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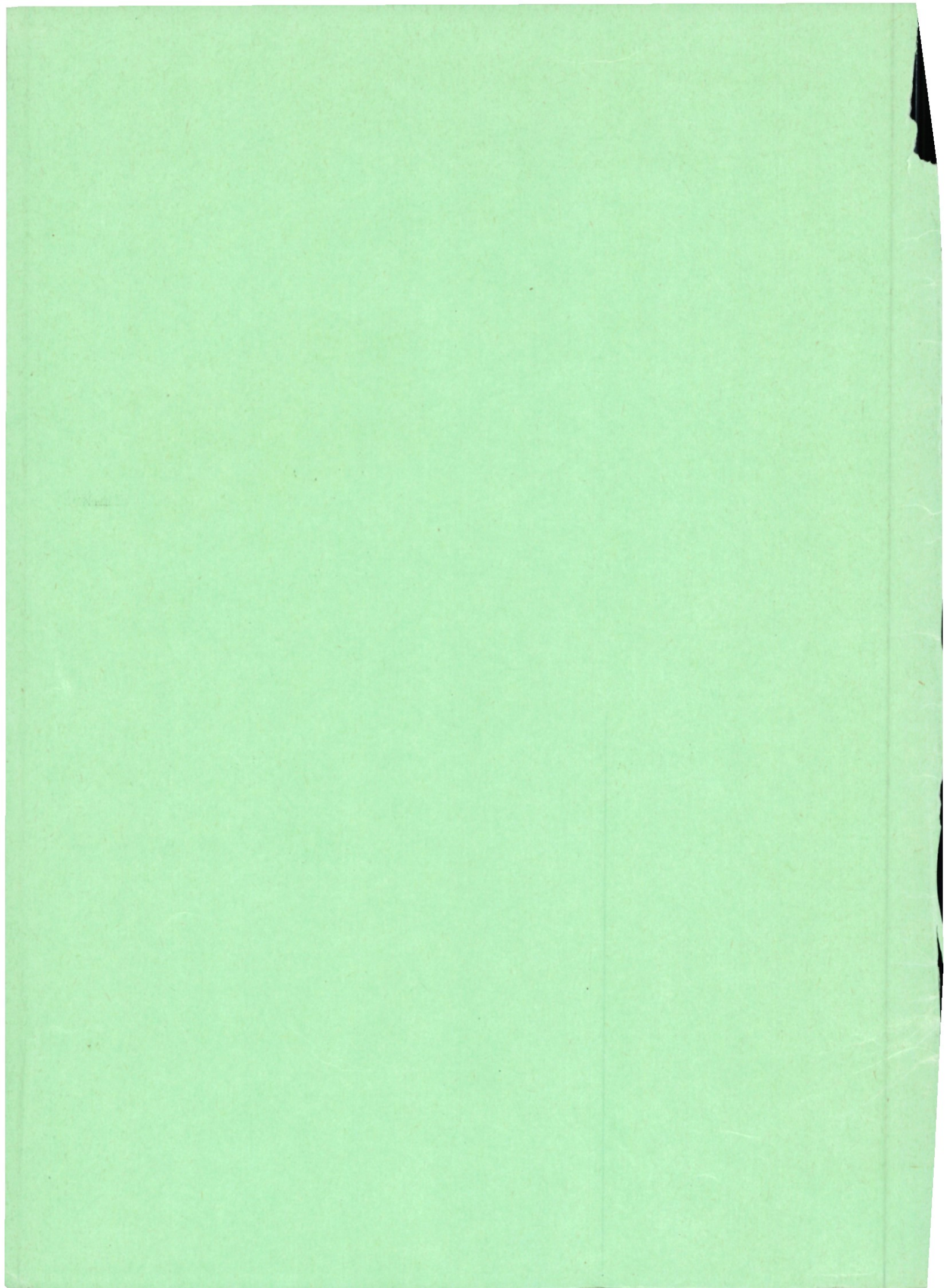
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Treasury Memorandum  
on the  
Implementation Status  
of the  
Twelfth Report  
of the  
Public Investments Committee  
on the  
Accounts of State Corporations

Volume II

2006

3





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VOLUME II

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# **INTRODUCTION**

**The Treasury Memorandum on the implementation status of the Twelfth report of Public Investment Committee on the Audited Accounts of the State Corporations is presented herewith. This is the Twelfth Treasury memorandum since the Committee identified Treasury to prepare and submit such a report on regular basis.**

**The Memorandum contains the exact recommendations of the committee as adopted by National Assembly. The status of implementation is given immediately after each recommendation for ease of discussions.**

**In order to ensure that the recommendations and resolutions of the Committee are implemented, Treasury makes follow-up with the relevant Chief Executives of the various parastatals.**

**The Treasury Memorandum is hereby printed for discussion and adoption.**



**JOSEPH K. KINYUA, CBS  
PERMANENT SECRETARY  
MINISTRY OF FINANCE**

# KENYA AIRPORTS AUTHORITY

## REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA AIRPORTS AUTHORITY FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 1997

### 1.0 ACCURACY OF THE ACCOUNTS

#### RECOMMENDATIONS

- 1.1 The Committee recommends that the Chief Executive should ensure that the Accounts are properly maintained and reconciled and that all supporting documents are availed to the Controller and Auditor General.

**Status:** *The Chief Executive confirms that the accounts for the year 1997 were reconciled and all supporting documents availed to the Controller and Auditor General as per the committee's recommendations.*

- 1.2 The Committee further recommends that the Suspense Account is analyzed.

**Status:** *The Chief Executive confirms that the Suspense Account was analyzed and availed to the Controller and Auditor General. Further, all adjustments were incorporated in the Accounts of 2000/2001, as per the recommendations contained in the 10<sup>th</sup> Report of the Public Investment Committee.*

### 2.0 SURVEY OF AIRPORTS

#### RECOMMENDATIONS

- 2.1 The Chief Executive should use all means possible including litigation to have the irregular allocation of the following parcels of land belonging to the Authority nullified:

LR No.	Name of Allottee
9042/310	A. K. Magugu & Partner
9042/308	Nandier Farms Limited
9042/228	B. W. Macharia
9042/603	Kojpa Motors
9042/313,9042/315 & 9042/170	Homegrown (K) Limited
9042/281	Makindu Growers & Parkers Limited
9042292	Quadrant Limited
9042/295	Agro Anglo

9042/305	Mark First (K) Limited
Un Surveyed plot	3 Kays Beauty Clinique
LR 15142	Sky Bird Executive Safaris
9042/45 & 9042/46	NAS Airport Services
9042/231	Signon Cargo Center
9042/583	African Airlines
LR.21690/2 LR.21690/3 LR.21690/4 LR.21690/5	Amarjit Singh Viridi
24927	Dahase Investment
24389	Kanea Falls Ltd
9042/47	Isaac Mutuma Ann Nyakari Rachel Muthoni Nyaga Mary Ann Kung'u
LR. 24092	Machester Outfitters Limited
9042/633	Isaac Mutuma Anne Nyokabi Rachel Muthoni Nyaga Mary Anne Kung'u
9042/228	Justin Gachuru Njuguna Oscar Macharia Njuguna
9042/304	Mechanized Cargo System
9042/222	Kenya Re
9042/303	Property Priority Limited
9042/101	Canarian Holdings Limited Caltex
9042/308	Namdhari Farms Limited
15129	Mumbu Holdings Limited
9042/7	Kenya Airways
9042/20	Kenya Airways
9042/21	Kenya Airways
9041/22	Kenya Airways

### **EMBAKASI VILLAGE**

9042/231 IR 57827	Julius Monzi Muia
9042/232 IR 57829	
9042/233 IR 57830	John Murlithi Gachugo
9042/234 IR 57828	Julius Monzi Muia
9042/678 IR 80230	Charles Ayako Nyachae
9042/53	Church
9042/230	Kenya Airways
9042/229	

**WILSON AIRPORT**

<b>NAME</b>	<b>LR. OR IR. NUMBER</b>
East African Safari Air (this parcel of land was alienated from the Airport Apron)	LR. 209/11595
Cleodhusrt Limited/Ballon Safaris Ltd.	LR. 13405
Uchumi Supermarkets	209/12593

**JOMO KENYATTA INTERNATIONAL AIRPORT**

<b>OWNERS</b>	<b>LR. NO.</b>
Chanzu Enterprises Limited Box 47089, Nairobi	9042/96
Bancroft Properties Box 11880, Nairobi	9042/285
Monzi Muia Box 39738, Nairobi	9042/231
Kobil, Total & Agip Petroleum Ealers Box 30061, Nairobi	9042/54
Pinnacle Development Limited & Ranco Investment Box 75200, Nairobi	9042/300
Woni Veg/Fruit Importers & Exporters Ltd, Box 52115, Nairobi	9042/307
Oserian Development Company Ltd Box 433340, Nairobi	9042/291
Oseraian Development company Ltd. Box 433340, Nairobi	9042/280
Fisher Vegpro (three floors) Box 44286 Nairobi	9042/284
Shalimar Flowers (K) Ltd. Box 49125, Nairobi	9042/177
Makindu Growers & Packers Ltd. Box 45308, Nairobi	9042/282
Surreshchedra Raichand Shah & Minarshri Sresh Minarshri, Box 10199, Nairobi	9042/283

## JOMO KENYATTA INTERNATIONAL AIRPORT

LR. NO.	PROPRIETOR
L. R. 209/9091	Shutter Development Box 27794, Nairobi
L.R. 209/9097	E. Kiplagat & Others
L.R. 209/9098	Kazirun enterprises, Box 56151 Nairobi
L.R. 209/9186	N. C. Barti Limited
LR.R. 209/9187	Caroline Tipis, Box 309, Narok
L.R. 209/9199	E. Ngeyo, Box 19882, Nairobi
L.R. 209/24088	Ministry of Lands and Settlement
L.R. 209/24092	Manchester Outfitters

## WILSON AIRPORT

L.R. NO.	PROPRIETOR
L.R. 209/12908	PAMSO Enterprises Ltd. Box 72622, Nairobi Acrege 4.8 Ha. (Mitumba Village)
209/25469	Mungas Villas Limited
209/25470	Winer Services
209/25471	Kenchora Bros Limited
209/25472	Lelabi Ventures
209/25473	Henry Muesermate (Shalfa Holdings Limited
209/25474	Stephen Odinga, box 66925, Nairobi (Shalfa Holdings)
209/25475	Kilimo Ltd.
209/25476	Unknown
209/25477	Rexton enterprises

## MOI INTERNATIONAL AIRPORT, MOMBASA

LR. NO	AREA	REGISTERED OWNER	DATE OF REGISTRATION
MN/V/3745 (DP NO.20355)	2.502 Ha	Not available	Not available
MN/V/3745 (DP NO. 164272)	1.61 Ha	Zakhem Const. (K)	30 <sup>th</sup> July 1992
MN/VI/3746 (CR 23456)	0.6993 Ha	Ali Burrow Korane	26 <sup>th</sup> Nov, 1992
MN/VI3747 (CR 23456)	0.6993 Ha	James Gichohi Ngari	30 <sup>th</sup> Nov, 1992

MN/VI3748 (CR 23466)	0.6993 Ha	Ali Mahmoud Salim	30 <sup>th</sup> Nov, 1992
PLOT NO. 3665 (CR 19314/1- 420/87)	3.692 Ha	Paurafcon Agencies Ltd. Box 82017 Mombasa	Not available
MN/VI/3448	0.19	Ali Bin Abdurahman Bin Mohammed Baisheikh	13 <sup>th</sup> Jan. 1991
Portion No. Malindi	Malindi 126	37149/3534	Owner Margaret Wanjiru
No. 139 CR. 1997/3553			Seed Fekih
No. 5186 LT 37/400/6323			Carla Albertaz and Marcello Piathi

### UKUNDA

#### LR NOS.            OWNERS

1378	Records not available
1377	"
1376	"
1375	"
1374	"
1372	"
1372	"
1370	"
1369	"
1369	"
1368	"
1366	"

### KISUMU AIRPORT LAND PARCEL C = 206.09

<b>NAME</b>	<b>LR. OR IR NUMBER</b>
Individual people	38.67 Ha
Individual People	18.19 Ha
Not Allocated Vacant	98.32 Ha
Individual families	5/96 Ha
Coca-Cola	13.6 Ha
<b>TOTAL</b>	<b>174.74 Ha</b>

**Status:** According to the Chief Executive, Kenya Airports Authority, it is true that when the survey of the Airports and Airstrips was completed, it was found out that over one thousand (1000) hectares had been carved out by the Commissioner of Lands and illegally allocated to individuals and organizations.

However, the Chief Executive has taken the following measures to recover the irregularly allocated land.

- A list of the illegally allocated land was forwarded to the Ndungu Commission of Inquiry Vide letter Ref. KAA/5/19 Vol.2 dated 26<sup>th</sup> August, 2003. it covered all the parcels of land as listed in this paragraph.
- The Ndungu Commission of inquiry recommended that the illegally allocated land as forwarded be recovered by the authority.

The Chief Executive further adds that while KAA leaves all options open including litigation with over 400 illegal allottees to deal with, the litigation option may prove to be too costly and time consuming.

In view of the foregoing, it was decided that the administrative option through the parent Ministry could be faster, less time consuming and less costly. This procedure would involve revocation of illegal titles by the Government through the parent Ministry.

During a meeting held in the Ministry of Transport Headquarters it was resolved that each corporation should form its own task force for dealing with illegally allocated land. KAA has constituted its own task force for that purpose and has submitted for revocation a list of all the illegally allocated land at all the Airports and Airstrips to the Ministry.

According to KAA the list shown in this paragraph is not by all means exhaustive. Supplementary list of illegal land allocations are being compiled and forwarded to the Ministry's task force as and when new cases come to light.

It is noted with satisfaction that the following parcels of land which were illegally carved out of KAA land have had their titles cancelled by the Government.

LR. No. 209/25469

LR. No. 209/25470

LR. No. 209/25471

LR. No. 209/25472  
 LR. No. 209/25473  
 LR. No. 209/25474  
 LR. No. 209/25475  
 LR. No. 209/25476  
 LR. No. 209/25477

The parcels of land are based at Wilson Airport.

**2.2 The Chief Executive should recover the excess fees paid amounting to Ksh.1,428,358.00 from Gimco Valuers Limited.**

**Status:** The Chief Executive confirms that the excess fees paid to GIMCO valuers Ltd was due to the fact that the land valued was more than originally planned.

The excess land valued comprised:-

JKIA	674.57 ha
Malindi Airport	281.40 ha
Kisumu	156.07 ha
<b>Total</b>	<b>1112.04 ha</b>

Following the above additional valuation the excess fees paid by the Authority to M/s GIMCO was Kshs.1,428,358 made up as follows:-

Airport	Excess land Ha	Rate Per Ha. Ksh.	Amount Valued Ksh.	Excess fees Ksh.
JKIA	674.56	729,614	492,175,716	738,264
Malindi	281.4	1,178,010	331,492,014	497,23
Kisumu	156.0	821,170	128,570,520	192,856

The Authority wrote to the valuers vide letter Ref. 12AA/11/16/2000-01 Vol.2 dated 4<sup>th</sup> February 2002 demanding the refund of the excess fees paid.

In their response vide letter Vol I/4055/2002 dated 26<sup>th</sup> February, 2002 they clarified the position of their appointment to value the entire KAA land as was appearing in the KAA's records. Just like KAA, GIMCO were not privy to the fact that some KAA land had been allocated to others. GIMCO, therefore, valued entire land and submitted the report on that basis. KAA therefore considers that there was no overpayment. In view of the above, the Chief Executive requests PIC members to reconsider this case.

**2.3 The Commissioner of Lands should provide the list of the names of the allottees of the parcels of land whose owners are alleged to be unknown.**

**Status:** According to the Chief Executive, Kenya Airports Authority (KAA), when the survey of the Airports and Airstrips was completed, it was found out that over one thousand (1000) hectares of land had been curved out by the Commissioner of Lands and illegally allocated to individuals.

The Commissioner of Lands vide his letter Ref:25/838/85 dated 19<sup>th</sup> January 2006 concurs with KAA, however, he adds that, a body will be established soon and to be known as the Land Titles Tribunal, under the published Bill, the Land Law (Amendment) Bill, 2005. This body will handle the revocation of the illegally/irregularly acquired titles to public land and so the land curved out of KAA and whose owners are alleged to be unknown will be recovered in this manner.

The Commissioner of Lands also concurs with the KAA that the following parcels of land which were illegally curved out of KAA land have had their titles cancelled by the Government.

L.R. NO.209/25469  
L.R. NO.209/25470  
L.R. NO.209/25471  
L.R. NO.209/25472  
L.R. NO.209/25473  
L.R. NO.209/25474  
L.R. NO.209/25475  
L.R. NO.209/25476  
L.R. NO.209/25477

**3. CONTRACTS**

**RECOMMENDATIONS**

**3.1 The Committee recommends that:-**

**3.1.1 The Board and the Chief Executive should ensure that proper Tendering procedures are strictly adhered to.**

**Status:** The Chief Executive confirms that the Authority will ensure that proper tendering procedures are followed, by strictly adhering to the Exchequer and Audit (Public Procurement), Regulations 2001

**3.1.2 The then Chief Executive Mr. Peter Lagat, the General Manager, Engineering Services Eng. Mohamed Mukhwana, the then Senior**

**Architect Mr. T. Chireah, the Quantity Surveyor Mr. H. M. Nyagoe should be investigated by the Kenya Ant-Corruption Commission for flouting the tender and procurement procedures with a view to being prosecuted.**

**Status:** *The Chief Executive Officer confirms that through letter Ref:KAA/3/26 VOL.3 dated 6<sup>th</sup> September, 2005, he has written to the Director Kenya Anti-Corruption Commission to investigate the four officers for flouting the Tendering and Procurement Procedures with a view to prosecuting them.*

**3.1.3 The said persons in (ii) (above) should be held liable for abuse of procurement procedures and be surcharged for losses amounting to Ksh.36,607,507.00 which would have been saved had proper Tendering Procedures been followed.**

**Status:** *The Chief Executive confirms that immediately the Kenya Anti-Corruption Commission concludes its investigations on the four, appropriate action will be taken.*

**3.1.4 M/s Om Shri Construction Company and M/s. Wood Design, whose Directors to date remain unknown, knowingly and willfully participated in the flouting of Tendering Procedures be black listed and precluded from participating in State Corporations' and government tenders.**

**Status:** *The Chief Executive confirms to have written to the Director of Public Procurement vide letter KAA/3/26 VOL.3 dated 6<sup>th</sup> September, 2005 asking him to blacklist the two firms for flouting of tendering procedures.*

*In response, the Director of Procurement Vide letter Ref. PID.3/04/01/A Vol.I(59) dated 12<sup>th</sup> September, 2005 pointed out that the reasons given for blacklisting might not be able to withstand legal challenges in court. He said the grounds for black listing are:-*

- (i) Conviction which is an offence under regulations*
- (ii) Serious neglect of obligations under a public procurement contract*
- (iii) Provision of false information about qualification.*

*In view of the above, the Chief Executive requests PIC members to reconsider this matter.*

#### **4.0 MISUSE OF TEMPORARY IMPREST FACILITY**

##### **RECOMMENDATIONS**

**4.1 The Committee recommends that the Chief Executive should recover outstanding imprests of Ksh.246,744.00 from the following people:-**

♦	Major General (Rtd) E. S. Mbilu	- Ksh.81,015.80
♦	Mr. J. B. Okara	- Ksh.16,184.45
♦	Mr. A. K. Ketter	- Ksh.40,000.00
♦	Mr. R. Kemoli	- Ksh.40,000.00
♦	Mr. S. B. Rotich	- Ksh.69,543.75

**Status:** *The Chief Executive confirms that he wrote demand letters to the above officers to surrender the outstanding imprests of Kshs. 246,744. Mr. R. Kemoli and Mr. S. B. Rotich responded and paid their outstanding imprests of Ksh.40,000.00 and Ksh.69,543.75 respectively. The Authority will pursue the other three i.e*

Major General (RTD) E.S. Mbilu	Kshs.81,015.85
Mr. J. B. Okara	Kshs.16,184.45
Mr. A.K. Keter	<u>Kshs.40,000.00</u>
<b>Total</b>	<b><u>Kshs.137, 200.30</u></b>

*The Chief Executive has written reminders to the three to ensure that the said outstanding imprests they hold are paid.*

**4.2 The Committee further recommends that the Chief Executive ensures that all imprest is surrendered before drawing of new one as per regulations and that it is used for official purposes only.**

**Status:** *The Chief Executive confirms that old imprests are surrendered before new ones are drawn and are used for official purposes only as per obtaining financial regulations.*

## **5.0 INVESTMENTS**

### **RECOMMENDATIONS**

**5.1 The Committee reiterates its earlier recommendation made in the Tenth Report that the then Managing Director Mr. Peter Lagat should be held responsible for depositing Surplus Funds of the Authority without following the Treasury's circulars and be prosecuted for abuse of office.**

**Status:** *The Chief Executive confirms that he has written to the Kenya Anti-Corruption Commission to investigate the then Chief*

*Executive Mr. Peter Lagat for depositing surplus funds of the Authority without following the Treasury's circular and prosecuted for abuse of office - letter Ref: KAA/3/26 VOL.3 dated 6<sup>th</sup> September, 2005. KACC response/action is awaited after which appropriate action will be taken.*

## **6.0 STOCKS**

### **RECOMMENDATIONS**

- 6.1 The Committee recommends that all supporting documents in respect of stock of the Authority should be availed to the auditors for verification.**

**Status:** *The Chief Executive confirms that all supporting documents in respect of stock of the Authority were availed to the Auditors as per the Committee's recommendations.*

## **7.0 WORK-IN-PROGRESS**

### **RECOMMENDATIONS**

- 7.1 The Committee recommends that in future the Authority should use proper accounting procedures to avoid delay of auditing of accounts.**

**Status:** *The Chief Executive confirms that he has ensured that the Authority uses proper accounting procedures such as following the International Accounting Reporting Standards. The Accounts are now produced on a timely basis and there is no delay of auditing of accounts. Already, the accounts for the year 2003/2004 have been audited and finalized, while the systems audit for 2004/2005 is in the final stages of completion.*

## **8.0 CASH AND BANK BALANCES**

### **RECOMMENDATION**

- 8.1 The Committee recommends that the Authority prepares reconciliation statements on monthly basis.**

**Status:** *The Chief Executive confirms that bank reconciliations are done on a month basis as per the committee's recommendations.*

# NATIONAL HOUSING CORPORATION

## REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE NATIONAL HOUSING CORPORATION FOR THE YEAR ENDED 30 JUNE 1999

### 1.0 OUTSTANDING LOAN ARREARS

#### RECOMMENDATIONS

- 1.1 **The Committee recommends that the Corporation should use all means possible to recover all outstanding arrears without further delay.**

**Status:** *The Chief Executive confirms that the corporation will use all means possible to recover the outstanding arrears which stood at Kshs.1,756,408,625 as at 30<sup>th</sup> June, 1999.*

*A total of Kshs.1,068,003,866/- has been recovered between 1<sup>st</sup> July, 1999 and 30<sup>th</sup> June, 2005 as follows:-*

<i>Local Authorities</i>	<i>-</i>	<i>Kshs.1,009,717,455.00</i>
<i>Rural Housing Loans</i>	<i>-</i>	<i>Kshs. 58,286,411.00</i>
<b>Total</b>	<b>-</b>	<b><u>Kshs.1,068,003,866.00</u></b>

*Some of the strategies adopted are:-*

#### **Repossession of properties funded by NHC in the various Local Authorities.**

- As at 30<sup>th</sup> June, 2005 the Corporation had repossessed estates in sixteen(16) Local Authorities i.e. Nairobi, Kisumu, Eldoret, Mombasa, Nakuru, Kitale, Thika, Meru, Nyahururu, Naivasha, Kitui, Eldama Ravine, Kakamega, Athi River, Vihiga & Busia.*

#### **LATF**

- Some seven (7) local authorities have pledged to include National Housing Corporation in their Local Authorities Trust Fund (LATF) debt service program. These are Nyeri Municipal Council, Kericho Municipal Council, Bungoma Municipal Council, Embu Municipal Council, Voi Municipal Council, Mumias Municipal Council, Mumias Municipal Council and Nakuru County Council.*

## **Outright Sale of Council Houses to Fully Redeem the Debt**

The Corporation has initiated negotiations with some Local Authorities aimed at getting them to sell a few estates to redeem the debt owed to the Corporation. The response so far has been positive and some progress has been made in this direction, with Thika Municipal Council, Nyeri Municipal Council, Eldoret Municipal Council, Nairobi City Council and Kabarnet Municipality Council.

The exercise has been hampered by difficulties, in getting approval from the Ministry of Local Government to sell the estates as well as litigation initiated by sitting tenants and/or some Local Authorities.

### **Rural Housing Loans**

As indicated in the Audit Report, the Corporation was owed Kshs.84,809,377/- by Rural Housing Loanees as at 30<sup>th</sup> June 1999 as arrears of loan charges.

The Corporation is pursuing the defaulters through the field offices, the Provincial Administration and the law courts.

Between July 1999 and June 2005 the Corporation collected a total of Kshs.58,286,411/- from Rural Housing Loanees.

- 1.2 The Committee further recommends that the Chief Executive should ensure that the houses that have been repossessed are disposed of in a transparent manner with due consideration to the current occupiers.**

**Status:** The Chief Executive confirms that the Corporation has sent letters to the sitting tenants of Madaraka and Kariakor in Nairobi City Council, Argwings Kodhek, Ondieki and Arina in Kisumu Municipal Council, Buxton and Jomo Kenyatta in Mombasa Municipal Council and Kamenu and Bondeni in Thika Municipal Council, inviting them to express interest in the purchase of the houses they live in. The sale will be done in a transparent manner and priority will be given to the current occupiers.

The status is as follows:-

	<b>Local Authority</b>	<b>Total No of Houses</b>	<b>Number invited to express interest</b>
<b>1.</b>	<b>Nairobi</b>		
	• Makadara	600	281
	• Kariakor	240	139
<b>2.</b>	<b>Kisumu</b>		

	• Argwings Kodhek	48	22
	• Ondiek	167	161 shops 3
	• Arina	525	525
<b>3.</b>	<b>Mombasa</b>		
	• Buxton	328	257
	• Jomo Kenyatta	288	11
<b>4.</b>	<b>Thika</b>		
	• Kamenu	151	88
	• Bondeni	34	34

The Chief Executive confirms that the Corporation invited only tenants who had signed lease agreements to express interest in buying the houses.

## **2.0 IRREGULAR AWARD OF CONTRACTS**

### **RECOMMENDATIONS**

- 2.1 The Committee recommends that the then Chief Executive Mr. Lawi Kiplagat should be surcharged for the losses amounting to Ksh.2,488,468.75 and be barred from holding public office conferred by the Republic of Kenya.**

**Status:** The Corporation has written to the Inspectorate of State Corporations to surcharge **Mr. Lawi Kiplagat** for **Ksh.2,488,468.75** for disregarding procurement procedures; Ref. NHC/CONF/LKK/KIP/ 1257(111)AJO dated 31/08/2005.

- 2.2 The Committee further recommends that in future the Management should ensure that Procurement procedures currently in force are adhered to.**

**Status:** The Chief Executive confirms that the Corporation now adheres to the Procurement Procedures as laid down in the Exchequer and Audit (Public Procurement) Regulations, 2001

## **3.0 PAYMENT OF US\$.63,400**

### **RECOMMENDATIONS**

- 3.1 The Committee recommends that the management should ensure that procurement procedures are adhered to without exception and that officers from the parent Ministry who exert undue influence should be surcharged.**

**Status:** The Corporation has noted the recommendation of the Public Investment Committee and undertakes to adhere to the Procurement procedures without fail.

#### **4.0 TERMS AND CONDITIONS OF SERVICE**

##### **RECOMMENDATIONS**

**4.1 The committee reiterates its earlier recommendations in the 11<sup>th</sup> Report that:-**

**4.1.1 The Chief Executive should ensure that in future, any review of terms and conditions of service of the Corporation should be referred to the State Corporations Advisory Committee for approval.**

**Status:** The Chief Executive has noted the recommendation of PIC and has referred the review of terms and conditions of service of the Corporation to the State Corporations Advisory Committee as exemplified by copy of letter REF. NHC/CONF/EST/2/5. Vol.III(7)AJO dated 25/07/2005.

**4.1.2 All benefits enjoyed and allowances paid to Mr. Lawi Kiplagat during his tenure as the Managing Director of National Housing Corporation including imprest of Ksh.6.471.801.10 should be treated as a debt and be recovered from him with immediate effect.**

**Status:** The Chief Executive confirms that the Corporation has taken **Mr. L. Kiplagat** to court vide **HCCC NO. 131** of 2001 and obtained the requisite orders for Ksh.20,391,607.50 but on enforcement the auctioneers realized a very minimal amount of **Ksh.16,463.00**

Consequently, the Corporation moved to court to seek prohibitory orders on Mr. L. Kiplagat's property LR. No.Nairobi/BLOCK 99/113 since all the other properties were registered in third parties' names.

Further, Mr. L. Kiplagat has taken out bankruptcy proceedings against himself and which proceedings have been granted. Legally, Mr. Kiplagat is now bankrupt. The Advocates are pursuing the matter challenging the orders so obtained by Mr. Kiplagat.

The Chief Executive confirms that the Corporation undertakes to pursue the outstanding liabilities with Mr. Kiplagat as above.

**4.1.3 The then Chief Executive Mr. Lawi Kiplagat should be investigated by the Kenya Anti-Corruption Commission for abuse of office and corrupt practices.**

**Status:** *In response to the recommendations of the 11<sup>th</sup> Report of PIC for the financial year 1997/98, the Corporation wrote a letter to the Director of Kenya Anti-Corruption Commission Ref. NHC/CONF/LKK/1257/ (86)AJO of 27<sup>th</sup> August, 2003, requesting him to take appropriate action. KACC indeed acknowledged receipt of the letter vide their letter Ref. CID/ACPU/SEC/6/20.Vol.IB(47) dated 14<sup>th</sup> November, 2003 confirming taking the necessary action. A reminder has been sent to KACC, Vide letter Ref. NHC/CONF/LKK/KIP/1257/(110) AJO of 31/08/2005.*

**5.0 IRREGULAR PAYMENTS**

**RECOMMENDATIONS**

**5.1 The Committee therefore, recommends that the amount of Kshs.54,000.00 should be recovered from the two officers.**

**Status:** *The Corporation has noted the recommendation of PIC. However, the Chief Executive notes that the corporation paid as lunch allowance for attending Board Meetings which went through lunch hours when no lunch had been provided.*

*Further in another instance, such lunch allowance was paid to the Board Members and Senior Staff members while they paid a courtesy call on the Minister and which meeting also went through lunch hour.*

*The Chief Executive therefore requests PIC to reconsider this matter.*

# KENYATTA NATIONAL HOSPITAL

## REPORT OF THE CONTROLLER AND AUDITOR-GENERAL ON THE ACCOUNTS OF KENYATTA NATIONAL HOSPITAL FOR THE YEAR ENDED 30 JUNE, 1999

### 1.0 SHOR-TERM INVESTMENTS

#### RECOMMENDATIONS

- 1.1 The Committee recommends that any future investments of surplus funds by the Hospital be made in accordance with regulations governing such investments.

**Status:** *The Chief Executive confirms that currently, the Hospital has invested Ksh.46,825,652 at National Bank of Kenya as a lien against Staff Loan Scheme and Ksh.106,129,640 at Housing Finance Company of Kenya as a lien against staff Housing Mortgage Scheme. He confirms that these investments were approved in line with the Government investment guidelines.*

- 1.2 The Committee further recommends that in view of the evident abuse of office and negligence, the then Directors of Kenyatta National Hospital Prof. Julius Meme and Dr. Augustine Muita should be pursued with a view to recovering the monies for which they are responsible for depositing in Euro Bank (in liquidation)

**Status:** *The chief Executive confirms that the hearings are on-going and awaiting determination. Depending on the outcome of the case, Kenyatta National Hospital Board of Management will take the necessary follow up action.*

### 2.0 WORK-IN-PROGRESS

#### RECOMMENDATIONS

- 2.1 The Committee recommends that the Chief Executive should ensure that in future, proper planning and clear specifications are made before procurement of goods and services is initiated to avoid losses, and further that in future any officer who causes the Hospital to incur losses out of unplanned procurement will be held solely responsible and surcharged therefore.

**Status:** *The Chief Executive confirms that appropriate measures have been put in place to ensure that proper planning and clear specifications are made before procurement of goods and services is initiated.*

*For Example - The Public Procurement Guidelines (2001) as amended in the year 2002 provides amongst others.:-*

- *Clear and proper specifications be submitted before procurement of goods and services.*
- *Open tenders be advertised and technical evaluation done in accordance with the guidelines.*
- *Before an award is made, adequate provisions of funding must be factored in the budget.*
- *Project evaluation committee submits reports periodically during the term of the contract.*

### **3.0 DEBTORS**

#### **RECOMMENDATIONS**

- 3.1 The Committee recommends that the Chief Executive should ensure that all supporting documents in regard to debtors are availed to the auditors for verification on time.**

**Status:** *The Chief Executive confirms that the Hospital is submitting the Debtors schedules to the Auditors in time at the submissions of the Accounts*

- 3.2 The Committee further recommends that the case of Mr. Kubebea a former employee of the Institution, who stole the cheque which was being taken to the Central Bank for buying Treasury Bills and Bonds be reported to the police for investigation and prosecution.**

**Status:** *The Chief Executive confirms that Mr. Kubebea, a former employee of the institution was sued by the state Ref: Criminal case No 1719/1995 and convicted accordingly. The Hospital dismissed him on 22<sup>nd</sup> June, 1998 on grounds of court conviction on charges of malicious damage to hospital property and creating a disturbance in a manner likely to cause a breach of the peace.*

### **4.0 FIXED ASSETS**

#### **RECOMMENDATIONS**

- 4.1 The committee recommends that the Chief Executive should ensure that the title deeds for all Lands owned by the Hospital are obtained.**

**Status:** *The Chief Executive confirms that the following Title Deeds are available and are in safe custody of the Hospital.*

*L. R. No. 209/13980 (Grant No. L. R. 84658  
L. R. No. 209/25138 (Grant No. L.R. 85077  
L.R. No. 209/13979 (Grant No. L. R. 84659  
L. R. No.209/13978 (Grant No. L.R. 17515*

*However, on irregularly acquired land and in line with the circular from the Permanent Secretary, Ministry of Lands and Housing Ref. CON/;J/A/23/20 VP;/11/111 dated 29<sup>th</sup> June, 2005, on repossession of irregularly/illegally allocated public Land, the Hospital appointed an Adhoc Committee to initiate the necessary steps for repossession of all illegally, irregularly allocated land, in conjunction with sister institutions within the KNH complex, namely, University of Nairobi, Kenya Medical Training College, National Quality control Laboratory with its members drawn from the four institutions.*

*The Chief Executive has todate identified ten (10) illegally allocated plots as follows:-*

*L.R. No. 209/11976, L.R. No. 209/11460, L.R. No. 209/12767, L. R. No. 209/12822, L.R. No. 209/12109, L.R. No. 209/14269, L.R. No. 209/13319, L.R. No. 209/14270, L.R. No. 209/14278, L.R. No. 209/11440.*

*Official search has been carried out at the Lands Registry to establish the ownership, acreage and current status of the plots. Of the above ten plots the Committee has made an application to the Commissioner of Lands to put a caveat on eight plots whose files are available. Only two plots i.e. L. R. No. 209/14270 and l. R. No. 209/14278 have yet to be identified. Searches will continue until their files are identified to enable the hospital put caveats on them.*

## **5.0 IRREGULAR AWARD OF CONTRACT - KSHS.383,800,000.00**

### **RECOMMENDATIONS**

- 5.1 The Committee recommends that the Director should adhere to the law and regulations on Tender and Procurement currently in operation when contracting for any of its project/works.**

**Status:** *The Chief Executive confirms strict adherence to this recommendation*

- 5.2 The Committee further recommends that the then Chief Executive Dr. Augustine Muita should be held responsible for failing to advise the Board on the irregular advance payment to the contractor before moving to site.**

**Status:** *The Chief Executive confirms that this is a criminal case and is being pursued by the state. The total cost to date as per certificate No. 34 is **Ksh.419,370,317** and the Hospital has since , paid **Ksh.410,328,685** less retention money **Ksh.9,041,632.00** The project is now 99% complete and the completed houses have been handed over to the Hospital for allocation to staff. The initial advance given of **Ksh.57,570,000.00** has been fully recovered in subsequent payments.*

*The Chief Executive confirms that the current and future contracts are being done in line with the existing laws and regulations on procurement. Dr. A. Muita has already been charged in court for abuse of office and the case is currently on going.*

## **6.0 LEASING OF AN OFFICE FOR NON-EXECUTIVE CHAIRMAN**

### **RECOMMENDATIONS**

- 6.1 The Committee recommends that in view of the fact that non-Executive Chairmen are not entitled to permanent offices, a recurrence of such an irregularity should be avoided.**

**Status:** *The Chief Executive confirms that the KNH chairman's office was previously located at plot L. R.. No. 2/283 on Ngong Road and was lastly leased at **Ksh.127,500** per quarter. The Chairman's office was relocated to KNH premises, administration Block and the chairman currently operates from the Hospital's premises.*

## **7.0 THEFT OF TOYOTA HIACE VAN - KAD 858M**

### **RECOMMENDATIONS**

- 7.1 The Committee recommends that the management of the Hospital should follow the matter to its logical conclusion and the value of the vehicle be put in the unsettled losses.**

**Status:** *The Chief Executive confirms that the matter KNH vs Standard Assurance (K) Ltd. (HCCC.No.597/2001 is at an arbitration*

stage. Ms. Muthoga Gaturu and Co. Advocates are handling the matter on behalf of KNH.

The Chief Executive further confirms that the vehicle was purchased at Ksh.1,408,273 in 1994/95 and comprehensively insured for Ksh.2.1 million. The Insurance Company offered to settle the claim at Ksh.973,000 in May 1999. The Hospital rejected this and insisted on settlement based on the sum insured.

The matter was then referred to Arbitration vide a court order to the same effect.

The matter is currently awaiting the fixing of the hearing dates before the sole arbitrator M/s. Richard Mwongo of Mwongo and Ngugi Advocates. KNH Advocates, Muthoga Gaturu and Co. Advocates vide their letter Ref. LGM/3843/KNH/2 dated 6<sup>th</sup> September, 2005, are in the process of getting the Arbitrator to schedule the arbitration for mention before him (Arbitrator).

## **8.0 UNACCOUNTED FOR NHIF CHEQUES - KSHS.806,550**

### **RECOMMENDATIONS**

#### **8.1 The Committee recommends that the Director of the Hospital should ensure that Internal Audit Department is pro-active in its work and that fraud on cheques is detected and eradicated on time.**

**Status:** The Chief Executive confirms that this is currently being effected by the Internal Audit Department and a system has been put in place to detect and preempt fraud in receipt of cheques from the clients.

As part of the internal audit control procedures:

- All cheques are now received and countersigned by the Finance Manager or a senior officer in the Finance Department and recorded in the cheques receipt register.
- The cheques are then sent to the main Revenue office cashier for receipting against the cheques register. No cheques can be receipted if not recorded in the register.
- Receipts for the cheques are issued at the point of receipt by **ONE** Cashier and banked intact the following working day.
- Banking of cheques done is reconciled against the cheques register.
- Payment for services at other cash points is not allowed.

# **KENYA RAILWAYS CORPORATION**

## **REPORT OF THE CONTROLLER AND AUDITOR-GENERAL ON THE ACCOUNTS OF KENYA RAILWAYS CORPORATION FOR THE YEAR ENDED 30 JUNE 1999.**

### **1.0 FINANCIAL POSITION**

#### **RECOMMENDATIONS**

#### **1.1 The Committee recommends that the Government should continue restructuring the Corporation to take it back to profitability.**

**Status:** *The Kenya Railways restructuring is on-going to make it viable through concessioning of the Corporation as a long term solution. In the mean time:-*

- (i) The Corporation has also requested the Government to waive the Road maintenance Levy contribution to enable it use these monies to maintain the railway line.*
- (ii) All memorandum of understanding are being evaluated to ensure that the Corporation is not disadvantaged.*
- (iii) The Corporation abolished all volume and cash discounts in August, 2003 and all customers are now required to pay up front.*
- (iv) Staff rationalization is also ongoing through retrenchment and natural attrition.*

*The Chief Executive further confirms that the Government injected Kshs.270 million in the year 2003 to retrench a further 300 number of staff, The current work force is 9,042 inclusive of casuals numbering 2,505 as at September, 2004.*

- (v) Kenya Revenue Authority has entered into an agreement with Kenya Ports Authority (KPA) to operate container block train between Mombasa and ICD's through bill of lading. The Corporation is also operating a train from Mombasa to Kampala at least three times a week. All these activities are aimed at turning round the revenue base of the corporation for better.*

## **2.0 FIXED ASSETS VALUE**

### **RECOMMENDATIONS**

- 2.1 The Committee recommends that the Chief Executive should ensure that the Kenya Railways Land is surveyed and valued.**

**Status:** *The Chief Executive confirms that the KRC land valuation has not changed so far. However, evaluation of operational railway assets is being carried out by M/s Ecory's Nederland BV, Arcadis and Gibb Africa as a requirement for concession project. The final report has been submitted.*

## **3.0 DEBTORS**

### **RECOMMENDATIONS**

- 3.1 The Committee recommends that the Chief Executive should ensure that all debts due are recovered.**

**Status:** *The Chief Executive confirms that the corporation has already embarked on aggressive debt collection. The strategies adopted are as follows:-*

#### ***Engagement of Debt Collectors***

*A total of seventeen (17) firms have been engaged by the Corporation to collect rent arrears of Kshs.582,844,387. These firms undertook the exercise from September 2005 and issued demand notices to the tenants of between fourteen (14) days and one (1) month. However, to date only Kshs.13 million has been collected.*

#### ***Liquidation of Customer Guarantee***

*Customers' credit accounts amounting to Kshs.564,060,515 were secured against guarantees of Kshs.141,000,000. Through liquidation of customer guarantees the corporation has so far been able to collect Kshs.28,143,221 as at 30<sup>th</sup> September, 2005.*

#### ***A Debt Collection Section***

*A debt collection section has been created in the Finance Department to collect all debts owed to the corporation. In addition, nine(9) Ex Kenya Railways staff have been re-engaged to assist in the collection exercise. These Ex KRC staff assumed duty on 19<sup>th</sup> September 2005 and have currently embarked on reconciliation of the debtors accounts before presenting demand notices after which collection is anticipated.*

- 3.2 The committee further recommends that reconciliation in respect of indebtedness between the Kenya Railways and the Uganda Railways should be done regularly.**

**Status:** *The Chief Executive Confirms that KRC and Uganda Railway Corporation have been holding joint verification meetings every three months after which necessary adjustments are done. These have since been included in the Corporation's accounts and now stands at Kshs.880,574,581 as at 30<sup>th</sup> June, 2005.*

#### **4.0 CASH AND BANK BALANCES**

##### **RECOMMENDATIONS**

- 4.1 The Committee recommends that cheques which are drawn are released immediately.**

**Status:** *The Chief Executive confirms that as a matter of policy the Corporation's cheques are now drawn based on funds availability and thereafter released accordingly. It is also confirmed that International Accounting Standards are maintained in line with Exchequer and Audit Act.*

- 4.2 The Committee further recommends that the Chief Executive should ensure that internationally accepted accounting Systems are constituted and maintained and Bank reconciliation done on monthly basis.**

**Status:** *The Chief Executive confirms that the reconciliation of the Corporation's Bank Accounts has been a major challenge. The reconciliation had not been done for most of the accounts. The corporation has undertaken the following measure:-*

##### ***A focus Reconciliation Team***

*A special team for reconciling the account was created late last year, 2004. It has reconciled most of the corporation's Bank Accounts up to June, 2005. However, there are some accounts where supporting documents are missing. The team is currently visiting all the bank branches where documents are missing to physically locate and collect the documents. It is expected that the reconciliation exercise will be completed by mid October, 2005. In addition, the Corporation has obtained the services of three (3) Accountants from the Accountant General's Department, to assist in the review and finalization of the Bank Reconciliation.*

## 5. IRREGULAR ALLOCATION OF LAND

### RECOMMENDATIONS

#### 5.1 The Committee recommends that:-

5.1.1 The Chief Executive should liaise with the Commissioner of Lands with the view to placing caveats on the following irregularly allocated pieces of land and having the allocations cancelled.

<b>NAIROBI</b>				
<b>L.R. NO.</b>	<b>AREA HA</b>	<b>LOCATION</b>	<b>ALLOTTEE</b>	<b>REMARKS</b>
209/13772	0.0783	RTI	Mwanya Investment	209/13515 has a block of SQS on it
209/13515, 13553 & 13554	1.14	Upper Hill	Hardy Play Land	
209/12462	0.40234	Muthurwa	Gamarco Ltd	Old Nanyuki Line
17870	1.380	Dandora	Loki Enterprises	Located within station area
209/12230	-	RTI	Unknown	
209/12354-57	0.6988	RTI	Unknown	Allotees yet to be established
209/12262	0.2000	Off Enterprise Road	Gachagwa Saw Mills Ltd	Land originally allocated on TOL basis
209/8786/2-5	3.0	Off enterprises Road	Pabeco Enterprises Ltd	Land originally allocated on TOL basis
209/12707	1.475	Off enterprise Road	T.M Construction	Originally held on TOL basis
209/12595	0.1232	Off Enterprise Road	M/s Tulja Investment Ltd	-do-
209/13577	0.3445	-do-	Not Known	
209/13578	0.0703	-do-	Not Known	Originally held on TOL basis
209/13579	0.1322	-do-	Not Known	
209/13580	0.1585	-do-	Not Known	
209/12355	0.1747	RTI	Gramac Holdings Ltd	
Unsurveyed Plot A South "B"	0.08	RTI	Elphas Ndusu Abasi	
209/12359	-	RTI		
209/13698	-	RTI	Yet to be established	
209/13581	0.5572	Off Enterprise Road	P.J Dave	Originally held on TOL basis
209/13582	0.0429	-do-	Not known	
209/8197	1.724	Makongeni Goods	E.A. Packaging Co Ltd	There are KRC Godowns
209/12781	0.3390	Off Enterprise Road	Not known	
209/11407	-	Upper Hill	Cyrus Maina	
<b>MOMBASA</b>				
MSA/BLOCK XXVI/687	0.315	Kizito	Alcop Ltd.	Allocated to MCM
MSA/NLOCK 1/398	-	Moi Avenue	N. J. Shah and Others	Allocated by

				Mombasa Municipal Council
BLOCK 1/525-526	0.4515	Shimanzi	Z. Mawia	Allocated by Mombasa Municipal Council
BLOCK XIX/294	-	Station Area	Corner Garage	Allocated by Mombasa Municipal Council
MN/V/2024	0.1467	Jomvu Kuu	Karisa Karimiko	Sold to L. D. Pandya and R.D. Pandya
MN/V/239/1	1.737	Jonmu Kuu		
BLOCK 1/478	0.0503	Kilindini High Level	M/s J. O. Kogera & Others	
BLOCK XIII/415	0.1350	Off Mwangeka Road	Abdulkarim S. Mahsim	Allotee not known
BLOCK 1/480	-	-	-	-do-
BLOCK 1/380	-	-	-	-do-
BLOCK 1/250	-	-	-	-do-
BLOCK 1/395	-	-	-	-do-
BLOCK 1/470	-	-	-	-do-
<b>KISUMU</b>				
KSM/BLOCK 3/198		Kisumu/Busia Road	Nyanza Petroleum Dealers Ltd	
KSM/BLOCK 3/167	Kicomi	Kotak and Others	Josiah Akinyi	
KSM/BLOCK 7/410		Sindo Distributors		Allotees yet to be established
KSM/BLOCK 3/411		Peter Oloo Aringo		
KSM/BLOCK 3/384		Solomon Ndalo Obede		
KSM/BLOCK 3/180		Josiah Akinyi		
KSM/BLOCK 9/181-185				Allotees yet to be established
BLOCK 7/474		Kisumu Municipality	Shiraz Mohamed Nanji & Another	
<b>KITALE</b>				
BLOCK 4/199				
BLOCK 4/196				Allotees yet to be established
BLOCK 4/200				Allotees yet to be established
BLOCK 4/202				Allotees yet to be established
BLOCK 4/842			Kitale Municipal Council	
BLOCK 4/319		Station Reserve	Unknown	
BLOCK 4/320		-do-	Pius Manyasi Otido	
BLOCK 4/445			Unknown	Allotees yet to be established
BLOCK 4/446			Unknown	-do-
BLOCK 4/447			-do-	-do-
BLOCK 4/464			-do-	-do-
BLOCK 4/321-322		Station Reserve	-do-	
BLOCK 4/323		-do-	Meshack Odima	
BLOCK 4/324		-do-		

BLOCK 4/325		-do-		
BLOCK 4/326		-do-		
BLOCK 4/436		-do-		
<b>NAKURU</b>				
BLOCK 4/141	0.443	Ravine Road L-xing	Macharia	
BLOCK 9/101	0.40	Ravine Road L-xing	J. M. Kamangara	
BLOCK 6/155		NRO Industrial Area	UNKNOWN	
<b>ELDORET</b>				
BLOCK 5/338	2.023	Eldoret West	Gen. A.K. Cheruiyot	
BLOCK 5/339	2.023	Eldoret West	Tiro Ltd	
PLOT NO 1-20		Eldoret Industrial Area	Eldoret Flour Mills and others	
BLOCK 3/56		64 Street		
BLOCK 3/58		64 Street		
BLOCK 3/56 & 58	2.1327	Ndalaview S. Station		
<b>MUGUGA STATION</b>				
MUG/MUG/115				
MUG/MUG/116	2.43	Station Reserve	Mary Wangari Kinyuanjui	
MUG/MUG/422		-do-	Alex Maina Mungai	
		-do-	Steering Civil Eng. (K) Ltd.	

**Status:** *The Chief Executive confirms that he has already liaised with the Commissioner of Lands with a view to reversing the allocations and canceling titles that may have been registered.*

**5.1.2 The Chief Executive should liaise with the Commissioner of Lands with a view to having the case against Solomon Ndalo Obede in respect of the irregular allocation of Plot No.KSM/MUN/384 concluded.**

**Status:** *The Chief Executive confirms that on plot Kisumu MUW/BLOCK 11/2 stood a class one house, which was valued at Kshs.500,000.00 which the Central Bank of Kenya paid as compensation. The other plots carved out of KSM MUW/BLOCK 7/365, were allocated to Thabiti Finance Company Limited and to Kenya National Assurance Company. The plot initially allocated to Central Bank of Kenya was supposed to have been allocated to National Bank of Kenya but the Commissioner of Lands allocated it to Salmon Ndalo Obede without Railways consent.*

*Kenya Railways Corporation has raised the issue with the Commissioner of Lands on the allocation of KSM MUW/BLOCK*

7/384 that was allocated to Salmon Ndalo Obede. The National Bank of Kenya has lodged a caution on the same.

**5.1.3 The Chief Executive should ensure that any disposal of the Corporation's property is done in accordance with the procurement procedures currently in force.**

**Status:** *The Chief Executive confirms that he has sent an updated list of plots irregularly allocated by Commissioner of Lands to the Ministry of Transport and the Ministry of Lands and Housing with a request that the allotment and titles be cancelled. The Ministry of Transport is following up these allocation with the Ministry of Lands and Housing.*

*The Chief Executive further states that the Kenya Railways Board of Directors is very serious about this and has given a directive that no disposal of the Corporation's property is done without its consent and must be in accordance with the procurement procedures currently in force.*

**5.1.4 The Commissioner of Lands should provide documents showing the allottees of the Lands indicated as unknown and the current status established with a view to having the allotments nullified.**

**Status:** *The Chief Executive confirms that he has asked the Commissioner of Lands to cancel the titles of all irregularly allocated land.*

**6.0 NET PUBLIC DEBT**

**RECOMMENDATIONS**

**6.1 The Committee reiterates its earlier recommendation on the 11<sup>th</sup> Report page 31 that the net Public Debt should be reconciled on annual basis and the agreements from the loans be availed to auditors during audit review.**

**Status:** *The Chief Executive confirms that in a bid to reconcile the Corporations Net Public Debt with the Treasury, the corporation wrote to the Treasury vide letter Ref. FC/FM/122 XVII dated 4<sup>th</sup> July, 2005 to which a response was received vide letter DGIPE/LOANS/22 dated 16<sup>th</sup> August, 2005. However, owing to the variances in the figures, a reconciliation team comprising Treasury and KRC staff has been constituted and is undertaking the exercise. The reconciliation will be done annually and availed to Auditors during audit review as recommended by PIC.*

## **7.0 DIESEL GAS OIL SHORTAGE**

### **RECOMMENDATIONS**

- 7.1 The Committee recommends that the Chief Executive should establish the actual evaporation rates to verify such losses.**

**Status:** *The Chief Executive confirms that the Corporation has taken measures to ensure that such occurrences are not repeated by entering into fuel management contracts with major companies i.e. Kenya Shell, Total, Kenol/Kobil to ensure that there is proper handling and issuing of the fuel.*

## **8.0 IRREGULAR USE OF CREDIT AND CHARGE CARDS**

### **RECOMMENDATIONS**

- 8.1 The Committee recommends that the Chief Executive should use all means at his disposal to recover the monies.**

**Status:** *The Chief Executive confirms that the former Managing Director, Eng. Eric A. Nyamunga paid Kshs.32,870.50 and Kshs.10,000.00 respectively. Efforts to contact the former deputy managing Director, Mrs S. K. Githendu for refund of Kshs.1,322.00 and the then General Manager, Mr. G. Kathurima, for refund of kshs.322.00 were fruitless. When the Kenya Railways Chief Executive last appeared before Public Investment Committee (PIC) he explained the matter to the committee who noted that the balance was not material and therefore the matter be put to rest.*

## **9.0 IRREGULAR PAYMENT OF SITTING ALLOWANCES**

### **RECOMMENDATIONS**

- 9.1 The Committee recommends that the Chief Executive should ensure that the officers named below repay the money without delay.**

- ◆ **Mr. S. M. Kinuthia - Kshs.28,000.00**
- ◆ **Mr. J. G. Mwangi - Kshs.15,000.00**
- ◆ **Mr. S. K. Githendu - Kshs . 5,000.00**

**Status:** *Efforts to contact the former Deputy Managing Director, Mr. S. K. Githendu for refund of Kshs.5,000.00 were fruitless. When the Chief Executive Officer last appeared before the Public Investment Committee this was explained to the committee who noted that the balances were not material and therefore the matter be put to rest.*

## **10.0 SUBSIDIARY COMPANIES**

### **RECOMMENDATIONS**

#### **10.1 The Committee recommends that Numerical Machining Complex Ltd. urgently submits its accounts for auditing.**

**Status:** *The Chief Executive confirms that the Numerical Machining Complex Ltd (NMC) is in the process of being turned into a parasatal under the Ministry of Trade and Industry. The amount of Kshs.6.8 million owed by the corporation to NMC will be settled as soon as funds become available. Since NMC is no longer exempted from the State Corporations Act, it is required to submit their accounts for auditing independently.*

# **KENYA SUGAR DEVELOPMENT FUND**

## **REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE KENYA SUGAR DEVELOPMENT FUND FOR THE YEAR ENDED 30 JUNE 2000**

### **1.0 TISSUE CULTURE PROGRAMME**

#### **RECOMMENDATIONS**

- 1.1 The Committee therefore recommends that the then Chief Executives of KARI and KSA Messrs. Nderitu and Francis Chahonyo respectively should be investigated by the Kenya Anti-Corruption Commission for possible abuse of office and corrupt practices in the initiation and implementation of the Tissue Culture Program.**

**Status:** *The Chief Executive confirms that currently the Kenya Anti-Corruption commission (KACC) is investigating the matter. The outcome of the report will determine what further action will be taken on the matter*

### **2.0 LOAN TO SUGAR COMPANIES**

#### **RECOMMENDATIONS**

- 2.1 The Committee reiterates its earlier recommendation in the Eleventh Report, Paragraph 2, on page 15, that the Chief Executive should use all means possible, including legal redress, to be carried out by the Board's Legal Department, to recover the overdue loans amounting to Ksh.2,588,498,571.**

**Status:** *The Chief Executive confirms that a total of Kshs.561,852,513 has been received from the various companies as loan repayments. A memorandum of understanding has been entered into between Kenya Sugar Board and Kenya Revenue Authority whereby the latter has been appointed as collecting agent for Sugar Development Levy (SDL) from the companies. This has eased the burden of the companies resulting into a marked improvement in the performance of the outstanding accounts and therefore the entire debt portfolio of the companies.*

*Further, the Board is at an advanced stage of sourcing for a sound financial institution that can professionally and more competently manage the loan portfolio to large scale farmers. This will alleviate the debt servicing obligation of the companies.*

### **3.0 LEGAL FEES**

#### **RECOMMENDATIONS**

**3.1 The Committee recommends that all claims by the lawyers be referred to the Registrar of High Court for taxation and where there was no justification for payments, appropriate recoveries be made.**

**Status:** *The Chief Executive confirms that as directed all firms filed their bills before court for taxation and the following is the outcome status.*

<b>Law firm</b>	<b>Fee Paid</b>	<b>Taxed</b>	<b>Difference</b>
Watengula & Co.	6,118,530.00	7,023,218.50	904,688.50
Hayanga & Co.	7,038,180.00	24,213,267.55	9,754,931.35
Lumumba & Mumma	540,178.75	614,900.00	183,105.25
E.A. Ngaira & Co	3,562,055.00	5,548,500.00	1,986,445.00
Kipkorir Titoo	12,658,400.35	22,690,626.95	10,032,226.60

*The Chief Executive confirms that the Board has been compelled in certain cases to negotiate some of the taxed bills downwards.*

### **4.0 BUSIA SUGAR COMPANY**

#### **RECOMMENDATIONS**

**4.1 The Committee recommends that:-**

**4.1.1 The Management of Kenya Sugar Board should ensure that Busia Sugar Company continues to service loans advanced to it which now stands at Ksh.307,678,528.00**

**Status:** *The Chief Executive confirms that the management has constantly exerted pressure on Busia Sugar Company concerning the outstanding debt. Following the last report as at 24<sup>th</sup> October, 2001 Busia Sugar Company has remitted a total of Kshs.30 million. Further, the Permanent Secretary, Ministry of Agriculture is taking a lead role in resolving the matter of Busia Sugar Company. On 23<sup>rd</sup> August 2005, he set up an Inter-ministerial working group comprising Ministry of Agriculture, the State Law Office, Ministry of Finance, Busia Sugar Company and Kenya Sugar Board.*

*Terms of Reference include:-*

- *Investment offers*
- *Business plan for Busia Sugar Company.*

- The working relationship between Mumias Sugar Company and Busia Sugar Company.
- Financial status of Busia Sugar company where Kenya Sugar Board indebtedness will be a key agenda item.

**4.1.2 The Management of Kenya Sugar Board should ensure that the process of charging the title deed Bukhoyo/Nasewa/1500 presented as security is concluded without further delay and not later than October 30<sup>th</sup>, 2004.**

**Status:** *The Chief Executive confirms that the title for Bukhoyo Nasewa/11500 was duly charged on 28<sup>th</sup> April, 2004.*

**4.1.3 The role of M/s. Booker Tate in the establishment of Busia Sugar Factory and verification of the actual use of the loan be determined before a proposal for financial restructuring is considered.**

**Status:** *The Chief Executive confirms the following as Booker Tate's role in the establishment of Busia Sugar Company:-*

- Booker Tate is a founder shareholder alongside GOK and Commonwealth Development Corporation (CDC).
- Booker Tate's share subscription is Kshs.55,155,000.00 (Sterling pound 155,614).
- Reliant Holding Ltd, a consortium of private Kenyan Investors who have since acquired the share subscription of CDC amounting to Kshs.1,000,000 is in the process of negotiating to purchase Booker Tate's interest.
- GOK has a controlling majority share contribution of Kshs.135,324,000.00.

*The verification of loan utilization will be addressed by the working group set up by the Permanent Secretary, Ministry of Agriculture.*

## **5.0 OUTSTANDING IMPRESTS**

### **RECOMMENDATIONS**

**5.1 The Committee recommends that the Chief Executive follow the case to its conclusion.**

**Status:** *The Chief Executive confirms that Civil Suit HCCC No. 21 of 2000 is on going*

# **KENYA SUGAR BOARD**

## **REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA SUGAR BOARD FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2000**

### **1.0 MEDICAL SCHEME AND ALLOWANCES**

#### **RECOMMENDATIONS**

- 1.1 The Committee recommends that the Board must ensure that any future review of Terms and Conditions of Service for Staff and Board of Directors should be submitted to the State Corporations Advisory Committee for consideration and approval.**

**Status:** *The Chief Executive confirms full compliance.*

- 1.2 The Committee further recommends that the Chief Executive of the Board should implement allowances for Board of Directors and staff as per the letter Ref.OP/CAB/9/145A dated 24<sup>th</sup> July, 2003 from the Office of the President without delay.**

**Status:** *The Chief Executive confirms that current conditions of service for staff and Board of Directors were approved by the State Corporations Advisory Committee through the parent ministry vide letter MOA/S.11/25A/5 dated 14<sup>th</sup> March, 2005.*

### **2. PRIVATE REGISTRATION OF VEHICLE NO KAJ 791S**

#### **RECOMMENDATIONS**

- 2.1 The Committee recommends that the Chief Executive should ensure that the Boards' vehicles are registered in blue number plates and that work tickets are properly kept.**

**Status:** *The Chief Executive confirms full compliance as recommended. All Kenya Sugar Board motor vehicles are registered in blue number plates and properly operated using official work tickets.*

# **KENYA PORTS AUTHORITY**

## **REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA PORTS AUTHORITY FOR THE ENDED 30 JUNE 1999**

### **1.0 EXTENSION AND REFURBISHMENT OF KIPEVU HEADQUARTERS**

#### **RECOMMENDATIONS**

##### **1.1 The Committee recommends that:-**

**1.1.1 The then Managing Director Mr. Simeon Mkalla and the then Ag. Secretary Mr. George Dulu (now Judge of the High Court) be investigated and prosecuted by the Kenya Anti-Corruption Commission for deliberately withholding the original decision made by the Board during its 163<sup>rd</sup> sitting from the subsequent Board therefore misleading it to approve irregular payments to consultants in its 172<sup>nd</sup> sitting.**

**Status:** *The Chief Executive confirms that he has vide letter MAC/MFA/03 dated 29<sup>th</sup> August, 2005 communicated to the Kenya Anti Corruption Commission as recommended by PIC.*

**1.1.2 The Principal, Jagar Consultants Mr. J. N. Gachagua be investigated and prosecuted for demanding and receiving from the Kenya Ports Authority, unlawful payment amounting to Ksh.315,691,200 contrary to the clearly stated terms of appointment.**

**Status:** *The Chief Executive confirms to have acted as (1.1.2) above.*

**1.1.3 The then Managing Director Mr. Simeon Mkalla, Justice George Dulu and Hon. J. N. Gachagua be barred from holding any public office conferred by the Republic of Kenya.**

**Status:** *For effective implementation of this recommendation, the Chief Executive confirms that the recommendation has been forwarded to the parent Ministry, i.e. Ministry of Transport for further action. This was done vide letter Ref. MMN/3/2/09 dated 14<sup>th</sup> December, 2005.*

# KENYA PORTS AUTHORITY

## REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA PORTS AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2000

### 1. OPERATION AND MANAGEMENT CONTRACT – MOMBASA CONTAINER TERMINAL

#### RECOMMENDATIONS

- 1.1 The Committee recommends that the authority should not enter into any future agreements on management of the Port without carrying out adequate Cost-benefit analysis.

**Status:** *The Chief Executive confirms that the Authority shall strictly follow the Ex-chequer and Audit (public Procurement) Regulations 2001 and other relevant Government regulations for any procurement of Management services*

### 2.0 SOFTWARE DEVELOPMENT CONTRACT

#### RECOMMENDATIONS

- 2.1 The Committee recommends that the Chief Executive concludes the matter.

**Status:** *The Chief Executive confirms that management has put in place strict controls on project investment. Strict adherence to project appraisal and Public Procurement regulations are also in place.*

### 3.0 PROCUREMENT OF SPARES

#### RECOMMENDATIONS

- 3.1 The Committee recommends that the Authority should dispose of the spares that are obsolete in a competitive bidding and further that the management of the Authority should ensure that proper planning is done prior to purchase of any spares and that any officer(s) who, in future purchase spares without planning will be held personally responsible.

**Status:** *The Chief Executive confirms that strict internal controls are in place to ensure that procurement of materials and services are done in accordance with the Exchequer and Audit (Public Procurement) Regulations, 2001. The Authority is continuously*

reviewing and implementing its procurement plans to ensure only required materials with adequate budgetary Provisions are procured. Further as a policy, all materials procured must be consumed within three months.

The Chief Executive confirms that the above measures have gradually reduced the inventory holding from Ksh.1.4 billion in the year 1999/2000 to Ksh.297 million in 2004/2005.

As for disposal of obsolete and dormant stocks, this shall be done in accordance with the Exchequer and Audit (Public Procurement) Regulations, 2001 within this financial year 2005/2006

The Chief Executive further agrees with PIC that in future any officer who procures spares without planning should be held personally responsible.

#### **4.0 SUPPLY AND INSTALLATION OF COMPUTER HARDWARE AND SOFTWARE CONTRACT**

##### **RECOMMENDATIONS**

#### **4.1 The Committee recommends that the Chief Executive should pursue the recovery of the amount using the most cost-effective way.**

**Status:** The Chief Executive confirms that the High Court delivered its ruling on 14<sup>th</sup> January, 2005, dismissing the defendants' application. The outcome of the ruling was communicated to the Auctioneers M/s Marchet Auctioneers who went ahead and sold some of the attached assets thus recovering a total of Ksh.475,000.00

Since the amount recovered is way below the judgment debt of Kshs.89,205,000.00 plus interest of Kshs.16,858,700.00 the Authority is pursuing an option of lifting the veil of incorporation so as to take action against the debtors.

#### **4.2 The Committee further recommends that the then Executive Chairman Mr. Breineisten be censured for flouting procurement procedures.**

**Status:** For effective implementation of this recommendation, the Chief Executive confirms that the recommendation has been forwarded to the parent Ministry i.e. Ministry of Transport for further action. This was done vide letter Ref. MMN/3/2/09 dated 14<sup>th</sup> December, 2005.

## **5.0 TENDER FOR MANUFACTURE AND SUPPLY OF GANTRY CRANES**

### **RECOMMENDATIONS**

- 5.1** The Committee recommends that although Ministers may give guidance of a general nature to State Corporations, they should not be interfering in the day to day running of Parastatals and in particular the tendering procedures as the Exchequer and Audit Act (Public Procurement) regulations 2001 do not give Ministers any role.

**Status:** *The Chief Executive confirms that currently all procurement of materials and services are done strictly in accordance with the Exchequer and Audit (Public Procurement) Regulations 2001.*

# **NATIONAL WATER CONSERVATION AND PIPELINE CORPORATION**

## **REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF NATIONAL WATER CONSERVATION AND PIPELINE CORPORATION FOR THE YEAR ENDED 30 JUNE, 1999**

### **1.0 DEFICIT**

#### **RECOMMENDATIONS**

- 1.1 The Committee recommends that the Chief Executive should take measures to reduce the cost of operations and production to minimize losses.**

**Status:** *The Corporation is in agreement with the committee's observation that the profitability of the Corporation had been eroded by high cost of production and operation including the depreciation of fixed assets which are beyond the control of the Corporation. In line with the Committee's recommendation, the Corporation put measures in place aimed at reducing the losses as can be seen in the printed Accounts of 2000/2001 and 2001/2002 that the corporation did post some profit of Ksh.133,783,049.00 and Ksh.21,490,640.00 respectively.*

#### ***Measures put in place were:-***

- ◆ *Metering consumers who were unmetered*
- ◆ *Rehabilitation of water supplies e.g Kandara, Kahuti, Ligein, Othaya, Tiwi boreholes, Siaya, Kakamega to improve their capacity and increase the water sales.*
- ◆ *Computerization of the billing system e.g*
  - *Central Region*
  - *Rift Valley Region*
  - *Nairobi Region*

### **2.0 WATER DEBTORS**

#### **RECOMMENDATIONS**

- 2.1 The Committee reiterates its earlier recommendations in the 11<sup>th</sup> Report that the Chief Executive should continue to use all means possible including disconnection until all debts due are collected.**

**Status:** The Chief Executive confirms that the corporation adhered to the committee's recommendation and developed a disconnection timetable for all the regions to undertake disconnections under the direction of Heads of Department from Headquarters. This is evidenced by debtors position decreasing from Ksh 1.5 billion 1999/2000 to Ksh.1.386 billion in 2001/2002 coupled with an increase in revenue collection from Ksh.641 million in 1998/1999 to Ksh.1.3 billion in 2001/2002

**2.2 The Committee also recommends that Treasury should allocate funds to Ministries/Departments to clear money owed to the Corporation.**

**Status:** The Chief Executive confirms that Treasury allocated funds to the following Government Departments to pay their bills as follows:-

	<b>2000/2001</b>	<b>2001/2002</b>
Ministry of Health	35,556,412.10	
Prisons	14,387,084.00	33,784,821.00
Police	11,654,667.10	22,875,270.00
Youth Service	3,139,463.00	-
Department of Defence	8,125,305.00	54,292,565.85
Public Works	-	8,752,307.00
<b>T O T A L</b>	<b>72,862,931.20</b>	<b>119,704,964.05</b>

**3.0 OTHER DEBTORS**

**RECOMMENDATIONS**

**3.1 The Committee recommends that the Chief Executive should ensure that:-**

**3.1.1 Government regulations governing disposal of goods are followed**

**Status:** The Chief Executive is in agreement with PIC recommendations that government regulations governing disposal of goods be followed. Currently the practice is:-

- i. The user Department identifies the items/stores under him that have become unserviceable as a result of wear and tear, obsolete or surplus.
- ii. The Accounting Officer then appoints a Board of Survey consisting of officers of the affected Department and those from the Technical departments to prepare technical report on the economic status of the stores to the Accounting Officer

recommending the method of disposal and the least saleable value (reserve price)

- iii. The Accounting Officer will approve the report and forward it to the Corporation Tender Committee for final approval.
- iv. Tenders for sale of the same will be prepared and advertised in the 3 daily newspapers upon which bids will be submitted, opened and evaluated.
- v. Corporation tender committee will approve the bids to the highest bidder above the recommended reserve price and winner will be requested to pay for the items in full either in cash or bankers cheques before collection of the stores.

**3.1.2 Rules and regulations governing issuance of imprest are strictly adhered to and that legal action against Mr. J. N. Kiluva, the then Financial Controller, be followed to its conclusion.**

**Status:** The Chief Executive confirms that rules and regulations governing issuance of imprest are strictly being adhered to and Internal Auditor is ensuring compliance. Further, the matter of Mr. J. Kiluva's outstanding imprest of Ksh.375,147.00 is being pursued by the corporation's Advocates i.e Solanks & Company Advocates - letter Ref:S/NWCPC/CC/346/2001 dated 13<sup>th</sup> April, 2004.

**4.0 FIXED ASSETS REGISTER**

**RECOMMENDATIONS**

**4.1 The Committee recommends that the Chief Executive should ensure that an up-to-date Fixed Assets Register is maintained.**

**Status:** The Chief Executive confirms that the Fixed Assets Register is in place and is maintained and up dated continuously.

**5.0 ACCRUED EXPENSES**

**RECOMMENDATIONS**

**5.1 The Committee recommends that the Chief Executive should ensure that all statutory and other deductions are remitted as required.**

**Status:** The Chief Executive is in agreement that the corporation had violated statutory requirement on, remittance of statutory deductions. The amount reported of Ksh.14,773,603.00 was

paid in June 2004 and currently all the statutory deductions are fully paid.

## **6.0 REPAYMENT OF LONG TERM LOANS**

### **RECOMMENDATIONS**

- 6.1 The Committee recommends that the Government should address the issue of loan servicing by the Corporation including putting measures in place to address payment of water bills and increasing subsidies to the Corporation.**

**Status:** *The Chief Executive confirms that he is in liaison with the various relevant arms of Government in seeking ways to resolving the various issues raised in this recommendation including issue of loan servicing and payment of water bills.*

## **7.0 PROCUREMENT**

### **RECOMMENDATIONS**

- 7.1 The Committee recommends that the Chief Executive should ensure that the procurement regulations currently in force are adhered to without exception.**

**Status:** *The Chief Executive confirms full compliance to the recommendation. The Corporation has currently included the submission of chemical sample as a condition of chemical tendering in addition to following the Government Procurement Regulations.*

## **8.0 PROCUREMENT OF MACHINERY AND EQUIPMENT**

- 8.1 The Committee observed with concern that the loss could have been avoided had the concerned officer's acted diligently.**

**Status:** *The Chief Executive concurs with PIC's observation. The current position is that, the Corporation has implemented a policy of outsourcing services, which, are not core to its business (e.g customs clearance) so that such delays are avoided and the same is not repeated in future.*

## **11.0 NJORO WATER TREATMENT PLANT**

### **RECOMMENDATIONS**

- 11.1 The Committee recommends that the treatment plant be put to good use, including transferring to other areas where it is required.**

**Status:** *The Chief Executive confirms that the water in the two boreholes does not require full treatment because the quality is good. In case the water quality deteriorates, the plant will be of use. The plant is an immovable asset, which is not transferable.*

## **12.0 RONGAI INTAKE**

### **RECOMMENDATIONS**

**12.1 The Committee recommends that the Chief Executive should ensure that a title in respect of the land is obtained without further delay.**

**Status:** *The Chief Executive confirms that the title deed has already been acquired (Title deed No. Nakuru/Ngononer/1801)*

## **13.0 WORK-IN-PROGRESS- KINDICH DAM PROJECT**

**Status:** *PIC has noted that the project has been completed thereby resolving the matter.*

**Note: Recommendation No. 9.0 and 10.0 are missing from the report.**

# KENYA MEDICAL TRAINING COLLEGE

## REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA MEDICAL TRAINING COLLEGE FOR THE EIGHTEEN MONTHS PERIOD ENDED 30TH JUNE, 1997

### 1.0 FIXED ASSETS

#### RECOMMENDATIONS

#### 1.1 The Committee recommends that:-

##### 1.1.1 The Director of Kenya Medical Training College should liaise with the Commissioner of Lands to ensure that the allocation of the following pieces of land to private developers are cancelled:-

No.	LR No. Plot No.	Letter of Allotment No. (all dated 22 <sup>nd</sup> August 2000)	Lands File No.	Name of Allottee and Box No.	Title Status
1.	209/14269 (Plot A)	185788/24	226080	Westlink Associates Box 79222, Nairobi	Title No. I.R. 90812 Issued
2.	209/14270 (Plot B)	185788/25	223517	Robert Mutiso Leli, Box 28587 Nairobi	-
3.	209/14271 (Plot C)	-	-	Unknown	-
4.	209/14272 (Plot D)	-	228092	Unknown	-
5.	209/14273 (Plot K)	185788/30	-	MicroTech Accessories Ltd, Box 62360 Nairobi	-
6.	209/14274 (Plot H)	185788/29	-	Hope Concepts & Spirit Ltd, Box 2354 Nairobi	Title No. IR 91420 Issued
7.	209/14275	185788/31	-	Philip Kangwaini & Angela Mwaniko, Box 52006, Nairobi	-
8.	209/14276 (Plot F)	-	226079	Unknown	-
9.	209/14277	185788/27	226082	Cabin crew Investments Ltd. Box 42498 NAIROBI	-
10.	209/14278 (plot G)	185788/28	-	Tea Zone properties and Saiwa View Inv. Ltd. Box 62810 Nairobi	-

**Status:** *The Chief Executive confirms to have liaised with the Commissioner of Lands who through a letter dated June, 2004, Ref. 26/68/99 confirmed that the land on which the ten (10) plots stand was sub*

divided and allocated to ten (10) different developers and hoped that the same would be recovered through the Ndungu Commission.

The Ndungu Commission reported that the said plots should be investigated.

In a circular dated 29<sup>th</sup> June, 2005 Ref. CONF/LH/A/23/20 Vol.II/III, the Permanent Secretary, Ministry of Lands and Housing directed that the affected Institution should initiate necessary steps for repossession of such lands.

Accordingly, the institution which is in physical possession of the land has initiated the following measures to secure the land.

(a) The institution intends to start fencing the said land.

(b) The institution has retrieved relevant documents for ownership including the original PDP and has written to the commissioner of Lands Vide letter Ref. RMTC/ADM/WNF.II/Vol.II/71 dated 5<sup>th</sup> September, 2005 to process the title deed in the KMTC's name.

**1.1.2 The allottee in respect of the plots Nakuru/Mun/Block/12/262, 263,264 and 283, which have since been allocated to the Treasury as trustee of the Ministry of Health, should be evicted with immediate effect.**

**Status:** The Chief Executive confirms that the land in question was allocated to KMTC by the Commissioner of Lands Vide letter No. 30884/XL/VII/116 dated 12<sup>th</sup> November, 1999. The Current Commissioner of Lands states that although a letter of allotment had been issued, it might be difficult to vest the same in the KMTC's favour unless the properties are recovered and/or repossessed by the Government through the Ndungu Commission.

At page 210 of the Ndungu Commission Report it is recommended that the allocation of block 12/283 be revoked.

The Chief Executive confirms that in view of the above, the KMTC has presented to the commissioner of Lands the documents of ownership and applied that the title deed for all the plots on Block 12/262, 263, 264 and 283 be issued, Letter Ref. No. KMTC/ADM/CON.11/Vol.II/73.

**1.1.3 The Commissioner of lands should recall title deed No.IR.77918 in respect of plot LR No. 1160/13, Karen, which was irregularly allocated to the National Museums of Kenya to facilitate the resurveying of the land and subsequent regrant of the proper acreage**

**to the college, and that the National museums of Kenya is required to surrender the title deed to facilitate the resolving of the dispute.**

**Status:** *It is true that the land in question was allocated to the National Museum of Kenya and is where Karen Blixeu Museum is built.*

*To resolve this dispute the Commissioner of Lands Vide letter Ref. 26168/99 dated 23/06/2004 confirmed that she would make attempts to recover the title from National Museums of Kenya.*

*The Chief Executive, KMTC on his part confirms that he wrote a letter to the National Museums of Kenya asking him to surrender the title deed to facilitate the resolving of the dispute. The Chief Executive replied and asked Kenya Medical Training College(KMTC) to come up with a tentative boundary which could form the basis of discussion between KMTC and the Museums.*

*KMTC confirms to have come up with a tentative boundary as required and the same has been forwarded to the National Museums of Kenya for discussion.*

**1.1.4 The Chief Executive should have the titles registered under the Treasury transferred to the Kenya Medical Training College.**

**Status:** *The Chief Executive confirms that the allotment of the whole land under KMTC and Rift Valley Provincial Hospital was issued to the Permanent Secretary, Ministry of Finance and Health. KMTC has sub divided the land and the title deed will come out under the name of both KMTC and Rift Valley Provincial General Hospital separately.*

**2.0 DEPRECIATION ON FIXED ASSETS**

**RECOMMENDATIONS**

**2.1 The Committee recommends that the Chief Executive should ensure that depreciation of the College Fixed Assets is always conducted in accordance with generally accepted International Accounting Standards.**

**Status:** *The Chief Executive confirms that going by the recommendation of PIC and instructions from the Treasury vide circular letter No.3/2004 dated 23<sup>rd</sup> January, 2004, the college did undertake a comprehensive asset valuation which culminated in the completion of a Report on valuation of KMTC assets. The report was submitted to the college on 11<sup>th</sup> August, 2005 for adoption*

by the Board of management as a reference document. The exercise was conducted in accordance with generally accepted international accounting standards.

**2.2 The Committee further recommends that the College should keep an up to date Fixed Assets Register.**

**Status:** *The Chief Executive confirms that KMTC is currently in the process of coming up with an up to date fixed asset Register.*

**3.0 COLLEGE VEHICLES HELD IN A PRIVATE GARAGE**

**RECOMMENDATIONS**

**3.1 The Committee recommends that the officers of the College who failed to take the necessary action to have the vehicles retrieved be held responsible and be surcharged by the Inspector General of State Corporations.**

**Status:** *The Chief Executive confirms that the disappearance of the vehicles has been a matter of major concern to the college management.*

*At the time, the vehicle disappeared from the said garage, a Mrs Samba who was the Executive Officer in charge of transport was charged with the offence and got interdicted for about two (2) years. She appeared before the Ministry Disciplinary Committee but was later discharged due to lack of evidence.*

*The resolution did not provide for the recovery of the vehicles. The college further wrote a letter to the CID to investigate the matter as a criminal offence, but the CID never responded. A second letter was written to the CID reminding them to investigate. They later responded Vide their letter Ref. CID/SEC/2/16 Vol.XVI/225 dated 11<sup>th</sup> March, 2004 whereby they promised to inform KMTC of the outcome when the investigations are over. To date no report has been forwarded or arrest made.*

*The Chief Executive confirms that it is becoming difficult to carry out internal investigations especially after the person who was charged with the offence was discharged.*

*KMTC will still follow the police to carry out further investigations. At the same time the institution is collecting all the relevant documents to be forwarded to the Inspector General of State Corporations.*

## **4.0 DEBTORS**

### **RECOMMENDATIONS**

#### **4.1 The Committee recommends that:-**

##### **4.1.1 The Management of the college should recover the outstanding debt of Ksh.3,325,789.00**

**Status:** *The Chief Executive confirms that the outstanding amount has been fully recovered.*

##### **4.1.2 The College should liaise with the parent Ministry with a view to resolving the matter pertaining to the use of hostels by University of Nairobi students.**

**Status:** *The Chief Executive Confirms that the college has had several discussions with the University of Nairobi but to date a conclusive answer has never been reached.*

*The college position on this matter is that the University of Nairobi should pay the college the accommodation fee they collect from the students as they make arrangements to build their own hostels.*

*However, as per the Public Investment Committee recommendation, the college has referred the matter to the Permanent Secretary, Ministry of Health to resolve through a letter Ref. KMTC/FIN/10N/20 Vol.1/35 dated 12<sup>th</sup> October. 2005.*

# TEACHERS SERVICE COMMISSION

## REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF THE TEACHERS SERVICE COMMISSION FOR THE YEAR ENDED 30 JUNE, 1999

### 1.0 FINANCIAL POSITION

#### RECOMMENDATIONS

- 1.1 **The Committee recommends that the Commission settle all its statutory deductions on time as per regulations and further that the parent ministry remits all grants to the commission timely, so as to enable it run its activities effectively.**

**Status:** *The Chief Executive confirms that the Teachers Service Commission cleared all the statutory deductions by the 10<sup>th</sup> of July, 1999 as per the regulations. At the same time, the TSC developed a service charter where it has promised to pay third parties by 10<sup>th</sup> of the subsequent month. The Commission's third parties dues are also paid by the bank through the Electronic Funds Transfer (EFT).*

*The Chief Executive confirms that the Ministry of Education, Science and Technology remits all grants to the Commission timely. This has enabled the Commission run its activities effectively.*

- 1.2 **The Committee further recommends that the Chief Executive should ensure that stale cheques are brought to account as required by Commission's accounting regulations.**

**Status:** *The Chief Executive confirms that any cheque drawn by the bank can be presented to the bank for payment within six months. At the end of six months, any cheque not presented will become stale and shall be credited to stale cheques account. At the same time, cheques that remain in the stale cheque's account after six years shall be statutory barred and will be transferred to the Accumulated Fund Account.*

### 2.0 PARTITIONING OF BIMA HOUSE OFFICES

#### RECOMMENDATIONS

- 2.1 **The Committee recommends that the Commission Secretary should strictly adhere to regulations governing procurement procedures.**

**Status:** *The Chief Executive confirms strict adherence to this recommendation.*

### **3.0 COMMISSION OFFICES AT BAZAAR PLAZA**

#### **RECOMMENDATIONS**

- 3.1 The Committee recommends that the Chief Executive should ensure that the issue of the undelivered items worth Ksh.4,991,000 is dealt with expeditiously and resolved to avoid matters that may arise from the performance of the contract.**

**Status:** *Under this paragraph, the committee raised issues regarding the undelivered furniture worth Ksh.4,991,999.00. The Chief Executive, confirms that this furniture were neither delivered nor paid for.*

### **4.0 WRONG ACCOUNTING TREATMENT OF ACCUMULATED SAVINGS**

#### **RECOMMENDATIONS**

- 4.1 The Committee recommends that the Chief Executive should liaise with the office of the Controller and Auditor General with a view to reconciling the figures.**

**Status:** *In response to the committee's recommendation that the Chief Executive liaises with the Office of the Controller and Auditor General with a view to reconciling the figures, the Chief Executive confirms that this has been done.*

- 4.2 The Committee further recommends that the Chief Executive should consult the relevant accounting regulations to ascertain the correct treatment for the expenditure.**

**Status:** *As regard the treatment of the Account spent during the partitioning, the Chief Executive confirms that he consulted the relevant accounting regulation and wishes to confirm that the treatment adopted by the Commission was appropriate.*

### **5.0 BOMB BLAST DAMAGES COMPENSATION**

**Status:** *The Committee was informed that USAID gave assistance of Kshs.2,887,224.40 towards repairs of damaged vehicles and that they had no more additional funds to meet the other losses.*

- \* *The Treasury notes that there is no recommendation from PIC on this matter.*

# **NATIONAL SOCIAL SECURITY FUND**

## **REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF NATIONAL SOCIAL SECURITY FUND FOR THE YEAR ENDED 30 JUNE, 1999**

### **1.0 FINANCIAL POSITION**

#### **RECOMMENDATIONS**

- 1.1. The Committee recommends that the Fund should invest only in its core-business.**

**Status:** *The Chief Executive confirms that the Fund has divested from real estate and concentrated on its core business.*

- 1.2 The Committee further recommends that the Managing Trustee should ensure that Surplus funds are invested in Treasury Bills and Bonds only.**

**Status:** *The Chief Executive confirms that any available surplus funds are invested in Treasury Bills and Bonds.*

*For example, in 1999, the Fund had Khs.100,250,000.00 invested in Treasury Bills and held no investments in Treasury Bonds. To date, the Fund holds Ksh.100,000,000.00 in Treasury Bills and Kh.2,986,150,000.00 in Treasury Bonds.*

### **2.0 PURCHASE OF LAND - ATHI RIVER**

#### **RECOMMENDATIONS**

- 2.1 The Committee recommends that:**

- 2.1.1 The Director of Kenya Anti-Corruption Commission should investigate the apparent collusion between the then Commissioner of Lands, the then Managing Trustee, Mr. S. Muindi and the five vendors in the transaction relating to the purchase of the five non-existent plots with a view to preferring charges for false pretences.**

**Status:** *On November 8, 2005, Ministry of Finance wrote to the KACC vide letter CONF.268/03/A/'H' requesting them to take action as recommended by PIC. On 11<sup>th</sup> November 2005, KACC wrote back acknowledging receipt and promising to deal with the matter appropriately.*

**2.1.2 The Kenya Anti-Corruption Commission should institute civil suit against the vendors with a view to recovering the irregular payment of Ksh.576,028,000**

**Status:** *The answer is as 2.1.1 above.*

**2.1.3 The Management of the Fund should demand refund of Ksh.5,820,310 being legal fees charged, from M/s Murgor & Murgor Advocates in the absence of any genuine land transaction between the Fund and the vendors.**

**Status:** *Refund of legal fees will be persued once professional negligence is established through the investigations above*

### **3.0 NYAYO ESTATE EMBAKASI**

#### **RECOMMENDATIONS**

**3.1 The Committee recommends that:-**

**3.1.1 Mugoya Construction Co. be precluded from participating in State Corporations and Government tenders.**

**Status:** *The Chief Executive confirms that the Fund's contract with M/s Mugoya construction and Engineering Co. Ltd. was terminated on 19<sup>th</sup> November, 2004, and the contractor sued the Fund for wrongful termination. The court case is ongoing and will be heard on 2nd November 2005. The Chief Executive also confirms that the Fund has forwarded this recommendation to the parent Ministry, that is, Ministry of Labour and Human Resources Department to assist the Fund in implementing the recommendation vide Letter SF/A/16/12 VOL.XII/14 dated October 28, 2005.*

**3.1.2 The then Managing Trustee Mr. Samuel Muindi and the then Board of Trustees under the Chairmanship of Mr. Kisoso be held responsible for the loss in the project for failing to conduct a feasibility study on the project and be barred from holding public office conferred by the Republic of Kenya.**

**Status:** *As 3.1.1 above*

**3.1.3 The Director of Kenya Anti-Corruption Commission should institute investigations to ascertain the circumstances that led to the initiation, commissioning and execution of the project with a view to determining whether any crime was committed for possible prosecution and recovery of the losses.**

**Status:** As 3.1.1 above

#### **4.0 ABANDONED PROJECTS**

##### **RECOMMENDATIONS**

- 4.1 The Committee recommends that the Fund should not involve itself in buying pieces of land and instead should concentrate on its core-business.**

**Status:** *The Chief Executive confirms that the Fund stopped buying any more land and currently concentrates on its core business of providing social security for its members.*

- 4.2 The Committee further recommends that the Chief Executive should ensure that the Fund disposes the Assets at cost-effective market prices and ensure that the Fund does not incur further losses from the project.**

**Status:** *The Chief Executive confirms that the Fund has embarked on disposal of its excess real estate to conform with the requirements of Retirement Benefits Authority (RBA). The Fund has, therefore, reduced its portfolio in real properties from 82% to 45% to date. The maximum RBA recommendation on real estate is 30%*

#### **5.0 MACHAKOS HOUSING**

##### **RECOMMENDATIONS**

- 5.1 The Committee recommends that the land be sold on competitive bidding in order to recover the Fund's money.**

**Status:** *The Chief Executive confirms that the land is on sale and that it will be disposed off as soon as the Fund receives good proposal from serious buyers.*

#### **6.0 KAREN HOUSING**

##### **RECOMMENDATIONS**

- 6.1 The Committee recommends that the Director of Kenya Anti-Corruption Commission investigates the circumstances that led to the initiation, commissioning of consultants to do design works and engagement of the contractor with a view to determining whether any crime was committed for possible prosecution and recovery of the Fund's money.**

**Status:** *The Kenya Anti Corruption Commission is acting on the matter as confirmed vide their letter Ref:KACC/INV.6/2(89) dated 11<sup>th</sup> November 2005.*

**6.2 The Committee further recommends that the Chief Executive should ensure that the interests of the Fund are secured and extreme caution be taken on the matter.**

**Status:** *The Chief Executive Officer confirms that the land has been sold at a cost of Ksh.205 million.*

## **7.0 DEPOSITS WITH CONSOLIDATED BANK OF KENYA**

**Status:** *The Chief Executive confirms that the Fund no longer holds deposits with Consolidated Bank of Kenya. The last deposit of Ksh.200,000,000.00 together with accrued interest was fully redeemed in February, 2003. The audit query is therefore resolved.*

\* Noted: No recommendation from PIC on this matter.

## **8.0 LOANS AND DEPOSITS IN NATIONAL BANK OF KENYA**

### **RECOMMENDATIONS**

**8.1 The Committee recommends that the Fund and the Ministry of Finance should continue to review the Fund's investments policy with a view to securing its shares in the Bank**

**Status:** *On 25<sup>th</sup> September, 2003, the Fund's loan of Ksh.1.1 billion in National Bank of Kenya was converted into 235 million non-cumulative preference shares. The Chief Executive confirms that since then, the Fund has been fully participating in the Bank's recovery programme through the appointment of two Trustees that is, the Managing Director and the Investment Manager as Directors in the National Bank Board of Directors..*

## **9.0 COMPUTER MAINTENANCE CONTRACT**

### **RECOMMENDATIONS**

**9.1 The Committee recommends that:-**

**9.1.1 The then Managing Trustee Mr. David Masika be held responsible for awarding computer maintenance contract irregularly and be surcharged for unsupported payments of Ksh.6,673,191.**

**Status:** *The Chief Executive confirms that the Fund has communicated to the former Managing Trustee, Mr. David Masika vide letter Ref:SF/A/16/12 VOL.XII dated 5<sup>th</sup> September, 2005 demanding from him Ksh.6,673,191.00 being surcharge for irregular payments to Tandam Park Consultants. He has to date not responded and the Fund is contemplating to take legal action against him in order to force him pay the amount demanded through a court order.*

**9.1.2 Mr. David Masika, be barred from holding public office conferred by the Republic of Kenya for abuse of office.**

**Status:** *The Chief Executive confirms that the Fund is not able to act on this recommendation because it could only be acted on by the relevant arm of Government. In this regard, the Fund wrote to the Parent Ministry, that is Ministry of Labour and Human Resource Department to assist the Fund in implementing the recommendation. This was vide letter Ref:SF/A/16/13 VOL.XII/14 dated October 28, 2005.*

**10. KANGEMI HOUSING PROJECT**

**RECOMMENDATIONS**

**10.1 The Committee recommends that the then managing Trustee Mr. Samuel Muindi and the then Board of Trustees be held responsible for failing to conduct any feasibility study on the project:**

**Status:** *The Chief Executive confirms that the project was completed and final accounts for Ksh.911,482,373.00 prepared. All the houses have been sold on tenant purchase basis. The Fund has forwarded this recommendation to the parent Ministry for further action on the then Managing Trustee and the then Board of Trustees vide letter Ref:SF/A/16/12 VOL.XII/14 dated October 28, 2005.*

**10.2 The Committee further recommends that the Fund should divest from non-core business activities.**

**Status:** *The Chief executive confirms compliance to this recommendation.*

**11.0 MEMBERS CONTRIBUTION ACCOUNT**

**RECOMMENDATIONS**

**11.1 The Committee recommends that measures be taken to reduce the Suspense Account and that where records are not available for**

**verification, the Suspense Account be represented by an equal amount of assets and the same be reflected in the Books of Accounts of the Fund.**

**Status:** *The Chief Executive confirms that the fund has adopted two broad prongs to reducing the accumulated Suspense Account. The first approach is preventive where modern information technology systems have been installed to ensure instant registration of all contributions. The second approach is curative in which a suspense account clearance division was established to clear past accumulated suspense accounts.*

*The Chief Executive confirms that before the establishment of suspense division, the amount on suspense Account as at November, 2003 was Ksh.8.4 billion, by 26<sup>th</sup> August, 2005, the amount had been reduced to 5.1 billion, thus clearing 3.3 billion from Suspense Account in less than two years. The fund envisages that the amount on Suspense Account will be reduced to Ksh.4.5 billion by 30<sup>th</sup> June 2006 as per the Funds performance contract.*

## **12.0 RECOVERY OF RENT**

### **RECOMMENDATIONS**

#### **12.1 The Committee recommends that:-**

- 12.1.1 The Managing Trustee should liaise with the Fund's parent Ministry to ensure that rent owing from the following Ministries/Departments are recovered in full in the 2004/2005 financial year.**

#### **S S HOUSE - NAIROBI**

Ministry of Labour	-	50,483,114.87
National registration Bureau	-	1,270,655.00
V.A.T Department	-	15,968,521.80
V.A.T Department	-	3,272,275.70
National Registration Bureau	-	22,640,918.00
Kenya Revenue Authority H/Qs	-	2,107,575.10
National Hospital Insurance Fund	-	182,548.98
Ministry of Information & Broadcasting	-	12,748,223.00
National Registration Bureau	-	5,673,927.00
Human Rights Commission	-	221,191.20
Ministry of Labour	-	1,650,400.00
Kenya Ant-Corruption Authority		

(defunct)	-	704,073.00
<b>Sub Totals</b>	-	<b><u>121,313,050.55</u></b>

**S S HOUSE MOMBASA**

Adult Education	-	266,580.00
Factories Inspectorate	-	2,717,800.00
NHIF	-	1,578,220.00
Provincial Housing Office	-	1,190,780.00
Provincial Labour	-	928,263.80
Provincial Local Government	-	1,006,200.00
Social Services Department	-	1,320,569.00
Government Coast Agency	-	1,110,350.00
Department of Culture	-	546,795.00
District Labour Office	-	1,628,531.00
District Employment Office	-	711,030.00
Kenya Bureau of Standards	-	1,119,150.00
<b>Sub Totals</b>	-	<b><u>14,151,268.80</u></b>

**Status:** *The Chief Executive confirms that as at 30<sup>th</sup> June, 1999, rents owing to the fund were as follows:-*

Social Security House Nairobi	-	Ksh.121,313,050.00
“ “ Mombasa	-	Ksh. 14,151,268.00

**TOTAL** - **Ksh.135,464,319.35**

*He further confirms that as at 30<sup>th</sup> June, 2005, the rent outstanding was as follows:-*

Social Security House Nairobi	-	Ksh.87,009,576.80
“ “ Mombasa	-	Ksh. 7,860,831.00

**TOTAL** - **Ksh.94,870,407.00**

*The Chief Executive therefore, says that there is significant reductions of outstanding rent from Ksh.135,464,319.35 as at 30<sup>th</sup> June 1999 to Ksh.94,870,407.80 as at 30<sup>th</sup> June, 2005.*

*The Chief Executive will pursue the matter to ensure that the rents are cleared in full.*

**12.1.2 The amount owing from M/s. Azania Hotels Ltd. is recovered without further delay and the Director(s) of the company should be sued on their private capacities in order to recover the rent.**

**Status:** *The Chief Executive confirms that the fund had filed a Civil Suit No. HCC 59A of 2004 in Mombasa "Board of Trustees of NSSF vs Azania Hotels Ltd". The fund obtained judgment against M/s Azania Hotel. One of the Directors Mr. Kassim Owango has since died while the other directors i.e. M/s Najeeb Khan of P. O. Box 82119, Mombasa, Khasim Salim Khamis of P.O. Box 80679, Mombasa and Jane Muia of P.O. Box 44940, Nairobi cannot be traced..*

*However, the fund pursued M/s Mohansons Properties Ltd, guarantors to M/s Azania Hotels (K) Ltd and advertised the property for public auction. The fund also pursued M/s Gathecha Holdings Ltd also a guarantor to M/s Azania Hotels(K) Ltd and advertised the property for Public auction. However M/s Mohansons Properties Ltd applied for a temporary injunction which was granted thus stopping the public auction of the property of that firm. The Fund is negotiating with the guarantors.*

**12.1.3 All Government Ministries and Departments must clear rents owing to the Fund not later than 30<sup>th</sup> June 2004.**

**Status:** *As 12.1.1 above.*

**13.0 POSSESSION AND USE OF MOTOR VEHICLES**

**RECOMMENDATIONS**

**13.1 The Committee recommends that the Office of the President must compensate the Fund for the loss of the vehicle.**

**Status:** *The Chief Executive confirms that he has communicated to the Office of the President vide letter SF/A/16/155/73 dated 29<sup>th</sup> August, 2005 demanding compensation for the loss of this vehicle. In the mean time, the Fund has stopped loaning vehicles to other organizations.*

**14.0 IRREGULAR AWARD OF INSURANCE BROKERAGE AND UNDERWRITING SERVICES**

**RECOMMENDATIONS**

**14.1 The Committee recommends that the then Permanent Secretary, Treasury Mr. Joseph Magari should be investigated by the Kenya Ant-Corruption Commission for abuse of office and for the following irregularities:**

**14.1.1** Proposing to the NSSF vide letter & Ref.CONF.129/01 dated 27<sup>th</sup> June 2003 Insurance Brokers and underwriters to use as opposed to the firms which had been recommended by the NSSF Technical and Financial Evaluation Report on Tender No. 10/2002/2003 contrary to Exchequer and Audit (Public Procurement) Regulations, 2001.

**14.1.2** Granting a waiver vide letter Ref. No. 2238/110/04A(13) dated 3<sup>rd</sup> July 2003 to ignore 21 days notice requirement as per regulations before any procuring entity can enter into contract.

**Status:** *The Kenya Anti Corruption Commission is acting on the matter as confirmed vide their letter to this Ministry Ref.KACC/INV.6/2 (89) dated 11<sup>th</sup> November, 2005*

**14.2** The Committee further recommends that the Treasury should desist from interfering with tendering processes in State Corporations.

**Status:** *Treasury confirms full compliance to this recommendation*

**14.3** The Committee also recommends that the then Permanent Secretary, Mr. Magari be surcharged for the cost arising from re-advertising of the Insurance Cover tender which was necessitated by the unlawful interference in the procurement procedures.

**Status:** *The Chief Executive confirms that the Fund is not able to act on this recommendation because it could only be acted on by the relevant arm of Government. In this regard, the Fund wrote to the Parent Ministry, that is Ministry of Labour and Human Resource Department to assist the Fund in implementing the recommendation. This was vide letter Ref:SF/A/16/13 VOL.XII/14 dated October 28, 2005.*

# **KENYA MEDICAL RESEARCH INSTITUTE**

## **REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF KENYA MEDICAL RESEARCH INSTITUTE FOR THE YEAR ENDED 30<sup>TH</sup> JUNE, 2000**

### **1.0 STAFF HOUSING PROJECT**

#### **RECOMMENDATIONS**

#### **1.1 The Committee recommends that:-**

**1.1.1 The Director of KEMRI Dr. Davy Koech be asked to step aside to allow the Government to carry out intensive investigation into the manner in which the project was conceived, the developer identified, how the project account at the National Bank of Kenya has been operated since Feb. 1991 and how huge sums of money have continued to be paid to the developer yet the housing project has stalled.**

**Status:** *The Chief Executive confirms that the matter is under consideration by KACC.*

**1.1.2 The institute in liaison with the parent Ministry and other government agencies should ensure that an amount of Ksh.92,672,303 is recovered from M/s Sande Makhandia & Co. Advocates without further delay.**

**Status:** *The Chief Executive confirms that in pursuance of the directive from PIC, the funds held by KEMRI's advocates has since been recalled. The amount surrendered by the lawyers is Ksh.93,704,800.00*

**1.1.3 The Commissioner of Police should move with speed to investigate M/s Sande Makhandia & Co. Advocates, M/s Rachier & Co. Advocates & Mr. Cyrus Jirongo of M/s Cypper Enterprises Ltd. to establish the manner in which Ksh.27,327,697 was disbursed from KEMRI allegedly to pay for land rents and council rates in respect of plot No. LR.209/10683, and yet the Ministry of Lands and the City Council have denied ever receiving the money and have declared the receipts as forgeries.**

**Status:** *The Chief Executive has approached the Office of the Commissioner of Police vide letter Ref:KEMRI/DCOD/0511/14 dated 14<sup>th</sup> October 2005 to investigate the matter as appropriate. In the said letter, the Chief Executive has requested the police to establish whether the receipts under*

*reference were actually forgeries as claimed and to what extent the network of the purported forgeries went.*

**1.1.4 The Law firms of M/s Sande Makhandia & Co. Advocates and M/s. Rachier & Co. advocates be reported to the Advocates complaints Commission for professional misconduct by abetting loss of client's money and uttering false receipts.**

**Status:** *This matter is linked to the investigations being made by the Commissioner of Police.*

**1.1.5 That Ksh.544 million included in 2004/5 estimates of the Ministry of Health for the project be withheld until an independent verification is carried out on the alleged pending bills and the correct amount outstanding with the National Bank of Kenya determined.**

**Status:** *The Chief Executive confirms that the Treasury withdrew the Ksh.544 million included in the 2004/2005 estimates in the Ministry of Health during the revised estimates.*

**1.1.6 The Government intervenes on behalf of the Institute to ask the National Bank of Kenya to discharge the title deed in respect of LR. 209/10683 to allow completion of the Housing Project.**

**Status:** *The Chief Executive confirms that KEMRI is at the moment having discussions with the National Bank and the relevant Government authorities in seeking ways of having the NBK to discharge the charge on, and release of the Title to enable its registration in the name of KEMRI*

## **2.0 PENSION SCHEME CONTRIBUTIONS**

### **RECOMMENDATIONS**

**2.1 The Committee recommends that the Director of the Institute should continue to follow the repayment of the balance of the contributions.**

**Status:** *The Chief Executive confirms that a further sum of Ksh.33,935,912.80 has since been received from the Kenya National Assurance Company (2001) Limited, being part of the outstanding amount due and owing to the KEMRI Retirement Benefits Scheme. This amount is in addition to an earlier amount of Ksh.33,720,785.35 which had been paid by Kenya National Assurance Company (2001) Limited. The original amount held by the company was Ksh.97,930,600.00 and with the above two payments, the Chief Executive confirms that about Ksh.30 million is outstanding and he will pursue the repayment of the balance.*

### **3.0 ABANDONED PROJECT**

#### **RECOMMENDATIONS**

- 3.1 The Committee recommends that the Director liaises with the parent Ministry of Health with a view to getting allocation for completion of the project.**

**Status:** *The Chief Executive confirms that KEMRI is currently liaising with the Ministry of Health in having the abandoned project restarted.*

# **NATIONAL HOSPITAL INSURANCE FUND**

## **REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF NATIONL HOSPITAL INSURANCE FUND FOR THE YEAR ENDED 30 JUNE 1998**

### **1.0 ACCURACY OF ACCOUNTS: BALANCE SHEET**

#### **RECOMMENDATIONS**

#### **1.1 The Committee recommends that**

##### **1.1.1 The Chief Executive should analyze the Suspense Account with a view to clearing the balance from the Accounting records.**

**Status:** *The Chief Executive confirms that the Suspense Account has been analyzed and the balance cleared from the Accounting records.*

##### **1.1.2 The Chief Executive should ensure that the Fund maintains a comprehensive ledger Account and reconcile its Statements.**

**Status:** *The Chief Executive confirms that the Fund has computerized all its operations including those of the General Ledger. The operations are fully reconciled and maintained accurately.*

### **2.0 SALE OF STAMPS – N.H.I.F. HEAD OFFICE**

#### **RECOMMENDATIONS**

#### **2.1 The Committee recommends that the Chief Executive should ensure that proper bookkeeping is maintained by the Fund.**

**Status:** *The Chief Executive confirms that the recommendation has been fully implemented since all the accounting functions are computerized and Branch offices are On-line. The Fund has adopted an automated accounting system, which has enhanced bookkeeping.*

### **3.0 CERTIFICATE OF CONTRIBUTION**

#### **RECOMMENDATIONS**

#### **3.1 The Committee recommends that the Chief Executive should make the necessary adjustments in the Accounts.**

**Status:** *The Chief Executive confirms that the Fund has made the necessary adjustments in the Accounts. Journal entries have been passed to correct the accounts.*

#### **4.0 LATE CONTRIBUTIONS**

##### **RECOMMENDATIONS**

- 4.1 The Committee recommends that the Chief Executive should ensure that the Accounting procedures for the Fund should conform with International Accounting Standards.**

**Status:** *The Chief Executive confirms that the Fund's financial statements are now prepared in accordance with International Financial Reporting Standards (FRS), that comprise standards and interpretations as approved by the International Accounting Standards Board (IASB). Currently the Funds Balance Sheet is prepared in accordance with International Accounting Standard (IAS) 1 (Presentation of Financial Statements), the Cash flow is prepared in accordance with International Accounting Standard (IAS) 7 (Cash flow Statements) and Revenue is prepared in accordance with International Accounting Standard (IAS) 18 (Revenue).*

#### **5.0 PENALTIES**

##### **RECOMMENDATIONS**

- 5.1 The Committee recommends that the Chief Executive should make the necessary adjustments in the Accounts.**

**Status:** *The Chief Executive confirms that the necessary adjustments have been made in the accounts and relevant journal entries passed to correct the error (difference).*

#### **6.0 LONG TERM INVESTMENTS**

##### **RECOMMENDATIONS**

- 6.1 The Committee recommends that the Chief Executive should ensure that any future investments of the Fund are based on prudent commercial arrangements.**

**Status:** *The Chief Executive fully concurs with the recommendation. Currently, investments are done as per the laid down procedures in Treasury's circulars, NHIF Act and other relevant laws and regulations.*

## 7.0 SHORT TERM INVESTMENTS

### RECOMMENDATIONS

7.1 The Committee recommends that the Chief Executive should continue to pursue the held-up deposits until all the deposits are recovered.

**Status:** The following are the Institutions that went under receivership:-

	<b>BANK</b>	<b>AMOUNT(Kshs.)</b>
1.	Equity Building Society	450,000.00
2.	United Trustee Finance	4,000,000.00
3.	Continental Credit Finance	15,000,000.00
4.	Rural Urban Credits & Finance	9,800,000.00
5.	Middle Finance Building Society	12,500,000.00
6.	Family Finance	13,500,000.00
7.	Pioneer Building Society	8,000,000.00
8.	Home Loans Building Society	1,000,000.00
9.	Country Building Society	2,000,000.00
10.	Inter Africa Credit Finance	5,000,000.00
11.	Thabiti Finance	147,500,000.00
12.	Trade Bank	62,000,000.00
13.	Trade Finance	36,000,000.00
14.	Nairobi Finance Corporation	26,000,000.00
15.	Indo Africa Finance	61,500,000.00
15.	Prudential Finance	95,266,849.35
16.	Ari Credit & Finance	37,000,000.00

The Fund managed to recover the following:-

#### **EQUITY BUILDING SOCIETY LTD - KSHS.450,000.00**

The Fund recovered the entire balance of investment with the Society of Kshs.450,000.00 on 23<sup>rd</sup> August 2002 and the Fund is now claiming interest from them of Kshs.4,186,283.71. The matter is in court.'

#### **FAMILY FINANCE BUILDING SOCIETY LTD - KSHS.13,500,000.00**

The Fund recovered the entire investment from the Society of Kshs.15,500,000.00 on 3<sup>rd</sup> September, 2002 plus interest of Kshs.3,601,396.00. However the Fund has disputed the interest amount and the matter has been taken to court.

On 26/02/2003 the Society paid the Fund a further interest of Kshs.24,575,989.80 vide a cheque but on presentations it was returned unpaid.

### **THABITI FINANCE CO. LTD**

Thabiti Finance Co., Ltd went under receivership in September, 1994 and the Fund had invested Kshs.147,500,000.00. The Fund received various dividends amounting to Kshs.2,300,000.00 as per the Deposit Protection Fund Regulations (DPF).

However, the following institutions are being handled by the Depository Protection Fund and the official Receiver. Dividends are forwarded to the Fund whenever they are announced. See 7.2 below.

	<b>BANK</b>	<b>AMOUNT(Kshs.)</b>	<b>LIQUIDATING INSTITUTION</b>
1.	United Trustee Finance	4,000,000.00	Attorney General
2.	Continental Credit Finance	15,000,000.00	Attorney General
3.	Rural Urban Credits & Finance	9,800,000.00	Attorney General
4.	Middle Finance Building Society	12,500,000.00	Deposit Protection
5.	Pioneer Building Society	8,000,000.00	Attorney General
6.	Home Loans Building Society	1,000,000.00	Attorney General
7.	Country Building Society	2,000,000.00	Attorney General
8.	Inter Africa Credit Finance	5,000,000.00	Deposit Protection
9.	Trade Bank	62,000,000.00	Deposit Protection
10.	Trade Finance	36,000,000.00	Deposit Protection
11.	Nairobi Finance Corporation	26,000,000.00	Deposit Protection
12.	Indo Africa Finance	61,500,000.00	Attorney General
13.	Prudential Finance	95,266,849.35	Attorney General
14.	Ari Credit & Finance	37,000,000.00	Deposit Protection

**7.2** **The Committee further recommends that the officer(s) responsible for investing the funds in the ailing institutions in contravention of Treasury guidelines on Investments of Surplus funds be identified, and investigated with a view to being prosecuted.**

**Status:** *The Chief Executive confirms that the Deposit protection fund and the Attorney General are following the monies invested in the fallen institutions and dividends thereof are forwarded to the Fund whenever they are announced. So far the fund has received Kshs.31,736,849.05 broken down as follows:-*

Pioneer Building Society	-	2,605,434.45
Continental Credit Finance	-	5,645,218.00
Inter Africa Credit Finance	-	2,166,728.85
Kenya Finance Bank Ltd	-	2,426,224.20
Nairobi Finance Co. Ltd	-	6,540,143.85
Middle Africa Finance Ltd	-	400,000.00
Trade Bank Ltd	-	3,100,000.00
Ari Credit and Finance Company Ltd	-	2,553,102.50
Thabiti Finance Co. Ltd	-	2,300,000.00
Trade Finance Ltd	-	3,400,000.00
Heritage Bank Ltd	-	6,000,000.00

The Chief Executive further confirms that these investments were made in the early 1980's when the Fund was a Department in the Ministry of Health. However, he confirms that available records indicate that most of the Investments done in the fallen banks had government approval.

Mr. M. W. Mulli and Mr. M. N. Kinuthia were the Executive Directors and Accountant respectively, at the time the investments were made.

## 8.0 SUNDRY DEBTORS

### RECOMMENDATIONS

- 8.1 **The Committee recommends that the Chief Executive should use all cost effective means possible to ensure that all the outstanding debts are recovered.**

**Status:** *The fund is making efforts to have the outstanding amounts recovered including going through Pensions Department.*

*The following has been recovered:-*

a) Milton Omonge	-	Kshs.7,004.00
b) Barrack Omollo	-	Kshs.55,000.00

*However it is noted that most of those with outstanding debts are now deceased and modalities to write off the same are being worked out.*

*The following are the deceased:-*

a) Jeremiah Dhadho	-	Kshs.417,466.00
b) P. G. Mukuna	-	Kshs.249,000.00

c)	P. G. Kilei	-	Kshs.36,685.70
d)	Hezekiel Bonuke	-	Kshs.12,000.00

## **9.0 CASH IN TRANSIT - KSH.11,702,205.10 AND CASH BALANCES**

### **RECOMMENDATIONS**

#### **9.1 The Committee recommends that:-**

##### **9.1.1 In future, all bank reconciliations should be signed and dated before being submitted to the auditors.**

**Status:** *The Chief Executive confirms that the recommendation has been implemented. Bank reconciliation's are done on monthly basis, signed and audited.*

##### **9.1.2 The Chief Executive should ensure that the Fund maintains internationally acceptable Accounting Standards and that all reconciliations are promptly made.**

**Status:** *The Chief Executive confirms that the Fund prepares its financial statement in accordance with International Accounting Standards.*

*Please refer to 4.1 above.*

# NATIONAL OIL CORPORATION OF KENYA

## REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE ACCOUNTS OF NATIONAL OIL CORPORATION OF KENYA FOR THE YEAR ENDED 30 JUNE 1998

### 1.0 WORK IN PROGRESS

#### RECOMMENDATIONS

- 1.1 **The Committee recommends that the Corporation should liaise with the management of the Kenya Wildlife Service to ensure that some of the costs incurred in the renovation of the building are recovered.**

**Status:** *The Chief Executive confirms that the management's attempt in renegotiating the rent with the landlord KWS, with an aim of recovering the renovation's costs could not arise since under the conditions of the lease agreement clause 2h, the lease "shall upon submission and approval of the partitions drawing plan carry out the same at its own cost". As a way forward, therefore, the corporation was able to renegotiate the waiving of clause 2k with Kenya Wildlife Service (KWS) with an aim of generating some income through sub-letting part of the property as per letter **NOCK/C/POL/11(12)** dated 28<sup>th</sup> November, 2003. The KWS Board approved the proposal through letter **KWS/128.2 VOL.2** dated 20<sup>th</sup> January, 2004.*

*The Chief Executive confirms that this action will ensure that some of the costs incurred in the renovation of the building will be recovered.*

### 2.0 STOCKS

#### RECOMMENDATIONS

- 2.1 **The Committee recommends that the Chief Executive should liaise with the Controller and Auditor General with a view to reconciling the accounts on stocks, and further that the Corporation should maintain internationally acceptable accounting procedures.**

**Status:** *The Chief Executive confirms to have implemented the PIC recommendation. At the same time it is confirmed that the stock accounting procedures currently practiced at Nairobi Oil Corporation of Kenya are in compliance with the International Financial Reporting Standards on Inventory.*

### 3. FIXED DEPOSITS

#### RECOMMENDATIONS

- 3.1 **The Committee recommends that the management of the Corporation should ensure that any surplus funds are invested in Treasury Bonds and Bills as per Treasury's directive.**

**Status:** *The Corporation has not been in a position to invest in Government Bonds as a result of limitation of funds available.*

- 3.2 **The Committee further recommends that the Corporation should make more efforts to recover the deposits held in the ailing financial institutions.**

**Status:** *The Chief Executive confirms that the corporation has made efforts to recover the deposits from the liquidators of the banks through claim forms. Some money has been recovered from the liquidation as illustrated below:-*

- **Trade Bank**

*The accounts held by the Corporation as at liquidation were as follows:-*

<b>Account No.</b>	<b>Type</b>	<b>Kshs.</b>
114822	Fixed Deposit	16,322,877.00
000253	Fixed Deposit	2,000,000.00
008636	Current	<u>155,466.00</u>
		<b><u>18,488,333.10</u></b>

*The Corporation lodged claims form No. 02754 dated 19<sup>th</sup> August, 1993 for recovering of the above amount. An amount of Kshs.100,000.00 was received on 25<sup>th</sup> May, 1994 being protected deposit and Kshs.3,000,000.00 received on 4<sup>th</sup> January, 1995 from the liquidators. The outstanding amount is Kshs.15,388,333.10. No other amounts have been received to-date. The Corporation has provided for the outstanding amount in accordance with the International Financial Reporting Standards.*

#### **Heritage Bank**

*The Corporation lodged claim forms for an amount of Kshs.21,396,268.90 on liquidation of Heritage Bank and Kshs.100,000.00 was received on 11<sup>th</sup> March 1997 from the liquidator being protected Deposit.*

*The Corporation has provided for the outstanding balance (as Bad debts) in the book of accounts.*

#### 4. CASH AND BANK BALANCES

##### RECOMMENDATIONS

- 4.1 **The Committee recommends that the Chief Executive should ensure that proper book-keeping is maintained by the Corporation and bank reconciliation is done on regular basis.**

**Status:** *The Chief Executive confirms that the bank reconciliation is done on a monthly basis and proper book keeping is maintained in accordance with the International Financial Reporting Standards. The Procedure undertaken by the corporation with regard to bank reconciliation is as follows:*

- ◆ *Posting of all sales and purchase entries on a daily basis to the general ledger.*
- ◆ *Confirmation of sale receipts through the issued serialized receipts, bank deposit slip and bank statement as a reference.*
- ◆ *Preparation of the cash book which reflects the sales and purchase entries for the specific period.*
- ◆ *Reconciling the general ledger balance with the bank statement balance.*
- ◆ *Follow up of any reconciling items arising*
- ◆ *The deadline for the bank reconciliation should be filed by the 15<sup>th</sup> of every month.*

# **EAST AFRICAN PORTLAND CEMENT COMPANY**

## **FINAL REPORT ON THE MANAGEMENT PRACTICES AT THE EAST AFRICAN PORTLAND CEMENT COMPANY BY AUDIT INSPECTORATE TEAM**

### **1.0 TRADE POLICY AND PRACTICES**

#### **RECOMMENDATIONS**

#### **1.1 The Committee recommends that:-**

##### **1.1.1 The Company must adhere to Public Procurement Procedures while tendering for distribution.**

**Status:** *The Chief Executive confirms that the company has now a clear distribution policy in place where eligibility for distribution is driven by the ability to give a bank guarantee and abide by the stipulated trading terms.*

##### **1.1.2 The Company must introduce and adhere to a cost-effective distribution policy, which should apply to all distributors.**

**Status:** *The Chief Executive confirms that the company at the moment subcontracts to third parties the distribution of finished goods and raw materials at market rates which are applied uniformly to all distributors. There are no more transport rebates, which used to apply to select distributors before.*

##### **1.1.3 The Board should constitute a panel of senior staff that will be charged with the responsibility of recommending to the Board discounts to distributors.**

**Status:** *The Chief Executive confirms that the Board has set a maximum ceiling of 5% as the trading discount and any variation beyond these should be through Board's approval.*

##### **1.1.4 The Chief Executive should ensure that an aggressive market penetration program is made a priority of the Company.**

**Status:** *The Chief Executive confirms that an aggressive marketing strategy has been put in place for both the domestic and regional Markets. The company maintained a market share of 37% despite capacity constraints during 2004/2005 financial year.*

**1.1.5 The Chief Executive should follow closely the case against M/s. Donholm Rahisi Stores to its logical conclusion.**

**Status:** *Currently, both parties have been negotiating an out of court settlement. At the same time East African Portland Cement has written to the Attorney General seeking a legal opinion on whether the negotiations should continue or the case goes to full trial. As of today, the amount M/s Donholm Rahisi stores is claiming from East African Portland Cement Company is around Kshs.700 million. The letter sent to Attorney General is Ref. AR/009/002/MG/UK/LG/04 dated 7<sup>th</sup> November, 2005.*

**1.1.6 Mr. E. C. Birya, the then Managing Director be investigated by the Kenya Anti-Corruption Commission for misleading the Board during its Sitting on Friday June 13, 2003 that he had effected discount rates of 5% while he had actually entered into a contract with M/s. Donholm Rahisi Stores giving 18.9% discounts.**

**Status:** *The Chief Executive confirms to have handed over the case to the Kenya Anti Corruption Commission as recommended, through the Inspectorate of State Corporations.*

## **2.0 STAFF APPOINTMENTS, PROMOTIONS AND DISMISSALS**

### **RECOMMENDATIONS**

**2.1 The Committee recommends that:-**

**2.1.1 The Management should ensure that the Company's laid down procedures and management standing rules on staff appointments, promotions and dismissals are adhered to the letter.**

**Status:** *The Chief Executive confirms that there is clear Human Resources Policy and procedure manual now in place. Major policy discussions are being handled by the Human Resources Committee of the Board.*

**2.1.2 The Board and the Chief Executive should re-advertise all managerial posts in the Company with a view to hiring qualified personnel.**

**Status:** *The Chief Executive confirms that recruitment for managerial positions are being advertised in the print media.*

# KENYA POWER AND LIGHTING COMPANY

## 1. AUDITING OF ACCOUNTS AND COMPLIANCE WITH GOVERNMENT FINANCIAL CIRCULARS

### RECOMMENDATIONS

- 1.1 The Committee recommends that the Chief Executive should ensure strict adherence to government regulations and conduct prompt audits of its accounts and submit them to the Controller and Auditor General.

**Status:** *The Chief Executive confirms that all financial statements are audited and presented to the Annual General Meetings (AGMs) regularly within the stipulated regulatory requirements of 4 months and 6 months respectively after the closure on 30<sup>th</sup> June of every financial year.*

*The table below, shows the respective dates the company's accounts for the years 2001/2002 to 2004/2005 were signed by the authorized Auditors and presented to the AGMS.*

Financial Year	Authorised Auditor	Date of Audit	Date of AGM
2001/02	Deloitte & Touche	30/10/2003	20/12/2002
2002/03	Deloitte & Touche	28/10/2003	23/12/2003
2003/04	Ernest & Young	6/10/2004	19/12/2004
2004/05	Ernest & Young	finalised	12/2005

## 2.0 KPLC AND INDEPENDENT POWER PRODUCERS (IPPs)

### RECOMMENDATIONS

- 2.1 The Committee recommends that:-

- 2.1.1 The Chief Executive should renegotiate the contracts with a view to having the charges reduced.

**Status:** *The Chief Executive confirms that negotiations with IberAfrica (E.A) Ltd were concluded in 2004. Consequently, a new 15 year Power Purchase Agreement (PPA) was signed on 21<sup>st</sup> October 2004 after receiving its approval from Electricity Regulatory Board (ERB).*

*Under the new agreement, the capacity charge (fixed cost) per Kilowatt (KW)/year was reduced from US\$.395 to US\$.197.5. This resulted in a reduction of the average tariff from US*

cents/KWH 13.7 in 2001 to Us. Cents/KWh 7.03 in 2004 assuming a load factor of 36% as indicated in the PIC Report. However, taking into account the average load factor of over 85%, the plant operated in the year 2004/05, the average tariff reduced further to US cents.3.43 per unit.

**2.1.2 The Chief Executive should ensure that any future power purchase programs are subjected to thorough appraisals and cost benefit analysis conducted.**

**Status:** *The Chief Executive confirms that negotiations with Tsavo Power Company (TPC) and Orpower 4 are still in progress. The higher average tariffs in 2004/05 compared to 2001/02 for the two IPPs, are due to the escalable component of the capacity charges contained in the respective PPAs and the rise in fuel prices.*

*The PPA with Investment Power (K) Ltd expired in September, 2004 and was not renewed. The power barge has since been disconnected from the KPLC transmission systems.*

*The Chief Executive requests the committee to note that all Power Purchase Agreements are approved by Electricity Regulatory Board (ERB) who are independent regulators.*

