amount of Kshs.400,000/=. The suspect also accused the complainant of tapping power at his house thus leading to an erroneous meter reading. Investigations established that the suspect received a benefit.

A Report was compiled by EACC and forwarded to the Director of Public Prosecutions on 14th July, 2015 recommending that the suspect be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence insufficient to warrant prosecution and directed that the inquiry file be closed.

Status

The DPP returned the file to EACC with directions that the file be closed.

5.0.3.31. ODPP/CAM/015/5/366: NO. 31 EACC THIRD QUARTERLY REPORT

This was an inquiry into allegation of corruption against the Ag. Head of Supply Chain Management, Kilifi County and two others.

Investigations by EACC established that the suspect solicited for a benefit of Kshs.400, 000/- from the complainant as an inducement to increase the budget allocation of a tender awarded to the complainant. Investigations established that the suspect sent an agent to receive the benefit on his behalf and received a sum of Kshs. 200,000.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 20th July 2015, recommending that the suspect who is the Ag. Head of Procurement be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. The Commission further recommended that the charges against the agent and another already before court be withdrawn.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The Ag. Head of Procurement was charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. However case against the 3rd suspect was withdrawn as recommended by the EACC. The matter is part- heard.

5.0.3.32. ODPP/CAM/015/5/368: NO. 32 EACC THIRD QUARTERLY REPORT

This was an inquiry into allegation of corruption against an employee of the Ministry of Lands, Nakuru County.

Investigations by EACC established that the suspect solicited for a benefit of Kshs.3,000.00/- from the complainant as an inducement to facilitate the payment of land rates for Plot Number Dundori/Lanet Block 5/994 belonging to the complainant. Investigations established that the suspect received a benefit. A Report was compiled by EACC and forwarded to the Director of Prosecutions on 20th July, 2015, recommending that the suspect be charged with the offences

of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The suspect was charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. The case is pending in Court

5.0.3.33. ODPP/CAM/015/5/374: NO. 33 EACC THIRD QUARTERLY REPORT

This was an inquiry into allegations of corruption against the Members of land Control Board.

Investigations by EACC established that the suspects solicited for a benefit of Kshs.5, 5000/= from the complainant as an inducement to facilitate the issuance of consent to subdivide land parcel number; Nkuene/Ngonyi/1699. Investigations established that the suspects received a benefit.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 27th July, 2015, recommending that the suspects be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon perusal of the file; the Director of Public Prosecution found gaps and deficiencies in the investigations and directed that further investigations be carried out, along the identified areas.

Status

The file was returned to EACC with directions that further investigations be carried out along the identified areas.

5.0.3.34. ODPP/CAM/015/5/371: NO. 34 EACC THIRD QUARTERLY REPORT

This was an inquiry into allegations of corruption against Traffic Police Officers attached to Kendu Bay Traffic Sub-Base.

EACC carried out surveillance on several roads in Kisumu. Investigations established that Traffic Police Officers were captured on video clip as they received bribes from several motorists along the Kisumu-Homabay road.

Following the surveillance exercise, a sting operation was carried out and the Traffic officers were arrested. The EACC investigators recovered money from the officers, which was in small denominations.

A Report was compiled and forwarded to the Director of Public Prosecutions on 21st July, 2015 recommending that the suspects be charged with the offence dealing with suspect property contrary to section 47(1) as read with sections 47(2) (a) and 48(1) of the Anti-Corruption and Economic Crimes Act, 2003

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution of the officers and directed prosecution to ensue.

Status

The suspects were charged with the offence dealing with suspect property contrary to section 47(1) as read with sections 47(2) (a) and 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. The case is pending in Court.

5.0.3.35. CR.313/174/2015: NO. 35 EACC THIRD QUARTERLY REPORT

This was an inquiry into allegation of corruption against a Labour Officer in Malindi.

Investigations by EACC established that the suspect solicited for a benefit of Kshs.20, 000/= from the complainant as an inducement in order to issue him with a labour inspection report. Investigations established that the suspect received a benefit.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 23rd July, 2015, recommending that the suspect be charged with the offences of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003, forgery contrary to section 34(d) (i) as read with section 349 of the Penal Code and uttering false document contrary to Section 353 as read with section 349 of the Penal Code.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and accepted directed prosecution to ensue against the suspect.

Status

The suspect was charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003, forgery contrary to section 34(d) (i) as read with section 349 of the Penal Code and uttering false document contrary to

Section 353 as read with section 349 of the Penal Code. The case is pending in Court.

5.0.3.36. CR.975/08/2015: NO. 36 EACC THIRD QUARTERLY REPORT

This was an inquiry into allegation of corruption against an Assistant Chief of Munyuki Sub-Location Lugari Sub County.

Investigations by EACC established that the suspect solicited for a benefit of Kshs.300/= from the complainant as an inducement to sign the Identification Application Form for the complainant. Investigations established that the suspect received a benefit.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 23rd July, 2015, recommending that the suspect be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003 and the case before court proceeds to its logical conclusion.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The suspect was charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003 and the case before court proceeds to its logical conclusion. The case is part heard in Court

5.0.3.37. EACC.CR.781/200/2015: NO. 37 EACC THIRD QUARTERLY REPORT

This was an inquiry into allegations of corruption against a Quality and Standards Assurance Officer at the Ministry of Education, Science and Technology.

Investigations by EACC established that the suspect solicited for a benefit of Kshs.5, 000/= from the complainant as an inducement to facilitate preparation of a favorable inspection report on an assessment he was to undertake at Olkiriane Secondary School. Investigations established that the suspect received a benefit.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 17th July, 2015, recommending that the suspect be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section.48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The suspect was charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. The case is pending in Court.

5.0.3.38. CR.032/10/2015 CF.01/2015: NO. 38 EACC THIRD QUARTERLY REPORT

This was an inquiry into allegations of corruption against Police Officers attached to the Kondele Traffic Sub Base, Kisumu Town.

EACC carried out surveillance on several roads in Kisumu. Investigations established that Traffic Police Officers were captured on video clip as they received bribes from several motorists along the Kondele road. Following the surveillance exercise, a sting operation was carried out and the Traffic officers were arrested. The EACC investigators recovered money from the officers, which was in small denominations. During the exercise, one of the suspects threatened one of the EACC Investigators for and threatened to use his position as a police officer to get back at the investigator.

A Report was compiled by EACC and forwarded to Director of Public Prosecutions on 20th July, 2015 with recommendation that the suspects be charged with the offence of dealing with suspect property contrary to section 47(1) as read with sections 47(2) (a) and 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; and the suspect who threatened the EACC investigator be charged with the offence of threatening to kill contrary to section 223 (1) of the Penal Code Cap 63 Laws of Kenya.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The suspects were charged with the offence of dealing with suspect property contrary to section 47(1) as read with sections 47(2) (a) and 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; and the suspect who threatened the EACC investigator was charged with the offence of threatening to kill contrary to section 223 (1) of the Penal Code Cap 63 Laws of Kenya. The case pending in Court

5.0.3.39. CR.212/24/2015: NO. 39 EACC THIRD QUARTERLY REPORT

This was an inquiry into allegations of corruption against employees of Kenya Power and Lighting Company.

Investigations established that the suspects solicited for a benefit of Kshs.4, 000/= from the complainant as an inducement to facilitate the reconnection of electricity power which had been disconnected. Investigations established that the suspects received a benefit.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 4th August, 2015, recommending that the suspects be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of; and the case pending before court proceeds to its logical conclusion.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The suspects were charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of; and the case is pending before court.

5.0.3.40. ODPP/CAM/015/5/377: NO. 40 EACC THIRD QUARTERLY REPORT

This was an inquiry into allegation of corruption against a Traffic Police Officer at Nyali Police Station.

Investigations by EACC established that the suspect solicited for a benefit of Kshs.1, 000/= from the complainant as an inducement to release the driving license he had confiscated from the complainant. Investigations established that the suspect received a benefit.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 4th August, 2015, recommending that the case pending before court proceed to its logical conclusion.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The suspect was charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. The case is pending in Court.

5.0.3.41. ODPP/CAM/015/5/380: NO. 41 EACC THIRD QUARTERLY REPORT

This was an inquiry into allegation of corruption against Traffic Police Officers attached to Railways Police Station.

EACC after receiving numerous complaints of traffic officers receiving bribes from motorists carried out surveillance on various roads in Nakuru. Investigations established that the suspects solicited for a benefit of between Kshs.50/- and Kshs.1, 000/= from the motorists allegedly for various traffic offences. A sting operation was carried out and the suspects were arrested. Money was recovered from them including notes that had been marked by EACC and which had been given to motorists on the road. Investigations established that the suspects received a benefit.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 10th August 2015, recommending that the suspects be charged with the offence of dealing with suspect property contrary to section 47 of the Anti-Corruption and Economic Crimes Act, 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspects.

Status

The suspects be charged with the offence of dealing with suspect property contrary to section 47 of the Anti- Corruption and Economic Crimes Act, 2003. The case is part- heard.

5.0.3.42. ODPP/CAM/015/5/398: NO. 42 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of corruption against an employee of Kenya Power.

Investigations by EACC established that the suspect solicited for a benefit of Kshs.20, 000/= from the complainant as an inducement to facilitate the reconnection of power supply to his premises. Investigations established that the suspect received a benefit of Kshs. 10,000.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 24th August 2015, recommending that the case pending before court proceed to its logical conclusion.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed that the matter proceeds to its logical conclusion.

Status

The suspect was charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. The case is ongoing.

5.0.3.43. EACC/MLD/RP/INQ/03/15: NO. 43 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of corruption against a Prison Warden attached to Malindi Prison.

Investigations by EACC established that the suspect solicited for a benefit of Kshs.200/= from the complainant as an inducement to release his motorcycle which had been detained. Investigations established that the suspect received a benefit.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 26th August 2015, recommending that the case pending before court proceed to its logical conclusion.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed that the case proceed to its logical conclusion.

Status

The suspect was charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. The case is pending in Court

5.0.3.44. EACC/CR.021/14/2015: NO. 44 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of corruption against lands Demarcation Officer at Mariakani Lands and Settlement Office.

Investigations by EACC established that the suspect solicited for a benefit of Kshs.15,000/= from the complainant as an inducement to facilitate her to file grounds of appeal in a land matter that was ruled against her and also to lobby members of the Appeal Board to rule in her favour. Investigations established that the suspect received a benefit.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 27th August, 2015, recommending that the suspect be charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The suspect was charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. The case is pending in Court

5.0.3.45. EACC/CR NO.021/17/2015: NO. 45 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of corruption against a Public Officer, Mombasa County.

Investigations by EACC established that the suspect solicited for a benefit of Kshs.10, 000/= from the complainant as an inducement to allow him to operate a medical clinic without a license. Investigations established that the suspect received a benefit.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 3rd September, 2015, recommending that the suspect be charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The suspect was charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. The case is pending in Court.

5.0.3.46. EACC/MLD/RP/INQ/06/2015: NO. 46 EACC THIRD QUARTERLY REPORT

This is an Inquiry into allegations of corruption against the officers from Civil Registration Office, Malindi.

Investigations by EACC established that the suspects solicited for a benefit of Kshs.5, 000/= from the complainant as an inducement to issue the complainant

with her son's birth certificate. Investigations established that the suspects received a benefit.

A Report was compiled and forwarded to the Director of Prosecutions on 4th September, 2015, recommending that the suspects be charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The suspect was charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. The case is pending in Court

5.0.3.47. ODPP/CAM/015/5/407: NO. 47 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of corruption against Police Constables attached at Githongo Police Station in Meru County.

Investigations by EACC established that the suspects solicited for a benefit of Kshs.5, 000/= from the complainant as an inducement to release the complainant's motor cycle. Investigations established that the suspects received a benefit.

A Report was compiled and forwarded to the Director of Prosecutions on 4th September, 2015, recommending that the suspects be charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. The Commission recommends also that the case pending in Court proceed to its logical conclusion.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The suspect was charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. The case is ongoing.

5.0.3.48. ODPP/CAM/015/5/406: NO. 48 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of corruption against the Member of the County Assembly Elwak Ward, Mandera County.

Investigations by EACC established that the suspect offered the complainant a benefit of Kshs.150, 000/= as an inducement to facilitate the release of his brother who had been arrested for being in unlawful possession of ammunition. The suspect did not however give the bribe that he had offered.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 4th September, 2015, recommending that the suspect be charged with the offence of offering a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed that the suspects be charged with the recommended charges.

Status

The suspect was charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. The case is ongoing.

5.0.3.49. EACC/CR.148/14/2015: NO. 49 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of corruption against the Acting Ward Administrator, Makadara Ward in Nairobi County.

Investigations established that the suspect solicited for a benefit of Kshs.60,000/= from the complainant as an inducement so as not to burn her 40 feet container, and to also allow her to continue operating shops in the said container, which is situated at the Buru Church of God compound. Investigations established that the suspect received a benefit.

A

Report was compiled by EACC and forwarded to the Director of Prosecutions on 8th September, 2015, recommending that the suspect be charged with the offence of corruptly soliciting for a benefit contrary to section 39 and section 47A of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The suspect was charged with the offence of corruptly soliciting for a benefit contrary to section 39 and section 47A of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. The case pending in Court

5.0.3.50. EACC/CR.831/383/2015: NO. 50 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegation of corruption against a Customer Care Officer at the Kenya Revenue Authority Eldoret Office.

Investigations by EACC established that the suspect solicited for a benefit of Kshs.500/= from the complainant as an inducement so as to give the complainant e-return acknowledgement receipt and his P9 form that he had retained after assisting him to file tax returns. Investigations established that the suspect received a benefit.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 16th September, 2015, recommending that the suspect be charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The suspect was charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. The case is part heard in court.

5.0.3.51. EACC CR.145/256/2015: NO. 51 EACC THIRD QUARTERLY REPORT

This was an Inquiry into allegations of corruption against a Court Executive Officer at the Milimani Law Courts.

Investigations by EACC established that the suspect solicited for a benefit of Kshs.2, 000/= from the complainant as an inducement to retrieve her Succession Case court file for purposes of fixing a hearing date. Investigations established that the suspect received a benefit.

A Report was compiled by EACC and forwarded to the Director of Prosecutions on 18th September, 2015, recommending that the suspect be charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed that the accused be charged with the recommended charges.

Status

The suspect was charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. The case is pending in court.

5.0.3.52. EACC/CR.432/216/2015: NO. 52 EACC THIRD QUARTERLY REPORT

This is an inquiry into allegations of corruption against an Engineer with China Roads and Bridges Corporation constructing the Standard Gauge Railway.

Investigations by EACC established that the suspect offered a benefit of Kshs.100,000/= to the complainant as an inducement so as to forbear charging the Engineer with China Roads and Bridges Corporation with the offence of carrying excess load.

A Report was compiled and forwarded to the Director of Prosecutions on 21st September, 2015, recommending that the suspect be charged with the offence of corruptly offering and giving a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

Upon Perusal of the file, the Director of Public prosecutions found the evidence sufficient to warrant prosecution and directed prosecution to ensue against the suspect.

Status

The suspect was charged with the offence of corruptly offering and giving a benefit contrary to section 39 (3) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. The case is pending in court.

5.0.4. THE FOURTH (4TH) QUARTER OF THE YEAR - 1STOCTOBER TO 31ST DECEMBER, 2015

5.0.4.1. EACC/NYR/FI/INQ/02/2015: No. 1 EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of abuse of office and failure to follow procurement laws in respect of consultancy services for review of liabilities of coffee farmers.

Investigations by EACC established that the County Government of Nyeri, JKUAT and JKUATES prepared an MOU which became the first official document and which was signed on 17/6/2014 a day after the CES-Finance and Economic Planning Officer's advice by Governor and County Secretary for Nyeri County Government, Vice Chancellor JKUAT and the Managing Director of JKUATES. As per the MOU, the agreement was between County Government of Nyeri and JKUATES. It is further alleged that the CES-Agriculture tabled a proposal by JKUATES to the Executive committee chaired by the Governor, to conduct audit/inquiry at the proposed cost of Kshs.5, 975,000/= excluding VAT for 40 days. Investigations established that the County Government single sourced consultancy of audit services for review of liabilities of coffee farmers from Jomo Kenya University of Agriculture and Technology Enterprises Ltd (JKUATES) a private Company fully owned by JKUAT without adhering to the applicable provisions of Procurement Act and the Regulations. This was on the basis that the said engagement was exempt from procurement rules being a contract between Government to Government under section 4(2) (c) of the Public Procurement and Disposals Act 2005 (PPDA).

The Executive resolved that the investigative audit be done by JKUATES subject to agreement on fees and that the terms of reference (TORs) for engagement be reviewed to ensure its comprehensive by the CES-Agriculture and Lead Advisor. Further, the relevant ExCom sub-committee unanimously approved JKUATES professional fees of Kshs.22, 500,000/=, facilitative fees of Kshs.3, 982,000/= and VAT of Kshs.3, 600,000/= in a meeting. This figure was inflated considering that there was no competitive procurement. Investigations established that the CES-Finance and in-charge of procurement, Acting Chief Officer Finance and Chief Officer – Agriculture as accounting officers authorized the payment of Kshs.3,982,000/= to JKUATES with a balance of Kshs.22,500,000/=. As per contract agreement signed a balance of Kshs.22, 500,000/= being professional fees remain outstanding. Investigations established that this approval of the professional fees for the benefit of JKUATES was irregular. This irregular illegal approval of fees by Executive Secretary-Agriculture and the subsequent contract agreement entered into on behalf of Nyeri County Government occasioned the county government a loss of Kshs.3,982,000/= and may occasion a further loss of Kshs.22,500,000/= given the inflated pricing and the lack of clear understanding by both parties on alleged government to government contracting.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 5th October, 2015 recommending that the Executive Secretary – Agriculture and Chief Officer- Agriculture be charged jointly with the offence of abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act No.3 of 2003.

Upon perusal of the file, the Director of Public Prosecutions found that there were gaps and deficiencies in the investigations and directed that the file be returned for further investigations.

Status

The inquiry file was returned to EACC with directions that further investigations be conducted along the identified areas.

5.0.4.2. EACC/FI/INQ/75/2014: No. 2 EACC FOURTH QUARTER REPORT

This was an Inquiry into allegations of financial irregularities against former Speaker, Kiambu County Assembly.

Investigations by EACC established that the Supplementary Estimates I on Recurrent and Development Expenditure for the year 2013/2014 for the County Government of Kiambu had made provision for the Office of the Speaker for Foreign Travel and Subsistence and other transport costs for the sum of Kshs.3,100,000/=. The Speaker of the County Assembly of Kiambu traveled to Brazil on 30th November, 2013 and returned on 4th December, 2013 to participate in the Law Society of Kenya retreat organized for its members. The payment for the out of pocket allowance was calculated and made to cater for the Eight (8) days the he was to be away in Brazil. It was done on the understanding that he would stay for the entire period. However, he only stayed for four (4) days because he returned on 4th December, 2013 instead of 8th December, 2013. He was thus required to surrender out of pocket allowance equivalent to the Four (4) days that he did not stay in Brazil. The out of pocket allowance was given to the Former Speaker of Kiambu County Assembly was for the sum of Kshs.65, 816 and the amount which would have been surrendered was Kshs.32, 908. Investigations revealed that the Speaker did not refund the amount for the period that he did not stay in Brazil.

The failure to surrender the said imprest issued to him was tantamount to an administrative flaw with the repercussions of a surcharge of the amount owing since it would be considered as a late surrender beyond the stipulated Forty Eight (48) hour period.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 10th October, 2015 recommending the closure of the inquiry file and that recovery proceedings commence for the sum of Kshs.32, 908 from the former Speaker of

the Kiambu County Assembly being the amount of money not surrendered after the trip to Brazil for the LSK annual retreat of 2013.

Upon perusal of the file, the Director of Public Prosecutions found no sufficient evidence to warrant of prosecution and directed that the file be returned for closure as recommended and for closure and recovery of the un-surrendered imprest.

Status

The file was returned to EACC with directions to close.

5.0.4.3. EACC/MSA/FI/INQ/03/15: No. 3 EACC FOURTH QUARTER REPORT

This was an inquiry into a complaint that a Senior Principal Magistrate at the Mombasa Law Courts irregularly gave bond to persons accused of drug trafficking.

Investigations by EACC established that the Magistrate approved the sureties in a drug related case without the involvement of the Prosecution Counsel. Being a judicial function, it was mandatory that the Magistrate approve the sureties in the presence of both the prosecution and the defence counsel. The Senior Magistrate's conduct in handling the matter raised suspicions that he may have been corrupted and the approval of sureties and issuance of the Release Order was irregular. This action by the Magistrate was however revoked by the High Court which ordered that due process be followed in the approval of the sureties and subsequent issuance of a Release Order. The Magistrate did not exercise the highest standards or professionalism and this led to the credibility of his decisions being put to question. However, investigations did not establish any corrupt conduct on the part of the Magistrate. Nonetheless, he failed to conduct the affairs of his office in a transparent and accountable manner. This was in breach of Article 10(2) (c) of the Constitution, 2010 and Section 10 (b) of the Leadership and Integrity Act, 2012 which requires that state and/or public officers to carry out their duties while ensuring good governance, integrity, transparency and accountability in the performance of those duties.

The Judicial officer was also in breach of Section 11 (a), (b) and (e) of the said Act, requiring him to carry out the duties of his office in a manner that maintains public confidence in the integrity of the office, maintaining of high standards of performance and professionalism within the Judiciary as well all observing and sustaining to the code of conduct of the Judiciary.

EACC compiled and forwarded a report to Director of Public Prosecutions on 12th October, 2015 with recommendation that the Judicial Service Commission takes administrative action against a Magistrate in Mombasa Law Courts.

Upon perusal of the file, the Director of Public Prosecutions found that there was insufficient evidence to warrant prosecution and rejected the recommendation for administrative action and instead directed that the inquiry file be closed.

Status

The file was returned to EACC with directions that the inquiry file be closed.

5.0.4.4. EACC/FI/INQ/81/2015: No. 4. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations that the Secretary to the Cabinet allocated himself and close relatives thirty one (31) Government Vehicles

Investigations by EACC established that the suspect was the former Permanent Secretary of Provincial Administration and Internal Security, and later became the Secretary to the Cabinet. Investigations established that as he was changing the offices, he moved with some vehicles which were later returned to the Ministry of Internal Security. Further investigations revealed that in the office of the Secretary to the Cabinet the suspect had officially been allocated only 6 vehicles and he would use two vehicles at a time and other vehicles would be parked in the official parking. Investigations also revealed that upon visiting his various homes, there was no evidence of use of the Government vehicles. Investigations did not establish that the Secretary to the Cabinet in abuse of his office allocated himself and his relatives Government vehicles as alleged. No culpability was established on his part.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 15th October, 2015 recommending closure of the file. Upon perusal of the file, the Director of Public Prosecutions found that there was insufficient evidence to warrant the prosecution of the suspect and directed that the file be closed.

Status

The inquiry file was returned to EACC with instructions that the file be closed.

5.0.4.5. EACC/FI/INQ/23/2015: No. 5. EACC FOURTH QUARTER REPORT

This was an Inquiry into allegations of irregular procurement of rig move services at Geothermal Development Company in the financial year 2012/2013.

Investigations by EACC revealed that Geothermal Development Company (GDC) a state owned company formed by the Government as a special Purpose Vehicle to fast track the development of geothermal resources in the country; in the financial Year 2010/2011, entered into a contract with a Clearing and Forwarding company for rig Move Services, at a cost of Kshs.19, 550,000 per Rig move. Investigations established that in the F/Y 2012/2013, GDC again procured the same services from the same company at a cost of Kshs:42, 746,000 per Rig

move after a competitive procurement process. This price of Kshs.42, 746,000 per rig move offered by GDC in the F/Y 2012/2013 was very high and more than 100% increase from the previous year. In the F/Y 2013/2014 Kenya Generating Company Limited (KENGEN) had contracted the same services from the same company at a cost of Kshs.20, 253,660 per Rig Move. Whereas during the evaluation process the issue of the high bid price by the said company as compared with other bidders was raised, the Tender Committee did not take this into consideration. The price offered by the company awarded the contract for the rig move services was not guided by the prevailing market rates and as such the Government never got value for its money.

EACC prepared and forwarded a report to the Director of Prosecutions on 28th October, 2015 recommending prosecution of the Managing Director and members of the Tender Committee with the offences of abuse of office contrary to section 46, willful failure to comply with the law relating to procurement contrary to section 45(2) (b) of the Anti- Corruption and Economic Crimes Act, 2003. It was also recommended that the accused persons be charged with abuse of office contrary to section 46 of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to support the proposed charges and directed that the accused persons be arraigned in court.

Status

The suspects were charged with the offence of abuse of office contrary to section 46, willful failure to comply with the law relating to procurement contrary to section 45(2) (b) of the Anti- Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.6. EACC/NKR/INQ/FI/27/2015: No. 6. EACC FOURTH QUARTER REPORT

This was an inquiry into allegation of corruption in the procurement procedures against Bomet county government officials in the leasing of ambulance services from KRCS – emergency plus medical services Ltd.

Investigations by EACC established that the County Executive committee, chaired by the Hon. Governor met and approved a proposal from the Executive Committee Member in charge of Health and sanitation to lease ambulance services. This was a deviation from the initial budgetary appropriation for purchasing. Investigations further revealed that without approval of the County Assembly, the process of leasing of the ambulances services was initiated contrary to the appropriation legislation. The Executive committee Member in charge of Health and Sanitation illegally used direct tendering process which was

also endorsed by the Tender committee without sufficient basis as provided in the Public Procurement and Disposal Act.

Investigations further revealed that the Chief Financial Officer who is the Accounting Officer requisitioned from Exchequer Account, Kshs.24 million for the purchase of ambulances and paid a sum of Kshs.12, 031,612.61 for the leased ambulance services. Investigations further revealed that out of Kshs.24 million, Kshs.7, 545,638.00 was not accounted for.

EACC prepared and forwarded a report to the Director of Public prosecutions on 28th October, 2015 recommending prosecution of the suspects.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence and directed that the accused persons be charged with the offences of abuse of office contrary to section 46 of the Anti- Corruption and Economic Crimes Act, 2003 willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) of the ACECA among other charges.

Status

The suspects were charged with abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2003 willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) of the ACECA among other charges. The matter is ongoing.

5:0.4.7. EACC/FI/INQ/59/2015: No. 7 EACC FOURTH QUARTER REPORT

This was an inquiry into allegation of irregular payment of kshs.30 million to Redline limited by Kenya Pipeline Company through their account domiciled at Commercial Bank of Africa for the supply, installation and commissioning of three autotransformers procured from AGECELEC Industry of France.

Investigations by EACC revealed that Kenya Pipeline Corporation (KPC) procured autotransformers from M/s AGECELEC INDUSTRIE of France (AIF) through the local agent, M/s Redline Limited. Redline Ltd., the agent of AIF entrusted with the duty of performing this contract, only delivered the autotransformers but never installed any autotransformer as per the negotiated agreement. Investigations further revealed the procurement was done through direct procurement. Upon award of the contract, the Managing Director who was the Accounting Officer failed to enter into a written contract with Redline. This was in contravention of Section 75 of the Public Procurement and Disposal Act which required that all contracts arising from direct procurement must be in writing. Investigations further established that whereas the company awarded the contract was required to supply, install and commission the auto transformers, it only supplied the same. This notwithstanding, the company was paid the full contract price. The Company thus received a sum of Euros 8,695.65 for services not rendered.

Investigations also established that the company received the full contract price with the full knowledge that it had not rendered the services in full.

EACC compiled and forwarded a report to Director of Public Prosecutions on 28th October 2015 with recommendation to prosecute the Managing Director, KPC, the members of the Tender Committee and Redline Ltd with the offences of abuse of office contrary to section 46 of the Anti- Corruption and Economic Crimes Act, 2003 Willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) of the ACECA, Redline Ltd to be charged with the offence of fraudulent acquisition of public property contrary to section 45 (2) (a) of the ACECA. The Commission also instituted recovery proceedings against Redline Ltd for receiving payment from KPC for services not fully rendered.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to support the recommended charges and directed that the accused persons be charged with abuse of office contrary to section 46 of the Anti- Corruption and Economic Crimes Act, 2003 willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) of the ACECA and fraudulent acquisition of public property contrary to section 45 (2) (a) of the ACECA.

Status

The suspects were charged with the offences of abuse of office contrary to section 46 of the Anti- Corruption and Economic Crimes Act, 2003 willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) of the ACECA and fraudulent acquisition of public property contrary to section 45 (2) (a) of the ACECA. The case is ongoing in court.

5.0.4.8. EACC/FI/47/2015: No. 8. EACC FOURTH QUARTER REPORT

This was Inquiry into allegations of procurement irregularities in the purchase of land by National Housing Corporation from Bangal Trading Company

Investigations by EACC commenced after receipt of an anonymous report that that the National housing Corporation (NHC) stands to lose over Kshs.300 million if a land purchase transaction entered into with M/s Bangal Trading Company goes through. It was alleged that, whereas the 9.8 acre land in Imara Daima that NHC intended to purchase was valued at Kshs.493,000,000/= the vendor was disposing it to NHC at an exorbitant price of Kshs.790,000,000/=-. Investigations further established that the NHC Tender Committee had advertised for the purchase of land. However, when they failed to identify a suitable parcel, a re-advertisement was made.

Investigations established that after re-advertisement the bids submitted were evaluated. At the preliminary evaluation stage, none of interested sellers met all

the requirements set out in the Tender. Another evaluation was conducted and an addendum report was submitted to the Tender Committee. The Tender Evaluation Committee recommended that the Tender Committee considers the parcel of land offered by M/s Bangal Trading Company Limited. Due diligence was carried out on 4 companies and a report submitted.

The Tender Committee directed that due diligence on M/s Bangal Trading Company Limited be subject to 9 specific areas. A further evaluation by the Evaluation Committee titled "resubmission of the third addendum report" recommended that the Tender Committee considers and approves procurement of the parcel offered by M/s Bangal Trading Company. Investigations revealed that after due diligence was again sought and after it was established that there were court proceedings relating to the identified parcel of land, there was an exchange of several communication between the lawyers for the seller and NHC. Ultimately, the seller pulled out of the deal and thus NHC did not buy and pay for the parcel of land in question

A report was prepared and forwarded by EACC to the Director of Public Prosecution recommending closure of the inquiry file since there was no sufficient evidence to warrant a prosecution.

Upon perusal of the file, the Director of Public Prosecutions found gaps and deficiencies in the investigations and directed that the file be returned for further investigations.

Status

The file was returned to EACC with directions to conduct further investigations along the identified areas and resubmit.

5.0.4.9. EACC/MLD/FI/INQ/06/15: No. 9. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations that the Tana River county assembly deputy clerk influenced the procurement process in the award of a tender to Galecha Construction Company by the Tana River county government.

Investigations by EACC established that County Assembly Deputy Clerk was a Director of the said company at its registration but ceased directorship upon his appointment by the County Government. It was alleged that the Deputy Clerk, Tana River County Assembly had influenced the tender committee to award tender for spot improvement of DC's office road to a company associated with him.

Investigations revealed that contrary to the allegations made against the Deputy Clerk, Tana River County Assembly, he did not influence the award of the tender; neither was there any conflict of interest on his part to warrant any action against

him.

EACC compiled a report and forwarded to the Director of Public Prosecutions on 5th November, 2015 with recommendation for closure of the file.

Upon perusal, the Director of Public Prosecutions found that there was insufficient evidence to warrant prosecution of the suspect and directed that the file be closed.

Status

The file was returned to EACC with directions to close.

5.0.4.10. EACC/NYR/FI/INQ/05/2014: No. 10. EACC FOURTH QUARTER REPORT

This was an Inquiry into allegations of irregular procurement of works on rehabilitation of Baraza Park by Isiolo County Government.

Investigations by EACC revealed that the Isiolo County Government made a Tender Notice for prequalification for supply and delivery of goods, works, consultancies and services for the Baraza Park. The Park was to act as a recreation facility, generate revenue for the County and also act as a Citizen Service Centre.

Investigations established that Item No. ICG38/2013/2014 was prequalification of contractors for building and civil works. There were both typed and handwritten minutes for the tender Opening Meeting held on 17th July 2013. The two minutes had different and contradicting analysis in regard to the companies that tendered their documents. Some members of the Committee admitted that the number of firms kept on changing and refers to it as mix up and typing errors. The identification numbers were not assigned, required signatures and initials not put and other requirements overlooked, creating a big loophole that had a negative ripple effect on the entire process. Section 60 (4) of PPDA provides that the tender opening Committee shall assign an identification number to each tender. It also provides that each member of the tender committee shall sign each tender on one or more pages as determined by the tender opening committee.

Investigations further revealed that the public Procurement and Disposal Act was not followed and the whole process was marred with irregularities from the prequalification stage to the signing of the contract, most of the established committees did not follow the laid down procedures.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 3rd December, 2015 with recommendation to prosecute the suspects.

Upon perusal of the file the Director of Public Prosecutions found that there was need to await the outcome of a related case, "gunny bags sacks" in EACC/NYR/FI/INQ/08/2014

Status

The matter awaits the outcome of the final decision in EACC/NYR/FI/INQ/08/2014

5.0.4.11. CF.MSA ACC/15/2015: No.11. EACC FOURTH QUARTER REPORT

This was an Inquiry into allegations of corruption against the Member of County Assembly (MCA) for Shanzu Ward and County Executive Committee (CEC) in charge of lands Planning and Housing in Mombasa County Government

Investigations by EACC established that the suspects solicited for a benefit of Kshs.500, 000/- from the complainant as an inducement so as to solve the matter with the County Government regarding her plot which was alleged to have encroached on a road reserve.

Investigations established that the suspect received a benefit, but the same was not recovered since she concealed it. The MCA and another also obstructed the Commission officers in the course of duty.

EACC compiled and forwarded a Report to the Director of Public Prosecutions on 14th October, 2015, recommending that the suspects be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003, and obstruction contrary to section 66(1) (a) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act No.3 of 2003. It was further recommended that the Member of County Assembly, Mombasa County, Shanzu ward be charged separately with the offence of concealing evidence under section 66(1) (c) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon perusal of the file the Director of Public Prosecutions found sufficient evidence to warrant prosecution of the suspects and directed that the suspect be charged as recommended.

Status

The suspect was charged with the offence of concealing evidence under section 66(1) (c) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. The matter is ongoing.

5.0.4.12. EACC/FI/INQ. 45/2014: No. 12. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption and abuse of office against an Ag. Director, Assistant Director and Ag. In charge Permits, Immigration Services.

Investigations by EACC established that the Assistant Director and the Acting Officer in charge of permits, issued 52 notifications allegedly at the instructions of the Ag. Director of Immigration contract to section 40 of the Kenya Citizenship and Immigration Act 2011 and Section 7 of the Kenya Citizens and Foreign Nationals Management Act.

Investigations further established that the Assistant Director under the instructions of the Ag. Director of Immigration called Immigration Officers into a committee room and informed them to process as many permits as possible. The Assistant Director then asked the officers to pull out files in the Committee room with applicants belonging to big companies and government projects. These officers were not authorized to deal with vetting of applications for work permits.

The files were pulled out and the Assistant Director signed the proforma(s) purportedly as the chairman of the Permits Determination Committee and recommended them to the Ag. Director of Immigration. After signing of the proforma's by the Assistant Director, immigration officers issued notifications which were kept by the Assistant Director in order to hand them over to the Ag. Director.

Investigations further revealed that Section 40 (2) and (3) of the Kenya citizenship and Immigration Act, provides that an application for a permit shall be made to the Director and the Director shall issue a permit to the applicant who has satisfied the Committee that he has met the requirements of a particular class of permits. Investigations established that the two suspects were culpable for the unlawful issuance of the 52 work permits contrary to the Immigration Act.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 18th November, 2015 recommending that the two suspects be charged with the offence of abuse of office contrary to section 46 of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found that there was insufficient evidence to warrant a prosecution and directed that the inquiry file be closed.

Status

The inquiry file was returned to EACC with instructions that the file be closed.

5.0.4.13. EACC/FI/INQ/26/2015: No. 13. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of abuse of office by honourable Member of Parliament in respect of double payment of salary to an officer working at the Ruaraka Constituency Office.

Investigations by EACC revealed that the Member of Parliament for Ruaraka Constituency knowingly facilitated the employment of a Research Assistant at Ruaraka Constituency Office while he had knowledge that the said officer had already been employed as his Personal Assistant by the Parliamentary Service Commission. The MP being a Member of the Speaker's Panel of the National Assembly was entitled to a Personal Assistant.

Investigations established that as a result of these two parallel appointments, the officer was drawing two salaries. The investigations established that the MP was culpable for facilitating the officer to be on two salaried employments. The officer being a public officer was also culpable for receiving two salaries.

EACC compiled and forwarded a report to the Director of Public Prosecution on 10th December, 2015 recommending the prosecution of the MP with the offence of abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2003, and the officer with the offence of unlawful acquisition of public property contrary to section 45 (2) (a) of the Anti-Corruption and Economic Crimes Act, 2003

Upon perusal of the file, the Director of Public Prosecutions found that there was insufficient evidence to sustain a prosecution and rejected recommendation for prosecution and directed that the inquiry file be closed.

Status

The inquiry file was returned to EACC with instructions that the file be closed.

5.0.4.14. EACC/AT/INQ/21/2015: No. 14. EACC FOURTH QUARTER REPORT

This was an inquiry into allegation that a building (integrity centre) belonging to Trust Bank Limited was irregularly transferred to private entities to the detriment of the interest of depositors of Trust Bank Limited

Investigations by EACC revealed that a Limited Liability Company took a loan of Kshs.152.2 million from Trust Finance Bank Ltd. The Company used the loan to buy the building and used it as a security for the loan, in addition to some 2,500 shares held by Samir Trustees in trust for Trust Finance Ltd. Trust Finance Ltd (TFL) was a wholly owned subsidiary of Trust Bank Ltd (TBL).

Investigations further established that the Central Bank of Kenya (CBK) placed TBL under statutory management in 1998 and under liquidation of Depository Protection Fund Board (DPFB). Before then the TBL had acquired all liabilities and assets of the TFL including the liabilities and assets of company. Investigation further established that when the CBK took over the management of TBL there was no proper securitization of the loan advanced to company. TFL had just registered a caveat "claiming a chargee's interest absolutely". In the circumstances the statutory manager through the court process managed to perfect the charge over that property in favour of the TFL for the sum of Kshs.152,500,000.00. CBK thereafter appointed a receiver manager in order to collect rent from the building and remit the rent to TBL Account held at CBK towards settlement of the debt. The Receivers opened an account at Commercial Bank of Africa (CBA) in the name of company under receivership for purposes of managing the rent collections and disbursements to CBK.

It was established that DPFB tried to sell this property to a number of interested parties to no avail since the property was charged to TFL and not TBL hence the uncertainty as to the legitimacy of the DPFB as the liquidator of TBL in dealing in the subject property and the remaining lease period was too short.

Investigations also showed that the DPFB and the company entered into negotiations and finally reached settlement on the loan whereupon the TBL was allowed to pay back Kshs. 115 million as full and final settlement. The investigation did not establish culpability on the part of the officials of the DPFB in the aforesaid settlement to warrant any action against them.

EACC prepared and forwarded a report to Director of Public Prosecution on 11th December, 2015 recommending closure of the file with no further action.

Upon perusal of the file, the Director of Public Prosecutions found that there were gaps in the investigations and directed that the file be returned for further investigations.

Status

The inquiry file was returned to EACC with directions that further investigations be conducted along the identified areas and file be resubmitted.

5.0.4.15. EACC/FI/INQ/87/2014: No. 15. EACC FOURTH QUARTER REPORT

This was an inquiry into allegation that the County Government of Turkana awarded a contract to rehabilitate Lodwar-Napeikar-Moruese road at kshs.11,160,000/= whereas Kenya Rural Roads Authority (KERRA) had done similar work on the same road for kshs.1,190,160.00

Investigations by EACC revealed that in the financial year 2013/2014 Turkana County Government allocated a huge portion of its budget for the rehabilitation

of several roads within the County. One of the roads which was identified for rehabilitation and the contract awarded to a contractor was the 28km Lodwar-Napeikar-Moruese Road. Since it was alleged that the said contractor charged kshs.11, 160,000.00 compared to Kshs.1, 190,160.00 the Kenya Rural Roads Authority spent in the Financial Year 2011/2012 on the same road, the investigations sought to establish the veracity of the said allegation.

Investigations established that there was need for the grading and gravelling of the subject road and the budgetary allocation of kshs.11, 160,000.00 for the project was included in the budgetary estimates of the Ministry of Transport, Road, Housing and Public works for the Financial Year 2013-2014.

Investigations further established that the procuring entity commenced the procurement process by putting up a tender Notice inviting bidders for purposes of pre-qualification for the construction works. Several contractors were pre-qualified in the said category of construction works.

Investigations also established that the procuring entity awarded the contract for the construction of the aforementioned road to a contractor through restricted tendering. However, the approval of the Tender Committee was not obtained when this was done. This was in contravention of the Public Procurement and Disposal Act, 2005. Investigations further established that upon completion of the works, no Inspection and Acceptance Committee was constituted to inspect the road works to ascertain that they were done to the required specifications. Instead completion certificates were issued by two officers contrary to the PPDR. It was further established that the officer supervising the works was an employee of KERRA and did not have the authority to supervise the works. In addition, whereas he was a public officer he received a sum of kshs.106, 604/= from the County as supervision fees for the road project.

EACC compiled and forwarded a report to Director of Public Prosecution on 28th December, 2015 with recommendation that the CEC Roads, and the County Superintendent of works be charged with the offences of abuse of office, Unlawful acquisition of public property contrary to section 45 (2) (a) and the members of the Tender Committee be charged with the offence of willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) of the Anti- Corruption and Economic Crimes Act, 2003. The Commission will also institute recovery proceedings for the sum of kshs.106, 604/=.

Upon perusal of the file the Director of Public Prosecutions found sufficient evidence to warrant prosecution of the suspects and recommended that prosecution should ensue as recommended.

Status.

The suspects were charged with the offences of abuse of office, Unlawful acquisition of public property contrary to section 45 (2) (a) and the members of the Tender Committee be charged with the offence of willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) of the Anti-Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.16. EACC/MSA/INQ/FI/2/2015: No. 16. EACC FOURTH QUARTER REPORT

This was an inquiry into an allegation of bribery of kshs.1 million against KRA offices.

EACC commenced investigation after intelligence reports indicated that two Kenya Revenue Authority employees had received a bribe of Kshs. 1 million to allow unaccustomed sugar into the local market. Investigations established that indeed the sugar consignment was stored at a go down along the Mombasa-Malindi highway within the VOK area. Since it was alleged that the suspects had received the bribe and were going to bank it, the Commission investigators pursued them to the bank and arrested them. Investigation however revealed that the suspects were able to explain that the source of the money in their custody and which they were going to deposit in the bank was in regard to a land transaction. Investigations did not establish that the two suspects solicited for and received a benefit as reported.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 24th December, 2015 recommending closure of the file.

Upon perusal of the file, the Director of Public Prosecutions found insufficient evidence to warrant prosecution and directed that the file be returned for closure as recommended.

Status

The inquiry file was returned to EACC with directions that the file be closed.

5.0.4.17. EACC/FI/INQ/61/2013: No. 17 EACC FOURTH QUARTER REPORT

This was an Inquiry into allegations of embezzlement of 116 million for purchase of houses for prison officers from the Ministry of Housing.

EACC commenced investigations following an anonymous complaint against a Permanent Secretary in the Office of the former Vice President and Ministry of Home Affairs that among other things, that during his tenure funds amounting to Kshs.116 million meant for the construction of One Hundred and Twenty (120) housing units to house Prison Officers were embezzled and or misappropriated. Investigations established that in deed the said sum was allocated for

construction of residential houses for warders at the Langata Prison. The houses were constructed, but were not occupied by the Prison Warders. Instead, they were taken over by the NHC. At the time the former PS was appointed to the said docket the project had already been initiated and completed.

Investigations by EACC established that the then Permanent Secretary made several attempts to have the NHC refund the money that the Ministry of Home Affairs had paid towards the housing the project but he did not succeed. By the time he left the Ministry, the money had not been received back.

The investigations did not establish that the PS had misappropriated and or embezzled the funds set aside for the purchase of the housing units as alleged. No culpability was established on his part to warrant any action against him.

EACC compiled a report and forwarded to the Director of Public Prosecution on 15th December, 2015 recommending closure of the file for lack of evidence.

Upon perusal of the file the Director of Public Prosecutions found gaps and deficiencies in the investigations and directed that the file be returned for further investigations.

Status

The inquiry file was returned to EACC with directions that further investigations be conducted.

5.0.4.18. EACC 6/27/2 VOL IX(141): No. 18 EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption against a Quantity Surveyor from the Ministry of Lands, Housing and Urban Development.

Investigations by EACC established that the suspect solicited for a benefit of Kshs.350, 000/- from the complainant as an inducement to release the final Valuation Certificate for the construction of a School Clinic and Laboratory in Kisumu Polytechnic. Investigations further established that the suspect received a benefit.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 19th October, 2015 recommending that the suspect be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon perusal of the file the Director of Public Prosecution found that there was sufficient evidence to warrant prosecution and accepted the recommendation for prosecution.

Status

The suspect was charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes. The matter is ongoing.

5.0.4.19. EACC/MKS/OPS/3/2015: No. 19 EACC FOURTH QUARTER REPORT

This was an inquiry into allegation of corruption against Traffic Police Officers along Nairobi-Mombasa Road.

Investigations by EACC established following numerous reports from members of the public that traffic police officers along Mombasa-Nairobi Road were engaging in corruption. It was alleged that traffic police officers along that road were demanding and receiving bribes from Public Service Vehicles (PSV) operators and private motorists. EACC organized a surveillance operation in the months of December, 2014, March, July and August, 2015 and took video recording of traffic Police Officers receiving bribes. Consequently a sting operation was carried out.

During the sting operation some of the traffic officers were nabbed having received bribes. However, they escaped from lawful custody of Ethics and Anti-Corruption Commission Officers.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 22nd October, 2015 recommending prosecution of the suspect.

Upon perusal of the file the Director of Public Prosecutions found that there were gaps in the investigations and directed that the file be returned for further investigations along the identified areas.

Status

The inquiry file was returned to EACC with directions that further investigations be conducted.

5.0.4.20. CR.021/32/2015 CF. MSA: No. 20. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption against a probation officer at Kwale Probation Office.

Investigations by EACC revealed that the accused, who is a Probation Officer at Kwale Probation Office corruptly solicited for and received a benefit of Kshs.5,000/- as an inducement to submit an unfavorable Community Service Order report concerning a criminal case where the complainant's nephew was charged with the offence of creating disturbance.

EACC compiled and forwarded a report to Director of Public Prosecutions on 22nd October, 2015 with recommendation to prosecute the accused for offences of corruptly soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes.

Upon perusal of the file the Director of Public Prosecution found that there was sufficient evidence to warrant prosecution directed that the accused be charged with the recommended charges.

Status

The suspect was charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes. The matter is ongoing.

5.0.4.21. EACC CR.741/218/2015 NAKURU: No. 21 EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption against a resident magistrate and a court interpreter, Kericho law courts.

Investigations by EACC established that the suspects who were employees of the Judiciary corruptly solicited for and received a benefit of Kshs.20, 000/= as an inducement to acquit the accused in a case pending in Kericho Law court in which he was accused of operating a bar without a license and failure to display signs contrary to read Alcoholic Drinks control Act No. 4 of 2010.

EACC prepared and forwarded a report to Director of Public Prosecutions on 28th October, 2015, recommending prosecution of the suspects with the offences of corruptly soliciting for and receiving a benefit contrary to section 39(3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecution found that there was sufficient evidence to warrant prosecution and directed that the accused be charged with the proposed charges.

Status

The suspect was charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.22. CR.44D/54/2015 MACHAKOS: No. 22. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption offences against two traffic police officers along Nairobi-Machakos Road.

Investigations by EACC revealed that the accused are Traffic Police Officers attached to Machakos. They were accused of harassment of motorists, soliciting and receiving bribes along Nairobi-Machakos road and along Nairobi-Mombasa road. During a trap operation by the Ethics and Anti-Corruption Commission, the officers were found in possession of Kshs.4, 850 and Kshs.2, 600. Some of this money was marked money by the Commission which had been given to undercover operatives for onward transmission to the officers.

EACC prepared and forwarded a report to the Director of Public Prosecutions on 2nd November, 2015 recommending prosecution of the suspects with the offence of dealing with suspect property contrary to section 47(1) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed that the accused be charged with the recommended charges.

Status

The suspect was charged with the offence of dealing with suspect property contrary to section 47(1) of the Anti-Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.23. EACC/NRK/1/2015: No. 23 EACC FOURTH QUARTER REPORT

This was an inquiry into allegation of corruption against two (2) police officers attached to Bahati Police Station, Nakuru.

Investigations by EACC revealed that the suspects all Police Officers, were employees of the National Police Service (NPS) based at Bahati Police Station, Nakuru. Investigations established that on diverse dates between 15th and 18th January 2015, at Bahati Police Station, in Nakuru Town, within Nakuru County, the accused, OCS and an Inspector of Police respectively; jointly detained suspects for more than 24 hours and failed to release them on bond or bail, as they were bound by law to do. Investigation also revealed that one of the suspect's was soliciting for a benefit of Kshs.30, 000/= as an inducement to facilitate the release of one of the persons who was arrested. Investigations also established that the two suspects and others failed to book those they had detained in the Occurrence Book. When EACC investigators went to the Bahati Police station to make enquiries, the suspects gave false information to them by indicating that they had no detainees a fact they knew to be false.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 5th November, 2015 with recommendation for the prosecution of all the suspects with the offences under LIA, ACECA, the Penal Code and the National Police Service Act.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed that the suspect be charged with the proposed charges.

Status

The suspect was charged with the offence of conspiracy to commit an economic crime contrary to Section 47(A) of the ACECA, knowingly making a false statement to one's principal contrary to section 41 as read with section 48(1) (d) as read with section 46(2) of the Leadership and Integrity Act, No. 19 of 2012 and willful neglect to perform official duty by a public officer contrary to Section 128 of the Penal Code. The matter is ongoing.

5.0.4.24. CR/832/80/2015: No. 24. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption against traffic police officers along Eldoret-Kitale road.

Investigations by EACC commenced after receiving reports that Traffic Police Officers along Eldoret-Kitale road were harassing motorists, soliciting and receiving bribes. Investigations carried out by the commission revealed that the officers had abdicated their core traffic duties and engaged in daily collection of bribes from public service vehicles. This was established during surveillance by EACC. During a sting operation by EACC investigators, the Traffic Police officers were arrested and money suspected to have been obtained through corruption was recovered from them.

On 5th November, 2015 EACC prepared and forwarded a report to Director of Public Prosecutions with the recommendation to prosecute the suspects with the offence of dealing with suspect property contrary to section 47(1) and abuse of office contrary to section 46 of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecution found that there was sufficient evidence to warrant prosecution and directed that the suspect be charged with the recommended charges.

Status

The suspect was charged with the offence of dealing with suspect property contrary to section 47(1) of the Anti- Corruption and Economic Crimes Act, 2003 and abuse of office contrary to section 46 of the Anti- Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.25. CR/421/113/2015 MERU: No. 25. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption against a DCIO Tigania West.

Investigations by EACC established that the accused who is an employee of National Police Services as a DCIO corruptly solicited for and received a benefit of Kshs.35, 000/= as an inducement not to recommend the interdiction of the complainant's son who had been charged in court with the offence of attempted rape and also accused of wrongful possession of Police documents. EACC prepared and forwarded a report to the Director of Public Prosecutions on 5th November, 2015 recommending prosecution of the suspect for the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed that the suspect be charged with the proposed charges.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.26. EACC/OPS/INQ.49/2015: No. 26. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption against a driver who was offering a bribe to public officers.

Investigations by EACC established that the accused was a driver of a truck an employee Sino Truck, engaged in among other duties transporting ballast. He was arrested along Eldoret-Kitale Road within Moi's Bridge, by officers of Ethics and Anti-Corruption Commission jointly with Kenya Highways Authority (KeNHA), National Police Service (NPS) and Society General Surveillance (SGS) who were targeting overloaded trucks. When the truck was weighed, it has a load of 36,920 Kgs instead of the legal load limit of 26,000 Kgs which translated to an excess of 10,920 Kgs.

Investigations further revealed that when the driver was arrested, he offered a benefit of Kshs.35, 00.00 to the officers carrying out the operation as an inducement not to be fined the sum of Kshs.400, 000/- due to driving an overloaded truck.

EACC compiled and forwarded a report to Director of Public Prosecutions on 6th November, 2015 recommending the prosecution of the suspect. The driver was charged with the offence of corruptly offering a benefit contrary to section 39(3)

(b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

Upon perusal of the file the Director of Public Prosecution found that there was sufficient evidence to warrant prosecution and directed that the suspect be charged with the proposed charges.

Status

The suspect was charged with the offence of corruptly offering a benefit contrary to section 39(3) (b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. The matter is ongoing.

5.0.4.27. CR.494/155/2015: No. 27. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption against a police officer attached to Ngomeni police post, Kyuso Division and Kitui County.

Investigation revealed that the accused who is a Police Officer attached to Ngomeni Police Post, Kitui County, had corruptly solicited for a benefit of Kshs.2000 from the complainant's wife as an inducement to facilitate the processing of photographs taken at a scene of house breaking, stealing and malicious damage to property belonging to the complainant.

Investigations further established that during a trap operation organized by the Commission, the accused received Kshs.2000.00 sent to him through an Mpesa account.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 9th November, 2015 with recommendation for prosecution of the suspect with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed that the suspect be charged with the proposed charges.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.28. CR.511/193/15 GARISSA: No. 28. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption against an Assistant County Commissioner of Central Division of Garissa Sub-county of Garissa County.

Investigations by EACC revealed that the suspect, who the Assistant County Commissioner of Central Division of Garissa Sub-County Ministry of Interior and Coordination of National Government corruptly solicited for and received a benefit of Kshs.20,000 as an inducement to facilitate the re-opening of a bar owned by the complainant's wife.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 9th November, 2015 recommending prosecution of the suspect with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed that the suspect be charged with the proposed charges.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.29. EACC.6/27/2 VOLIX (197): No. 29. EACC FOURTH QUARTER REPORT

This was an inquiry into allegation of corruption against a judicial officer at the Mombasa law courts and a business man in Mombasa County.

Investigations by EACC established that the suspects were an Assistant Archivist at the Civil Registry in Mombasa Law courts and a business man in Mombasa County respectively. They corruptly solicited for a benefit from the complainant of Kshs.50, 000.00 as an inducement so as to destroy a warrant of arrest that had been issued against him in a civil case. During the trap operation, the suspects received a benefit of Kshs. 20,000.

EACC compiled and forwarded a report to Director of Prosecution on 9th November, 2015 recommending prosecution of the Court official with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecution found that there was sufficient evidence to warrant prosecution and directed that the suspect be charged with the proposed charges.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic

Crimes Act, 2003. The matter is ongoing.

5.0.4.30. EACC 6/27/2 VOL IX (23): No. 30. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption against an employee of the Nairobi City county government.

Investigations by EACC revealed that the suspect is an employee of the Nairobi County Government in charge of the Kariokor/Ziwani Ward. The suspect solicited for a benefit of Kshs.5000 from the complainant as protection fees so that the complainants businesses which are located in Kariokor will not be interfered with. Investigations further established that during the trap operation, the suspect received a benefit of Kshs.4, 000.00 from the complainant.

EACC compiled and forwarded a report to Director of Public Prosecutions on 10th November, 2015 recommending prosecution of the suspect with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed that the suspects be charged with the recommended charges.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.31. CR.313/216/2015: No. 31 EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of dealing with suspect property by two (2) police officers attached to Kilifi Police Station.

Investigations by EACC revealed that two Police Officers were on duty on 15th June, 2015, when they were arrested by the EACC officers who were on other within Kilifi. The EACC officers witnessed as a one hundred shilling note was thrown at the police officer by a moving bus which is the new trend of giving bribes to traffic officers. Investigations further established that while interviewing the police officers, one of them lifted his official cap and threw to the ground a bunch of money and which the EACC officers recovered a sum of Kshs.800.00 plus the Kshs.100.00 note thrown to the police officer. A search was conducted at the scene of incident later and Kshs.2000 was recovered in a black polythene bag hidden under a rock.

Since the Kshs. 2,000/= was recovered much later when the suspects had already been taken to the Police Station, there was no sufficient evidence to prove that they had collected the money and hidden it from where it was recovered. Therefore charges based on the said recovery would not be sustained.

EACC compiled a report and forwarded to Director of Public Prosecutions on 10th November, 2015 recommending administrative action to the suspects.

On 30th November, 2015, the Director of Public Prosecutions found that there was insufficient evidence to warrant a prosecution and directed that accepted administrative action be taken on the suspects.

Upon perusal of the file the Director of Public Prosecution found that there was insufficient evidence to warrant prosecution and directed that the file be closed.

Status

The inquiry file was returned to EACC with directions to close the file.

5.0.4.32. EACC/MSA/RP/INQ/17/2015: No. 32 EACC FOURTH QUARTER REPORT

This was an Inquiry into allegations of corruption against a clerical officer with the Ministry of Interior and Coordination of National Government.

Investigations by EACC established that the suspect is a Clerical Officer in the Ministry of Interior and Coordination of National Government based in Chief's office, Likoni. The suspect solicited for a benefit of Kshs. 2,000 from the complainant as an inducement so as to process an application for his wife's identity card.

During the trap operation, the suspect received from the complainant a benefit of Kshs. 1,000. EACC compiled and forwarded a report to the Director of Public Prosecutions on 10th November, 2016 recommending prosecution of the suspect with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed prosecution of the suspect.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.33. CR. 2014 CF. NAKURU: No. 33. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations that traffic police officers attached to the central police station Nakuru, corruptly dealt with suspect property.

Investigations by EACC established that Traffic Police Officers along Nairobi-Nakuru Highway, between Free-Area and Nakuru town including Nakuru-Kisumu Highway were demanding and receiving bribes of between Kshs.50 and Kshs.100 from the motorists using the said route. EACC carried out surveillance and ultimately a sting operation. Some of the traffic Police officers were arrested while in possession of money which was suspected to have been obtained in the course of corrupt conduct.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 20th November, 2015 recommending that the suspects be charged with the offences of dealing with suspect property contrary to section 47 (2) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed that the suspect be arraigned in court.

Status

The suspect was charged with the offence of dealing with suspect property contrary to section 47 (2) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. The case is ongoing.

5.0.4.34. EACC/OPS/INQ/43/2015: No. 34. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of irregular procurement in the renovation and refurbishment of county executive committee member's offices by the county government of Machakos.

Investigations by EACC established that the Transition Authority published in the Nation Newspaper facilities identified to serve as Interim County Government offices and requested that the respective departments ensure that offices are vacated to facilitate renovation and refurbishment. Following the General elections that were held in 2013 the Governor of the Machakos County Government of Machakos and later he appointed County Ministers who in order to carry out their duties required office space.

Investigations further established that several offices previously occupied by officials of the County Council of Machakos were earmarked for renovation for use by the County Executives. Investigations established that restrictive tendering method was used to identify the various contractors to carry out the renovations.

It was further established that during the identification of the office space and areas that required refurbishment, one of the contractors who was subsequently awarded almost all the renovation contracts was present. It emerged therefore that the subsequent purported procurement process was a sham since this particular bidder already had information with regard to the requirements of the County Government. It was further established that some of the contractors invited to bid were not pre-qualified contractors.

Investigations also established that some of the County officials involved in the procurement process and subsequent payment of the successful contractor received money from the contractor via Mpesa which was deemed to be a benefit and or reward for awarding the contractor to the said contractor to the exclusion of others.

Investigations established several infractions of the Public Procurement and Disposal Act in the award of the tenders for the renovation of the offices. EACC compiled and forwarded a report to Director of Public Prosecutions on 19th November, 2015 recommending prosecution of the Interim County Secretary, Chief Officer, Transport and Roads, Interim Head of Supply Chain Management and the Governor's Personal Assistant with several counts of wilful failure to comply with the law or applicable procedures and guidelines relating to procurement contrary to section 45(2) (b), abuse of office contrary to section 46 and corruptly receiving a benefit contrary to section 39 (3)(a) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. It was further recommended that the said suspects jointly with the contractor awarded the contracts for refurbishment be charged with conspiracy to commit an offence of corruption contrary to section 47A (3) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed that the suspect be charged with the recommended charges.

Status

The suspect was charged with the offences of wilful failure to comply with the law or applicable procedures and guidelines relating to procurement contrary to section 45(2) (b), abuse of office contrary to section 46 and corruptly receiving a benefit contrary to section 39 (3)(a) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. The matter is ongoing.

5.0.4.35. CR.760/544/2015: No. 35. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption against officers of Kenya Power and Lighting officers in Nakuru.

- Investigations by EACC established that the suspects who were employees of Kenya Power and Lighting Company, Nakuru corruptly solicited for a benefit of Kshs.500, 000.00 from the complainant as an inducement so as to cover up an alleged illegal power connection.

The investigations confirmed that the suspects received a benefit of Kshs. 130,000 through Mpesa. EACC compiled and forwarded a report to the Director of Public Prosecutions on 27th November, 2015 recommending the prosecution of the suspects with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed that the suspect be charged with the recommended charges.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.36. CR.313/256/2015 MALINDI: No. 36. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption against the Malindi town chief.

Investigations established that the suspect was soliciting for a bribe of Kshs.4000 as an inducement to influence the Malindi County Assistant Commissioner to reverse a decision made by his predecessor in regard to the complainant's two acres parcel of land in the Malindi High school area.

During the trap operation organized by EACC, the suspect received Kshs.4000. EACC prepared and forwarded a report to the Director of Public Prosecutions on 24th November, 2015 recommending the prosecution of the suspect with the offence of corruptly soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to sustain the proposed charges and directed that the suspect be charged with the recommended charges.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.37. EACC 6/27/2/VOL IX (29): No. 37. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption against a police officer attached to Watamu Police Station:

Investigations by EACC established that the suspect who was a Police Officer, attached to Watamu Police Station solicited for a benefit of Kshs.25, 000 as an inducement to assist the complainant to deal with an alleged counter complaint against her by her neighbor whom she had complained of causing unbearable noise coming from his hotel premises. The suspect received a benefit.

EACC prepared and forwarded a report to the Director of Public Prosecutions on 27th November, 2015 recommending the prosecution of the suspect with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed prosecution to ensue.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.38. EACC 6/27/2/VOL IX (232): No. 38. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption against a traffic police officer attached to Kilifi traffic base for dealing with suspect property, concealing evidence and resisting arrest.

Investigations by EACC commenced upon receipt of numerous complaints from the public that Traffic Police officers along the Kilifi road were habitually soliciting for and receiving bribes from motorists. The Commission carried out surveillance to ascertain the allegations which they confirmed to be true. As a result a sting operation was carried and the traffic officers were arrested while in possession of EACC marked money in denomination of Kshs.50 and Kshs.100. Investigations further established that the suspects had in their possession money whose source they could not satisfactorily account for and which one of them tried to conceal upon being confronted by EACC Investigators.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 27th November, 2015 recommending that the suspects be charged with the offence of dealing with suspect property contrary to section 47 of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed prosecution to ensue.

Status

The suspect was charged with the offence of dealing with suspect property contrary to section 47 of the Anti-Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.39. EACC.CR.421/114/2015 MERU: No. 39. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of corruption against two police officers attached to Isiolo Police Station.

Investigations by EACC established that the suspects who were attached to Isiolo Police station solicited for a bribe of Kshs.100, 000 from the complainant as an inducement to release a motor vehicle belonging to the complainant who had been arrested for an undisclosed offence and his motor vehicle impounded. Investigations further revealed that the one of the officers was found in possession of Kshs. 25,400 which was suspect property. Her co-suspect who had received the trap money, Kshs. 15,000, concealed it and thus it was not recovered.

However, at the time of arrest and one was charged with dealing with suspect property of Kshs.25,400/= which was recovered from the handbag and the other one was charged for concealing evidence of Kshs.15,000/= of treated money. EACC compiled and forwarded a report to the Director of Public Prosecutions on 1st December, 2015 recommending the prosecution of the suspects with the offences of corruptly soliciting for and receiving a benefit, concealing evidence contrary to section 66(1) (c) and dealing with suspect property contrary to section 47 of the Anti-Corruption and Economic crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed prosecution to ensue.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit, concealing evidence contrary to section 66(1) (c) and dealing with suspect property contrary to section 47 of the Anti-Corruption and Economic crimes Act, 2003. The matter is ongoing.

5.0.4.40. CR.148/19/2015 CF.MACHAKOS: No. 40. EACC FOURTH QUARTER REPORT

This was an inquiry into allegations of obstruction contrary to section 66(1)(a) as read with section 66(2) of the anti-corruption and economics crimes act no. 3 of 2003 and aiding an escape against police officers attached to Athi River Police Station.

EACC commenced investigations following anonymous reports from members of the public and motorists alleging that traffic police officers along Nairobi-Mombasa highway solicited and received bribes from motorists, so as not to charge them for various traffic offences.

A sting operation by the Commission established that indeed the traffic officers were receiving bribes. In the course of the operation Kshs. 21,700/= stashed in the police vehicle the officers were using was recovered. The money included marked EACC money which had been given to undercover agents to give to the suspects upon demand. However, after the arrest of the Traffic officers involved, other officers from Athi-River went to the scene and aided the suspects to escape.

EACC prepared and forwarded a report to Director of Public Prosecutions on 3rd December, 2015 recommending the prosecutions of the suspects with the offences of obstruction contrary to section 66 (1) (a) of Anti-Corruption and Economic Crimes Act, 2003, and aiding and abetting an escape contrary to section 124(a) of the Penal Code.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed prosecution to ensue.

Status

The suspect was charged with the offence of obstruction contrary to section 66 (1) (a) of Anti-Corruption and Economic Crimes Act, 2003, and aiding and abetting an escape contrary to section 124(a) of the Penal Code. The matter is ongoing.

5.0.4.41. EACC/INQ/OPS/44/2015: No. 41EACC FOURTH QUARTER REPORT

This was an Inquiry into allegations of corruption against two employees of Viwandani Ward, Nairobi County.

Investigations by EACC commenced after the Commission received a report that employees of the Nairobi city County assigned duties of collecting parking fees within Industrial Area were collecting money from motorists without issuing receipts.

One of the complainants who agreed to participate in the sting operation was given Kshs. 100 by the EACC investigators. Investigations further revealed that one of the suspect's received the Kshs. 100 which was recovered from her upon her arrest. However, the evidence obtained did not meet the threshold to prove the case against her. This notwithstanding, her conduct was in breach of the Public Officer Ethics Act and the Leadership and Integrity Act. In regard to her co-

suspect, there was no evidence to connect her with the solicitation and receipt of bribes.

EACC prepared and forwarded a report to the Director of Public Prosecutions on 3rd December, 2015 recommending administrative action against one of the suspects and the termination of the inquiry against her co-suspect.

Upon perusal of the file the Director of Public Prosecutions found that there was insufficient evidence to warrant prosecution and directed that administrative action be taken against the suspects.

Status

The file was returned to EACC with directions that administrative action be taken against the suspects.

5.0.4.42. CR.511/237/2015 GARISSA: No. 42. EACC FOURTH QUARTER REPORT

This was an Inquiry into allegations of corruption against a Kenya Power meter reader within Garissa Township.

Investigations by EACC established that the suspect who was an employee of KPLC, Garissa Township had solicited from the complainant a benefit of Kshs.50,000.00 as an inducement so as to reconnect electricity to his residence. This was after the suspect alleged that the complainant had an outstanding bill of Kshs.17,000/=.

Investigations further established that the suspect received a benefit of Kshs.30,000/= in order to reconnect the electricity in the complainant's residence. EACC prepared and forwarded a report to the Director of Public Prosecutions on 4th December, 2015 recommending the prosecution of the suspect with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was insufficient evidence to warrant prosecution and directed prosecution to ensue.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.43. EACC/INQ/OPS/48/2015: No. 43. EACC FOURTH QUARTER REPORT

This was an Inquiry into allegations of corruption against a driver with a construction company.

Investigations by EACC established that the suspect who was employed as a truck driver of a construction company corruptly offered and gave a benefit of Kshs.3, 000 to a Computer Operator working with Society General Surveillance (SGS), who was on surveillance duties along the Nyeri-Nairobi Highway, within Kirinyaga County. The suspect offered the benefit as an inducement so as to influence the SGS officer to forbear charging him with an offence of carrying excess load axle.

EACC prepared and forwarded a report to the Director of Public Prosecutions on 10th December, 2015 recommending the prosecution of the suspect with the offence of corruptly offering and giving a benefit contrary to section 39 (3) (c) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed prosecution to ensue.

Status

The suspect was charged with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.44. EACC 6/27/2VOL IX (303): No. 44. EACC FOURTH QUARTER REPORT

This was an Inquiry into allegation of corruption against prosecution counsel in the Office of the Director of Public Prosecutions Kisumu office.

EACC received a complaint alleging that a Prosecution Counsel was demanding a benefit of Kshs.15, 000/= as an inducement to facilitate the continued prosecution of a criminal case which the Directorate of Criminal Investigations, Kisumu County had written a letter seeking advice from the Office of the Director of Public Prosecution's Kisumu about withdrawing the said case since the complainant had refused to hand over exhibits to them.

Investigations by EACC established that the suspects corruptly jointly demanded for benefit of Kshs.15, 000/= as an inducement to facilitate the continued prosecution of Criminal case before the Office of the Public Prosecutions Kisumu. EACC compiled and forwarded a report to the Director of Public Prosecutions on 24th December, 2015 recommending prosecution of the suspects.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed prosecution to ensue.

Status

The suspect was charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.45. CR.021/52/2015: No. 45. EACC FOURTH QUARTER REPORT

This was an Inquiry into allegation of corruption against a police constable attached to Kwale County Commander of Police as a driver.

Investigations by EACC established that a Police Constable an employee of National Police Services attached to the County Commander of Police, Kwale as a driver corruptly solicited and received a bribe of Kshs. 2000.00 from the complainant as an inducement to release driving licence and charcoal permit that the Police Constable had confiscated. Under Section 39(3) (a) of the Anti-Corruption and Economic Crimes Act a person is guilty of an offence if the person receives or solicits, or corruptly agrees to receive or solicit a benefit:

EACC prepared and forwarded a report to the Director of Public Prosecutions on 23rd December, 2015 recommending prosecution of the suspect.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed prosecution to ensue.

Status

The suspect was charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.46. CR.148/22/2015: No. 46. EACC FOURTH QUARTER REPORT

This was an Inquiry into allegation of corruption against the vice chairman of a SACCO.

Investigations by EACC revealed that when the National Transport Safety Authority (NTSA) was conducting surveillance along the Southern Bypass at Kikuyu town, they flagged down a motorist driving a motor vehicle branded with Lira Line Sacco Limited Trademark. The motorist refused to stop and the vehicle registration number was recorded and circulated. Investigations established that the Vice Chairman of the Sacco attempted to intervene by contacting the officers of the NTSA and offered a bribe in order to conclude the matter.

Investigations further established that the Vice Chairman of the Sacco corruptly offered and gave a benefit of Kshs.10, 000 to the NTSA officer as an inducement so as to forbear charging the driver of motor vehicle for speeding and failing to stop.

EACC compiled and forwarded a report to the Director of Public Prosecutions on 22nd December, 2015 recommending prosecution of the suspect with the offences of corruptly offering and giving a benefit contrary to section 39(3) (b) of the Anti- Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed prosecution to ensue.

Status

The suspect was charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.47. CR.032/12/2015: No. 47. EACC FOURTH QUARTER REPORT

This was an Inquiry into allegation of corruption against a district land adjudication and settlement officer at the Kisumu District land adjudication and settlement office.

Investigations by EACC revealed that a District Land Adjudication and Settlement Officer demanded for a benefit of Kshs.3,000/= as an inducement to facilitate the issuance of the Land Adjudication records for the complainant who is a farmer at Nyalunya in Kisumu East within Winam Division in Kisumu county.

Investigations further established that the suspect corruptly received a benefit of kshs.2, 000/= during the trap operation.

EACC prepared and forwarded a report to the Director of Public Prosecutions on 18th December, 2015 recommending prosecution of the suspect.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed prosecution to ensue.

Status

The suspect was charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003. The matter is ongoing.

5.0.4.48. CR.222/34/2015: No.48. EACC FOURTH QUARTER REPORT

This was an Inquiry into allegation of corruption against an administration police officer stationed at the Kiburu administration police post within the county of Kirinyaga.

Investigations by EACC revealed that the Administration Police Officer attached to the Kiburu Administration Police Post had confiscated a National Identification

Card and the mobile telephone belonging to the complainant and demanded a bribe of Kshs.5, 000 for the release of the same.

Investigations further established that the suspect also corruptly received a benefit of kshs.4, 000 from the complainant as an inducement so as to release National Identification Card and a Techno mobile phone.

EACC prepared and forwarded a report to the Director of Public Prosecutions on 22nd December, 2015 recommending prosecution of the suspect with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) and concealing evidence contrary to section 66(1) (c) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file the Director of Public Prosecutions found that there was sufficient evidence to warrant prosecution and directed prosecution to ensue.

Status

The suspect was charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003 and concealing evidence contrary to section 66(1) (c) of the Anti-Corruption and Economic Crimes Act, 2003. The matter is ongoing.