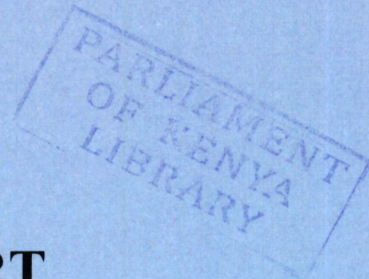


REPUBLIC OF KENYA



OFFICE OF THE AUDITOR-GENERAL



REPORT

OF

THE AUDITOR-GENERAL

ON

THE FINANCIAL STATEMENTS OF
COUNCIL OF GOVERNORS SECRETARIAT

FOR THE YEAR ENDED
30 JUNE 2018

	
THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 07 NOV 2019	DAY: THURSDAY
TABLED BY:	Hon Asen Dvile Leader of Majority Party
CLERK-AT THE TABLE:	Lemane Mosey



COUNCIL OF GOVERNORS



COUNCIL OF GOVERNORS

REPORTS AND FINANCIAL STATEMENTS

FOR THE FINANCIAL YEAR ENDED
JUNE 30, 2018

Prepared in accordance with the Accrual Basis of Accounting Method under the International Public
Sector Accounting Standards (IPSAS)

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

Table of Contents	Page
KEY ENTITY INFORMATION AND MANAGEMENT	ii
KEY ENTITY INFORMATION AND MANAGEMENT (Continued).....	iv
MANAGEMENT TEAM	vi
CHAIRMAN'S STATEMENT	vii
REPORT OF THE CHIEF EXECUTIVE OFFICE	ix
CORPORATE GOVERNANCE STATEMENT	x
REPORT OF MANAGEMENT	xi
STATEMENT OF COUNCIL'S' RESPONSIBILITIES	xii
REPORT OF THE INDEPENDENT AUDITORS ON THE ENTITY (<i>specify entity name</i>).....	xiii
STATEMENT OF FINANCIAL PERFORMANCE	1
STATEMENT OF FINANCIAL POSITION	2
STATEMENT OF CHANGES IN NET ASSETS	3
STATEMENT OF CASH FLOWS	4
FOR THE YEAR ENDED 30 JUNE 2018.....	4
STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS.....	5
NOTES TO THE FINANCIAL STATEMENTS.....	6
APPENDIX 1: PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATIONS.....	23
APPENDIX II: PROJECTS IMPLEMENTED BY THE ENTITY.....	26

KEY ENTITY INFORMATION AND MANAGEMENT

(a) Background information

The Council of Governors was established under section 19 of the Intergovernmental Relations Act (2012) with the mandate to provide a mechanism for consultation amongst county governments, share information on performance of the counties in execution of their functions, facilitate capacity building for governors and consider reports from other intergovernmental forums on national and county interests amongst other functions

The Council of Governors has a governing body as provided for under Section 19 of the Intergovernmental Act consisting of the Chairman, Deputy Chairman, co-opted the position of whip and Eighteen Committees

(b) Principal Activities

The Council provides a forum for;

- a) Consultation amongst County Governments;
- b) Sharing of information on the performance of the counties in the execution of their functions with the objective of learning and promotion of best practices and where necessary, initiating preventive or corrective action;
- c) Considering matters of common interest to County Governments;
- d) Dispute resolution between counties within the framework provided under this Act
- e) Facilitating capacity building for governors;
- f) Receiving reports and monitoring the implementation of inter-county agreements on inter-county projects; 12. Council of Governors Strategic Plan 2017-2022 13. Council of Governors Strategic Plan 2017-2022
- g) Consideration of matters referred to the Council by members of the public;
- h) Consideration of reports from other intergovernmental forums on matters affecting National and County interests or relating to the performance of counties; and
- i) Performing any other function as may be conferred on it by this Act or any other Legislation or that it may consider necessary or appropriate.

Vision

Prosperous and democratic Counties delivering services to every Kenyan.

Mission

To be a global benchmark of excellence in devolution that is non-partisan; providing a supporting pillar for County Governments as a platform for consultation, information sharing, capacity building, performance management and dispute resolution.

(c) Key Management

The entity's day-to-day management is under the Accounting officer who is the Chief Executive Officer

(d) Fiduciary Management

The key management personnel who held office during the financial year ended 30th June 2018 and who had direct fiduciary responsibility were:

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

No.	Designation	Name
1.	CEO	Jacqueline Mogeni
2.	Head of Finance	David Kisabuli
3.	Head of Procurement	James Kamau
4.	Head of Legal	Rosemary Njaramba
5.	Head of Human Resources	Caroline Odandi
6.	Head of Administration	Festus Omariba

(Include all positions regarded as top management in your organisation).

(e) Fiduciary Oversight Arrangements

- *Audit and finance committee activities*
 - 1) **Financial Statements:**
Review the Council's interim and annual financial statements.
 - 2) **Variances:**
Obtain explanations from management for significant variances between comparative reporting periods and question management regarding any significant financial reporting issues raised during the fiscal period and the method of resolution.
 - 3) **Internal Controls:**
Inquire as to the adequacy of the organisation's system of internal controls and review periodic reports from management regarding internal controls, which should include an assessment of risk with respect to financial reporting.
 - 4) **Auditor:**
Non-audit Services: Approve all audit and non-audit services to be provided to the Council by the independent auditor. The Chair of the Committee may pre-approve such services on behalf of the Committee provided that such approvals are presented at the Committee meeting following such pre-approval. In order to obtain pre-approval, management should detail the work to be performed by the independent auditor and obtain the assurance from the independent auditor that the proposed work will not impair their independence.

KEY ENTITY INFORMATION AND MANAGEMENT (Continued)

(f) Entity Headquarters

P.O. Box 4040-00100
Delta House - Westlands,
Waiyaki way
Nairobi, KENYA

(g) Entity Contacts

Telephone: (254) 20 221 4359
E-mail: info@cog.go.ke
Website: www.cog.go.ke

(h) Entity Bankers

Co-operative Bank of Kenya
Parliament road
P.O. Box 5772
City Square 00200
Nairobi, Kenya

Kenya Commercial Bank Ltd
Sarit Centre Branch
P.O.Box 48400, 00100
Nairobi, Kenya

National Bank of Kenya
Westlands Branch
P.O. Box 1613-00606
Nairobi

(i) Independent Auditors

Auditor General
Kenya National Audit Office
Anniversary Towers, University Way
P.O. Box 30084
GOP 00100
Nairobi, Kenya

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

THE EXECUTIVE COMMITTEE

 H.E. Josphat Koli Nanok	Chairman, Governor Turkana County
 H. E. Anne Waiguru	Vice Chairman, Governor Kirinyaga County
 H.E Mohamud M. Ali	Whip, Governor, MarsabitCounty

MANAGEMENT TEAM



Jacqueline Mogeni

The Chief Executive Officer, who is also the Accounting Officer



Rosemary Njaramba

Head of Legal



David Kisabuli

Head of Finance



Caroline Odandi

Head of Human Resources

CHAIRMAN'S STATEMENT



I would also like to commend the county governments for working so hard in translating individual governors' visions, into workable plans through the CIDPs. So far we have twenty (20) approved CIDPs out of the forty-seven (47) expected CIDPs. The remaining 27 counties are in the last stages of approval by the County Assemblies.

The year 2017-2018 has been a significant year for the Council of Governors. It has been a transitional year and also marks the first year of the second generation County Governments. The Council of Governors has relentlessly continued to pursue and fulfil its mandate since the year 2013 as stated in the Intergovernmental Relations Act (2012). The Council has been able to achieve this milestone through the Committees in the various sectors. However, it has not been a smooth journey as expected. The national government and other intergovernmental agencies and stakeholders have been very instrumental in making inclusive and participatory governance a reality between the two levels of government through the Intergovernmental structures as stated in section 4 of the IGRA (2012) Act. One of these forums is the Joint Agriculture Sector Consultation Mechanism (JASCOM) for the Agriculture sector.

The Year 2017/2018 has been a significant year for me as the Chair of the Council of Governors. It was not only a tough year for the council for losing one of their own in a tragic car accident; the late Dr. Wahome Gakuru, Governor Nyeri County, but also a year of many firsts for the country. For the first time in history the country went through the general elections twice, in August and October. This was a blow to the economy having been faced with one-hundred days (100) health workers strike earlier in the year. Delays were faced in implementing county functions in all sectors since transfer of funds from the national government to counties was one of the major drawbacks. I would like to take this opportunity to applaud the political truce between our two leaders H. E President Uhuru Kenyatta and Rt. Hon. Raila Odinga which has heralded a new phase of harmonious working across the political divide.

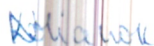
Despite the challenges that came with transition, the Council was able to attain some significant milestone in fulfilling the promise of devolution. We held a successful Induction for Governors and Deputy Governors.

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

The Council also held the Fifth Annual Devolution Conference which was the first devolution conference held through sectors which were aligned to the President's direction of the Big 4 Agenda. This was also an opportune moment for the Council to lay the foundation for the second generation county governments. The presence of the leaders from both political divides was a show of good faith for the prosperity of the country and devolution at large. It was also a great honour to have H.E William Samoei Ruto launch the Inaugural Speeches Book of the second generation of Governors 2017-2022; which is not just any book, but an accountability tool for all the governors of the 47 counties.

I would also like to commend the county governments for working so hard in translating individual governors' visions, into workable plans through the CIDPs. Up to this moment, we have twenty (20) approved CIDPs out of the forty-seven (47) expected CIDPs. The remaining 27 counties are in the last stages of approval by the County Assemblies. We expect that all the remaining CIDPs will be approved before the end of the first quarter of the new financial year

As we forge ahead to the next year, my heart is full of expectation and filled with a lot of hope at the same time. Though the beginning was faced with darkness, a ray of hope has been seen through the milestones seen in the previous year. To my peers, let's thrust ahead with passion, zeal and confidence to ensure we deliver up to the last statement of our promise to the people of Kenya in ensuring the success of devolution.



H.E. Josphat Koli Nanok
Chairman, Council of Governors

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

REPORT OF THE CHIEF EXECUTIVE OFFICE



The secretariat continues to be the 'oil in the engine' and supporting the county governments in the running of the day to day issues by providing platforms for counties to consult, learn, compare experiences and explore new and innovative ideas.

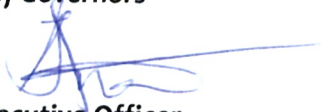
In the year under review, Governors continue to speak in one collective voice in matters policy, continue to share best practices and develop innovative solutions to the challenges that come with implementing the devolution agenda. The secretariat continues to be the 'oil in the engine' and supporting the county governments in the running of the day to day issues by providing platforms for counties to consult, learn, compare experiences and explore new and innovative ideas.

This report highlights the financial activities and status relating to programs and activities that were undertaken, successes attained and challenges faced while working towards attainment of the Councils vision and mission and delivery of the second generation Council of Governors strategic plan 2017-2022. Some of the achievements include induction for 47 Governors and 47 Deputy Governors as well as all the County Executive Committee Members. One of the challenges faced is underfunding of the Secretariat and thus some of the planned activities were not implemented.

As we take time to reflect upon the past year and ponder the coming one let me take this opportunity to thank every individual and institution and development partners with whom we worked closely including United Nations Development (UNDP); AHADI; UN WOMEN; USAID- HIGDA and Symbiocity Kenya. Not forgetting the National Government, Independent Commissions, civil societies, media and private sector. The various activities reported herein were made possible through their continued collaboration, guidance, financing and intervention. We wish to let you know that your cooperation remains dear to us, now and in the future.

Council of Governors

Signed:


Chief Executive Officer

CORPORATE GOVERNANCE STATEMENT

During the period, the Legal Committee coordinated 6 Council meetings in the FY 2017/2018. Of the 6 Council meetings, 3 were held in 2017 i.e. 31st August 2017, 7th and 15th December 2017 while the other 3 were held in 2018, i.e. 23rd January 2018, 5th March, 2018 and 4th June, 2018. The meetings mainly focused on discussing the various issues that impact all 47 counties including electing Committee Chairs and the Executive.

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

REPORT OF MANAGEMENT

The management submit their report together with the audited financial statements for the year ended June 30, 2018 which show the state of the entity's affairs.

Principal activities

The principal activities of the Council are;

1. To implement the decisions of the Council and the Committees;
2. To constantly share information with the Counties;
3. To process requests from Counties and offer policy advise where necessary;
4. To convene, in every quarter, County Executive Committee Members so that they develop positions on legislative and policy issues that affect County Governments;
5. To convene other officers such as Chief Officers, County Attorneys and Directors also for deliberation of matters affecting County Governments;
6. To coordinate capacity building initiatives for Governors, County Executive Committee Members, Chief Officers, County Attorneys, Chiefs of Staff, County Secretaries and other County officials;
7. To rigorously protect the interests of Counties at policy level by for instance participating in inter-agency meetings, committees and taskforces;
8. To ensure that County resources are safeguarded in all negotiations on upcoming projects;
9. To coordinate sectoral intergovernmental forums between the Counties and the National Government;
10. To receive and document best practice to promote learning between the Counties; and
11. To support and link with the office of the Deputy Governors.

Results

The results of the entity for the year ended June 30, 2018 are set out on page 1 and 2

The Executive Council

The members of the Executive Council who served during the year are shown on page iv.

STATEMENT OF COUNCIL'S' RESPONSIBILITIES

Section 81 of the Public Finance Management Act, 2012 and (section 22 of the *Intergovernmental Relations Act*, - require the management to prepare financial statements in respect of that entity, which give a true and fair view of the state of affairs of the entity at the end of the financial year/period and the operating results of the entity for that year/period. The management are also required to ensure that the entity keeps proper accounting records which disclose with reasonable accuracy the financial position of the entity. The management are also responsible for safeguarding the assets of the entity.

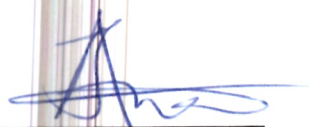
The management are responsible for the preparation and presentation of the entity's financial statements, which give a true and fair view of the state of affairs of the entity for and as at the end of the financial year (period) ended on June 30, 2018 . This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the entity; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the entity; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The management accept responsibility for the entity's financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, in conformity with International Public Sector Accounting Standards (IPSAS), and in the manner required by the PFM Act, 2012 and (the State Corporations Act) – *entities should quote applicable legislation as indicated under*). The management are of the opinion that the entity's financial statements give a true and fair view of the state of entity's transactions during the financial year ended June 30, 2017, and of the entity's financial position as at that date. The management further confirm the completeness of the accounting records maintained for the entity, which have been relied upon in the preparation of the entity's financial statements as well as the adequacy of the systems of internal financial control.

Nothing has come to the attention of the management to indicate that the entity will not remain a going concern for at least the next twelve months from the date of this statement.

Approval of the financial statements

The entity's financial statements were approved by the management on 28th September 2018 and signed on its behalf by:



Chief Executive Officer



Accountant
ICPAK Member Number 17785

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

REPORT OF THE INDEPENDENT AUDITORS ON THE COUNCIL OF GOVERNORS

REPUBLIC OF KENYA

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Fax: +254-20-311482
Email: oag@oagkenya.go.ke
Website: www.kenao.go.ke

P.O. Box 30084-00100
NAIROBI



OFFICE OF THE AUDITOR-GENERAL

REPORT OF THE AUDITOR-GENERAL ON CONCIL OF GOVERNORS SECRETARIAT FOR THE YEAR ENDED 30 JUNE 2018

REPORT ON THE FINANCIAL STATEMENTS

Disclaimer of Opinion

I have audited the accompanying financial statements of set out on pages 1 to 28, which comprise the statement of financial position as at 30 June 2018, and the statement of financial performance, Statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015.

I do not express an opinion on the accompanying financial statements. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

Basis for Disclaimer of Opinion

1. Property, Plant and Equipment

Property, plant and equipment figure of Kshs.54,931,849 as at 30 June 2018 as reported on the statements of financial position and note 17 of the financial statements includes additions totaling Kshs.2,677,357 whose composition and its reconciliation from the initially reported expenditure on acquisition of assets totaling Kshs.1,668,116 were not provided for audit verification. In addition, the amount of Kshs.2,677,357 was different from the ledger balance of Kshs.4,003,317 resulting in an unexplained variance of Kshs.1,325,960.

Further, the payment documents availed for audit in support of purchase of computers amounted to Kshs.1,931,960 while the financial statement have a figure of Kshs.1,407,116 resulting in unreconciled and unexplained difference of Kshs.524,844. Additionally, the balance of property, plant and equipment has been introduced in the financial year ended 30 June 2018 even though some of the assets included in the balance have been acquired over the years the secretariat has been in existence. No reconciliation of the opening balance cost of property, plant and equipment to the annual acquisition of assets expenditure over the years of the secretariat's operations has been provided for audit review.

Report of the Auditor-General on the Financial Statements of Council of Governors Secretariat for the year ended 30 June 2018

Consequently, the accuracy of the property, plant and equipment balance of Kshs.54,931,849 as at 30 June 2018 could not be ascertained.

2. Cash and Cash Equivalents

Cash and Cash Equivalent balances of Kshs.293,307,432 as at 30 June 2018 includes an amount of Kshs.100,000,000 in respect of guarantee on staff mortgage that is being held by Kenya Commercial Bank. The amount has not been confirmed by the bank and no documents were availed to show existence of the amount.

Further, the Kshs.100,000,000 balance was to earn interest at a rate of 10% per annum but the financial statements have not captured the expected interest of Kshs.10,000,000 in respect of year 2017/2018 and Kshs.1,945,205 in respect of financial year 2016/2017. Under the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.293,307,432 could not be confirmed.

3. Presentation and Disclosure of Financial Statements

3.1 Non Compliance with Public Sector Accounting Standards Board Pronouncements and Guidelines

The Public Sector Accounting Standards Board (PSASB) under guidelines No 2 on "Financial Reporting and internal Auditing Standards Pronouncement" under paragraph 2.2.2 approved that all the Semi-Autonomous National and County Government Agencies shall apply International Public Sector Accounting Standard (IPSAS) Accrual based Standards. The Council of Governors presented financial statements based on cash basis of accounting which was rewarded and an amended set presented to Auditor-General. On examination of the revised Financial Statement of Council of Governors, it has been noted that the financial statements were been revised and prepared using the IPSAS Accrual based standards as per the PSASB's pronouncement made via the Kenya Gazette No 18 of 2014 but the comparative information for the financial year 2016/2017 have not been restated using accrual basis in line with IPSAS 3, Accounting Policies, changes in Accounting Estimates and Errors.

In consequence, the Financial Statements' opening balances cannot be confirmed.

3.2 Unexplained Adjustments and Errors

The reconciliation between the figures in the first set of financial statements (Cash basis of Accounting) and the revised financial statement (Accrual Basis of Accounting) have not been fully explained for the following accounts.

<u>Account Name</u>	<u>Unexplained Amount</u> <u>(Kshs.)</u>
Property, Plant and Equipment	1,284,241
Communication	42,094
Training	1,182,057
Hospitality	300,000

Notes 8, 10, 11, 12, 13, 14, 16 and 18, to the financial statements does not agree with the statement of financial performance as required. Further, Notes 16, 17, 18, 19 and 20 to the financial statements do not agree with the statement of financial position.

Consequently, the accuracy of the financial statements as at 30 June 2018 could not be confirmed.

4. Use of Goods and Services

4.1 Rental Proceeds, Utilities and Services

The statement of financial performance under general expenses reflect a figure of Kshs.457,884,882 .Included in this figure is Kshs.196,856,645 for rental proceeds and services as shown under note 13 of the financial statements that is in respect of office space on 2nd, 5th, 6th, 7th, 8th, 9th, 10th and 11th floor of the Delta House Building. The following anomalies were however noted;

- (i) The lease agreement for 11th floor was not availed for audit examination.
- (ii) The procurement documents to show how the office space for all the eight floors was identified and acquired were not availed for verification.
- (iii) The valuation undertaken by Ministry of Lands, Housing and Urban Development indicates that rental values of Kshs.100 per square feet but the rental charges to the Council of Governors were at a rate of US\$1.40 per square feet which was 40% above the market price.
- (iv) No explanation was provided for documentation of the contract in United States Dollars (US\$) and the use of higher rental charge compared to the government advised market value.

Under the foregoing, the the accuracy and propriety of the Rental Proceeds, Utilities and Services balance of Kshs.196,856,645 for the year ended 30 June 2018 could not be ascertained.

4.2 Domestic Travel and Subsistence

The financial statements at note 13 reflects a figure of Kshs.15,354,184 in respect of domestic travel and subsistence. A review of the payment showed that included in this figure, are payments for charter services on behalf of Meru County and Kisii County Governments totaling Kshs.7,168,855 and Kshs.661,440 respectively. No justification has been provided why the Council of Governors orders and pays for charter services on behalf of County Governments as this floats the procurement process at the Counties. The amount was not an expenditure of the Council of Governors and therefore there is clear over statement of this expenditure. Further, the amount was to be recovered from Meru County Government and should have been included under receivables. There was no documentary evidence provided to show that this amount was paid back to the council. Further, the management

should have reported an outstanding amount of Kshs.2,773,714 as owing from Meru County which should be a receivable but has not been disclosed in the financial statements.

In addition, the bills of Kshs.7,168,855 were incurred in the financial year 2016/2017 and even though the procurement was presumably done by the Council of Governors, the amount was not disclosed as pending bills in the financial year 2016/2017. No justification has been provided for settling of these bills by Council of Governors Secretariat as there were no pending bills disclosed in the 2016/2017 financial year.

In view of the foregoing, the accuracy and propriety of the expenditure of Kshs.15,354,184 in respect of domestic travel and subsistence could not be ascertained.

5. Transfers from Government Entities

The Statement of financial performance reflects a figure of Kshs.220,545,600 being transfers from Other Government Entities. The figure constitutes Kshs.45,599,492 for Inter-Governmental Contributions, Kshs.84,946,107 for rentals on County Government Liaison office and Kshs.90,000,000 in respect of Devolution Conference Support from the forty seven (47) County Governments.

The Council of Governors in a meeting held on 23 January 2018 agreed that each county was to contribute Kshs.12,500,000 and Kshs.10,000,000 towards inter-governmental and devolution conferences, respectively. However, out of the total expected revenue of Kshs.681,500,000, the Secretariat received Kshs.290,212,315 only in respect of the two items from the counties in the financial year ended 30 June 2018 resulting in a shortfall of Kshs.451,900,500 which has not been recognized in the financial statements even though they have been prepared on accrual basis of accounting. In addition, the expected revenue declined from Kshs.681,500,000 in 2016/2017 to Kshs.587,500,000 in 2017/2018 while the revenue amount received declined from Kshs.290,212,35 to Kshs.135,599,492 . No evidence has been provided to show that the amounts receivable from the county governments for the financial year 2016/2017 totaling Kshs.391,287,685 was ever recovered from the respective counties during the current year.

As a result, the accuracy and completeness together with the outstanding contributions from the County Governments cannot be confirmed.

6. Compensation of Employees

6.1 Gratuity

The statement of receipts and payments reflect a figure of Kshs.115,205,977 in respect of compensation on employees. Included in this figure, is Kshs.25,242,161 disclosed under note 3 of the financial statements as staff gratuity paid during the year under review.

The figure of Kshs.25,242,161 includes payments totaling to Kshs.22,652,421 indicated as gratuity for past years whose breakdown was not availed for audit verification.

Consequently, the validity and accuracy of the figure of Kshs.25,242,161 in respect to gratuity could not be ascertained since the previous year comparative information on financial statements has not been restated to accrual basis of accounting.

6.2 Unauthorized Expenditure

As reported in the previous year, the Council of Governors Secretariat management recruited and promoted in various categories which resulted in an increase in amount of salaries and wages to Kshs.89,963,816 in 2017/2018 from Kshs.60,227,174 in 2016/2017 an increase of Kshs.29,736,642 or about 49.4%. The Secretariat staff continued getting salaries and allowances without advice from the salaries and Remunerations Commission contrary to the provisions of Article 230 (4) of the constitution of Kenya 2010.

In the circumstance, the propriety of employees cost of Kshs.115,876,227 for the year ended 30 June 2018 could not be confirmed.

7. Rent Receivable

The statement of financial position reflects an amount of Kshs.21,024,903 as rent receivable being amount of rent due from various county governments in respect of liaison offices. The Council of Governors Secretariat entered into lease agreement with Garden Properties Ltd in 2014 for office space at Delta Corner Tower. At the point of leasing the space all the 47 County Governments were to take up and pay for some space to establish their liaison offices. The County Governments have since established county liaison offices in the building and rent is payable quarterly by the counties to the Secretariat who in turn remits it to the landlord. However, some counties have not been remitting their quarterly rent obligations to the Secretariat and an amount of Kshs.21,024,903 was outstanding as at 30 June, 2018. The basis of working out the outstanding rents for each county was not provided.

In the circumstances, the Secretariat being the tenant, faces possible eviction and possibility of litigation and or penalties on rent receivables.

8. Council of Governors Secretariat Expenditure

The Council of Governors is a creation of section 19 of the Inter-Governmental Relation Act, 2012. However, the Act does not recognize the existence and function of Council of Governors Secretariat. Section 17 of the Inter-Governmental Relation Act, 2012 stipulates that the Inter-Governmental Technical Committee may employ officers and staff for its secretariat as are necessary for proper discharge of the functions of the Committee, the Council of Governors and the Summit. The Council of Governors Secretariat has over the last three financial years entered to several contracts and paid a total of Kshs.2,044,741,170 whose appropriation may be inappropriate as detailed below:

Year	Amount (Kshs.)
2017/2018	624,625,524
2016/2017	685,983,151
2015/2016	<u>734,132,495</u>
	<u>2,044,741,170</u>

In view of the foregoing, the legality of Council of Governors Secretariat, the propriety and legality of payments made by Council of Governors secretariat and the validity of the contracts entered into by the Secretariat could not be confirmed.

9. Unresolved Prior Year

The following issues reported in the audit report for the financial year ended 30 June, 2017 are yet to be resolved:

9.1 Bank Guarantee

Included in the statement of assets as at 30 June 2017 is a bank guarantee deposit of Kshs.300,000 number TFBG/15/0090 which was issued on account of Council of Governors by Cooperative Bank of Kenya to Toyota Kenya effective 10 February, 2015 and expiring on 31 January, 2016. Upon expiry of the guarantee, the deposit was not lifted or formally rolled over. In addition, no evidence of either renewal or cancellation of the guarantee has been provided for audit review. This effectively means that the guarantee deposit has been held by the bank for over three years but was not disclosed as an asset in the two preceding financial years. In the circumstances, I am unable to confirm the accuracy and validity of the bank guarantee reported and the accuracy of the accounting records recognizing the guarantee in the current year.

9.2 Staff Loan Fund

9.2.1 The Council of Governors Secretariat entered into an agreement with KCB Bank Limited on 20 April 2017 through which, the bank was appointed as a financier to the Secretariat employees' special housing scheme. According to the terms and conditions of the agreement, the Council of Governors Secretariat obligations included confirming to KCB Bank in writing that any applicant seeking to use the facility is a permanent employee. However, no document was provided for audit review to confirm prior approval of the housing scheme and agreement by the Council of Governors. In addition, the Council of Governors Secretariat does not have permanent staff contrary to one of the conditions of the agreement.

9.2.2 The statement of assets as at 30 June 2017 reflects staff loan fund balance of Kshs.100,000,000 representing a deposit placed with the KCB Bank Limited to guarantee the special staff housing scheme between the Secretariat and the Bank. The deposit earns interest at a rate of 10% but only to the extent that there are no equivalent loans advanced to the staff. An amount equivalent to loans advanced to staff is transferred from

the interest bearing deposit account to a non-interest bearing in lien deposit account. The following anomalies have noted regarding the loan fund:

- (i) The commitment of the Kshs.100,000,000 was not factored in the approved budget for 2016/2017. Alternatively, approval if any for reallocation of the funds to the item was not provided for audit verification.
- (ii) There was no explanation on rationale for the bank not to pay interest on deposit transferred to lien deposit account yet the staff were paying to the bank interest on loans advanced to them.
- (iii) The process of appointment of KCB Bank as the scheme administrator was not documented to enable verification of the legality and efficiency of the process.

9.3 Transfers from Government Entities

The statement of receipts and payments reflects transfer from government entities totaling Kshs.361,259,779 in respect of contributions from County Governments in the financial year 2016/2017. The contributions relate specifically to rent for liaison offices, inter-governmental contribution and devolution conference support but only one county government honored its obligation in full towards inter-governmental contribution while twenty counties did not give any monies at all for the same. Eight county governments similarly did not contribute any monies at all for the devolution conference support.

The failure to collect budgeted receipts from the County Governments while the planned activities are undertaken would adversely affect the continued operation of the Council and financial sustainability of the Secretariat.

9.4 Compensation of Employees

During the year under review, the Council of Governors Secretariat management recruited and promoted staff in various categories. This resulted to an increase in the amount of compensation paid to Kshs.60,227,174 in 2016/2017 from Kshs.29,422,841 paid the previous year, an increase of 30,804,333 or about 105%.

As reported in the previous year, the staff of the Secretariat continued to be paid salaries and allowances without advice of the Salaries and Remuneration Commission contrary to the provisions of Article 230(4) b of the Constitution of Kenya 2010. Consequently, the validity of compensation of employees' expenditure of Kshs.60,227,174 cannot be confirmed under the circumstances.

9.5 Legal Expenses

The legal fees of Kshs.41,849,005 disclosed under Note 3 to the financial statements includes an amount of Kshs.31,142,450 paid to one lawyer that was handling cases between the Council and various arms of the National Government including Senate, National Assembly and, the

Independent Electoral and Boundaries Commission among others. No proper justification has been provided for appointing the lawyer to handle all these cases.

9.6 Domestic Travel and Subsistence

Domestic travel and subsistence expenditure of Kshs.43,097,567 disclosed under Note 4 to the financial statements includes payments amounting to Kshs.7,671, 260 in respect of helicopter and charter to a service provider during the year under review. However, documents in support of procurement and sourcing of the service provider whose contract was signed on 15 September, 2016 were not provided for audit verification. Consequently, the propriety of this expenditure cannot be ascertained.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

I do not express a conclusion on the lawfulness and effectiveness in the use of public resources as required by Article 229(6) of the Constitution. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

I do not express a conclusion on the effectiveness of internal controls, risk management and governance as required by Section 7(1) (a) of the Public Audit Act, 2015. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

Responsibilities of Management and Those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards Accrual Basis and for maintaining effective internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and governance.

In preparing the financial statements, management is responsible for assessing the ability to sustain services, disclosing, as applicable, matters related to sustainability of services and using the International Public Sector Accounting Standards Accrual basis of accounting

unless the management either intends to liquidate the or to cease operations, or have no realistic alternative but to do so.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the financial reporting process, reviewing the effectiveness of how the entity monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

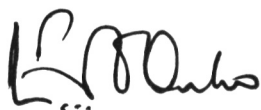
Auditor-General's Responsibilities for the Audit

My responsibility is to conduct an audit of the financial statements in accordance with International Standards of Supreme Audit Institutions (ISSAIs) and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. However, because of the matters described in the Basis for Disclaimer of Opinion section of my report, I was not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

In addition, my responsibility is to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them, and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution. I also consider internal control, risk management and governance processes and systems in order to give an assurance on the effectiveness of internal controls, risk management and governance in accordance with the provisions of Section 7(1) (a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. However, because of the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources, and Internal Controls, Risk Management and Governance sections of my report, I was not able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

I am independent of Council of Governors in accordance with ISSAI 30 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance

with other ethical requirements applicable to performing audits of financial statements in Kenya.



FCPA Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

23 August 2019

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 30 JUNE 2018

	Notes	2017-2018	2016-2017
		Kshs	Kshs
Revenue from non-exchange transactions			
Transfer from Government Entities	7	220,545,600	361,259,779
Proceeds from Domestic and Foreign Grants	6	105,062,143	78,549,775
Grants from Ministry of Devolution	8	107,000,000	101,193,624
Grants from Ministry of Devolution (Kenya Symbiocity Programme)		25,000,000	52,009,000
Receipts in-kind	16	48,690,233	73,427,547
Rent Receivable	21	21,024,903	
Total revenue		527,322,879	666,439,725
Expenses			
Use of goods and services	9	5,427,341	5,492,162
Employee costs	10	115,876,227	60,227,174
Depreciation and amortization expense	18	15,647,801	-
Repairs and maintenance	13	10,651,379	9,957,559
General expenses	14	457,884,882	502,528,719
Kenya Symbiocity Programme	15	51,771,466	24,470,975
Payments In-kind	16	48,690,233	73,427,547
Total expenses		705,949,329	676,104,136
Remission to National Treasury		-	-
Net Surplus for the year		(178,626,450)	(9,664,411)

The notes set out on pages 6 to 28 form an integral part of these Financial Statements

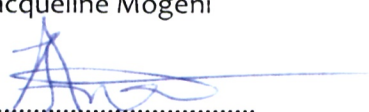
Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

STATEMENT OF FINANCIAL POSITION
AS AT 30 JUNE 2018

	Notes	2017-2018	2016-2017
		Kshs	Kshs
Assets			
Current assets			
Cash and cash equivalents	17	293,307,432	388,191,565
Rent Receivable	21	21,024,903	
Non-current assets			
Property, plant and equipment	18	54,931,849	9,879,015
Total assets		369,264,184	398,070,580
Liabilities			
Current liabilities			
Trade and other payables from exchange transactions	19	68,341,937	-
Non-current liabilities			
Non-current employee benefit obligation		23,454,839	-
Total liabilities		91,796,776	
Net Assets		277,467,408	398,070,580
Reserves		388,191,565	407,734,991
Adjustment; Fixed Assets	20	67,902,293	
Accumulated surplus		(178,626,450)	(9,664,411)
Total net assets and liabilities		277,467,408	398,070,580

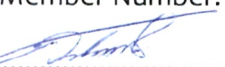
The Financial Statements set out on pages 6 to 28 were signed on behalf of the management by:

Chief Executive Officer
Name: Jacqueline Mogeni

Signed.....

Date... 30/09/2018

Head of Finance
Name: David Kisabuli
ICPAK Member Number: 17785

Signed.....

Date... 30/09/18

**STATEMENT OF CHANGES IN NET ASSETS
 FOR THE YEAR ENDED 30 JUNE 2018**

	Retained earnings	Capital/ Development Grants/Fund	Total
At July 1, 2016	167,489,644	-	167,489,644
Total comprehensive income	(19,543,426)	-	(19,543,426)
At June 30, 2017	147,946,218	-	147,946,218
At July 1, 2017	147,946,218	-	147,946,218
Total comprehensive income	(178,626,450)	-	(187,193,435)
At June 30, 2018	(30,680,232)	-	(39,247,217)

**STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30 JUNE 2018**

		2017-2018	2016-2017
		Kshs	Kshs
Cash flows from operating activities			
Receipts			
Transfer from Government Entities		220,545,600	361,259,779
Proceeds from Domestic and Foreign Grants		105,062,143	78,549,775
Grants from Ministry of Devolution		107,000,000	101,193,624
Grants from Ministry of Devolution (Kenya Symbiocity Programme)		25,000,000	52,009,000
Total Receipts		457,607,743	593,012,178
Payments			
Use of goods and services		5,427,341	5,492,162
Employee costs		115,876,227	60,227,174
Repairs and maintenance		10,651,379	9,957,559
General expenses		457,884,882	502,528,719
Kenya Symbiocity Programme		51,771,466	24,470,975
Total Payments		641,611,295	602,676,589
Net cash flows from operating activities		(184,003,552)	(9,664,411)
Cash flows from investing activities			
Purchase of property, plant, equipment and intangible assets		(2,677,357)	(9,879,015)
Net cash flows used in investing activities		(2,677,357)	(9,879,015)
Cash flows from financing activities			
Increase in payables		68,341,937	
Gratuity Fund		23,454,839	
Net cash flows used in financing activities		91,796,776	-
Net increase/(decrease) in cash and cash equivalents		(94,884,133)	(19,543,426)
Cash and cash equivalents at 1 JULY	28	388,191,565	407,734,991
Cash and cash equivalents at 30 JUNE	28	293,307,432	388,191,565

STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS
FOR THE YEAR ENDED 30 JUNE 2018

	Original budget	Adjustments	Final budget	Actual on comparable basis	Performance difference
	2017-2018	2017-2018	2017-2018	2017-2018	2017-2018
	Kshs	Kshs	Kshs	Kshs	Kshs
Revenue					
Transfer from Government Entities	215,722,750	215,722,750	215,722,750	220,545,600	4,822,850
Proceeds from Domestic and Foreign Grants	169,530,567	169,530,567	169,530,567	105,062,143	(64,468,424)
Grants from Ministry of Devolution	247,900,000	247,900,000	247,900,000	107,000,000	(115,900,000)
Grants from Ministry of Devolution (Kenya Symbiocity Programme)	-	-	-	25,000,000	
Total income	633,153,317	633,153,317	633,153,317	457,607,743	(175,545,574)
Expenses					
Use of goods and services	5,400,000	5,400,000	5,400,000	5,427,341	(27,341)
Employee costs	125,827,308	125,827,308	125,827,308	115,876,727	9,951,081
Repairs and maintenance	14,805,368	14,805,368	14,805,368	10,651,379	4,153,989
General expenses	468,149,642	468,149,642	468,149,642	457,884,882	10,264,760
Kenya Symbiocity Programme (ref. to Programme Statements)				51,771,466	
Total expenditure	614,182,318	614,182,318	614,182,318	641,611,795	24,341,989
Surplus for the period	18,971,000	18,971,000	18,971,000	(184,004,052)	(199,887,563)

Budget note

i. **Transfer from Government Entities:**

Most counties did not honour their commitment of support to the Council during the year apart from the Devolution Conference where the council realized 96% of the expected amount.

ii. **Proceeds from Domestic and Foreign Grants:**

There was drastic reduction of grants from development partners during the period.

iii. **Grants from Ministry of Devolution:**

The allocation of supplementary budget of Kshs 115,900,000 was not disbursed by end of the financial period.

NOTES TO THE FINANCIAL STATEMENTS

1. GENERAL INFORMATION

The Council of Governors is established by and derives its authority and accountability from Intergovernmental Relations Act (IGRA 2012). The entity is wholly owned by the Government of Kenya and is domiciled in Kenya.

2. STATEMENT OF COMPLIANCE AND BASIS OF PREPARATION

The financial statements have been prepared on a historical cost basis except for the measurement at re-valued amounts of certain items of property, plant and equipment, marketable securities and financial instruments at fair value, impaired assets at their estimated recoverable amounts and actuarially determined liabilities at their present value. The preparation of financial statements in conformity with International Public Sector Accounting Standards (IPSAS) allows the use of estimates and assumptions. It also requires management to exercise judgement in the process of applying the entity's accounting policies. The areas involving a higher degree of judgement or complexity, or where assumptions and estimates are significant to the financial statements, are disclosed in Note 5

The financial statements have been prepared and presented in Kenya Shillings, which is the functional and reporting currency of the entity.

The financial statements have been prepared in accordance with the PFM Act, the State Corporations Act (include any other applicable legislation), and International Public Sector Accounting Standards (IPSAS). The accounting policies adopted have been consistently applied to all the years presented.

3. ADOPTION OF NEW AND REVISED STANDARDS

i. Relevant new standards and amendments to published standards effective for the year ended 30 June 2018

Standard	Impact
IPSAS 39: Employee Benefits	Applicable: 1st January 2018 The objective to issue IPSAS 39 was to create convergence to changes in IAS 19 Employee benefits. The IPSASB needed to create convergence of IPSAS 25 to the amendments done to IAS 19. The main objective is to ensure accurate information relating to pension liabilities arising from the defined benefit scheme by doing away with the corridor approach

NOTES TO THE FINANCIAL STATEMENTS (Continued)

3 ADOPTION OF NEW AND REVISED STANDARDS (Continued)

- ii. **New and amended standards and interpretations in issue but not yet effective in the year ended 30 June 2017**

Standard	Effective date and impact:
IPSAS 40: Public Sector Combinations	Applicable: 1st January 2019: The standard covers public sector combinations arising from exchange transactions in which case they are treated similarly with IFRS 3 (applicable to acquisitions only) Business combinations and combinations arising from non exchange transactions which are covered purely under Public Sector combinations as amalgamations.

- iii. **Early adoption of standards**

The entity did not early – adopt any new or amended standards in year 2018.

4 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

a) Revenue recognition

- i) **Revenue from non-exchange transactions**

Transfers from other government entities

Revenues from non-exchange transactions with other government entities are measured at fair value and recognized on obtaining control of the asset (cash, goods, services and property) if the transfer is free from conditions and it is probable that the economic benefits or service potential related to the asset will flow to the entity and can be measured reliably. Recurrent grants are recognized in the statement of comprehensive income.

b) Budget information

The original budget for FY 2017/18 was approved by the Council. Subsequent revisions or additional appropriations were made to the approved budget in accordance with specific approvals from the appropriate authorities. The additional appropriations are added to the original budget by the entity upon receiving the respective approvals in order to conclude the final budget.

The entity's budget is prepared on a different basis to the actual income and expenditure disclosed in the financial statements. The financial statements are prepared on accrual basis using a classification based on the nature of expenses in the statement of financial performance, whereas the budget is prepared on a cash basis. The amounts in the financial statements were recast from the accrual basis to the cash basis and reclassified by presentation to be on the same basis as the approved budget. A comparison of budget and actual amounts, prepared on a comparable basis to the approved budget, is then presented in the statement of comparison of budget and actual amounts.

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

In addition to the Basis difference, adjustments to amounts in the financial statements are also made for differences in the formats and classification schemes adopted for the presentation of the financial statements and the approved budget.

A statement to reconcile the actual amounts on a comparable basis included in the statement of comparison of budget and actual amounts and the actuals as per the statement of financial performance has been presented under page 5 of these financial statements.

c) Property, plant and equipment

All property, plant and equipment are stated at cost less accumulated depreciation and impairment losses. Cost includes expenditure that is directly attributable to the acquisition of the items. When significant parts of property, plant and equipment are required to be replaced at intervals, the entity recognizes such parts as individual assets with specific useful lives and depreciates them accordingly. Likewise, when a major inspection is performed, its cost is recognized in the carrying amount of the plant and equipment as a replacement if the recognition criteria are satisfied. All other repair and maintenance costs are recognized in surplus or deficit as incurred. Where an asset is acquired in a non-exchange transaction for nil or nominal consideration the asset is initially measured at its fair value.

d) Leases

Financial leases are leases that do not transfer substantially all the risks and benefits incidental to ownership of the leased item to the Entity. Operating lease payments are recognized as an operating expense in surplus or deficit on a straight-line basis over the lease term.

e) Intangible assets

Intangible assets acquired separately are initially recognized at cost. The cost of intangible assets acquired in a non-exchange transaction is their fair value at the date of the exchange. Following initial recognition, intangible assets are carried at cost less any accumulated amortization and accumulated impairment losses.

The useful life of the intangible assets is assessed as either finite or indefinite.

i) Nature and purpose of reserves

The Entity creates and maintains reserves in terms of specific requirements. *The Council did not maintain reserve during the period.*

j) Changes in accounting policies and estimates

The Entity recognizes the effects of changes in accounting policy retrospectively. The effects of changes in accounting policy are applied prospectively if retrospective application is impractical.

k) Related parties

The Entity regards a related party as a person or an entity with the ability to exert control individually or jointly, or to exercise significant influence over the Entity, or vice versa.

l) Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

changes in value. Bank account balances include amounts held at the various commercial banks including bank guarantees held at the end of the financial year.

m) Budget information

The original budget for FY 2017-2018 was approved by the Council of Governors. Subsequent revisions or additional appropriations were made to the approved budget in accordance with specific approvals from the appropriate authorities. The additional appropriations are added to the original budget by the entity upon receiving the respective approvals in order to conclude the final budget.

The entity's budget is prepared on a different basis to the actual income and expenditure disclosed in the financial statements. The financial statements are prepared on accrual basis using a classification based on the nature of expenses in the statement of financial performance, whereas the budget is prepared on a cash basis. The amounts in the financial statements were recast from the accrual basis to the cash basis and reclassified by presentation to be on the same basis as the approved budget. A comparison of budget and actual amounts, prepared on a comparable basis to the approved budget, is then presented in the statement of comparison of budget and actual amounts. In addition to the Basis difference, adjustments to amounts in the financial statements are also made for differences in the formats and classification schemes adopted for the presentation of the financial statements and the approved budget.

A statement to reconcile the actual amounts on a comparable basis included in the statement of comparison of budget and actual amounts and the actuals as per the statement of financial performance has been presented under page 5 of these financial statements.

n) Comparative figures

Where necessary comparative figures for the previous financial year have been amended or reconfigured to conform to the required changes in presentation.

o) Subsequent events

There have been no events subsequent to the financial year end with a significant impact on the financial statements for the year ended June 30, 2018.

5 SIGNIFICANT JUDGMENTS AND SOURCES OF ESTIMATION UNCERTAINTY

The preparation of the Ent'ty's financial statements in conformity with IPSAS requires management to make judgments, estimates and assumptions that affect the reported amounts of revenues, expenses, assets and liabilities, and the disclosure of contingent liabilities, at the end of the reporting period. However, uncertainty about these assumptions and estimates could result in outcomes that require a material adjustment to the carrying amount of the asset or liability affected in future periods. State all judgements, estimates and assumptions made: e.g

Estimates and assumptions

The key assumptions concerning the future and other key sources of estimation uncertainty at the reporting date, that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year, are described below. The Entity based its assumptions and estimates on parameters available when the consolidated financial statements were prepared. However, existing circumstances and assumptions about future developments may change due to market changes or circumstances arising beyond the control of the Entity. Such changes are reflected in the assumptions when they occur. IPSAS 1.140

Useful lives and residual values

The useful lives and residual values of assets are assessed using the following indicators to inform potential future use and value from disposal:

- The condition of the asset based on the assessment of experts employed by the Entity
- The nature of the asset, its susceptibility and adaptability to changes in technology and processes
- The nature of the processes in which the asset is deployed
- Availability of funding to replace the asset
- Changes in the market in relation to the asset

Provision for Depreciation

The depreciation rates used are as follows;

Class	Rate
Motor vehicle	25%
Furniture & Fitting	12.5%
Office Equipment & Accessories	30%
Computers & Printers	30%

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

6 PUBLIC CONTRIBUTIONS AND DONATIONS

	2017-8	2016-7
Name of the Donor	Kshs	Kshs
Devolution Conference Registration and Others	66,281,119	74,248,475
UNICEF Kenya	2,000,000	4,051,300
HDI Marketers Ltd	-	250,000
Kenya Vision 2030	1,000,000	-
Kenya Post Office	1,000,000	-
Osho Chemical Industries Limited	1,000,000	-
Children Invets	3,000,000	-
KIPPRA	1,200,000	-
Resolution Insurance	5,000,000	-
Amref Kenya	1,300,000	-
Isuzu East Africa Limited	1,000,000	-
Cooperative Bank of Kenya	5,000,000	-
Kenya Commercial Bank	7,500,000	-
Ford Foundation	2,927,024	-
Deloitte Limited	250,000	-
EACC	2,680,000	-
Kenya Private Sector Alliance	1,000,000	-
Seven Seas Technology Group	100,000	-
Commission On Revenue Allocation	500,000	-
Water Services Trust Fund	1,500,000	-
UNDP	500,000	-
The Youth Agenda	134,000	-
County Pension Fund	190,000	-
TOTAL	105,062,143	78,549,775

Most of the contribution and donations above relates to Devolution Conference and Governors induction program.

NOTES TO THE FINANCIAL STATEMENTS (Continued)

7 TRANSFERS FROM OTHER GOVERNMENTS

Name of the Entity sending the grant	Amount recognized to Statement of Comprehensive Income KShs	Amount deferred under deferred income KShs	Amount recognised in capital fund.	Total grant income during the year	2017-2018
			KShs	KShs	KShs
County Governments	220,545,600	-	-	220,545,600	220,545,600
Total	220,545,600	-	-	220,545,600	220,545,600

The detailed matrix is included under appendix IV

8 TRANSFERS FROM MINISTRIES, DEPARTMENTS AND AGENCIES

Name of the Entity sending the grant	Amount recognized to Statement of Comprehensive Income KShs	Amount deferred under deferred income KShs	Amount recognised in capital fund.	Total grant income during the year	2017-2018
			KShs	KShs	KShs
Ministry of Devolution	132,000,000	-	-	132,000,000	132,000,000
Total	132,000,000	-	-	132,000,000	132,000,000

The details of the reconciliation have been included under appendix III

9 USE OF GOODS AND SERVICES

Description	2017-2018	2016-2017
	KShs	KShs
Electricity	4,704,914	5,029,532
Security	722,427	462,630
Total good and services	5,427,341	5,492,162

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

10 EMPLOYEE COSTS

Description	2017-2018	2016-2017
	KShs	KShs
Salaries and wages	89,963,816	60,227,174
Employee related costs - contributions to pensions and medical aids	25,242,161	
Employee costs	104,297,977.40	60,227,174

11 DEPRECIATION AND AMORTIZATION EXPENSE

Description	2017-2018	2016-2017
	KShs	KShs
Property, plant and equipment	15,647,801	-
Total depreciation and amortization	15,647,801	-

12 REPAIRS AND MAINTENANCE

Description	2017-2018	2016-2017
	KShs	KShs
Motor Vehicle	8,331,519.21	7,141,226
Furniture & Fittings	1,387,664.44	2,816,333
Total repairs and maintenance	9,719,183.65	9,957,559

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

NOTES TO THE FINANCIAL STATEMENTS (Continued)

13 GENERAL EXPENSES

Description	2017-2018	2016-2017
	KShs	KShs
Rental, Proceeds, Utilities and services	196,856,645	151,502,964
Communication, supplies and services	3,654,805	3,422,976
Domestic travel and subsistence	15,354,184	43,097,567
Foreign travel and subsistence	16,185,005	20,485,267
Printing, advertising and information supplies & services	10,014,131	19,008,479
Training, Conferences and workshops expenses	132,255,284	174,423,084
Hospitality supplies and services	61,332,442	37,091,987
Insurances	10,125,538	11,607,390
Legal Fees	12,106,847	41,849,005
Total general expenses	457,884,882	502,488,719

14 CASH AND CASH EQUIVALENTS

Description		2017-2018	2016-2017
		KShs	KShs
Current account	17(a)	192,788,490	2587,728,803
Cash in Hand		218,942	162,762
Staff mortgage	17(b)	100,000,000	100,000,000
Bank Guarantee		300,000	300,000
Total cash and cash equivalents		293,307,432	388,191,565

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

15 RECEIPTS/PAYMENTS IN-KIND

IN-KIND DONATIONS FROM DEVELOPMENT PARTNERS		
ORGANIZATION	TYPE OF SUPPORT	AMOUNTS
UNDP	The Integrated Programme to Support Devolution is designed to support the implementation of Devolution to achieve improved good governance and socio-economic development in Kenya	34,922,231
UN Women	'Effective Implementation of the Gender Functions at the County Level A Program to facilitate capacity building for Counties to advance the gender equality and women's empowerment work. Thus, the work under this project focused on the objectives outlined below; (a) Building the capacity of CECMs in charge of Gender (b) Creating linkages with, and clarifying the role of the National Government in relation to that of County Governments in Gender matters and; (c) Facilitating the participation and involvement of County Governments in international events touching on gender.	7,940,787
UNICEF	a) Provision of Technical Support on matters relating to Early Child Education Policies and laws. b) Provision of support to Governors and Deputy Governors Induction c) Provision of support to the 5th Annual Devolution conference, d) Provision of support towards Health Committee	5,827,176
	Total	48,690,194

16 DETAILED ANALYSIS OF THE CASH AND CASH EQUIVALENTS

Financial institution	Account number	2017-2018 KShs	2016-2017 KShs
a) Current account			
Kenya Commercial bank	01164902318	16,515,471	54,463,552
Kenya Commercial bank	1212164717	23,454,839	-
Cooperative Bank	0114320133800	31,935,233	76,296,801
Cooperative Bank	0113420133800	9,925	18,349,184
National Bank of Kenya	01001113869200	120,873,022	138,619,266
Sub- total		192,788,490	287,728,803
b) Staff mortgage			
Kenya Commercial bank		100,000,000	100,000,000
Sub- total		100,000,000	100,000,000
c) Guarantee			
Cooperative Bank		300,000	300,000
Sub- total		300,000	300,000
d) Others			
Petty Cash		218,942	162,762
Sub- total		218,942	162,762
Grand total		293,307,432	388,191,565

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018
NOTES TO THE FINANCIAL STATEMENTS (Continued)

17 PROPERTY, PLANT AND EQUIPMENT

Council of Governors

Summary of Fixed Asset Movements

Details	Office Machines Kshs	Office Furniture Kshs	Computers Kshs	Motor Vehicles Kshs	Total Kshs
Cost					
As at 1 July 2017	1,920,000	19,303,690	6,285,985	40,392,618	67,902,293
Additions	1,944,116	733,241			2,677,357
Disposals	-	-	-	-	-
Adjustments	-	-	-	-	-
As at 30 June 2018	3,864,116	20,036,931	6,285,985	40,392,618	70,579,650
Net Book Value					
As at 1 July 2017	1,920,000	19,303,690	6,285,985	40,392,618	67,902,293
As at 30 June 2018	3,864,116	20,036,931	6,285,985	40,392,618	70,579,650
Depreciation Charge					
	1,159,234.80	2,504,616	1,885,796	10,098,154.50	15,647,801
Net Book Value	2,704,881	17,532,314	4,400,190	30,294,464	54,931,849

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

18 ACCOUNTS PAYABLE

S/NO.	SUPPLIER	CLASS	AMOUNT (Kshs)
1.	Golf Hotel	Conference	960,000
2.	Safari Park	Conference	506,250
3.	African Touch Safaris	Local Travel	371,580
4.	Longrock Tours and Travel	Local Travel	71,200
5.	Longrock Tours & Travel	Local Travel	71,200
6.	Casael Investment	Office Repairs	797,000
7.	Premier Safaris	Local Travel	135,715
8.	Pride Inn	Conference	30,000
9.	Sports view Hotel	Conference	92,000
10.	Convent Hotel	Conference	312,000
11.	M/S Long rock tours and travel	Local Travel	153,300
12.	M/s Qaribu Inn	Conference	100,000
13.	Travelers Beach Hotel	Conference	8,000
14.	Premier Safaris	Local Travel	52,150
15.	African Touch Safaris	Local Travel	104,800
16.	Premier Safaris	Local Travel	45,540
17.	Arseniq Media	Printing	4,800
18.	Travelers Beach Hotel	Conference	70,950
19.	Premier Safaris	Local Travel	308,695
20.	Safari Park Hotel and Casino	Conference	222,000
21.	Naivasha County Hotel-Sawela Lodges	Conference & Workshop	311,000
22.	Nation Media Group Limited	Advertising, Awareness	499,999
23.	The Standard Group	Advertising, Awareness	499,999
24.	Royal Media Services	Advertising, Awareness	500,000
25.	Toyota Kenya Limited	Motor Vehicle Maintenance	135,195
26.	Qaribu Inn	Catering Services	122,000
27.	Rex Kiosk	Subscription; Newspapers,	19,057
28.	Sunrise Tours And Safaris	Travel Costs	29,735
29.	African Touch Safaris	Travel Costs	66,855
30.	Cedars Travel & Tours Limited	Travel Costs	27,132
31.	Chandaria Industries	General Office Supplies	106,604
32.	Layton International Supplies	General Office Supplies	235,700
33.	Equinox Solutions Limited	Sanitation & Cleaning	489,842
34.	Longrock Tours & Travel Ltd	Travel Costs	22,400
35.	Cedars Travel & Tours Limited	Travel Costs	62,615
36.	Tondwe Africa Group LTD	Travel Costs	80,185
37.	Realedge Africa	Travel Costs	44,820
38.	Green Bay Travel Limited	Travel costs	72,670
39.	Green Bay Travel Limited	Travel costs	8,500
40.	Sheywe Guest House	Accommodation and Meals	40,000
41.	Acacia Premier Hotel	Accommodation and Meals	1,642,760
42.	Grand Royal Swiss Hotel	Accommodation and Meals	2,250,800

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

43.	Law Society of Kenya	Subscription to Professional	72,670
44.	Silverbird Travel Plus Ltd	Travel Costs	24,995
45.	Scangraphics Kenya Limited	General Office Supplies	105,600
46.	Soverign Hotel	Accommodation and Meals	193,750
47.	Sosa Cottages	Accommodation and Meals	1,552,840
48.	Keagles Knitwear Limited	General Office Supplies	75,000
49.	Qaribu Inn	Catering Services	91,200
50.	Sarova Whitesands Beach Resort	Accommodation and Meals	148,931
51.	Knight Frank Property Management Ltd	Rent outstanding as at 30.06.2018	21,024,903
52.	Pricewaterhouse Coopers	End Term Review of CIDPs	33,367,000
	Total		68,341,937

19 EMPLOYEE BENEFIT OBLIGATIONS

Description	Defined benefit plan	Post-employment medical benefits	Other Provisions	2017-2018
	KShs	KShs	KShs	KShs
Current benefit obligation	-	-	-	-
Non-current benefit obligation	23,454,839	-	-	23,454,839
Total employee benefits obligation	23,454,839	-	-	23,454,839

The entity operates a defined benefit scheme for all full-time employees from July 1, 2018. The scheme is based on 31 percentage of salary of an employee at the time of retirement. The liability at the end of the year is as follows:

20 CASH GENERATED FROM OPERATIONS

	2017-2018	2016-2017
	KShs	KShs
Surplus for the year before tax		
Adjusted for:		
Depreciation	15,647,801	-
Non-cash grants received	(48,690,233)	(73,427,542)
Increase in payables	68,341,937	-
Net cash flow from operating activities	35,299,505	(73,427,542)

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

21 RENT RECEIVABLE/PAYABLE

	County	Amount (Kshs)
1	Bomet County Government	(56,252)
2	Bungoma County Government	599,467
3	E-Marakwet County Government	1,145,652
4	Isiolo County Government	1,197,667
5	Kisii County Government	881,850
6	Kisumu County Government	883,343
7	Kitui County Government	2,317,945
8	Lamu County Government	1,172,293
9	Marsabit County Government	886,428
10	Meru County Government	881,828
11	Mombasa County Government	1,153,980
12	Nakuru County Government	2,109,812
13	Nyamira County Government	1,169,815
14	Nyeri County Government	(41,725)
15	Samburu County	923,943
16	Siaya County Government	1,119,011
17	Taita-Taveta County Government	1,171,025
18	Tana River County Government	599,467
19	Turkana County Government	881,850
20	Vihiga County Government	1,145,652
21	Wajir County Government	881,850
	Total	21,024,903

22 FINANCIAL RISK MANAGEMENT

The entity's activities expose it to a variety of financial risks including credit and liquidity risks and effects of changes in foreign currency. The company's overall risk management programme focuses on unpredictability of changes in the business environment and seeks to minimise the potential adverse effect of such risks on its performance by setting acceptable levels of risk. The company does not hedge any risks and has in place policies to ensure that credit is only extended to customers with an established credit history.

The entity's financial risk management objectives and policies are detailed below:

(i) Credit risk

The entity has exposure to credit risk, which is the risk that a counterparty will be unable to pay amounts in full when due. Credit risk arises from cash and cash equivalents, and deposits with banks, as well as trade and other receivables and available-for-sale financial investments.

Management assesses the credit quality of each customer, taking into account its financial position, past experience and other factors. Individual risk limits are set based on internal or external assessment in accordance with limits set by the management. The amounts presented in the statement of financial position are net of allowances for doubtful

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

receivables, estimated by the company's management based on prior experience and their assessment of the current economic environment.

The carrying amount of financial assets recorded in the financial statements representing the entity's maximum exposure to credit risk without taking account of the value of any collateral obtained is made up as follows:

	Total amount Kshs	Fully performing Kshs	Past due Kshs	Impaired Kshs
At 30 June 2018				
Bank balances	293,307,432	293,307,432	-	-
Total	293,307,432	293,307,432	-	-
Bank balances	388,191,565	388,191,565	-	-
Total	388,191,565	388,191,565	-	-

The Council has no credit risk exposure as at the end of the financial period.

23 RELATED PARTY BALANCE

Nature of related party relationships

Entities and other parties related to the entity include those parties who have ability to exercise control or exercise significant influence over its operating and financial decisions.

Government of Kenya (Continued)

- i) State Department of Devolution
- ii) County Governments
- iii) Key management;

	2018 Kshs	2017 Kshs
a) Grants from the Government		
Grants from National Government	107,000,000	101,193,624
Grants from County Government	220,545,600	361,259,779
Proceeds from Domestic & Foreign Grants	105,062,143	78,549,775
Donations in kind	48,690,233	73,427,547
Grants from Ministry of Devolution (Kenya Symbiocity Programme)	25,000,000	52,009,000
Total	506,297,976	666,439,725

24 DIVIDENDS/SURPLUS REMISSION

In accordance with Section 219 (2) of the Public Financial Management Act regulations, regulatory entities shall remit into Consolidated Fund, ninety per centum of its surplus funds reported in the audited financial statements after the end of each financial year. The entity did not make any surplus during the year (FY 2017/8 Nil) and hence no remittance to the Consolidated Fund.

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

25 TAXATION

The council does not generate its own source revenue, hence did not remit income tax during the period

26 EVENTS AFTER THE REPORTING PERIOD

There were no material adjusting and non- adjusting events after the reporting period.

27 Currency

The financial statements are presented in Kenya Shillings (Kshs).

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

APPENDIX 1: PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATIONS

The following is the summary of issues raised by the external auditor, and management comments that were provided to the auditor. We have nominated focal persons to resolve the various issues as shown below with the associated time frame within which we expect the issues to be resolved.

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Focal Point person to resolve the issue	Status: (Resolved / Not Resolved)	Timeframe: (Put a date when you expect the issue to be resolved)
1.	Bank Guarantee	The bank guarantee number TFBG/15/0090 was issued on account Council of Governors by Cooperative Bank of Kenya to Toyota Kenya effective from 10 th February 2015 and expiry on 31 st January 2016. However, the Council has since renewed the guarantee since it has been receiving the services and will continue to receive services from Toyota Kenya on credit. (See attached renewal contract agreement)	Management	Resolved	
2.	Staff Loan Fund	The Council did approve the creation of staff loan fund through a Council of Governors resolution. (See attached minutes). This was a mandate to improve the welfare of the staff since they could not access the Government negotiated loan. The Council secretariat had negotiated with the lending Bank for the repayment period of the mortgage to be based on the employee remaining years of service	Management		

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Focal Point person to resolve the issue	Status: (Resolved / Not Resolved)	Timeframe: (Put a date when you expect the issue to be resolved)
		see clause 10 of the agreement between CoG and KCB bank.			
3.	Transfer from Government Entities	We acknowledge that some Counties have not been remitting their quarterly rent obligation to the Secretariat. However, the Council is consistently making effort to following up with the respective Counties who have outstanding arrears.	The Council of Governors, Management		
4.	Compensation of Employees	The structure of the Secretariat was approved by the Council. Further, the Council sort advice from Salaries and Remuneration.	Management		
5.	Legal Expenses	The Intergovernmental Relations Act 2012 at section 20 (b) provides that the Council is a forum for 'sharing of information on the performance of the counties in the execution of their functions with the objective of learning and promotion of best practice, and where necessary initiating preventive or corrective action'. The Council institutes courts matters or defends court cases in line with this mandate and to ensure that the principles and the objects of devolution as enshrined in the Constitution are protected. Please note that the legal fees paid in	Management		

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Focal Point person to resolve the issue	Status: (Resolved / Not Resolved)	Timeframe: (Put a date when you expect the issue to be resolved)
		the financial year under review are for ongoing cases contracted in the previous financial years.			
6.	Domestic Travel & Subsistence	The council did procure the services of helicopter and charter through competitive bidding as per the provisions in the Public procurement Asset and Disposal Act.	Management		

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

APPENDIX II: PROJECTS IMPLEMENTED BY THE ENTITY

Projects

Projects implemented by the State Corporation/ SAGA Funded by development partners

Project title	Project Number	Donor	Period/ duration	Donor commitment	Separate donor reporting required as per the donor agreement (Yes/No)	Consolidated in these financial statements (Yes/No)
1 Kenya Symbiocity Programme	51110060	Sida	4 Years	378,750,000	Yes	Yes
2						

Status of Projects completion

(Summarise the status of project completion at the end of each quarter, ie total costs incurred, stage which the project is etc)

	Project	Total project Cost	Total expended to date	Completion % to date	Budget	Actual	Sources of funds
1	Kenya Symbiocity Programme	378,50,000	70,328,108	19%	378,50,000	70,328,108	Sida

APPENDIX III: INTER-ENTITY TRANSFERS

ENTITY NAME:			
Break down of Transfers from the State Department of Devolution			
FY 17/18			
a. Recurrent Grants			
	Bank Statement Date	Amount (KShs)	Indicate the FY to which the amounts relate
	11/09/2017	26,750,000	2017/8
	10/11/2017	26,750,000	2017/8
	29/01/2018	26,750,000	2017/8
	19/04/2018	26,750,000	2017/8
	07/05/2018	25,000,000	2017/8
	Total	132,000,000	

Finance Manager
Council of Governors entity

Sign _____

Head of Accounting Unit
State Department of Devolution

Sign_____

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

APPENDIX IV: RECORDING OF TRANSFERS FROM OTHER GOVERNMENT ENTITIES

CONTRIBUTIONS FROM COUNTY GOVERNMENTS

CO DE	COUNTY	INTERGONERN MENTAL CONTRIBUTIO N	LIAISON OFFICE RENT	DEVOLUTION CONFERENCE SUPPORT	TOTAL
01	Mombasa County Government	-	4,122,966	2,000,000	6,122,966
02	Kwale County Government	-	-	2,000,000	2,000,000
03	Kilifi County Government	-	-	2,000,000	2,000,000
04	Tana River County Government	-	2,291,304	2,000,000	4,291,304
05	Lamu County Government	-	1,145,652	-	1,145,652
06	Taita-Taveta County Government	-	2,240,558	2,000,000	4,240,558
07	Garissa County Government	-	-	2,000,000	2,000,000
08	Wajir County Government	3,125,000.00	5,210,924	2,000,000	10,335,924
09	Mandera County Government	1,300,000.00	2,767,818	2,000,000	6,067,818
10	Marsabit County Government	2,589,845.75	2,640,950	2,000,000	7,230,796
11	Isiolo Count Government	2,750,000.00	0.00	2,000,000	4,750,000
12	Meru County Government	-	3,527,422	2,000,000	5,527,422
13	Tharaka Nithi County Government	-	2,291,304	2,000,000	4,291,304
14	Embu County Government	-	-	2,000,000	2,000,000
15	Kitui County Government	3,125,000.00	-	2,000,000	5,125,000
16	Machakos County Government	-	-	2,000,000	2,000,000
17	Makueni County Government	5,000,000.00	1,145,652	2,000,000	8,145,652
18	Nyandarua County Government	3,125,000.00	0.00	2,000,000	5,125,000
19	Nyeri Ciounty Government	-	3,611,218	2,000,000	5,611,218
20	Kirinyaga County Government	-	7,929,021	2,000,000	9,929,021
21	Murang'a County Government	-	-	2,000,000	2,000,000
22	Kiambu County Government	-	-	2,000,000	2,000,000
23	Turkana County Government	3,923,943.00	5,714,846	2,000,000	11,638,788
24	West Pokot County Government	5,000,000.00	0.00	2,000,000	7,000,000
25	Samburu County Government	-	2,645,550	2,000,000	4,645,550
26	Trans-Nzoia County Government	-	-	2,000,000	2,000,000
27	Uasin Gishu County Government	-	-	2,000,000	2,000,000
28	Elgeyo Marakwet County Government	-	1,693,105	-	1,693,105
29	Nandi County Government	-	2,291,304	2,000,000	4,291,304
30	Baringo County Government	-	2,890,771	2,000,000	4,890,771
31	Laikipia County Government	-	0.00	2,000,000	2,000,000
32	Nakuru County Government	-	3,164,719	2,000,000	5,164,719
33	Narok County Government	-	2,687,576	2,000,000	4,687,576

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

34	Kajiado County Government	-	-	2,000,000	2,000,000
35	Kericho County Government	8,000,000.00	3,411,583	2,000,000	13,411,583
36	Bomet County Government	-	5,655,079	2,000,000	7,655,079
37	Kakamega County Government	5,625,000.00	0.00	2,000,000	7,625,000
38	Vihiga County Government	2,877,467.00	1,745,119	2,000,000	6,622,586
39	Bungoma County Government	-	1,718,478	2,000,000	3,718,478
40	Busia County Government	-	-	2,000,000	2,000,000
41	Siaya County Government	-	1,745,119	2,000,000	3,745,119
42	Kisumu County Government	-	2,317,945	2,000,000	4,317,945
43	Homa-Bay County Government	-	-	2,000,000	2,000,000
44	Migori County Government	-	2,317,945	2,000,000	4,317,945
45	Kisii County Government	-	3,487,312	2,000,000	5,487,312
46	Nyamira County Government	-	1,693,105	2,000,000	3,693,105
47	Nairobi County	-	-	2,000,000	2,000,000
	TOTALS	45,599,492.75	84,946,107	90,000,000	220,545,600

Council of Governors
Annual Reports and Financial Statements
For the year ended June 30, 2018

Investigations revealed, inter alia, that direct procurement of the contractor was done by the Tender Committee without due consideration of the provisions of the law. The Assistant Director Procurement failed to notify bidders as required by law. No report was given to Public Procurement Oversight Authority considering the value of the contract exceeded five hundred thousand shillings.

A report was compiled and forwarded to the DPP on 16th January, 2019 with recommendation that the Assistant Director Procurement and the Tender Committee be charged with the offence of willful failure to comply with the law applicable to procurement contrary to section 45(2) (b) as read with section 48 of the ACECA.

On 6th May 2019, the DPP concurred with the Commission's recommendation for prosecution.

6. EACC/FI/INQ/110/2015

INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF FUNDS AT THE PRISONS SERVICE DEPARTMENT THROUGH NON-DELIVERY OF TYRES WORTH KSHS. 5,250,000/-

Investigations commenced following allegations of misappropriation of Government funds at the Prisons Service Department through tender number SDC/17/2013-2015 in which the Prisons Department entered into an agreement with Lolmuran Enterprises to supply and deliver tyres valued at Kshs. 5,250,000/- and that the same were never delivered. Pursuant to the said investigations a recommendation was made by EACC vide a letter of reference number EACC.6/27/2 VOL.XI (311) dated 13th July 2017 to charge the officer in charge of stores in Kenya Prisons Service and the Director of Multiprode Enterprises. The recommendation was allowed with some additional amendments.

Vide a letter from EACC of reference number EACC.6/27/2 VOL.XIII dated 16th July 2018, the Commission informed the Director of Public Prosecutions that critical evidence had been obtained in the period between May 2015 and

January 2016 and that the matter was affected by the Court of Appeal decision in Civil Appeal No. 102 of 2016 Eng. Michael Sistu Mwaura Kamau Vs. Ethics and Anti-Corruption Commission.

Whereas Lolmuran Enterprises was pre-qualified to bid for tender No. SDC/17/2013-2015 for supply and delivery of tyres, tubes and batteries by the Ministerial Tender Committee the firm neither supplied forty-nine (49) tyres and tubes of sizes 295/80 R22.5 for the sum of Kshs. 3,038,000/- in respect of LPO Number 224904 nor did they supply seventy (70) tyres and tubes of sizes 900 R20 for the sum of Kshs. 2,212,000/- in respect of LPO Number 224905.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations to charge the officer in charge of stores in Kenya Prisons Service and the Director of Multiprode Enterprises with the following charges; attempted fraud, Conspiracy to commit an economic crime contrary to Section 47A (3) as read with Section 48 of the ACECA; attempt to commit an economic crime contrary to section 47A as read with section 48(1) and (2) of ACECA and making a false document contrary to section 349 of the Penal Code.

On 21st June 2019, the DPP recommended further investigations be carried out.

7. EACC/MLD/INQ/05/2016

INQUIRY INTO ALLEGATIONS THAT THE COUNTY GOVERNMENT OF KILIFI IRREGULARLY PAID A SUM OF KSHS. 17,448,275.90 TO GRANDTOP SOLUTIONS FOR PROPOSED UPGRADING OF THE DATA CENTRE AND SECURITY UPGRADE OF CYBER ROOM CONFIGURATION DURING THE 2015/2016 FINANCIAL YEAR.

The Commission received an invitation letter guided by an audit report dated 1st February 2016 to conduct forensic investigation on a number of irregular payments from the County Government of Kilifi in regard to various tenders. One of the tenders identified for investigations is tender No. KCG/392/2014/2015 for upgrade of the data center and security of the cyber room.

Investigations revealed that the purported tender works to upgrade the data center and security upgrade of the cyber room never took place. Grandtop Solutions, the suspect company, was however paid in two installments of Kshs. 8, 724,137.94 each through the IFMIS. The Director of IFMIS ruled out password hacking.

On 16th January, 2019, a report was compiled and forwarded to DPP with the following recommendations;

1. The Chief Officer, ICT department 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 ACECA; abuse of office contrary to Section 46 as read with Section 48(1) of ACECA
2. The computer programmer be charged with abuse of office contrary to Section 46 as read with Section 48(1) of ACECA,
3. The Procurement Officer be charged with abuse of office contrary to Section 46 as read with Section 48(1) of ACECA,
4. The Chief Officer of Finance, the IFMIS liaison person and the Accountant be charged with the offence of abuse of office contrary to Section 46 as read with Section 48(1) of the ACECA,
5. The Proprietor of Grand Top Solution be charged with fraudulent acquisition of public property contrary to Section 45(1) (a) as read with Section 48(1) of the ACECA.

Awaiting DPP's decision.

8. EACC/FI/INQ/96/2015

ALLEGATIONS OF ABUSE OF OFFICE AND SOLICITING FOR A BENEFIT AGAINST THE FINANCE AND ADMINISTRATION MANAGER OF THE WATER RESOURCES MANAGEMENT AUTHORITY (WRMA).

Investigations commenced following a report made to the EACC by an anonymous person that the Finance and Administration Manager of Water Resources Management Authority (WRMA) solicited for benefits by issuing

instructions to members of staff within WRMA including Regional Managers throughout the country to send to him through Mpesa on his personal cell phone number an amount equivalent to between 10% and 20% of the amount disbursed as Government Water Development/Operations Funds.

Investigations revealed that between January, 2012 and February, 2014, the suspect received a total of Kshs. 14,833,945/- through Mpesa. He received the said amounts as an inducement so as to facilitate continuous disbursement of operation and development funds to various WRMA Regional Offices.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations to charge the suspect with six counts of soliciting and receiving a bribe from the public officers contrary to section 39(3) as read with section 48 of ACECA.

On 28th March 2019 the DPP concurred with the Commission's recommendations for prosecution.

9. EACC/MSA/FI/INQ/29/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR DISPOSAL OF PLOT NO. MOMBASA BLOCK XXV/169 BY TOURISM FINANCE CORPORATION

Investigations commenced following a complaint to the Commission alleging that the Tourism Finance Corporation was in the process of irregularly disposing of its land property no. Mombasa/ Block No. 169 / XXV situated at Mikindani Street within Mombasa County. It was further alleged that Tourism Finance Corporation had irregularly hired the services of Baseline Auctioneers to sell the said subject property without having a functional Board that would have sanctioned the sale.

It was established that the Managing Director of Tourism Finance Corporation failed to appoint a Tender Inspection and Acceptance Committee and approved payment to Trans Country Valuers Ltd which company had not been procedurally procured to carry out valuation on the property. Further that the

Managing Director and The Head of Legal Department at Tourism Finance Corporation failed to invite tenders from the list of pre-qualified suppliers for the disposal of the property..

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations to charge the Managing Director and Head of Legal Department with the offence of willful failure to comply with applicable law relating to procurement of goods contrary to section 45(2)(b) and abuse of office contrary to section 46, as read with section 48, of ACECA.

On 21st June 2019, the DPP recommended further investigations be carried out.

10. EACC/FI/INQ/69/2013

INQUIRY INTO ALLEGATION OF IRREGULAR AWARD OF TENDER FOR THE RENOVATION OF KENYATTA STADIUM AT A COST OF KSHS 87 MILLION BY THE COUNTY GOVERNMENT OF MACHAKOS

Investigations commenced following a complaint received on 4th November 2013 that the Machakos County Government irregularly single sourced a contractor for the Renovation and Construction of Kenyatta Stadium at a cost of Kshs. 87 million, using the County Public Funds with no budget allocation in the approved budget of the financial year 2013/2014.

It was established that there was no annual procurement plan and a budget allocation in the financial year 2013/2014 for the renovation of Kenyatta Stadium. It was further established that the procurement for the renovation of Kenyatta Stadium was not undertaken as per the law relating to procurement on restrictive tendering.

The Accounting Officer further conferred a benefit to the contractors irregularly and that the accounting procedures were not adhered to when making payments to the contractors.

Further, it was established that a number of Evaluation Committee Members, Tender Committee Members and Directors of Companies awarded various tenders were involved in corrupt practice.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations to charge the Interim Head of the Supply Chain Management and members of the Tender Committee with the following offences; Engaging in a project without prior planning, willful failure to comply with the law applicable to procurement contrary to section 45(2) (b) as read with section 48 of ACECA; abuse of office contrary to section 46 as read with section 48 of ACECA, Willful failure to comply with the law relating to the management of funds contrary to section 45 (2) (b) as read with section 48 of ACECA, Willful failure to comply with the applicable law relating to incurring of expenditure contrary to section 45(2)(b) of the ACECA and involving in a corrupt practice in a procurement proceeding contrary to section 40(1) as read with section 137 of the PPDA.

On 21st June 2019, the DPP recommended further investigations be carried out.

11. EACC/AT/FI/INQ/17/2014

INQUIRY INTO ALLEGATIONS OF CORRUPT ACQUISITION OF ASSETS, BRIBERY AND MONEY LAUNDERING BY A MANAGER AT KENYA REVENUE AUTHORITY (KRA) AND GICHE LTD.

Investigations commenced following a complaint received on 6th July, 2015 that a Principal Revenue Officer at the Kenya Revenue Authority (KRA) receives bribes after undervaluing import goods consequently denying the government the precise revenue due to it.

Investigations established that the suspect was employed by KRA and also operates a company known as Giche Limited where he is Co-Director with his spouse. Investigations further established that since the year 2009, the company

has not filed any returns and or paid taxes due and payable to the Government in the sum of Kshs. 38,692,694/= .

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations to charge the Directors of the said company with fraudulent failure to pay taxes payable to Kenya Revenue Authority contrary to Section 45(1)(d) as read with Section 48 of ACECA.

On 21st June 2019, the DPP recommended further investigations be carried out.

12.EACC/AT/INQ/17/2017

INQUIRY INTO ALLEGATIONS THAT CHALE ISLAND GAZETTED AS A MARINE NATIONAL RESERVE AND A SACRED GROOVE WAS IRREGULARLY ALIENATED AND TRANSFERRED TO INDIVIDUALS

Investigations commenced following a report on allegations of irregular alienation of Chale Island which land was gazetted as a Sacred Groove and Marine National Reserve.

Investigations revealed that Chale Island is gazetted as a Sacred Groove under the Monuments and Antiquities Act on 17th January, 1992 and as a Marine National Reserve vide Legal Notice No. 196 of 17th May, 1995. The said island was therefore not available for allocation; however, it was illegally allocated to individuals by public officers, namely the Director, Land Adjudication and Settlement, the District Surveyor, the District Commissioner, the District Land Registrar, the Cartographer and the Clerk Kwale County Council.

On 16th January, 2019, a report was compiled and forwarded to DPP with the following recommendations:

1. the Director, Land Adjudication and Settlement, the District Surveyor, the District Commissioner, the District Land Registrar, the Cartographer and the Clerk Kwale County Council be charged with conspiracy to defraud contrary to section 317 of the Penal Code; Abuse of office contrary to section 101(1)

as read with section 102A of the Penal Code and Breach of trust contrary to section 127 (1) and (2) of the Penal Code

2. the Land Registrar be charged with the offence of giving false certificate by a public officer contrary to section 102 as read with section 102A of the Penal Code.

On 29th April, 2019, the DPP advised that further investigations be carried out.

13. EACC/KSI/FI/INQ/6/2016

ALLEGATIONS THAT OFFICIALS OF THE COUNTY GOVERNMENT OF KISII ABUSED THEIR OFFICES AND FRAUDULENTLY ISSUED PARALLEL LICENCES TO UNSUSPECTING LIQUOR TRADERS OF KISII COUNTY DENYING THE COUNTY ITS REVENUE

Investigations commenced after a report was made to EACC on 29th September, 2016 that the officials of the Kisii County Government were fraudulently issuing parallel liquor licenses to unsuspecting traders and failing to remit money to the County Government of Kisii.

It was established that indeed, senior liquor licensing officer, an accountant, an inspector and a receptionist; all employees of the department of Trade Tourism and Industry at Kisii County issued parallel liquor licenses to unsuspecting traders. Investigations further revealed that the said County officials misappropriated all the money collected from either genuine or forged liquor licenses. The Weights and Measures Officer was also found to have falsely represented himself as the Chair-Liquor Court by signing license No. 1129.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations to charge all the above mentioned officers with the following offences; conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48 of ACECA; abuse of office contrary to Section 101 as read with Section 102A of the Penal Code; Willful failure to comply with the law relating to the management of funds contrary to section 45 (2) (b) as read with section 48 of ACECA; uttering a false document contrary to Section 353 of the Penal Code and forgery contrary to section 349 of the Penal Code.

On 6th May 2019 the DPP concurred with the Commission's recommendation for prosecution.

14. EACC/FI/INQ/37/2016

INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF PUBLIC FUNDS (KSHS 75 MILLION) AT THE NATIONAL YOUTH SERVICE IN THE TENDER FOR THE SUPPLY OF FIRE FIGHTING EQUIPMENT BY M/S INTERNATIONAL PARTNERSHIP SERVICES EAST AFRICA LIMITED

The Commission commenced investigation following a complaint received on 11th May, 2016 through a letter from the then Principal Secretary Ministry of Public Service, Youth and Gender Affairs, State Department of Public Service and Youth to the effect that the National Youth Service (NYS) was about to lose Kshs 75 million to International Partnership Services East Africa (IPSEA) which had a supply branch contract agreement with the NYS. The company had been awarded a tender for the supply of firefighting equipment (AFFF concentrate cold fire).

The Investigations established that the procurement process that led to issuance of an LPO by NYS to IPSEA was irregular. The then Director General of the NYS, as the Accounting Officer approved the procurement of the subject items through the Supplies Branch without involvement of the Ministerial Tender Committee. The procurement was also beyond the available budget for the financial year 2014/2015.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations that the Director General and the Deputy Director General be charged with the offences of willful failure to comply with the law applicable to procurement contrary to section 45(2) (b) as read with section 48 of ACECA and engaging in a project without planning contrary to section 45 of the ACECA; the Supply Chain Manager be charged with willful failure to comply with the law applicable to procurement contrary to section 45(2) (b) as read with section 48 of the ACECA; NYS, Senior Deputy Director and members of the Inspection and Acceptance Committee be jointly and severally charged with

the following offenses: willful failure to comply with the law applicable to procurement contrary to section 45(2) (b) as read with section 48 of the ACECA ; all the said public officials together with a businessman be charged with conspiracy to defraud contrary to section 317 of the Penal Code.

On 19th June 2019, the DPP recommended a joint meeting between EACC and ODPP to discuss the file with other related files already in court.

15. EACC/FI/INQ/98/2015

ALLEGATIONS OF MISAPPROPRIATION OF KSHS 6,315,100/= IN RESPECT OF PURCHASE OF LABORATORY CONSUMABLES BY THE KENYA PRISONS SERVICE

The Commission received a complaint on misappropriation of Kshs. 6,315,100/= at the Kenya Prisons Service (KPS) in the procurement of Laboratory consumables vide quotation No. KPS/Q/34/2014-2015.

Investigations further established that the process of procuring these items was marred with irregularities since the procurement process was not undertaken as required by law. This procurement was cancelled after the Ministerial Tender Committee had awarded the tender to some firms therefore no items were supplied and no money lost.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations that the members of the Ministerial Tender Committee, members of the Tender Opening Committee and the Accounting Officer be charged with offenses of failing to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the ACECA; and a bidder be charged with forgery contrary to section 349 of the Penal Code.

On 13th March 2019 the DPP recommended further investigations.

16. EACC/FI/INQ/19/2015

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE BY KIAMBU LAND REGISTRY OFFICIALS

Investigations commenced following a complaint received on 30th September, 2014 that the Kiambu Land Registrar on diverse dates understated the stamp duty payable in respect of two properties; NACHU/MIKUYUINI/660 and NACHU/MIKUYUINI/57 respectively.

The owner realized the undervalued stamp duty when she received the title to NACHU/MIKUYUINI/57, to which she paid Kshs. 36,000/- but instead received a receipt of Kshs. 5000/- from Lands Office. Following the discovery, she counter checked the stamp duty payable in respect of the Title Number NACHU/MIKUYUINI/660 which had been registered two years earlier. She discovered that the same had been understated for a sum of Kshs. 2000/-.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations that the Senior Lands Registrar be charged with three counts of abuse of office contrary to Section 101 as read with Section 102A of the Penal Code and knowingly using a misleading document to principal contrary to Section 41(2) as read with Section 48 of the ACECA.

On 3rd May 2019 the DPP advised that administrative action be taken against the Senior Lands Registrar.

17. EACC/NKR/INQ/FI/2a/2017

INQUIRY INTO ALLEGATIONS OF PROCURMENT IRREGULARITIES BY SOME OFFICERS OF THE DEPARTMENT OF WATER SERVICES, BOMET COUNTY GOVERNMENT IN THE AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE KIPNGOSOS WATER PROJECT

The Commission received a complaint that the Ag. Chief Officer of Water in the County Government of Bomet had engaged in a false procurement process, yet the construction of the Kipngosos Water Project had been done up to 80%. Evidence established that the Kipngosos Water Project was initiated through a memo by the Chief Officer to the Supply Chain Management on 6th October, 2016.

Evidence established that the procurement process was not followed as required in that the Accounting Officer failed to issue notifications to the unsuccessful bidders. In addition, Goldenwood Logistics Company Limited which carried out the construction did not have a valid practising licence.

A report was compiled and forwarded to the DPP on 16th January, 2019 with recommendations that the file be closed as the accounting officer at the time is deceased, and an advisory opinion be made to the National Construction Authority (NCA) to carry out its own investigations against Goldenwood Logistics Company Limited and its Directors with regard to Bomet County Government construction activities.

On 1st April, 2019, the DPP recommended that further investigations be carried out.

18.EACC/GSA/FI/INQ/71/2017

INQUIRY INTO ALLEGATIONS OF THEFT OF RELIEF FOOD BELONGING TO TARBAJ SUB-COUNTY WITHIN WAJIR COUNTY GOVERNMENT

On 7th March 2017, the Commission received a report from an anonymous source that the Deputy County Commissioner, Tarbaj Sub County, Mr. Mwiti had sold 350 bags of rice meant for members of the public. The said County Commissioner had previously been arrested for selling relief food but was released under unclear circumstances.

Evidence on record established that the Deputy County Commissioner properly distributed the relief food as required. Evidence further revealed that the Deputy County Commissioner who was an AIE holder had applied for imprest of Kshs. 600,000/=. He surrendered the imprest together with the schedules showing how the money was paid out.

A report was prepared and forwarded to the DPP on 16th January, 2019 with recommendations to close the file with no further action.

Awaiting DPP's decision.

19.EACC/FI/INQ/5/2016

INQUIRY INTO ALLEGATION OF GRABBING OF LAND TITLE NUMBER NAKURU MUNICIPALITY BLOCK 23/108 BELONGING TO A PRIMARY SCHOOL BY ENSE LIMITED VALUED AT KSHS. THREE HUNDRED MILLION

The Commission received a report that land LR. No. Nakuru Municipality Block 23/108 valued at Kshs 300 million belonging to a primary school had been grabbed by Ense Limited.

Investigations established that the subject land was irregularly acquired by three individuals in the pretext of building a primary school and subsequently transferred to other persons. However, a High court judgment in Civil Suit No. 384 of 1999 determined that the procedures for the transfer of the subject land were within the law thus sanitized the irregularities in the entire process of registration and subsequent transfers. The National Land Commission had initially revoked the title but later overturned the decision stating that they were barred by the doctrine of res judicata from adjudicating on the matter already decided by the High Court.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations for closure of the inquiry file.

Awaiting DPP's decision.

20.EACC/MCKS/FI/INQ/69/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION IN KAJIADO LANDS REGISTRY

The Commission commenced this investigation following an anonymous report that cartels involving land brokers have infiltrated the office of the Lands Registrar in Kajiado blocking access to the said office. The report further stated that members of the public were not allowed to seek services in the Kajiado lands office unless they go through one of the brokers known to the employees of the lands office.

On 6th, 7th and 8th December, 2016 an undercover surveillance was conducted at Fast Digital Cyber Café to establish whether the allegation that the owner of the said cyber café colludes with the land officials to sell blank titles was factual. A search was subsequently conducted at the said Cyber Café on 23rd February, 2017 but no blank titles were found contrary to the allegation that the proprietor was selling blank titles at Kshs. 1,000/= each.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations for closure of the inquiry file.

On 19th March 2019, the DPP concurred with the Commission's recommendations that the file be closed.

21.EACC/MSA/FI/INQ/11/2017

INQUIRY INTO ALLEGATIONS THAT THE PRINCIPAL, MOI FORCES ACADEMY IN MOMBASA WAS CHARGING ILLEGAL FEES CONTRARY TO THE GUIDELINES ISSUED BY THE MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY

Investigations commenced following a complaint received from a parent in the school that after his two sons received admission to Moi Forces Academy Mombasa, he was issued with a fee structure of Kshs. 11,724/- for each student. That after paying the said fees and the students went to class, he was called by the school and compelled to pay provision fees of Kshs. 34,800/-, for each student.

He later received a letter informing him that the additional school levies were passed during the parents' AGM and were provisional awaiting the approval of the Ministry of Education. This was contrary to the Kenya Gazette dated 10th March, 2015, which stipulate the school fees payable to both boarding and day public secondary schools.

Evidence revealed that the school issued alternative fees structures different from the one proposed by the Government, without the approval of the Cabinet Secretary. As much as this contradicts the Kenya Gazette date 10th

March, 2015, the acts and omissions do not raise any ethical issues. The extra levies were meant to help with the running of the school which operates under a Commanders Standing Instruction Memorandum.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations for closure of the inquiry file.

On 6th May 2019 the DPP concurred with the Commission's recommendation for closure of the inquiry file.

22. EACC/NKR/INQ/FI/2b/2017

INQUIRY INTO ALLEGATIONS OF PROCURMENT IRREGULARITIES BY SOME OFFICERS OF THE DEPARTMENT OF WATER SERVICES, BOMET COUNTY GOVERNMENT IN THE AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE KAPSET-MURIASI WATER PROJECT

Investigations commenced following a Report that the Ag Chief Officer of the Department of Water in Bomet County Government, had engaged in a false procurement process in the construction of the Kapset-Muriasi Water Project.

Investigations revealed, inter alia, that the Water Services Department had budgeted for various water projects in the financial year 2016/2017. The said department at the tendering process, invited bids from four companies which were received, evaluated and the contract awarded to Koluu Engineering Company Limited who were found to have had the lowest bid.

However, although Koluu Engineering Company Limited was prequalified as a supplier by the County Government of Bomet, it did not qualify to engage in construction work.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations for closure of the inquiry file.

On 1st April 2019 the DPP recommended further investigations.

23.EACC/FI/INQ/4/2017

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES BY THE STATE DEPARTMENT OF DEVOLUTION DURING PROCUREMENT OF A CONSULTANCY FOR KENYA DEVOLUTION SUPPORT PROGRAMME

The Commission commenced this investigation pursuant to allegations of procurement irregularities at the Ministry of Devolution and Planning, State Department of Devolution specifically touching on the Kenya Devolution Support Program (KSDP) in respect to Tender No. MODP/KSDP/01/2015-2016 for Consultancy Services for Annual Capacity and Performance Assessment.

It was alleged that there was a cartel within the Ministry that was engaging in procurement mal-practices.

The Investigations established that the procurement process that led to signing of a contract between the Ministry and the Consortium of Matengo & Githae, Zurich University for Applied Science and Kenya College of Accountancy was properly conducted. There is no evidence on record to suggest that there were any irregularities committed by the Ministry officials in the procurement process.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations that the file be closed.

On 11th April 2019 the DPP concurred with the Commission's recommendations that the file be closed.

24.EACC/FI/INQ/143/2014

INQUIRY INTO ALLEGATION OF ABUSE OF OFFICE AND FRAUDULENT ACQUISITION OF PROPERTY BY SIX MEMBERS OF THE MAKUENI COUNTY ASSEMBLY AND COUNTY ASSEMBLY OFFICIALS

Investigations commenced following a report made to the Commission that six (6) Members of the Makueni County Assembly (MCAs), and the Clerk to the County Assembly were reimbursed subsistence allowance in respect to a trip to Dubai yet the trip had been fully sponsored by the area Member of Parliament.

Investigations revealed that the said six MCAs indeed went for a Dubai trip from the 15th April, 2014 to 21st April, 2014 fully sponsored by the MP. Upon return, the MCAs claimed for reimbursement of subsistence allowance.

From the evidence it was established that the six MCAs are culpable of the offence of fraudulent acquisition of public funds having applied and subsequently received mileage allowance and per diem in respect to a Dubai trip which had been fully facilitated. The County Assembly Clerk being a person entrusted with prudent management of County Assembly resources has also been found culpable of the offence of abuse of office.

On 7th February, 2019 a report was compiled and forwarded to DPP with recommendations that the six MCAs be charged with fraudulent acquisition of public funds contrary to section 45(1) (a) as read with section 48 of the ACECA. It is further recommended that the County Clerk being the County Assembly AIE holder be charged with abuse of office to section 46 as read with section 48 of the ACECA.

On 15th April 2019 the DPP concurred with the Commission's recommendation for prosecution.

25. EACC/F1/INQ/97/2015

INQUIRY INTO ALLEGATIONS OF FRAUDULENT ACQUISITION OF USD 534,650/- BY PRINCIPAL UTALII COLLEGE ON THE PRETEXT OF FOREIGN TRAVEL ALLOWANCE TO ARUSHA & SWITZERLAND AND IRREGULAR EXTENSION OF HIS CONTRACT TWICE BY THE CABINET SECRETARY FOR THE MINISTRY OF TOURISM

The Commission commenced investigation following allegations that the Principal, Kenya Utalii College was involved in fraudulent application and accounting of imprest for trips that did not take off. The Cabinet Secretary, Ministry of Tourism irregularly/illegally extended the Principal's contract without regard to the law and that there was fraud in the disposal of 5 Land Rovers belonging to Kenya Utalii College.

Investigations established that the Personal Assistant to the Principal, fraudulently applied for imprest on behalf of the Principal for trips not taken leading to a total loss of Kshs 1,343,074.33/=. Further, the suspect forged tax receipts and other documents in order to defraud Kenya Utalii College by making fraudulent payment to non-existent entities for services not rendered. It was further, established that the Cabinet Secretary's decision to extend the contract of the Principal for six months was regular and within her powers and duties. In addition, evidence revealed that the Principal and the Disposal Committee (KUC) did not know that the auctioned vehicles were bought by two employees of Kenya Utalii College.

On 7th February, 2019 a report was compiled and forwarded to DPP with recommendations that the Head of Quality Assurance and Personal Assistant to the Principal be charged with ten counts of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of ACECA, abuse of office contrary to section 46 as read with section 48 of ACECA, forgery contrary to Section 345 as read with Section 349 of the Penal Code and uttering a false document contrary to Section 353 of the Penal Code.

On 6th June 2019, the DPP accepted recommendations for prosecution.

26. EACC/NKR/INQ/FI/89/2016

AN INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE, CONFLICT OF INTEREST AND PROCUREMENT IRREGULARITIES IN THE AWARD OF CONTRACT IN THE CONSTRUCTION OF BAE-KAPSIMOTWET-KIBARAA ROAD BY THE COUNTY GOVERNMENT OF KERICHO

Investigations commenced following a report alleging conflict of interest and procurement irregularities by public officials of the County Government of Kericho. The allegations were in respect of a contract awarded for the construction of a road in Belgut Sub County, Kericho County known as the Bae-Kapsimotwet- Kibaraa road.

Investigations revealed that the contract was awarded to a company known as Jawlink Logistics Ltd which was not in the prequalified list and had no genuine National Construction Authority certificate. The said company is registered and partly owned by a Roads Inspector employed by the County Government of Kericho. She was also the supervisor of the project and as a Director of the company, received payment amounting to Kshs. 3,807,899.90 from the County government of Kericho.

On 7th February, 2019 a report was compiled and forwarded to DPP with recommendations that the Chief Officer be charged with two counts of willful failure to comply with the law applicable to procurement contrary to section 45(2) (b) as read with section 48 of ACECA; abuse of office contrary to section 46 as read with section 48 of ACECA. The Road inspector to be charged with failure to disclose a private interest to one's principal contrary to section 42(1)(a) and (b) as read with section 48 of the ACECA and conflict of interest contrary to section 42(3) as read with section 48 of the ACECA. Jawlinks Limited and its Directors be charged with carrying out business without being registered as a contractor contrary to section 15(1) as read with section 15(3) of the National Construction Authority Act, 2011; fraudulent practice in procurement proceedings contrary to section 66(1) as read with section 177 of the PPADA and uttering false documents contrary to section 353 of the Penal Code. The Evaluation committee be charged with willful failure to comply with the law applicable to procurement contrary to section 45(2) (b) as read with section 48 of the ACECA.

On 9th May 2019 the DPP returned the file with advice that further investigations be conducted.

27. EACC/MKS/FI/08/2015

INQUIRY INTO ALLEGATION OF CONFLICT OF INTEREST AND BID RIGGING IN THE PROCUREMENT OF ATHI KILAWA IRRIGATION PROJECT IN KITUI COUNTY

The Commission commenced investigations following a report that a former Chief Officer at Kitui County Government was involved in procurement

malpractices. It was further alleged that companies namely Mukavi Waves Ltd and Kimasha Ltd which were associated with her were undertaking an irrigation project at Athi Kilawa in Kitui County.

Investigations established that the companies mentioned in the allegation namely Mukavi Waves Ltd and Kimasha Ltd were not associated with the chief officer. Evidence further established that the Tender Committee irregularly awarded the tender to M/s Sami Construction Limited.

On 7th February, 2019 a report was compiled and forwarded to DPP with recommendations the Tender Committee Members be charged with willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of ACECA and abuse of office, contrary to section 46 as read with section 48 of ACECA.

On 6th June 2019, the DPP recommended that further investigations be conducted.

28. EACC/FI/INQ/063/2015

ALLEGATIONS THAT THE THEN CABINET SECRETARY FOR AGRICULTURE, LIVESTOCK AND FISHERIES THROUGH HIS PERSONAL ASSISTANT HAD IRREGULARLY LEASED LAND BELONGING TO KENYA INSTITUTE OF VETERINARY VACCINES PRODUCTION INSTITUTE SITUATED IN LIMURU (KEVEVAPI)

This matter was investigated by the Commission and a Statutory Report pursuant under section 35 of ACECA was prepared and forwarded to the DPP with recommendations to charge the Managing Director of KEVEVAPI and another who is now deceased. The said suspects were arraigned in court on 2nd June, 2015 in Milimani ACC No. 10 of 2015.

Vide a letter from the DPP dated 5th January, 2018, EACC was advised that the matter had been withdrawn under Section 87 (a) of the CPC due to the fact that the matter was affected by the Court of Appeal decision in Civil Appeal

No. 102 of 2016 Eng. Michael Sistu Mwaura Kamau Vs. Ethics and Anti-Corruption Commission

The Commission complied with the said Court of Appeal decision by conducting fresh investigations. On 7th February, 2019 a report was compiled and forwarded to DPP with recommendations that the Managing Director of KEVEVAPI be charged 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 of ACECA, 2003 and abuse of office contrary to section 46 of ACECA, 2003.

On the 17th May, 2019 the DPP returned the file with advice that further investigations be conducted.

29. EACC/FI/INQ/09/2013

ALLEGATIONS OF MISAPPROPRIATION OF KSHS. 18,547,965/= BY MCCORMACK PARTNERSHIP AFRICA (MPA) OFFICIALS THROUGH THE COMMISSION OF HIGHER EDUCATION (CHE) IN THE IMPLEMENTATION OF UNIVERSITY CONSORTIUM TO COMBAT AIDS- KENYA (UCCA-K) PROJECT

Investigations commenced when the Commission received a report stating that funds that were released by the Commission of Higher Education (CHE) to the McCormack Partnership Africa (MPA) were not utilized for the intended purpose.

Investigations established that MPA received Kshs. 22,000,000/= from CHE for the implementation of the UCCA-K project. It was further established that the suspects were the Board Members of MPA and they misappropriated the funds.

On 7th February, 2019 a report was compiled and forwarded to DPP with recommendations the Director and Board Member of MPA be charged with the offences of fraudulent acquisition of public property contrary to section 45(1) of ACECA and the Assistant Commission Secretary and Chief Accountant of the CHE for abuse of office contrary to section 46 of ACECA.

On 4th April 2019 the DPP recommended further investigations.

30. EACC/MSA/FI/INQ/12/2014

INQUIRY INTO ALLEGATIONS THAT TAITA TAVETA COUNTY GOVERNMENT FAILED TO FOLLOW PROCUREMENT PROCEDURES IN THE TENDER FOR CHUMVINI WATER PROJECT BY DISQUALIFYING THE LOWEST BIDDERS

Investigations commenced following an Article in the Daily Nation newspaper of 9th May, 2014 that there was irregular award of tenders for Water Projects in the Taita Taveta County Government. The then County Executive Committee Member in charge of water and Irrigation had ordered for re-evaluation of seven tenders amounting to Kshs. 20 million. He alleged that the tender award was irregular as the Tender Award Committee had failed to adhere to the tendering procedures.

Investigations established that the tender for Chumvini Water Project was awarded to Arc Civil Construction Ltd in the sum of Kshs. 6,943,734.90/- disqualifying Abori Stores which had bid for Kshs. 5,056,643 /- for reasons that they did not comply with the mandatory tendering requirement of pre-site visit. Investigations further established that the irregularity in the tendering process was instigated by the then County Executive Committee Member for Water and Irrigation who has since passed on.

On 7th February, 2019, a report was compiled and forwarded to DPP with recommendations for closure of the inquiry file.

On 7th May 2019 the DPP concurred with the Commission's recommendation for closure of the inquiry file.

31. EACC/MSA/FI/INQ/35/2016

ALLEGATIONS OF DIVERSION OF A TRANSIT VEHICLE MAKE MARK X, CHASSIS NO. GRX120-0045295 ENGINE NO. BF487309 CC.2490 DESTINED FOR SOUTH SUDAN THROUGH MALABA BORDER

Investigations revealed that the above transit vehicle was cleared by KRA and as a measure to ensure that it exits the country it was fitted with an Electronic Seal by Borderless Tracking Company Ltd to help in tracking its movement from

Mombasa to Malaba border. The vehicle was then released to the clearing agent Lambval Logistics Ltd who parked it at Coast Car Park in Mombasa in readiness for the said transit. The tracking company detected a tamper alert on the seal and upon checking it was confirmed that the said vehicle was still parked at the Coast Car Park yet according to the tracking system the seal that had been fitted on the said vehicle was in Malaba.

KRA was informed of the anomaly and a check on their records systems indicated that their officer had purported to have cleared the said vehicle at the Malaba Border yet the vehicle remained parked in Mombasa.

On 7th February, 2019 a report was compiled and forwarded to DPP with recommendations that the Clearing Agent and the KRA Officer be charged with the offences of conspiring to commit an offence of Economic Crime, to wit, tax evasion contrary to section 47A (3) of ACECA, and the offence of attempting to commit an economic crime, to wit, tax evasion contrary to section 47A (1) of ACECA. In addition, the KRA Officer be charged with the offence of deceiving principal contrary to section 41 (2) of ACECA.

On 4th June 2019, the DPP accepted recommendation for prosecution.

32. EACC/MSA/FI/INQ/01/2014

INQUIRY INTO ALLEGATIONS THAT THE COUNTY GOVERNMENT OF KILIFI IRREGULARLY AWARDED THE TENDER TO UPGRADE AND OPERATE UWANJA WA NDEGE SLAUGHTERHOUSE TO TENACIOUS AGENCIES, A COMPANY THAT DID NOT PARTICIPATE IN THE TENDER PROCESS.

The Commission commenced investigation following a report that the County Government of Kilifi had irregularly awarded the tender for the upgrading and operation of the slaughterhouse at Uwanja wa Ndege in Rabai Sub county to a Company known as Tenacious Agencies which did not participate in the tender process.

Investigations established that the tender opening committee engaged in a fraudulent practice by allowing Tenacious Agencies bid after other bids had been opened.

On 20th February, 2019, a report was compiled and forwarded to the ODPP with recommendations that members of the Tender Opening Committee, the Head of Supply Chain Management and the owners of Tenacious Agencies be charged jointly and severally with knowingly giving a misleading document to one's Principal contrary to section 41(2) as read with section 48(1) of the ACECA and fraudulent practice contrary to section 41(1) as read with section 41(4) of the Public Procurement and Disposal Act, 2005.

Awaiting DPP's decision.

33.EACC/FI/INQ/01/2014

INQUIRY INTO ALLEGATIONS OF USE 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.

The Commission commenced investigations following an audit conducted by the Kenya National Audit on the Kiambu Institute of Science and Technology (KIST) for the financial year 2011/2012 where several irregularities regarding payments and incomplete works were noted.

Notably, this inquiry was affected by the Court of Appeal decision in **Civil Appeal no. 102 of 2016, Eng. Michael Sistu Mwaura Kamau Vs EACC**. The Commission complied with the aforementioned Court of Appeal decision and carried out fresh investigations.

The file was initially submitted to the DPP with recommendations that the Principal/Chief Executive Officer and County Works Officer be charged with various offences. The Commission later, vide a letter dated 1st February, 2016 recommended that there was no sufficient evidence to sustain the charges and that the file be closed. However, the DPP recommended that the prosecution

of the two should ensue considering that the evidence was sufficient as per the initial recommendation. This prompted a re-evaluation of the evidence which established that it would be a challenge sustaining the prosecution case.

On 20th February, 2019, a report was compiled and forwarded to the ODPP with recommendations that the file be closed for lack of sufficient evidence against the suspects.

On 11th June 2019, the DPP accepted the Commission's recommendation for closure of inquiry file.

34. EACC/FI/INQ/119/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR LAND ALLOCATION AND COMPENSATION FOR THE STANDARD GAUGE RAILWAY IN EMBAKASI

The Commission commenced investigations following a complaint by Yuster Mwamburi on 6th October, 2015, that her land, reference number 209/12060 had been fraudulently allocated to Modern Coast Builders and Contractors Ltd. She alleged that the land had been presented to the National Land Commission for compensation in the Standard Gauge Railway Project, even though she believed that it was way outside the SGR line plan.

Evidence established that Modern Coast Builders and Contractors Limited purchased LR No. 209/12060 from an individual after carrying out due diligence. The land had been allocated to the said individual in the year 1990 after approval by the then President in accordance with section 12 of Government Land Act.

On 20th February, 2019, a report was compiled and forwarded to the ODPP with recommendations that the file be closed with no further action.

On 9th May 2019 the DPP accepted the Commission's recommendation for closure.

35.EACC/FI/INQ/2/2019

INQUIRY INTO ALLEGED PROCUREMENT IRREGULARITIES IN THE AWARD OF TENDERS AMOUNTING TO KSHS. 4.8 BILLION AT THE STATE DEPARTMENT FOR CORRECTIONAL SERVICES.

The Commission commenced investigations following an anonymous complaint that the State Department for Correctional Services was in gross violation of the Public Procurement and Disposal Act, 2015 and the Public Finance Management Act, 2012 by irregularly awarding ten classified tenders worth Kshs. 4,809,445,000/= to ten companies as listed below:

1. Tender no. SDC/CP/4/2017-2018 for supply of bullet proof vests and plastic helmets amounting to Kshs. 2.2 billion awarded to Firetruss systems
2. Tender No. SDC/CP/2/2017-2018 for supply of standard G3-A3 amounting to KSHS. 597 million awarded to Pakistan Ordinance
3. Tender to supply assorted security items amounting to Kshs. 570 million awarded to Delta Entreprises
4. Tender no. SDC/CP/5/2017-2018 for supply of submachine guns amounting to 478.5 million awarded to Pakistaan Ordinance
5. Tender no. SDC/Cp/3/2017-2018-M4 for supply of rifles and full bore target rifles amounting to Kshs. 342.72 million awarded to Mildat SP.ZO. O(LLC)
6. Tender for supply of G3 rifles slings amounting to Kshs. 200 million awarded to Milways enterprises
7. Tender no. SDC/CP/6.2017-2018 for supply of pistols amounting to Kshs. 158.75 million awarded to Sumsun Yurt Savunma San
8. Tender no. SDC/RT/4/2017-2018 for supply fo special stores amounting to Kshs. 119 million awarded to Wold One Agencies
9. Tender for supply of assorted security items amounting to Kshs. 98.75 million awarded to Rapecc General Supplies
- 10.Tender for supply of assorted security items amounting to Kshs. 44.6 million awarded to Auto Links Systems.

Evidence on record has established that various procurement laws were breached in that there was no budget and there was also no approval from the relevant Cabinet Secretary among other breaches.

On 28th February, 2019, a report was compiled and forwarded to the ODPP with the following recommendations:

1. The Permanent Secretary and Head of Supply Chain Management be jointly charged with willful failure to comply with applicable procedures and guidelines relating to procurement of goods contrary to section 45(2)(b) as read with section 48 of the ACECA.
2. Members of the Tender Committee be charged with willful failure to comply with applicable procedures and guidelines relating to procurement of goods contrary to section 45(2)(b) as read with section 48 of the ACECA.
3. The Head of Supply Chain Management be charged with knowingly using a misleading document to one's principal contrary to section 41(1) as read with section 48 of the ACECA and willful failure to comply with applicable procedures and guidelines relating to procurement of goods contrary to section 45(2)(b) as read with section 48 of the ACECA.
4. The Permanent Secretary/State Department, Correctional Services to be charged with willful failure to comply with applicable procedures and guidelines relating to procurement of goods contrary to section 45(2)(b) as read with section 48 of the ACECA and abuse of office contrary to section 46 as read with section 48 of the ACECA.
5. Principal Secretary to be charged with engaging in a project without prior planning contrary to section 45(2) (c) as read with section 48 of the ACECA.
6. Members of the tender committee be charged with willful failure to comply with applicable procedures and guidelines relating to procurement of goods contrary to section 45(2)(b) as read with section 48 of the ACECA.

On the 16th May, 2019 the DPP returned the file with advice that further investigations be conducted.

36. EACC/FI/INQ/62/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF AUDIT VAULT SOFTWARE BY OFFICE OF THE AUDITOR GENERAL

The Commission commenced investigations following a letter from the Principal Secretary, Treasury over allegations of corruption in the office of the Auditor General; that the office of the Auditor General irregularly purchased an audit vault software at a cost of Kshs. 100 million against the estimated cost of Kshs. 18 million. It was further alleged that the software was purchased through direct procurement and the supplier of the software was paid without adequate documentation.

The investigation of this matter was affected by the Court of Appeal decision **Civil Appeal no. 102 of 2016, Eng. Michael Sistu Mwaura Kamau Vs EACC**. The Commission complied with the said decision and re-investigated this matter. Evidence obtained established that there was breach of procurement laws, and made recommendations as follows:

1. The Deputy Auditor General, Corporate Services, Manager- Information Technology Audit, Director-Information Communication Technology, Directors of OSI Kenya Limited, a sales Executive ORACLE Systems Kenya Limited and director of Mars Technology; all jointly be charged with conspiracy to commit an economic crime contrary to section 47A(3) as read with section 48 of the ACECA
2. The Deputy Auditor General-Corporate Services in the Office of the Auditor General be charged with abuse of office contrary to section 46 s read with section 48 of the ACECA; willful failure to comply with the law relating to procurement contrary to section 45(2)(b) as read with section 48 of the ACECA; dealing with suspect property contrary to section 47(1) as read with section 48 of the ACECA; acquisition of proceeds of crime contrary to section 4 as read with section 16(1)(a) of the Proceeds of Crime and Anti-money Laundering Act and knowingly deceiving one's Principal contrary to section 41(2) as read with section 48 of the ACECA.

3. The Sales Executive for ORACLE Systems be charged with two counts of acquisition of proceeds of crime contrary to section 4 as read with section 16(1)(a) of the Proceeds of Crime and Anti-Money Laundering Act.
4. Both the Manager-IT Audit and Director of IT be charged with knowingly deceiving one's Principal contrary to section 41(2) as read with section 48 of the ACECA and fraudulent practice in a procurement contrary to section 41(1) – (4) as read with section 137 (1)(a) and 137(2) of the PPDA, 2005
5. The Director of Mars Technology and Associates Limited be charged with acquisition of proceeds of crime contrary to section 4 as read with section 16(1)(a) of the Proceeds of Crime and Anti-Money Laundering Act

Awaiting DPP's decision.

37.EACC/MSA/FI/20/2014

ALLEGATIONS AGAINST KENYA NATIONAL HIGHWAY AUTHORITY OFFICIALS FOR IRREGULARLY TERMINATING CONTRACT OF KSHS. 341 MILLION AWARDED TO TALEWA ROADS CONTRACTORS LIMITED FOR THE PERIODIC MAINTENANCE OF MOMBASA-MIRITINI.

The complaint was by the Managing Director of Talewa Contractors Limited concerning illegal termination of the contract number KeNHA/rd/m/625/2012 Mombasa Mirititni road by KeNHA due to failure to complete the work on time. He alleged that KeNHA sent armed policemen to forcefully evict them from the yard. The complainant further alleged that one Eng. Samuel Nyabuto solicited for a bribe of Kshs. 25 million.

Investigations established that the termination of the contract with Talewa Contractors Limited was justified but that the Director General and Procurement Manager of KeNHA failed to adhere to the law in the subsequent award of the subject contract to S.S Mehta and Sons Limited.

On 13th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that the suspects be charged with engaging in a

procurement without prior planning contrary to section 45(2) (c) as read with section 48 of ACECA.

On 19th June 2019, the DPP recommended further investigations be carried out.

38.EACC/MSA/INQ/13/2016

ALLEGATIONS THAT THE MANAGING DIRECTOR, COAST DEVELOPMENT AUTHORITY, (CDA) CLAIMED DOUBLE IMPREST IN THE MONTHS OF OCTOBER AND DECEMBER, 2016

The Commission commenced investigation following a report made on 28th December, 2016, that the Managing Director Coast Development Authority, (CDA), claimed double imprest in the months of October and December, 2016.

Investigations revealed that the suspect received imprest of Kshs. 91,000/= as per diem for five night outs in Lamu. He however was in Lamu for four nights only, that is 20th to 23rd October, 2016. He therefore ought to have surrendered Kshs 18, 200/= as per diem for the one night out not expended.

On 16th January, 2019, a report was compiled and forwarded to DPP with a recommendation for closure of the inquiry file and in addition, CDA recovers from the Managing Director's salary, Kshs. 18, 200/= plus interest from the date the surrender was due to when the said amount is paid in full.

On 19th March, 2019 the DPP concurred with the Commission's recommendation for closure.

39.EACC/NKR/INQ/FI/67/2016

INVESTIGATIONS INTO ALLEGATIONS THAT OFFICIALS OF THE COUNTY GOVERNMENT OF BARINGO INFLATED THE PRICE AND INCREASED ACREAGE IN THE PROCUREMENT OF LAND PLOT NO. BARINGO/KEWAMOI 'B'/209 AT KABARNET TOWN.

The Commission commenced investigation following a complaint that the County Government of Baringo inflated the price and increased acreage of

land plot number BARINGO/KEWAMOI 'B'/209 which it purchased for housing purposes. It was alleged that the land was initially measured by the public valuer from Eldoret and County Surveyor from Kabarnet at 7.8 acres and not 10 acres as indicated in the title deed. It was further alleged that the said land was initially valued at Kshs. 8 million and not Kshs. 24 million as valued by the Ministry of Lands officials in Baringo, and that the owner of the land was paid Kshs. 12,150,000/=.

Investigations revealed that the acreage of the land was not increased as alleged. However, the price for the land was inflated and that the process of procurement was irregular.

On 13th March, 2019, a report was compiled and forwarded to the ODPP with the following recommendations:

1. the Chief Officer, Department of lands Housing and Urban Development, Baringo County be charged with two counts of willful failure to comply with the applicable law relating to procurement contrary to section 45(2)(b) of ACECA, deceiving principal contrary to section 41(2) as read with section 48(1) of ACECA
2. the Registered valuer prequalified by the County Government of Baringo be charged with deceiving one's Principal contrary to section 41(2) as read with section 48 of the ACECA; making a misleading document contrary to section 24(c) of the Valuers Act, Cap 523
3. the Director, Supply Chain Management, Baringo County Government be charged with willful failure to comply with the applicable law relating to procurement contrary to section 45(2)(b) of ACECA, deceiving principal contrary to section 41(2) as read with section 48(1) of ACECA.

On 31st May 2019 the DPP recommended further investigations.

40. EACC/FI/INQ/65/2017

INQUIRY INTO ALLEGATIONS OF FRAUDULENT ACQUISITION AND SUB-DIVISION OF PARCELS OF LAND BEING MAVOKO TOWN BLOCK 3 WITHIN LUKENYA, MAVOKO MUNICIPALITY BY SOME OFFICIALS OF THE NATIONAL LAND COMMISSION,

MINISTRY OF LANDS AND PHYSICAL PLANNING, COUNTY GOVERNMENT OF MACHAKOS AND KIVAE RESIDENTS ORGANIZATION WHICH LED TO THE ISSUANCE OF TITLES.

The Commission commenced investigations following a complaint that there were fake titles to land being issued by Government officials to individuals arising from irregular and illegal subdivisions of land lawfully owned by third parties within Lukenya Ranching and Farming Cooperative Society Ltd, located at Mavoko, Machakos County.

Investigations established that some government officers and or their relatives benefited from the said land allocations. Further investigations established that some public officials received money from the secretary of Kivae Residents Organization or his close business associates. There were also suspicious financial transactions involving some officials at the Ministry of Lands and Physical Planning and the National Land Commission.

On 28th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that officials of National Land Commission and officials of Ministry of Lands, Housing and Urban Development together with the two officials of KIVAE Residents be charged with various offences including conspiracy to defraud contrary to section 317 of the Penal Code, abuse of office contrary to section 101 as read with section 102A of the Penal Code, receiving a benefit contrary to section 39 (3) (a) as read with section 48(1) of the ACECA and giving a bribe contrary to section 5 (1) and (2) as read with section 18 (1) of the Bribery Act, 2016.

On the 16th May, 2019 the DPP returned the file concurring with the Commission's recommendation to charge the suspects.

41.EACC/PI/INQ/324/2016

THIS IS AN INQUIRY INTO THE ALLEGATIONS OF IRREGULAR PROCUREMENT AT THE MINISTRY OF HEALTH IN THE SUPPLY OF VECTOR CONTROL CHEMICALS BY ESAKI LIMITED.

The Commission received a complaint alleging that the officials at the Ministry of Health procured vector control chemicals without adhering to the applicable provisions of both the Public Procurement and Disposal Act, 2015 and the Public Finance Management Act, 2012.

Investigations revealed that the vector control chemicals were supplied by Esaki Limited without a contract as required by law and Money was paid.

Investigations further established that in the quest of sanitizing the procurement process, a contract purporting to bind the Ministry and the supplier was forged. The forgery of the contact document was committed by the Supply Chain Management Officer 1 and the director of Esaki Limited.

On 13th February, 2019 a report was compiled and forwarded to DPP with recommendations that the Supply Chain Management Officer be charged with failing to comply with the law relating to the management of public funds contrary to section 45 (2) (b) as read with section 48 of the ACECA and the Director of Esaki Limited be charged with forgery contrary to section 349 of the Penal Code.

Awaiting DPP's decision.

42.EACC/FI/INQ/29/2016

INQUIRY INTO ALLEGATIONS OF IRREGULAR LEASING OF OFFICE SPACE FOR THE COUNCIL OF LEGAL EDUCATION ALONG KAREN ROAD AT A COST OF KSHS. 7.6 MILLION PER ANNUM

The Commission commenced investigations following an audit report from the Efficiency and Monitoring Unit in the office of the Deputy President with allegations that the leasing and partitioning of Council of Legal Education offices at Karen Office Park along Karen Road was irregular as there was no approval from the Council and there was no procurement plan.

Evidence obtained established that the CLE and Kenya School of Law (KSL) which had hitherto operated as one institution under the Council of Legal

Education Act Cap 16A, had been statutorily separated into two entities pursuant to the promulgation of the Legal Education Act no. 27 of 2012 and the Kenya School of Law Act No. 26 of 2012. As a result, it became necessary for the CLE to obtain premises from where it would operate.

While procuring office space for CLE the Procurement Manager failed to follow the due process as required in procurement laws and procedures.

On 28th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that the Procurement Manager be charged with 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 ACECA.

On 31st May 2019, the DPP recommended that administrative action be taken against the Procurement Manager.

43.EACC/FI/INQ/84/2017

INQUIRY INTO ALLEGATIONS OF IRREGULARITIES IN PROCUREMENT OF UNIFORM DRESS NO. 1 MATERIALS WORTH KSHS. 11,500,000/- BY THE SENIOR OFFICERS AT KENYA WILDLIFE SERVICES (KWS) IN THE FINANCIAL YEAR 2013/2014

The investigations commenced following a complaint that senior officers at the Kenya Wildlife Services based at the Headquarters were involved in procurement irregularities and other malpractices in regard to the Procurement of uniform materials.

Investigations established that KWS officials approved the purchase of extra uniform materials whereas there was no justification and based on misleading information in the said purchase.

On 7th February, 2019, a report was compiled and forwarded to the ODPP with the following recommendations:

1. Members of the Tender Committee meeting be charged with conspiracy to commit an offence of corruption contrary to section 47A as read with section 48 of the ACECA

2. The Deputy Director, Finance and Administration at KWS be charged with abuse of office contrary to section 46 as read with section 48 (1) of ACECA.
3. Acting Head of Supply Chain Management be charged with willful failure to comply with the applicable procedure and guidelines relating to procurement contrary to section 45(2)(b) of ACECA, deceiving principal contrary to section 41(2) as read with section 48(1) of ACECA.
4. Officers of the KWS be charged with deceiving one's Principal contrary to section 41(2) as read with section 48 of the ACECA.

On 31st May 2019, the DPP accepted recommendations for prosecution.

44.EACC/FI/INQ/03/2018

ALLEGATION OF PROCUREMENT IRREGULARITIES BY WEST POKOT COUNTY IN THE ACQUISITION OF 5000 BAGS OF DRY WHOLE WHITE MAIZE WORTH KSHS. 18 MILLION

Investigations commenced on receipt of a report that the County Governor of West Pokot County Government mysteriously stocked Kacheliba NCPB depot with thousands of 90 Kgs bags of maize without following provisions of the Public Procurement and Disposal Act, 2015.

Investigations established that the West Pokot County Government did not follow the procurement procedures and laws and further that the West Pokot County branded gunny bags were not budgeted for.

The investigations further established that the tender/bid documents were created by a county official without knowledge and or authority of the company Directors. The officer further presented the forged bid documents for the award of tender.

On 7th February, 2019, a report was compiled and forwarded to the ODPP with the following recommendation:

1. The County Secretary, West Pokot County be charged with five counts of willful failure to comply with the applicable law relating to procurement contrary to section 45(2)(b) of ACECA,
2. The Tender Evaluation Committee be charged with two counts of willful failure to comply with the applicable procedure and guidelines relating to procurement contrary to section 45(2)(b) of ACECA, deceiving principal contrary to section 41(2) as read with section 48(1) of ACECA
3. The Supply Chain Management Officer be charged with willful failure to comply with the applicable procedure and guidelines relating to procurement contrary to section 45(2)(b) of ACECA, deceiving principal contrary to section 41(2) as read with section 48(1) of ACECA; eight counts of deceiving one's Principal contrary to section 41(2) as read with section 48 of the ACECA; uttering a false document contrary to section 353 of the Penal Code and eight counts of making a false document contrary to section 346 of the as read with section 349 of the Penal Code.

On 21st June 2019, the DPP accepted the Commission's recommendation for prosecution.

45.EACC/EL/INQ/64/2017

INQUIRY INTO BRIBERY ALLEGATIONS THAT MEMBER OF KIAMBU COUNTY ASSEMBLY REPRESENTING KIAMWANGI WARD USED A FORGED KSCE CERTIFICATE TO ENROLL FOR A DIPLOMA CERTIFICATE AT JOMO KENYATTA UNIVERSITY OF AGRICULTURE AND TECHNOLOGY

Investigations commenced following an anonymous report that the suspect, a Member of Kiambu County Assembly representing Kiamwangi Ward used a forged KSCE certificate to enroll for a Diploma Certificate at Jomo Kenyatta University of Agriculture and Technology.

Investigations revealed that the suspect applied for and was admitted to study for a Diploma in Governance and Leadership using a 1997 KSCE Certificate from Murera Secondary School and subsequently graduated on 25/11/2016. Kenya National Examination Council confirmed that the KSCE Certificate was fake and

the University Senate on 24/5/2017 withdrew the Diploma Certificate issued to him.

Investigations also established that the suspect had submitted Self-Declaration Forms (A1) to EACC pursuant to Section 13 of Leadership and Integrity Act in which he declared that he was a Diploma Holder.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations to charge the MCA with the offences of Deceiving the Ethics and Anti-Corruption Commission contrary to Section 12 A as read with Section 46(1) (b) and Section 46 (2) of the Leadership and Integrity Act, making a false document contrary to Section 347 (a) as read together with Section 349 of the Penal Code and Uttering a false document contrary to Section 353 of the Penal Code.

On 29th April 2019 the DPP concurred with the Commission's recommendation for prosecution.

46.EACC/GSA/EL/INQ/3/2016

INQUIRY INTO ALLEGATIONS OF IRREGULAR RECRUITMENT OF PUBLIC HEALTH STAFF AND OTHER PERSONNEL BY COUNTY GOVERNMENT OF GARISSA

The Commission commenced investigations following an anonymous complaint it received on 3rd August, 2016. The complaint was that the Chief Officer Health, the County Public Health Officer and the County Public Service Board (the Board) had employed fourteen Public Health Officers who did not have the relevant professional registration documents and licenses contrary to circular REF: No. MOH/ADM/1/1/VOL.1 issued by the Permanent Secretary, Ministry of Health.

Evidence established that the Public Health Officers who were hired had no licenses at the time though they qualified as health officers. They just did not have licenses but were given time to get the licenses which they did.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations that the Commission should render an advisory to County Public Service Board of Garissa to ensure that the process of recruitment is streamlined to comply with the law on professional requirements and for closure of the inquiry file.

On 17th June 2019, the DPP accepted the Commission's recommendation that the matter be dealt with administratively.

47.EACC/KSM/EL/INQ/12/2018

ALLEGATIONS THAT A PROSECUTION COUNSEL BASED IN KAKAMEGA, DEMANDED FOR A BRIBE OF KSHS. 500,000/- FROM A COMPLAINANT IN ORDER TO GIVE A FAVOURABLE OPINION IN A MATTER THAT WAS REFERRED TO HIM BY THE DCI KAKAMEGA UNDER THE KAKAMEGA INQUIRY FILE NUMBER 1 OF 2017

The Commission received a complaint from the Director of Public Prosecutions on 21st May 2018, that a Prosecution Counsel based at Kakamega demanded for a financial benefit of Kshs. 500,000/- from a complainant in a bid to give official direction in his favour.

The complainant declined to talk to the Commission's investigators to substantiate his claim. The DCI officers who compiled the inquiry file no. 1 of 2017 also declined to record statements.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations for closure of the inquiry file and in addition the Commission recommended that the Directorate of Criminal Investigations in Kakamega be directed to complete investigations on the reported threat to the Prosecution Counsel by a Police Constable.

On 13th March, 2019 the DPP concurred with the Commission's recommendation for closure.

48.EACC/ISL/EL/INQ 6/2016

INVESTIGATION INTO ALLEGATIONS OF ABUSE OF OFFICE AGAINST MERU CENTRAL LANDS REGISTRAR

The complainants alleged that they registered a caution over plot number Kiirua/Nkando 4374 to restrict dealing with the property and lamented that the Land Registrar Meru Central Lands Office, in collaboration with the registered proprietor of the property unprocedurally removed the caution and transferred the property to a third party without involving them.

Investigations revealed that the complainants had presented a caution at the land office for registration but owing to some omission/inaction on the part of the officers of the lands office, Meru Central Lands Registry, the caution was not registered. Investigations further established that owing to none registration of the caution, an application for transfer of the property to a third party was effected without involvement of the complainants.

There was no evidence pointing out any wrong doing on the part of the suspect per se but a case of negligence on the part of the officers who failed to take the appropriate steps to ensure that the complainants' interest in the parcel of land in question was protected.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations for closure of the inquiry file and in addition the Commission to issue an advisory to officers and staff of Meru Central Lands office on the need to carry out their duties professionally and in accordance with the law.

On 12th April 2019 the DPP concurred with the Commission's recommendations that the file be closed and an advisory be issued to Meru Lands Office.

49.EACC/GSA/EL/INQ/9/2015

INVESTIGATION INTO ALLEGATIONS OF ABUSE OF OFFICE BY THE OCS GARISSA POLICE STATION

Investigation commenced following a report that the Officer in Charge of Garissa Police station had released a foreigner who had been charged for being unlawfully present in Kenya to go back to Somali without following the repatriation process through the Immigration Department as ordered by the court.

Investigations revealed that on 11th September, 2015 the driver was allegedly escorted to the Somali border together with the impounded lorry by a Police Officer under the instructions of the OCS Garissa. Being a Public officer, the OCS was found to have breached the provisions of the Leadership and Integrity Act as well as the Public Officers Ethics Act for failure to comply with the court order.

It was also established that on 29th September, 2015, the Court gave another order which conflicted with the one it issued on 10th September, 2015 conflicting order.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations that the Judicial Service Commission should take administrative action against the Magistrate and National Police Service Commission to also take administrative action against the OCS.

On 25th April, 2019, the DPP concurred with the Commission's recommendation for administrative action.

50. EACC/GSA/EL/INQ/13/2015

INQUIRY INTO ALLEGATIONS THAT NORTH EASTERN REGIONAL COORDINATOR FOR REGISTRATION OF PERSONS SOLICITED AND RECEIVED KSHS 1.2 MILLION TO ASSIST IN ISSUANCE OF IDENTITY CARDS.

Investigations commenced following a report made to the Commission on 6th August 2015 on allegations that the North Eastern Regional Coordinator for registration of persons received Kshs 1.2 Million as an inducement to assist in issuance of National Identification Cards.

It was established that there was no sufficient evidence to show that the Regional Coordinator received Kshs. 1.2 million from the complainant.

Investigations further revealed that the complainant was a person well known to the Regional Coordinator as a broker and that the Regional Coordinator being a person in charge of registration of persons used the complainant in the course of his official duties. The Regional Coordinator's conduct was therefore unprofessional and in breach of the provisions of the Leadership and Integrity Act, 2012 and the Public Officers Ethics Act, 2003.

On 7th February, 2019, a report was compiled and forwarded to DPP with recommendations that appropriate administrative action be taken against the suspect as his conduct was in breach of the provisions of Sections 9 (a) and (c) of the Public Officers Ethics Act, 2003.

Awaiting DPP's decision.

51. EACC/EL/INQ/40/2017

ALLEGATION OF ISSUANCE OF BAD CHEQUES AGAINST THE FORMER CHAIRMAN OF NATIONAL POLICE SERVICE (NPS)

Investigations commenced following a report on allegation of unethical conduct against the former Chairperson of National Police Service Commission who allegedly issued 16 bad cheques amounting to Kshs. 931,735/= between August 2013 and February 2016 to be debited from his account held at Standard Chartered Bank, Harambee Avenue Branch. It was further alleged that during the same period he received credits amounting to Kshs. 31,206,681/= in the said account which he promptly transferred through Mpesa, cash and ATM withdrawals.

Investigations established that the then NPS Chairman's issued cheques to some of his creditors knowing too well that he had insufficient funds in his account.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations that the former Chairman of NPS be charged with six counts

of issuing a bad cheque contrary to Section 316A (1) (a) as read with section 314A (4) of the Penal Code.

On 29th May 2019, the DPP recommended further investigations.

52.EACC/EL/INQ/58/2016

INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT AGAINST STAFF OF KENYA UNIVERSITIES AND COLLEGES CENTRAL PLACEMENT SERVICES (KUCCPS) ON ONLINE DATA MANIPULATION FOR ONLINE PLACEMENT OF APPLICANTS.

The Commission commenced investigations following a complaint received on 21st March, 2016 from the chairman of the KUCCPS Board. The allegation was that the KUCCPS data system was being manipulated leading to wrongful placement of the students contrary to the institution's placement policy and procedure.

Evidence established that indeed there was a manipulation of the system. As a result, the ICT consultant was relieved of his duties.

On 20th February, 2019, a report was compiled and forwarded to the ODPP with recommendations that the ICT consultant and ICT Manager be issued with caution on their conduct.

On 7th May 2019 the DPP concurred with the Commission's recommendation to issue a caution.

53.EACC/MSA/EL/INQ/2/2016

INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT AGAINST THE ACTING DIRECTOR GENERAL AND MEMBERS OF THE BOARD OF DIRECTORS OF KENYA MARITIME AUTHORITY (KMA) IN RESPECT TO AN ADVERTISEMENT OF VACANCIES AT KMA MADE ON 9TH FEBRUARY, 2016 AND SELECTION OF KMA PARTICIPANTS TO THE KECOSO GAMES

The Commission commenced investigations following allegations that the acting Director General and Board of Directors of KMA were not conducting the affairs of KMA in a fair, ethical and transparent manner. It was alleged that the

vacancies advertised on 9th February, 2016 were tailor made for certain preferred persons who were related to Board members, and that the participants selected to represent KMA in KECOSO games came from the same region as the Chairperson of KMA's Board of Directors.

Evidence obtained failed to establish an element of unfairness unethical conduct or lack of transparency against the Ag. Director General and Board of Directors of KMA.

On 20th February, 2019, a report was compiled and forwarded to the ODPP with recommendations that the file be closed for lack of sufficient evidence to support the allegations against the Ag. Director General.

On 29th April, 2019, the DPP concurred with the Commission's recommendations for closure.

54.EACC/NKR/INQ/EL/08/2017

INQUIRY INTO ALLEGATIONS THAT EGERTON UNIVERSITY RETIREMENT BENEFIT SCHEME OFFICIALS DEFRAUDED SCHEME MEMBERS IN THE PURCHASE OF LAND PARCEL NAKURU MUNICIPALITY BLOCK 7/7 AT INFLATED COST.

The allegations were members of the Investment Committee of the Egerton University Retirement Benefits Scheme, conducted themselves in an unethical manner with regards to the purchase of a property title no. Nakuru Municipality Block 7/7 at a cost of Kshs. 210 million. It was alleged that the cost of the property was exaggerated by Kshs. 30 million.

Investigations established that member funds were prudently applied in the purchase of the property and was done in accordance with the law.

On 13th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that the file be close with no further action.

On 23rd April 2019 the DPP concurred with the Commission's recommendation for closure.

55.EACC/MCKS/EL/INQ/15/2017

INQUIRY INTO ALLEGATION THAT A MEDICAL LAB TECHNOLOGIST AT MAKUENI COUNTY GOVERNMENT EARNED A DOUBLE SALARY FROM BOTH THE COUNTY GOVERNMENTS OF MAKUENI AND MACHAKOS

Evidence established that indeed the suspect had received double employment as alleged, which payment begun in January, 2016 to August 2017 during which period the suspect drew a salary from both Governments.

On 13th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that the suspect be charged with deceiving a Principal contrary to section 41 as read with section 48 of ACECA. It was also recommended that administrative action be taken against the suspect by the Makueni County Public Service Board

On 6th June, 2019 the DPP recommended further investigations be carried out.

56.EACC/NKR/EL/INQ/12/2018

INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT BY THE MANAGING DIRECTOR OF PYRETHRUM PROCESSING COMPANY OF KENYA

The allegations were that the Managing Director abused his office by recruiting his relatives in the company, failing to pay the rent for a house owned by Pyrethrum Processing Company of Kenya (PPCK) and failing to pay back salary advanced to him by PPCK.

Evidence established that the Managing Director indeed abused his office by taking salary advances unlawfully and was aided in doing so by another. It was also established that he owed PPCK Kshs. 275,000/= in rent arrears.

On 13th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that the Managing Director and the Acting Finance Manager be charged jointly and severally with abuse of office contrary to section 46 as read with section 48 of the ACECA, unlawfully failing to pay rent to

a public body contrary to section 45(1)(a) as read with section 48 of ACECA and willful failure to comply with the applicable procedures and guidelines relating to the management of funds contrary to section 45(2) (b) as read with section 48 of ACECA.

Awaiting DPP's decision.

57.EACC/KIS/EL/INQ/9/2017

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE BY THE COUNTY SECRETARY, MIGORI COUNTY.

The Commission commenced investigation following a report that the above mentioned official appointed another to the position of Acting Director, Supply Chain Manager (DSCM) while the substantive recruited candidate, was denied to take over the office.

The evidence obtained established that the County Secretary solely extended the period for the interim County Supply Chain Manager and irregularly issued a letter appointing him in the acting capacity of DSCM while the legally appointed person for the position was ordered to work at the County Public Service Board.

On 28th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that the suspect be charged with abuse of office contrary to section 46 as read with section 48 of the ACECA.

On 23rd April 2019 the DPP concurred with the Commission's recommendation for prosecution.

58.EACC/OPS/INQ/106/2018

INQUIRY INTO ALLEGATIONS THAT A MEMBER OF COUNTY ASSEMBLY FOR PARKLANDS WARD REQUESTED FOR A FINANCIAL BENEFIT OF KSHS 5.7 MILLION AS AN INDUCEMENT TO FACILITATE PROTECTION OF DEMOLITION OF CONCORD HOTEL.

Investigations commenced following a report made by a member of the public that a Member of the County Assembly representing Parklands Ward was requesting for financial benefit of Kshs 5.7 million from Concord Hotel and Suites Management. It is further alleged that the money was to be shared amongst 19 Members of the Legal and Justice Committee in order to influence the Nairobi County Governor not to demolish part of the Concord Hotel which is allegedly built on grabbed land.

On 24th August 2018, a trap operation was conducted that led to the arrest of the MCA.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations to charge the MCA with attempt to commit a corruption offence contrary to section 47A (2) as read with section 48 of the ACECA

Awaiting DPP's decision.

59.EACC/INQ/OPS/90/2018

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST A PHYSICAL PLANNER WITH THE MINISTRY OF LANDS AND SETTLEMENT AT THE KAJIADO OFFICE

Investigations commenced following a report on 10/8/2018 by a complainant that the suspect, an employee of Ministry of Lands and Settlement, Kajiado had solicited from him a Kshs. 50,000/= as an inducement so as to issue him with a change of user report for LR. No. NGONG/NGONG/9321.

On 22/8/2018 EACC organized a trap operation that resulted to the arrest of the suspect. EACC officers conducted a search on the suspects and recovered Kshs. 20,000/= treated trap money.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations to charge the said Ministry of Lands and Settlement, Kajiado County with offences of requesting and receiving a bribe contrary to Section 5(1) as read with Section 18 (1)(2) of the Bribery Act.

On 14th March 2019 the DPP concurred with the Commission's recommendations for prosecution.

60.EACC/OPS/INQ/73/2018

INQUIRY INTO ALLEGATION THAT DCI OFFICERS ATTACHED TO DCI OFFICES IN KITENGELA REQUESTED AND RECEIVED A BRIBE OF KSHS 20,000/= IN ORDER TO FORBEAR CHARGING A PERSON WITH THE OFFENCE OF STEALING.

The Commission received a complaint on 09/07/2018 from a complainant alleging that, a police woman attached to Kitengela Directorate of Criminal Investigation (DCI) office had requested for Kshs. 20,000/= as a bribe to completely close a criminal case which the complainant had already settled out of court.

Investigations established that the suspect, requested for and received Kshs 20,000/=. Further, the police woman and another police officer, conspired to receive a financial advantage of Kshs 20,000/= from the complainant to close his criminal case.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations to charge the suspects with offences of conspiracy to commit an offence of corruption contrary to section 47 (A) (3) as read with section 48 of the ACECA and with two counts of receiving a bribe contrary to Section 6 (1) (a) as read with section 18 of the Bribery Act, 2016.

on 19th March 2019 the DPP recommended further investigations.

61.EACC/OPS/INQ/33/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER ATTACHED TO KISERIAN TRAFFIC POLICE STATION

Investigations commenced when the Commission received a report from a complainant stating that a Police Officer based at Kiserian Traffic Base Commander, was requesting for a bribe of Kshs. 5,000/= from the conductor of his PSV matatu, so that he could facilitate the release of his motor vehicle that

had been detained for the offence of failing to stop after ordered by a uniformed Police Officer to do so.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations to charge the suspect with two counts of receiving a bribe contrary to section 6(1)(b) as read with section 18(1) of the Bribery Act, 2016 and abuse of office contrary to section 46 as read with section 48 (1) of the ACECA.

On 23rd April 2019 the DPP concurred with the Commission's recommendation for prosecution.

62.EACC/OPS/INQ/119/2018

INQUIRY INTO ALLEGATIONS OF BRIBERY AND IMPERSONATION AGAINST A PRIVATE PERSON MISQUERADING AS EMPLOYEE OF KENYA POWER AND LIGHTING COMPANY

Investigations commenced when the Commission received a complaint that an employee of Kenya Power and Lighting Company, was requesting for a bribe of Kshs. 200,000/= in order not to charge the complainant for tampering with the a KPLC meter. The Commission organized a trap operation that resulted to the arrest of the suspect.

Investigations revealed that the suspect requested for a bribe of Kshs. 500,000/=. The said bribe was received by another person on behalf of the suspect. It was also established that the two suspects were masquerading as employees of Kenya Power and Lighting Company.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations to charge the suspects with the offence of bribery contrary to Section 6 of the Bribery Act, 2016, impersonation and forgery contrary to sections 105 (b) and 345 of the Penal Code, Cap 63.

On 7th May 2019 the DPP concurred with the Commission's recommendation for prosecution.

63.EACC/OPS/INQ/95/2018

INQUIRY INTO ALLEGATION OF BRIBERY AGAINST A CLINICAL OFFICER AT KERICHO DISTRICT HOSPITAL

Investigations commenced following a complaint that a clinical officer at Kericho District Hospital had requested for a financial advantage for Kshs. 9,000/= to improperly change a medical examination report (P3 form) to give a negative result in the complainant's favour.

Investigations established that the suspect, did request for a financial advantage of Kshs 9,000/= and received Kshs 2,040/= and Kshs 6,000/= respectively in order to improperly change a medical examination report (P3 form) from a positive result to a negative result in complainant's favour in a defilement case in Kericho Chief Magistrate's Court Criminal Case No. 50/2018.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations to charge the suspect with three counts of receiving a bribe contrary to Section 6 (1) (a) as read with section 18 of the Bribery Act.

On 19th March 2019 the DPP concurred with the Commission's recommendations for prosecution.

64.EACC/ISL/OPS/2/2016

INVESTIGATIONS INTO ALLEGATIONS OF REQUESTING AND RECEIVING A BRIBE AGAINST TRAFFIC POLICE OFFICERS AT ISIOLO POLICE STATION

The allegations were that two Traffic Officers stationed at Isiolo Police Station requested and received a bribe of Kshs. 10,000/= from the complainant as an inducement in order to release him from Police custody after they arrested and detained him for allegedly having committed some traffic offences.

The investigations revealed that when the officers learnt that the complainant had reported them to the Commission, they converted the amount received into a cash bail and arraigned the complainant in court whereby the cash bail

was forfeited to the state and a warrant of arrest issued against the complainant.

The complainant was later on arrested and arraigned in court in connection with the offences he had allegedly committed.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations to charge the two officers with soliciting for a bribe contrary to section 39(1) as read with section 48(1) of the ACECA and section 27 of the Bribery Act, 2016, receiving a bribe contrary to section 39(1) as read with section 48 of the ACECA and conspiracy to commit an offence of corruption contrary to section 47 (a) (3) as read with section 48 of the ACECA.

On 14th May 2019 the DPP recommended administrative action to be taken against the suspects.

65.EACC/OPS/INQ/02/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST POLICE OFFICERS MANNING MALAKISI-KIMAHUTI-MALABA ROAD

The Commission received a report from the Kenya Police Service that Traffic Police Officers were engaging in corrupt practices along the roads. The Kenya Police Service, through the Inspector General requested the Commission to arrest officers who were involved.

The Commission organized a surveillance operation which led to the arrest of various officers operating in Malakisi area in Bungoma County. However, the Commission did not obtain evidence sufficient enough to support charges against the suspects.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations that National Police Service should prefer disciplinary action against them.

On 19th March, 2019, the DPP concurred with the Commission's recommendation for administrative action.

66.EACC/OPS/1NQ/19/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST POLICE OFFICER AT KIAMBU TRAFFIC BASE

The Commission commenced investigations following an anonymous report that the Traffic Base Commander- Kiambu, solicits for and receives bribes from traffic offenders as an inducement so as not to charge them with traffic offences.

The Commission contacted the informants who explained that vehicles were usually booked in a Detained Vehicle Register (DVR) and thereafter, the officer would ask for bribes from the drivers of those vehicles. From the evidence obtained, the suspect had the reputation of booking traffic offenders in a register known as a DVR and later asking for bribes from them. However, there was no concrete evidence to prefer criminal charges against the officer.

On 16th January, 2019, a report was compiled and forwarded to DPP recommending disciplinary action against the suspect.

On 25th March, 2019 the DPP advised that further investigations be carried out.

67.EACC/MSA/OPS/INQ/32/2018

INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST AN EMPLOYEE OF KENYA REVENUE AUTHORITY (KRA) MOMBASA WHO IS UNDER SECONDMENT

The Commission received a complaint that the suspect who was seconded to Kenya Revenue Authority (KRA) Mombasa was requesting for a financial advantage of Kshs 25,000/= in order to tamper with the evidence in Criminal case number 495/2018 in which the complainant had been charged.

Investigations established that indeed the suspect had asked for a bribe.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations that the suspect be charged with the offence of receiving a bribe contrary to section 6(1) (a) of the Bribery Act, 2016.

On 11th April 2019 the DPP concurred with the Commission's recommendation for prosecution.

68.EACC/MSA/OPS/INQ/48/2018

INQUIRY INTO ALLEGATION OF OFFERING A FINANCIAL ADVANTAGE OF KSHS. 500,000/- AGAINST THREE CHINESE NATIONALS, EMPLOYEES OF THE STANDARD GAUGE RAILWAY MOMBASA TERMINUS.

The Commission received a report on 23rd November 2018 from an Inspector of Police Working with the Directorate of Criminal Investigation Railways, Mombasa, that three Chinese nationals working with China Roads and Bridge Corporation (CRBC) at the Standard Gauge Railways (SGR) Miritini had offered him and his fellow Investigating Officers a financial advantage of Kshs. 500,000/-. The bribe was intended to influence the outcome of the ongoing investigations on Theft by Servant at the SGR Miritini Terminus in their favour.

Subsequently a trap operation was organized by the Commission and the suspects were apprehended upon offering a bribe of Kshs. 200,000/=. On 26th November 2018, pursuant to the directions of the Office of Director of Public Prosecutions, they were charged before the Mombasa Anti-Corruption Court.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendation that the evidence obtained is sufficient to sustain the charge of bribery contrary to Section 5(1) of the Bribery Act and the case may be pursued to its logical conclusion.

On 4th April 2019 the DPP accepted that the case pending before court proceed to its logical conclusion.

69. EACC/OPS/INQ/91/2018

INVESTIGATION INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER BASED AT THIKA POLICE STATION

The Commission commenced investigations following numerous complaints from members of the public against a Traffic Police Officer from Thika Police Station manning the Southern Bypass at Kiangombe along Thika- Garissa road, allegedly requested for bribes from road users.

The Commission conducted undercover surveillance between 22nd May 2018 to 14th August 2018 along Thika- Garissa road at Kiangombe junction.

Informed by the recorded video clips of surveillance, the Commission planned a sting operation on 14th August, 2018 along Thika – Garissa road at Kiangombe junction and arrested the Traffic Police Officer. A search was conducted on him and Kshs. 5,500/=, in various denominations was recovered.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations to charge the suspect 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.

On 19th April, 2019 the DPP advised that administrative action should be taken against the suspect.

70. EACC/OPS/INQ/ 89/2016

INQUIRY INTO ALLEGATIONS OF CONSPIRACY TO DEFRAUD AND AN ATTEMPT TO OBTAIN MONEY BY FALSE PRETENCE THROUGH A TENDER TO SUPPLY COMPUTERS AT STATE HOUSE

The Commission commenced investigations following a complaint that the suspects had on diverse dates in the month of July, 2016 solicited for a benefit of Kshs. 100,000/= from the complainants as an inducement to link them with some State House officials so as to help them obtain tender documents for alleged supply of laptops and installation of software worth Kshs. 89. 5 million to

the State House. The complainants stated that they were expected to give a kick back of Kshs. 3,000,000/= if they won the tender.

A successful sting operation was carried out by the Commission where the evidence obtained confirmed the allegations.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations to charge the suspects with the offences of conspiracy to defraud contrary to Section 317 of the Penal Code and obtaining by false pretense contrary to Section 313 as read with Section 389 of the Penal Code.

On 29th April, 2019, the DPP concurred with the Commission's recommendations for prosecution.

71.EACC/MSA/OPS/INQ/8/2018

INQUIRY INTO ALLEGATIONS THAT EMPLOYEES OF KWALE WATER AND SEWERAGE COMPANY LIMITED WERE DEMANDING A BRIBE OF KSHS. 50,000/= FROM THE COMPLAINANT IN ORDER TO FACILITATE RECONNECTION OF WATER AT HER PREMISES AT UKUNDA IN KWALE COUNTY

The Commission received a complaint from a resident of Ukunda in Kwale County, that employees of Kwale Water and Sewerage Company Limited, were demanding for a bribe of Kshs. 50,000/= from her in order to facilitate reconnection of water at her premises which water had been disconnected on account that the same had been illegally connected.

Investigations did not disclose any criminal culpability against the officers.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations for closure of the inquiry file.

On 29th April, 2019 the DPP concurred with the Commission's recommendation that the file be closed.

72.CR. 531/344/2018

ALLEGATIONS OF CORRUPTION AGAINST AN EMPLOYEE OF THE COUNTY GOVERNMENT OF GARISSA BASED AT GARISSA TOWN AS A REVENUE CLERK

The Commission commenced the subject investigations following a complaint that a Revenue Clerk at the Garissa County Government solicited for a benefit amounting to Kshs. 4,000/= from the complainant, as an inducement to allow him to continue with the construction of his house without the requisite statutory documents from the County.

The Commission organized a sting operation that resulted in the arrest of the suspect and recovery of the trap money but he was released on Kshs 20,000 police bond.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations that the suspect be charged with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 (1) (2) of the Bribery Act, 2016.

On 25th March 2019 the DPP recommended further investigations.

73.EACC/MKS/OPS/INQ/72/2017

ALLEGATIONS OF REQUESTING FOR A BRIBE BY POLICE OFFICERS FROM SULTAN HAMUD TRAFFIC BASE

The Commission received numerous complaints from motorists against traffic police officers from Sultan Hamud Traffic Base, along Nairobi – Mombasa Highway. The motorists alleged that the officers normally stop vehicles within Sultan Hamud town and demand bribes from them which range from Kshs. 50/= to Kshs. 2000/=. The motorists further alleged that failure to part with bribes would result in the officers harassing and detaining their vehicles at the station. The Commission organized a sting operation that resulted to the arrest of the three officers.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations that the suspect be charged with the offence of Abuse of Office contrary to Section 46 as read with Section 48(1) of the ACECA.

On 23rd April 2019 the DPP concurred with the Commission's recommendations for prosecution.

74.EACC/OPS/INQ/86/2017

ALLEGATIONS OF CORRUPTION AGAINST POLICE OFFICERS ATTACHED TO KAYOLE AND RUIRU POLICE STATION

Investigations commenced following a complaint received on 4th March, 2016 from motorists that Traffic Police Officers from Ruai Traffic Sub-Base Manning Eastern Bypass are notorious in collecting bribes and harassing motorists.

On 18th July, 2017 the Commission carried out sting operation along the Eastern Bypass based on the surveillance report that was carried out on diverse dates. At Ruai Flyover, two Traffic Police Officers were seen taking benefits from the Motorists. The Commission officers managed to arrest one Police Officer and Kshs 6000/= was recovered while the other Police Officer escaped in a motor vehicle.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations that the National Police Service Commission should take appropriate administrative action against the officers for behaving unethically, negligently and dishonestly.

On 23rd April 2019 the DPP concurred with the Commission's recommendations that administrative action be taken against the suspect.

75.EACC/OPS/INQ/101/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A PRIVATE PERSON WHO WAS IN POSSESSION OF A STOLEN VEHICLE WHICH HAD NO LEGAL DOCUMENTS

The Commission received a report from a CID Officer that a person found in possession of a stolen motor vehicle was offering a financial advantage of Kshs

100,000/= as an inducement for him not to be charged with the offence of being in possession of a stolen vehicle, which had no legal documents.

The Commission organized a sting operation which led to arrest of the person who was alleged to be offering the bribe to the CID Officer. However, no sufficient evidence was obtained to prove bribery allegations.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations for closure of the inquiry file.

On 13th March 2019 the DPP concurred with the Commission's recommendations for closure of file.

76.EACC/NYR/OPS/INQ/272/222/2018

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST KIGUMO LAND CONTROL BOARD MEMBERS INVOLVING KSHS. 107,000/=

The Commission received a report from a complainant that Kigumo Sub-County Land Control Board Members had requested for a financial advantage for Kshs. 2,000/= as an inducement in order to approve his application for Land Control Board consent to enable him transfer their Father's land to his siblings.

Investigations were carried out where the Commission's officers recovered Kshs. 107,000/= that the Board members had been receiving from members of the public seeking approval of consent application for various land transactions.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations that the suspect be charged with the offence of receiving a bribe contrary to Section 6 (1) (b) as read with section 18 of the Bribery Act.

On 29th April, 2019, the DPP concurred with the Commission's recommendations for prosecution.

77.EACC/OPS/INQ/63/2016

INQUIRY INTO ALLEGATIONS OF ATTEMPTING TO EXTORT A BRIBE AND PERSONATION OF EACC OFFICERS

Investigations commenced following a report by the Governor of Kilifi County that some private persons had attempted to extort a bribe from him pretending to be EACC officers.

A trap operation was organized on 20/6/2018 where the Governor and his Personal Assistant met the four suspects at Gracia Hotel who again presented themselves as EACC officers and demanded a Kshs. 30 million bribe so that they could assist the Governor.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations that the suspect be charged with the offences of impersonating an investigator contrary to Section 34 (1) as read with Section 34 (2) of the ACECA and Conspiracy to commit an offence involving corruption contrary to Section 47(a) (1) as read with Section 48(1) of the ACECA.

On 14th March 2019 the DPP concurred with the Commission's recommendations for prosecution.

78.EACC/OPS/INQ/56/2017

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST TWO EACC EMPLOYEES

Investigations commenced following allegations that EACC officers and two other officers were demanding for a bribe of Kshs. 15,000, 000/- to compromise a Kshs. 280 Million tax evasion investigation against Mwananchi Credit Ltd, a company belonging to the complainant.

Investigations revealed that on 27th April, 2017, the two officers summoned an advocate of the High Court of Kenya acting for Mwananchi Credit Ltd to EACC offices. They informed him that investigations against Mwananchi Credit Ltd tax evasion were at an advanced stage. The suspects on the same day met the said advocate outside Uganda House and requested for a demand of Kshs.

15,000,000/- to compromise the purported tax evasion investigation against Mwananchi Credit Ltd.

It was established that although there was no direct evidence showing that the suspects requested for a bribe, there was circumstantial evidence in support of the same.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations that the suspects be charged with offences of receiving a bribe contrary to section 6(1) (a) of the Bribery Act, as read with section 18 (1) and (2) and conspiracy to commit a corruption offence contrary to section 47(a)(3) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 19th March 2019, the DPP concurred with the recommendation of the Commission that there is sufficient evidence to sustain charges against the two former EACC officers.

79.EACC/OPS/INQ/129/2018

ALLEGATIONS OF BRIBERY AGAINST AN EMPLOYEE OF THE NATIONAL TREASURY, PENSION DEPARTMENT

On 24th September 2018, EACC Integrity Centre Office received a complaint from a resident of Nairobi City County, alleging that, a person allegedly working at the National Treasury-Pensions Department, was demanding for a financial benefit of Kshs. 10,000 from his cousin, a resident of Kisii County, in order to facilitate the processing and release of her late husband's pension and gratuity; which pension payment had been pending for about 3 years.

Consequently, the Commission organized a sting operation which led to arrest of the suspect.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations that the suspects be charged with offences of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 (1) and (3) of the

Bribery Act, 2016, for receiving the bribe, demanding property by written threats contrary to Section 299 the Penal Code, Cap 63, personating persons employed in the public service contrary to Section 105 (b) the Penal Code Cap 63.

On 19th March 2019 the DPP concurred with the Commission's recommendations for prosecution.

80.EACC/OPS/INQ/85/2018

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST OFFICIALS OF THE NAIROBI CITY COUNTY GOVERNMENT

Investigations commenced following a report by a complainant that three officials of the Nairobi City County Government had demanded for a bribe of Kshs. 30,000/= so that they would not issue a demolition notice.

The Commission carried out a successful trap operation where the suspects received Kshs. 17,000/=. Evidence further established that the suspects had on various occasions prior to the operation demanded bribes from the complainant.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations that the suspects be charged with offences of receiving a bribe contrary to section 6(1) (a) of the Bribery Act, 2016

On 23rd April, 2019 the DPP concurred with the Commission's recommendations for prosecution.

81.EACC/OPS/163/2017

INQUIRY INTO ALLEGATIONS OF OFFERING A BRIBE TO A PUBLIC OFFICER BY A DRIVER OF A PSV OWNED BY KUKENA SACCO

Investigations commenced after a driver of Public Service Vehicle allegedly offered a bribe to an Officer attached to National Transport Road Authority who was part of a team carrying out a joint operation with Officers of EACC, along

Kenol – Sagana Road. The said driver did not have a valid Public Service Badge, which is a requirement for drivers of Public Service Vehicles.

However, the evidence obtained could not establish the element of offering a bribe.

On 23rd January, 2019, a report was compiled and forwarded to DPP with recommendations for closure of the inquiry file.

On 15th March 2019 the DPP concurred with the Commission's recommendations for closure.

82. EACC/MSA/OPS/INQ/40/2018

INQUIRY INTO ALLEGATIONS OF SOLICITING AND RECEIVING A BRIBE BY A POLICE OFFICER AT BAMBA POLICE STATION KILIFI COUNTY

The Commission commenced investigations following a complaint that the suspect had requested a financial advantage of Kshs. 5,000/= so as to release the complainant's daughter from custody.

Evidence established the suspect's intention to receive a bribe and the actual receiving of the bribe.

On 20th February, 2019, a report was compiled and forwarded to the ODPP with recommendations that the suspect be charged with two counts of receiving a bribe contrary to section 6 (1) (a) of the Bribery Act, 2016

On 29th April 2019 the DPP concurred with the Commission's recommendations for prosecution.

83. EACC/OPS/INQ/09/2018

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A CHIEF IN MLOLONGO LOCATION

The Commission commenced investigation following a report made on 23rd January, 2018 that a chief at Mlolongo location requested a bribe of Kshs.

30,000/= as an inducement to forbear charging the complainant with the offence of handling stolen goods.

Evidence established that when the complainant was caught with the stolen goods, he pleaded not to be arrested and offered to pay the owner of the stolen property. The owner of the property requested the chief to receive the money on her behalf and a committal agreement was made in that regard. The suspect chief was therefore acting as a mediator between the complainant herein and the owner of the stolen goods. The evidence on record did not therefore establish beyond any reasonable doubt that the chief had requested and or received a bribe.

On 20th February, 2019, a report was compiled and forwarded to the ODPP with recommendations that the file be closed with no other action.

On 29th April, 2019, the DPP concurred with the Commission's recommendation for closure of the file.

84.EACC/OPS/INQ/157/2018

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A COMPLIANCE OFFICER AT KRA.

The Commission commenced investigation following a complaint that a compliance officer at the Kenya Revenue Authority (KRA) requested for a benefit of Kshs. 10,000/= so as to assist the complainant obtain a tax compliance certificate.

Investigation established that the suspect had requested for a bribe and received the same through his mobile phone.

On 20th February, 2019, a report was compiled and forwarded to the ODPP with recommendations that the suspect be charged with two counts of receiving a bribe contrary to section 6(1) (a) of the Bribery Act, 2016.

On 29th April, 2019, the DPP concurred with the Commission's recommendation for prosecution.

85.EACC/MSA/OPS/INQ/17/18

INQUIRY INTO ALLEGATIONS THAT A PROSECUTION COUNSEL BASED AT TAVETA LAW COURTS IN TAITA TAVETA COUNTY REQUESTED FOR A BRIBE OF KSHS. 40,000/= AS TO IMPROPERLY INFLUENCE CRIMINAL PROCEEDINGS IN CRIMINAL CASE NO. 272 OF 2018 AT TAVETA LAW COURTS.

The Commission commenced investigations on receipt of a complaint on 28th May, 2018 that a Prosecution Counsel at Taita Taveta Law Courts had requested for a bribe of Kshs. 40,000/= from the complainant so as to facilitate a favorable court fine of Kshs. 20,000/= in respect of Cr. Case No. 272 of 2018.

A successful trap operation was carried out and it was established that the suspect requested for and received a bribe.

On 20th February, 2019, a report was compiled and forwarded to the ODPP with recommendations that the suspect be charged with two counts of receiving a bribe contrary to section 6(1) (a) as read with section 18 (10 and (2) of the Bribery Act, 2016.

On 29th March 2019 the DPP concurred with the Commission's recommendation for prosecution.

86.EACC/OPS/45/2015

INQUIRY INTO ALLEGATIONS OF OBTAINING MONEY BY FALSE PRETENSE, FORGERY AND MAKING FALSE DOCUMENTS AGAINST THE DIRECTOR AND EMPLOYEE OF TROPICAL WINGS TOURS AND TRAVEL CO. LTD.

The Commission commenced investigations following information that the suspects were operating a criminal syndicate where they facilitated processing of registration, travel documents and visas. The suspect illegally processed and acquired birth certificates, National Identity Cards, marriage certificates, bank statements and visa application.

Investigations established that indeed there was such a syndicate. However the evidence obtained was not sufficient to sustain a case in court on a beyond reasonable doubt basis.

On 20th February, 2019, a report was compiled and forwarded to the ODPP with recommendations that the file be closed.

Awaiting DPP's decision.

87.EACC/OPS/INQ/57/2018

INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE AND POSING AS CUSTOMER CARE OFFICER WITH THE KENYA POWER AND LIGHTING COMPANY(KPLC)

The allegations were that a private person solicited for Kshs. 20,000/= in order to forbear reporting to the purported employer, KPLC, the issue of a faulty meter on the complainant's rental property.

A successful operation was carried out by the Commission and the evidence obtained established that the suspect indeed requested and received the bribe.

On 13th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that the suspect be charged with receiving a bribe contrary to section 6(1)(a) of the Bribery Act, 2016 and personating a person employed in the public service contrary to section 105(b) of the Penal Code.

On 29th April, 2019 the DPP concurred with the Commission's recommendation for prosecution.

88.EACC/OPS/INQ/28/2017

ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER ATTACHED TO THE SAVANNAH POLICE STATION

The Commission commenced investigations following a complaint that the officer demanded from him Kshs. 70,000/= so as to facilitate the withdrawal of his case from court.

From the evidence obtained it was not possible to verify the allegations. On 13th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that the file be close with no further action.

On 23rd April 2019 the DPP concurred with the Commission's recommendation for closure of the file.

89. EACC/OPS/INQ/56/2016

ALLEGATION OF BRIBERY AGAINST AGENTS OF TALENT WORKS AND RIGHTS ENFORCEMENT LIMITED

The Commission commenced investigations following a complaint that persons purporting to be Anti-Counterfeit Agency officers had gone to his shop and confiscated his equipment alleging that his computers contained pirated music. The purported officers then asked the shop attendant for a bribe of Kshs. 60,000/= for the complainant to secure release of his office equipment.

The evidence established that the suspects indeed requested for and received a bribe. On 13th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that since the suspects are not public officers, the file be referred to the Director of Criminal Investigations to consider pursuing charges of obtaining money through false pretense contrary to section 313 of the Penal Code.

On 3rd May 2019 the DPP concurred with the Commission's recommendation that the file be referred to the Director of Criminal Investigations to finalize investigations.

90. EACC/OPS/INQ/32/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST PERSONS PURPORTING TO BE ARMY OFFICERS.

The Commission commenced investigations following a complaint that a person who purported to be an Army officer solicited for Kshs. 900,000/= from the complainant so that he would employ the complainant's relatives.

Evidence established that indeed the suspect requested for a bribe and actually received a bribe amounting to Kshs. 600,000/=.

On 28th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that the suspect and his counterpart be charged jointly and severally with receiving a bribe contrary to section 6(1)(a) of the Bribery Act, 2016 and personating a public officer contrary to section 105(b) of the Penal Code.

On 29th April, 2019, the DPP recommended that further investigations be carried out.

91.EACC/MCKS/OPS/INQ/29/2018

INQUIRY INTO ALLEGATIONS OF DEALING WITH SUSPECT PROPERTY AGAINST MACHAKOS TRAFFIC POLICE OFFICERS

The Commission received numerous complaints against Machakos Traffic Police Officers that they normally stop motor vehicles and demand bribes from motorists. The bribes allegedly ranged from Kshs. 50/= to Kshs. 200/=.

Investigation established that instead of the officers inspecting the motor vehicles as they are mandated to do, they would stop the said vehicles and collect money from motorists. A search conducted on the suspects turned up a total of Kshs. 3,900/= which was suspected to be bribe money.

On 28th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that the suspect be charged with the offences of abuse of office and dealing with suspect property contrary to section 47(2) (a) of ACECA.

On 13th May 2019 the DPP concurred with the Commission's recommendation for prosecution.

92.EACC/OPS/INQ/148/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A SENIOR SECRETARY AT RUAKA LOCATION KASARANI SUB COUNTY.

Investigations commenced following a complaint that a senior secretary at the office of Ruaraka location, Kasarani Sub County solicited for a benefit of Kshs. 1000/= from the complainant in order to facilitate registration of a self-help group known as Mathare Widows Self-help.

Upon investigations, it was established that the suspect had requested the bribe as alleged.

On 28th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that the suspect be charged with requesting for a bribe contrary to section 6(1)(a) of the Bribery Act, 2016.

On 23rd April 2019 the DPP disagreed with the Commission's recommendation to charge and recommended administrative action against the suspect.

93.EACC/GSA/OPS/INQ/69/2017

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND BRIBERY AGAINST CHIEF INSPECTOR AT DADAAB POLICE STATION.

The allegations were that the suspect released a refugee who was meant to be escorted back to the camp in Dadaab as ordered by Court.

Evidence established that the suspect disobeyed the court order by failing to surrender the refugee at the camp. Bribery allegations were not proved.

On 28th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that the suspect be charged with abuse of office contrary to section 46 as read with section 48 (1) of ACECA, disobedience of lawful orders contrary to section 131 of the Penal Code Cap 63 and undermining the authority of a public officer contrary to section 131 of the Penal Code, Cap 63.

On 23rd April 2019 the DPP concurred with the Commission's recommendation for prosecution.

94.EACC/KIS/OPS/INQ/7/2018

INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE AGAINST OFFICERS OF KENYA FOREST SERVICE BASED AT NYAMIRA

The Commission commenced investigations following a complaint that officials of the Kenya Forest Service requested for a bribe of Kshs. 5,000/= to facilitate the purchase of fuel for their vehicle to visit the site where there was a dispute.

Evidence on record established that indeed the suspects had requested for a bribe. On 13th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that the suspects be charged with receiving a bribe contrary to section 6(1)(a) as read with section 18 of the Bribery Act, 2016.

On 7th May 2019 the DPP concurred with the Commission's recommendations for prosecution.

95.EACC/KSM/OPS/INQ/3/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER ATTACHED TO KOMBEWA POLICE STATION.

A complaint was received at the Western Regional Office in Kisumu on the 27th August 2018 from a complainant who claimed that a police officer unknown to him at that moment attached at Kombewa Police Station was improperly requesting a financial advantage of Kshs. 30,000 in order to withdraw defilement charges against his brother.

On 27th August 2018 the investigating team proceeded to Rata Police Post but was unable to meet the Investigating Officer who was handling the case who alleged the matter had been forwarded to Kombewa Police Station. The team proceeded to Kombewa Police Station and fitted the complainant with an audio visual recording and a conversation was recorded where the suspect requested for a bribe of Kshs. 30,000 which he reduced to Kshs. 20,000.

A trap operation was mounted where the suspect was arrested and then escorted to Kisumu Railways Police Station. He was released on a cash bail of Kshs. 5,000/=.

On 7th February, 2019, a report was compiled and forwarded to DPP with recommendation of prosecution of the suspect with three (3) counts of requesting for a financial advantage of Kshs. 30,000/= and Kshs. 20,000/= and receiving a financial advantage of Kshs. 10,000/=.

On 29th April, 2019, the DPP concurred with the Commission's recommendation for prosecution.

96.EACC/MKS/OPS/INQ/45/2017

INQUIRY INTO ALLEGATIONS OF REQUESTING AND RECEIVING A BRIBE AGAINST A PROBATION OFFICER IN MACHAKOS PROBATION OFFICE, MACHAKOS COUNTY

On 15th March 2017 the Commission, received a complaint alleging that a Probation Officer based in Machakos town requested for a bribe of Kshs. 5,000 (Five thousand) in order to facilitate her to file a civil case.

The Commission organized a sting operation that resulted in the arrest of the probation officer after he received Kshs. 5000/= treated money.

The suspect was then arraigned in court for requesting for a bribe contrary to section 6 (1) (b) as read with section 18 of The Bribery Act 2016.

On 7th February, 2019 a report was compiled and forwarded to DPP with recommendation that there is sufficient evidence to support the charges and the case against the suspect be pursued to its logical conclusion.

On 7th May 2019 the DPP concurred with the Commission's recommendations for prosecution.

97.EACC/MSA/OPS/INQ. 20/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER ATTACHED TO BAMBURI POLICE STATION, MOMBASA COUNTY

The Commission received a complaint from a businessman residing in Bamburi – Kiembeni within Mombasa City County, that a police officer attached to Bamburi Police Station had demanded a financial advantage of Kshs. 6,000/=

so as to facilitate the release of motor vehicle which had been impounded for violating traffic rules.

A successful trap operation was carried out and the suspect was arrested.

On 7th February, 2019 a report was compiled and forwarded to DPP with recommendation to charge the suspect for receiving a bribe contrary to section 6(1) of the Bribery Act.

On 23rd April 2019 the DPP concurred with the Commission's recommendation for prosecution.

98.EACC/NKR/OPS/INQ/13/2017

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A PUBLIC OFFICER AT KENYA PRISON SERVICE IN NAKURU COUNTY.

Investigations commenced after the Commission received a complaint alleging that the Kenya prison wardens guarding prisoners within Nakuru Law Courts basement cells were demanding bribes in order for them to allow friends and relatives to see prisoners. Investigations revealed that indeed suspect requested for bribes as alleged.

On 7th February, 2019 a report was compiled and forwarded to DPP with recommendation to charge the suspect with the offence of receiving a bribe contrary to Section 6(1) (a) as read with Section 18 of the Bribery Act.

On 23rd April 2019 the DPP advised that administrative action be taken against the suspect in lieu of prosecution as recommended by the Commission.

99.EACC/OPS/INQ/144/2018

INQUIRY INTO ALLEGATIONS THAT TRAFFIC POLICE OFFICERS MANNING THE THIKA-GARISSA HIGHWAY WERE DEMANDING BRIBES FROM MOTORISTS FOR UNSPECIFIED OFFENCES

On 12th October, 2018, the Commission carried out a sting operation along the Thika- Garissa Highway based on the Surveillance Report that was carried out on diverse dates.

The said operation led to the arrest of a Traffic Police Officer. However, there was no sufficient evidence to charge the officer with a criminal offence.

On 7th February, 2019 a report was compiled and forwarded to DPP with recommendation that the National Police Service Commission should take appropriate administrative action against the suspects.

On 18th April, 2019 the DPP concurred with the Commission's recommendation for administrative action.

100. EACC/OPS/INQ/40/2015

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AGAINST EMPLOYEES OF SOCIETY GENERAL SURVEILLANCE (SGS) EMPLOYEES

The Commission commenced investigations following intelligence reports that employees of Society General Surveillance (SGS) manning the Webuye and Malava Weighbridges were collecting bribes from some road transport companies so that their trucks do not undergo the due weighing procedures.

Investigations revealed that SGS employees worked in cahoots with some truck owners by receiving bribes as an inducement to allow trucks bypass the weighbridge without being weighed. The bribe would be sent to the SGS employees through an Mpesa dealer whose shop was next to the weighbridge at Webuye.

On 7th February, 2019 a report was compiled and forwarded to DPP with recommendation to charge the SGS employees for the offence of dealing with suspect property contrary to section 47(1) as read with section 48(1) of the ACECA.

On 3rd June 2019, the DPP recommended further investigations to be carried out.

101. EACC/OPS/INQ/23/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN EMPLOYEE OF THE PUBLIC TRUSTEE, SHERIA HOUSE

The Commission commenced this investigation following a report from the complainant who is a widow, that a clerical officer at the Public Trustee, Sheria House was requesting for a bribe of Kshs 5000/- in order to facilitate signing of consent forms and processing of payment of her late husband's savings at Equity Bank.

A successful trap operation was carried out which led to the arrest of the suspect.

On 7th February, 2019 a report was compiled and forwarded to DPP with recommendation to charge the suspect with the offence of receiving a benefit contrary to Section 6(1) (a) as read with Section 18 of the Bribery Act No. 47 of 2016.

On 22nd March 2019 the DPP concurred with Commission's recommendation for prosecution.

102. EACC/OPS/INQ/145/2017

AN INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST A BUSINESS LADY AT KARIOKOR MARKET

The Commission received a complaint from a complainant on 25th September, 2017 that Nairobi City Council Officials were soliciting for a benefit of Kshs 30,000/= from him in order to allow him apply for the renewal of a liquor license.

Investigations established that indeed the suspect had asked for a bribe but the evidence obtained was not enough to sustain bribery charges.

On 7th February, 2019 a report was compiled and forwarded to DPP with recommendation that the inquiry file be closed.

On 23rd April 2019 the DPP concurred with the Commission's recommendation for closure.

103. EACC/MCKS/OPS/INQ/04/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A FOREST RANGER AT KENYA FOREST SERVICES ATTACHED TO MACHAKOS COUNTY

The Commission commenced investigations following a complaint that on 2nd August, 2016 a Forest Ranger attached to Machakos had requested for a benefit of Kshs. 100,000/= from a complainant as an inducement to release a Lorry registration number KBJ 318J and issue a permit to ferry farm produce. The amount was later negotiated downwards to Kshs 50,000.

Investigations established that indeed the Officer requested for the bribe from the complainant and insisted on being given Kshs 100,000 and later Kshs 50,000 in order to release the lorry and issue a permit to ferry farm produce. Evidence further established that after financial analysis the Officer had filed false wealth declaration forms in December 2015 and November, 2017.

On 7th February, 2019 a report was compiled and forwarded to DPP with recommendation that the inquiry file be closed since the suspect has since passed on.

On 19th March 2019 the DPP concurred with the Commission's recommendation for closure of file.

104. EACC/OPS/INQ/184/2018

AN INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST OWNER OF A PRIVATE MOTOR VEHICLE REG. NO. KCH 019K

On 18th December, 2018 Commission and Traffic Police conducted a joint operation to arrest motorists who flout traffic laws and offer bribes to officers on duty so as to avoid being charged.

On this day the officers carried out an operation wherein the owner of a private motor vehicle Reg. No. KCH 019K was arrested after he allegedly gave a benefit to a Traffic Police Officer in order to forbear charging his driver with a traffic offence of exceeding speed limit contrary to Section 42(3) of the Traffic Act.

Upon analysis of the evidence, it was established that the evidence was not enough to prefer charges against the suspect.

On 7th February, 2019 a report was compiled and forwarded to DPP with recommendation that the inquiry file be closed.

On 16th April 2019 the DPP concurred with the Commission's recommendation for closure of the file.

105. ACC/MSA/PI/INQ/1/2017

INQUIRY INTO ALLEGATIONS THAT OFFICIALS OF BANDARI FOOTBALL CLUB FRAUDULENTLY RECEIVED IMPREST FOR AWAY AND HOME MATCHES PLAYED ON 14TH FEBRUARY 2016 AND 28TH FEBRUARY, 2016 RESPECTIVELY AMOUNTING TO KSHS. 2,528,800/=

The Commission commenced investigations following a complaint that certain officials of Bandari Football Club had fraudulently obtained temporary imprest from the Kenya Ports Authority (KPA) towards meeting the cost of away and home matches against St. Eloi Lupopo of the Democratic Republic of Congo during the CAF Confederation Cup matches played on 14th February, 2016 and 28th February, 2016 respectively. It was further alleged that the imprest of Kshs. 808,800.00 and Kshs. 1,720,000.00 for the away match and home match respectively were obtained using a forged letter from Football Kenya Federation(FKF), and that the cost would be met by FKF and not KPA.

Evidence established that the suspects were issued with temporary imprests in respect of official duties of Bandari Football Club, and therefore were not fraudulently obtained as alleged.

On 20th February, 2019, a report was compiled and forwarded to the ODPP with recommendations that appropriate disciplinary action be meted on the two suspects in respect of accrued interest on the temporary imprest issued to them pursuant to the provisions of Regulation 93 of the Public Finance Management (National Government) Regulations, 2015.

On 11th April, 2019 the DPP concurred with the Commission's recommendation that administrative action be taken against the officials of Bandari Football Club.

106. EACC/PI/INQ/344/2016

INQUIRY INTO ALLEGATIONS OF IRREGULARITIES REGARDING RECRUITMENT OF THE PRINCIPAL ACCOUNTANT-RECEIVABLES AND BRIBERY AT THE AIDS CONTROL COUNCIL (NACC)

The Commission commenced investigations following a complaint regarding irregularities in recruitment and bribery allegations against the National Aids Control Council. It was alleged that the NACC in the process of hiring a Principal Accountant-Receivables, on a three-year contract, picked on a person who allegedly was not a fully qualified CPA(K) and did not possess a Masters degree at the time she attended the Board's interview. It was further alleged that the person bribed the officials with Kshs. 1 million in order to secure the contract.

Evidence established that the process followed while recruiting the candidate was proper and therefore the suspect was duly appointed. There was also no evidence to substantiate the allegation that the said person bribed the officials with Kshs. 1 million.

On 28th March, 2019, a report was compiled and forwarded to the ODPP with recommendations that the file be closed with no further action.

On 8th May 2019 the DPP accepted the Commission's recommendation for closure.

107. EACC/PI/INQ/408/2017

INQUIRY INTO ALLEGATION THAT IN FY 2014/2015, THE GOVERNOR OF SIAYA COUNTY GOVERNMENT SPENT MORE THAN KSH. 70 MILLION ABOVE THE ALLOCATED AMOUNT FOR PURCHASE OF VEHICLES AND AMBULANCES WITHOUT APPROVAL OF THE COUNTY ASSEMBLY

The Commission commenced investigations following allegations that the Governor of Siaya County Government had spent Kshs. 70 million more than was allocated for purchase of cars and ambulances in the Financial Year 2014/2015. It is alleged that the Governor spent Kshs. 159 million instead of the planned expenditure of Kshs. 89 million without approval of the County Assembly. It was

further alleged that the vehicles were procured from a company which was not in the list of those recommended by the Public Works Department.

Following an analysis of the evidence, it was established that purchase of the six vehicles for the County Government of Siaya was planned and budgeted for in the Financial Year 2014/2015. Investigations established that there was no irregularity in the procurement process of purchase of the six vehicles for Siaya County Government in the Financial Year 2014/2015.

On 16th January, 2019, a report was compiled and forwarded to DPP with recommendations for closure of the inquiry file.

On 12th March 2019 the DPP concurred with the Commission's recommendation for closure of file.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

1.	Total No. of files forwarded to the Director of Public Prosecutions	107
2.	No. of files recommended for prosecution	71
3.	No. of files recommended for administrative or other action	12
4.	No. of files recommended for closure	24
5.	No. of files recommended for prosecution and the cases are already lodged before Court	3
6.	No. of files where recommendation to prosecute accepted	39
7.	No. of files where recommendation for administrative or other action accepted	7
8.	No. of files where recommendation for closure accepted	21
9.	No. of files returned for further investigations	24
10.	No. of files where recommendation to prosecute not accepted	0
11.	No. of files where recommendation for administrative or other action not accepted	0
12.	No. of files where closure not accepted	0
13.	No. of files where prosecution declined but administrative action recommended	6
14.	No. of files awaiting the DPP's advice	10

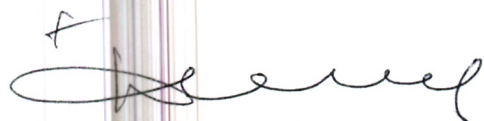
DATED AT NAIROBI THIS

22nd

DAY OF

July

2019



ARCHBISHOP (RTD) ELIUD WABUKALA, EBS
CHAIRMAN

/jrl/gon



TWALIB MBARAK
SECRETARY/CHIEF EXECUTIVE OFFICER

