

SPECIAL AUDIT REPORT OF THE AUDITOR-GENERAL ON

PROCUREMENT OF PRE-EXPORT

VERIFICATION OF CONFORMITY (PVOC) TO

STANDARD SERVICES - USED MOTOR

VEHICLES, MOBILE EQUIPMENT AND USED

SPARE PARTS

BY

KENYA BUREAU OF STANDARDS



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LIST OF ABBREVIATIONS

Abbreviation	Full Description
ATJ	Auto Terminal Japan Limited
COC	Certificate of Conformity
COR	Certificate of Registration
EAA	East Africa Automotive
FoB	Free on Board
ICAS	International Conformity Assessment Solutions
ICT	Information Communication and Technology
ISO	International Standards Organization
KEBS	Kenya Bureau of Standards
Kshs	Kenya Shillings
Ltd	Limited
PPDA	Public Procurement and Disposals Act
PFMA	Public Finance Management Act
PVOC	Pre-Export Verification of Conformity
QISJ	Quality Inspection Services Inc. Japan
SMCA	Standards, Metrology and Conformity Assessment
UK	United Kingdom
UAE	United Arab Emirates
USD	United States Dollars
ECL	Eastern Car Liner

1 EXECUTIVE SUMMARY

INTRODUCTION

- 1.1 The Auditor-General conducted a special audit at Kenya Bureau of Standards (KEBS) with focus on the procurement of Pre-Export Verification of Conformity (PVOC) to Standards Services - For used Motor Vehicles, Mobile Equipment and Used Spare Parts by KEBS - Tender Number: KEBS/T019/2017-2020. A second phase of the special audit has been scheduled to review the Pre-Export Verification of Conformity (PVOC) to Standards Services - For General Goods in the financial year 2019/2020.
- 1.2 The following Terms of References to guide the special audit:
 - Identify factor(s) that triggered the need for the procurement of Pre-Verification of Conformity (PVOC) Services - For used Motor Vehicles, Mobile Equipment and Used Spare Parts;
 - Review the procurement process in line with PPAD, Act 2015 and Regulations of 2006 and reference to the Regulations of 2018;
 - Identification of any suspicious, forged or misrepresentation on the documents used in the tendering and procurement process by any of the bidding companies;
 - Review the appeals filed by bidding company(s) at the Procurement Administration Review Board, Court or Tribunals and the justifications and eventual ruling;
 - Review due diligence and internal audit reports by KEBS to assess the level of performance of current and past bidders;
 - Ascertain the terms of the contract and the actual existence of the services as specified in the contracts;
 - Establish current performance of the service provider and total amounts paid in relation to service provided; and
 - Identify and report on any irregularities and culpabilities on the above processes.
- 1.3 This special audit also served as a follow-up on the previous tender and special audit report of May 2016 and incorporates stakeholders and parliamentary interests on the recent happenings at KEBS, which is already in the public domain.

SUMMARY OF FINDINGS AND CONCLUSION

- 1.4 KEBS in its PVOC program under the KS 1515:2000 standard codes clearly stipulated guidance on inspection of Used Motor Vehicle, Mobile Equipment and Used Spare Parts, and the respective fees chargeable for the inspection. KEBS powers to appoint an agent (s) are also stipulated within Section 4 of the Legal Notice No. 78 dated 15th July 2005, and the Standards Act. Cap 496 to conduct conformity assessments on its behalf under a contractual arrangement.
- 1.5 So far since the inception of PVOC program, four out of the five contracts in the program under the KS 1515:2000 were performed by one Service Provider. For the only cycle where three Service Providers were awarded a contract (2012 to 2015), one of the service provider was actually terminated. The provider, M/s. JEVIC was accused of permitting radioactive contaminated and overage vehicles against the regulations. KEBS subsequently terminated its contract with JEVIC on 21st July, 2014, six (6) months before the end of the contract period. This therefore raises significant doubts as to whether KEBS can achieve Conformity to Standards under a multiple contract regime.
- 1.6 The reviews were also guided by the common practices of doing business in certain jurisdictions. Like Japan, which contributes nearly 95 per cent of used motor vehicle the expectation is that; inspection service agents lease land, then buy and install an inspection facility/equipment on the leased land, or lease an inspection facility from its owner and operate it with ones' own staff within, ones' own approved procedures, or sub-contract a facility and the staff from another service provider/agent and pay convenience fee for such services.
- 1.7 KEBS tender processing committee procedurally recommended the award of International Tender No. KEBS/T019/2017-2020 for provision of Pre-Export Verification of Conformity (PVOC) to Standard services: Used Motor Vehicles, Mobile equipment and Used Spare Parts to M/s. Quality Inspections Services Inc. Japan (QISJ) who were the highest bidder having attained a combined score of 94 marks out of 100 marks. In the ruling by the Public Procurement Administrative Review Board (PPARB) following an application for a request for review by one of the bidders to the board, M/s. Auto Terminal Japan (ATJ) Ltd was noted not to comply with several requirements of the tender document and consequently dismissed, and KEBS fairly advised to proceed with the procurement process to its logical conclusion.

- 1.8 A recent due diligence surveillance audit report by KEBs' report dated 20th February 2019 highlighted that M/s. QISJ had demonstrated its capacity to deliver on the current contract as it had delivered on its past contracts with KEBS by virtue of having the physical and technological infrastructure required to satisfactorily perform services required under this tender, and the right capacity and competency of staff to satisfactorily perform services required under the tender. Further, there had not been any recorded complains levelled against QISJ in the past two contracts by the contractor KEBS.
- 1.9 Without prejudice to any limitation, the special audit reviewed the entire procurement process, procedures followed and documentation by the procuring entity and the bidders (M/s. Quality Inspection Services Inc. Japan (QISJ), M/s. EAA Company Limited and M/s. Auto Terminal Japan (ATJ) Ltd), of the tender for Pre-Export Verification. The audit reported if any of the bidding companies provided any fraudulent and misleading information which contravenes Section 41 (1) (h) of the Public Procurement and Disposals Act, 2015, and in such events recommend that it would be appropriate for relevant institutions to initiate debarment proceedings against such bidder(s), where irregularities are identified during tendering process, and eventually report if the services procured is actually being delivered as per the terms of the contract.
- 1.10 The special audit report has four sections; the executive summary, introductions and the detailed approach, the detailed findings and the appendices. The report should therefore be read in its entirety in order to comprehend fully the approach to, and findings. The report has reported on facts as understood, with the aim of informing Public Investment Committee on their deliberations and decision making, cognizant of any limitations raised.

Summary of Findings on M/s. Auto Terminal Japan (ATJ)

- 1.11 M/s. Auto Terminal Japan (ATJ) filed a request for a review against the decision of KEBS in the Tender No: KEBS/T019/2017-2020 at the Public Procurement Administrative Review Board (PPRAB) on 17 January 2018. M/s. ATJ had also filed a petition before PPRAB for the decision of award for Tender Number KEBS/T057/2015 on 22 December 2014. These were two consecutive appeals that were rejected. In reviewing the technical proposal for the current tender, there were significant issues noted which are summarized as below:

- 1.12 Mr. Mamoru Fujie was identified as the sole Director in the confidential business questionnaire without disclosure of (i) Mr. Tetsuro Shirahama who was listed as the owner of the company with 100 percent shares, (ii) other directors for other regions including; Dr. Isaac Kalua, Mr. Wilson Mutabazi and Mr. Nithul Lakshmanan. This was noted to be a serious offence if a bidder provided false information on the confidential business questionnaire. Therefore, M/s. ATJ should have been subjected to the proceedings having committed the offence of not providing accurate or conflicting information on the confidential business questionnaire.
- 1.13 M/s. ATJ listed capacity of sixteen (16) inspection lines stationed in twelve (12) inspection centers. The special audit sampled; Tokyo-Bay Main Office in Kisarazu, Tokai and Nagoya Branch Office. The Tokyo-Bay Main Office based in Kisarazu had been leased through an agreement with Kisarazu Comprehensive Home Sale Commerce Housing Complex Cooperative Association for the purpose to provide inspections services using its inspection facilities for Roadworthiness Inspection for export of used motor vehicles. This contradicted the information provided in the technical proposal that the facility actually belonged to M/s. ATJ as the agreement mentioned the facility and equipment was fully leased from Kisarazu Comprehensive Home Sale Commerce Housing Complex Cooperative Association. Further analysis revealed a similar arrangement with Kobe City Government agreement signed on 1 August 2011 where the facility was also leased by M/s. ATJ.
- 1.14 The ATJ Tokai Office was on a large parcel of land with other on-going logistics operations including clearing and forwarding agents. With this parcel of land being owned by M/s. ATJ, it cast doubt on their involvement with only Road Worthiness Inspection of used motor vehicles for export. Further scrutiny showed that they attachment evidence of purchase of a parcel of land approximately 20,000 square meters at JPY555,000,000 (USD5Million), which was not ordinary for an inspection service company. A visit to the Nagoya inspection facility also revealed no activity and a dilapidated structure that had seemingly been idle with no staff presence. While these had been noted to be an owned inspection center, the facility did not exhibit a state-of-the-art testing equipment as alleged in the technical proposal of the tenderer. With the level of dilapidation, it was difficult to identify the serial numbers of the equipment or confirm if the testing equipment had been calibrated.

- 1.15 M/s. ATJ had separate lease agreements with M/s. Flash rise Co, LTD, M/s. Nagase Auto Inc, M/s. Daiei Jidousya Kogyo Co Ltd, M/s. Hotta Auto Aichi Co, Ltd, M/s. Gulliver International Co, Ltd. M/s. Kojima Corporation and M/s. FWT Logistics Co, Ltd which provided that every 10th date of the month an invoice would be raised to M/s. ATJ by all these entities to confirm activity. However, there was no documentary evidence or invoices raised by these sampled companies to M/s. ATJ to validate the authenticity of the leases and inspection activity at the leased locations. This misrepresented M/s. ATJ' s technical proposal to be undertaking 1,500 and 1,380 monthly inspections in owned and partner facility respectively. Also, it was not possible or even practical to have a consistent number of inspection of motor vehicles on all centers as per the aforementioned.
- 1.16 In one occasion M/s. ATJ had indicated to have leased 2 inspection lines from M/s. Flash rise Co, LTD, the special audit however confirmed that the site had two inspection lines; one of the lines belonged to M/s. Flash Rise Ltd., and the other Line belonged another service provider, to M/s. QISJ, who were actually undertaking inspections during the time of field visit. This therefore cast doubt on the authenticity of the technical proposal by M/s. ATJ for misrepresenting to have leased two inspection facilities from M/s. Flash Rise Ltd and indicating to be undertaking inspection of up to 1,380 units per line.
- 1.17 M/s. ATJ attached a translated version of its license issued by the Japan's Ministry of Land, Infrastructure, Transport and Tourism (MLTT) which stated that M/s. ATJ was in the business of maintaining motor vehicles. Additionally, the Accreditation statements by M/s. ATJ confirmed being a recipient of the Type A accreditation which gave the company the added benefit and advantage of being able to provide diagnostic services onsite. These conflicted the sworn statements, dated 7 December 2017, which were also attached stating that the company was not conflicted. This was therefore against the tender requirement where bidders were not expected to be in a conflict of interest, for this case providing diagnostic services including repair works.
- 1.18 M/s. ATJ noted in the attached audited accounts for the past three years details relating to sales from domestic and export business. The company also disclosed had consumption tax receivable, often attributable to companies engaged in export business. The statements also disclosed accounts payable and receivable to companies like M/s. Japan Forwarding Agency Ltd. Where the relationships could not be clearly explained by M/s. ATJ management.

- 1.19 On search of company details in Japan for M/s. Japan Forwarding Agency Ltd, it was noted that Mr. Mamoru Fujie, CEO of ATJ Ltd was a director of Japan Forwarding Agency Ltd for the period from September 2013 to February 2015 which was a clear conflict of interest and this information was not disclosed to KEBS while M/s. ATJ was a service provider for the third cycle of contract between 2012 - 2015. This questions the ethos of the bidder to undertake inspection services. Further scrutiny revealed that ATJ had been granted a permit for customs clearance business effective 10th January 2007, by the Director of Yokohama Customs - Mr. Hiromichi Tanigawa for the Tokyo-Bay area, which exacerbated the potential conflict of interest as the said company could have been involved in export business.
- 1.20 M/s. ATJ didn't own any inspection centers nor had they contracted an inspection center (s) through "corporate partnerships" against the requirement for the United Kingdom where subcontracting is not allowed. This is despite M/s. ATJ having indicated to have presence in the United Kingdom. It was noted that M/s. ATJ Inspection UK Ltd was registered on 11th December 2017, registration number 11105092 with Mr. Peter Valaitis listed as the sole director and shareholder of the company. Mr. Peter Valaitis was not identified anywhere in the technical proposal and had ceased being a director of the company on the same date of its registration, and therefore there was no evidence of affiliation between these two companies. This means that as at the time of the tender submission and closer there was no company affiliated to M/s. ATJ in the United Kingdom.
- 1.21 M/s. ATJ attached a letter from an Attorney, M/s. Drake & Scoll Solicitors dated, 8th December 2017, meant to confirm the existence of M/s. ATJ Inspection UK Ltd, and its affiliation with M/s. Auto Terminal Japan. Firstly, this was not a company registration as per the requirements of the tender. Secondly, a search for the Solicitor in the United Kingdom ([find you solicitor http://solicitors.lawsociety.org.uk/](http://solicitors.lawsociety.org.uk/)) yielded no results as the firm did not exist which could mean the document was forged and thus fraudulent. Registration documents actually conflicted this affiliation and identified the agents of M/s. ATJ Inspection UK Ltd as Duport Associates Limited and not M/s. Drake & Scoll Solicitors.
- 1.22 An interview with Mr. Wilson Mutabazi - Director, ATJ Inspection UK Limited, on 13th March 2019, at a location, Clipper House, Tilbury Free Port - Tilbury, United Kingdom RM 18 7SG, which was not the address identified in the technical proposal and therefore not the Office for M/s. ATJ in the UK revealed that; there were no inspection facilities at the locations specified in

the technical proposal. Even a company identified as M/s. JLS Investment Group located at Unit 11, Industrial Complex Tilbury Port, Tilbury Essex RM18 7JB United Kingdom could not be located despite an existing agreement attached to the technical proposal, dated November 1, 2014. Field inspection noted that this same unit was being used by a different company named M/s. Dry Docks Autos. Another lease agreement with Vehicle Approval.com, dated 14th November 2014, noted to be located at Opp 4A Berth, Tilbury, Freeport Essex RM18 7EH United Kingdom revealed that no such company existed at the said location. This cast doubt on any existing relationship between Vehicle Approval.com and M/s. ATJ Japan (UK) Ltd as this was a different company, the initial company having been dissolved.

- 1.23 M/s. ATJ had also listed its Officers in the United Kingdom as Mr. Mark Bead - Test Centre Manager, Mr. Andy Burvill - Vehicle Inspections Manager, and Mr. John Williamson - without a title, whom were all employed in 2014. However, on enquiry none of the employees were available on-site. This cast doubt on the authenticity of the employees listed in the technical proposal.
- 1.24 M/s. ATJ attached a reservation name for the United Arab Emirates with no further details to demonstrate that it owns any inspection centers nor had they contracted an inspection center (s) through "corporate partnerships" against the requirement for the UAE where subcontracting is not allowed. This is despite ATJ having indicated in their proposal to own an inspection centers in the UAE which could not be verified. There was an existing lease document as evidence of existing operations within the United Arab Emirates. The lease documents dated 27th May 2014 was actually signed between M/s. Green Coast Real Estate and M/s. Pal Auto Garage and signed on 1st June 2014, although it did not demonstrate any relationship with M/s. ATJ. This therefore cast doubt on the physical presence of M/s. ATJ in the UAE. While M/s. ATJ also listed Mr. Nithul Lakshmanan as a director for ATJ Auto Service, it was noted he was an employee of M/s. PAL Auto Garage (PAL).
- 1.25 Therefore, there was no company existing in the UAE prior to the submission of the technical proposal. The attached documents related to a trade name reservation certificate which indicated this was still work-in-progress to have a company set up in the UAE for purposes of the tender. The certificate of incorporation had not been issued as at the time of field work on 5th March 2019 despite the trade name reservation certificate having been issued on 28th November 2017, with a reservation of M/s. ATJ Auto Services. These all conflicted the sworn statement dated 11th December 2017, by the MD of M/s.

ATJ indicating that they had submitted an original registration of M/s. ATJ Auto Service. The tradenames business activity was identified as car registration and transfer services.

- 1.26 PAL Auto Garage (PAL) operations includes; mechanical works, computerized vehicle fault diagnosis, regular maintenance works, chassis repairs, dent repairing and painting, wheel alignment and balancing among others. This was also confirmed on the company brochures that it actually deals with motor vehicle repairs and would therefore be in conflict if they were to engage in motor vehicle inspection against the requirements of the tender. Therefore, a service contract provided to demonstrate the relationship between PAL and ATJ being specific to inspection services was against the tender requirements and had expired on 30th April 2017 and therefore could not be used as evidence of an existing relationship for purposes of the special audit.
- 1.27 M/s. ATJ Ltd. attached in its proposal a signed sale agreement purporting to have bought the testing equipment from PAL Auto Garage; Testing lane, headlight tester, emission testers for petrol and diesel respectively, brake tester, side slips, and shock absorber. This was confirmed to be false as audit inspection and discussions with Mr. Nitsul Lakshman, Manager of PAL Auto Garage revealed that the above equipment is still owned by M/s. PAL Auto Garage and motor vehicle services is being carried out Pal Auto Garage employees. Further, there was no evidence of payment for the equipment.
- 1.28 M/s. ATJ therefore failed to meet the threshold of the tender for Kenya as they didn't have any physical and technological infrastructure required to satisfactorily perform services required under this tender in the United Kingdom, Japan and United Arab Emirates. It further had gross misrepresentation on its technical proposal and should therefore be subjected to the proceedings of law as they contravened Section 41 (1) (h) of the Public Procurement and Disposals Act, 2015, and in such events recommend that it would be appropriate for relevant institutions to initiate debarment proceedings against such bidder(s). They contravened the ethos of their sworn statement by the Managing Director that the company or its associated companies is not associated with any business that may lead to a conflict of interest, and that the tenderer has given full disclosure of its directors and associated companies. This questioned the overall authenticity and validity of the documents attached as part of the technical proposals and indicated a serious red flag on the credibility of M/s. ATJ as a company.

Summary of Findings on M/s. EAA Company Limited

- 1.29 M/s. EAA Company Limited (EAA) is privately owned company incorporated on 6 July 2007 in Japan, with a registration number 0210-01-029586. The CEO/President and sole shareholder of the company was Mr. Guku Prosper Japhet. The company names changed on 27 October 2017 from East Africa Automobile Services Company Limited to EAA Company Limited in an effort to rebrand to get business out of the East African Community as per management. Prior to the name change EAA undertook inspection services for motor vehicles to Uganda, Tanzania and Zanzibar. Subsequent to the name change, EAA does inspection business in Zambia, Mauritius, and is also the only Service Provider for inspection of motor vehicle to the Bahamas. The Director also registered a name change from Mr. Guku Prosper Japhet to Mr. Sugai Prosper, which was noted to be customary when one becomes a Japanese citizen.
- 1.30 M/s. EAA listed having (17) inspection centers in Japan in its technical proposal and a receipt as evidence of purchasing 17 inspection facilities/equipment. However, the company only provided eight lease agreements as part of the technical proposal which could not demonstrate how the 17 inspection facilities/equipment purported to have been purchased were distributed to the twelve (12) inspection centers considering there were only eight leases. The special audit team sampled and visited Nagoya Yokohama and Kisarazu.
- 1.31 In the Nagoya Region, where M/s. EAA had indicated to own an inspection facility, EAA management opted to have the team visit a leased facility from M/s. Flash Rise Limited. The lease agreement provided in the tender documents was for an existing relationship between M/s. EAA and M/s. Runglobal Co. Limited (Nagoya) instead of M/s. Flash Rise Limited. The inspection further revealed no activity by EAA and EAA Senior Management could not identify the facility they purported to have leased. It was noted that one of the inspection lines actually belonged to QISJ Inc., who was actually undertaking real-time inspection at the time of our visit on 1st March 2019. The was no presence of EAA staff noted.
- 1.32 The special audit team also sampled and engaged one of the agents According to the list of leased contracts, M/s. ECL Agency Ltd. M/s. ECL Agency Ltd. actually disowned the EAA leases presented by the special audit team for verification. M/s. ECL confirmed that they do not have any lease agreements with M/s. EAA. Furthermore, ECL confirmed EAA uses the staff of ECL to perform inspection service for other countries. This scenario exacerbated

the doubt as to whether M/s. EAA really does inspections by itself or sub-contracts using other service providers staff.

1.33 M/s. EAA had no listing of staff assigned in Kisarazu, Kawasaki, Kitakyushu and Moji. The special audit noted there were no staff assigned to any of these regions and management noted that all the technical staff were on contract and were only on boarded when there were inspection services needed for those regions. It therefore cast doubt as to the staff capacity and equally all the accreditation attached for the key staff could not be validated as no originals/notarized copies were provided to prove the qualifications, and thus their competency.

1.34 Interviews with senior management of EAA confirmed that their Accreditation of ISO 17020:2012 was once cancelled by JAB effective 27th November 2014, for reason which management of EAA could not disclose. The special audit however noted that their accreditation certificate was reinstated on 9th November 2016 and was valid until 31st July 2020. A search on the authenticity of the documents under the JAB website under <https://www.jab.or.jp/en/system/iso/search/> yielded no results.

1.35 The special audit also noted for potential conflict of interest between M/s. Rosper International Co. Ltd and M/s. EAA through common directorship. In an interview with Mr. Prosper Sugai, the CEO of EAA, confirmed he was not aware of the said company nor having been involved as a director. However, a search of company records in Japan actually confirmed that Mr. Prosper Sugai was the owner of Rosper International Co. Ltd. for the period from 18th November 2002 to 18th August 2014. The objectives of M/s. Rosper International Co. Ltd was listed among others as:

- Purchase and sale and export of used cars, used motorcycles, used car parts, used compressors, used crane trucks, etc;
- Purchase and sale and export of used items; and
- Importing and sales of beauty devices and cosmetic items.

This was a clear conflict of interest and information that was concealed to KEBS when the EAA was tendering for the past and current tender.

1.36 In the United Kingdom, EAA had a company by the identification EAA CO LTD LIMITED, registration number 10341831, originally registered on 23 August 2016 as a private company limited by shares. The shareholders were; Mr. Prosper Sugai (80 percent) and Mr. Seth Nguku (20 per cent). It later changed its name to EAA Automobile Ltd, effective 1st September 2016. Effectively,

7th November 2016, barely two months after registration, Mr. Prosper Sugai transferred his shares to Mr. Seth Nguku who eventually became the sole shareholder of the UK Company named EAA Automobile Ltd with 100 per cent shareholding, on the same date, Mr. Prosper Sugai ceased to be a director of the company. This means the company was officially a standalone with no affiliation with M/s. EAA Company Limited by either common directorship or even shareholding a fact that was also misrepresented in the technical proposal as it highlighted that the EAA Automobile Ltd was a branch.

- 1.37 It was noted that EAA does not own any inspection centers against a required one (1) owned inspection center for United Kingdom, this is despite having indicated in their proposal to have leased (2) inspection facilities at Woodhouse MOT 96A, London and Unit Tilbury Industrial, Freeport Tilbury, Essex, England RM18 7HB, in the United Kingdom, which were not verifiable. EAA also attached a lease deed dated 1 May 2014, which seemed forged as there was no presence of EAA in the United Kingdom at the time of audit. The Port Manager of Tilbury Mr. Cox Laurence confirmed that the Company was not a tenant in any of the identified premises or facilities as indicated on the technical proposal via telecom. Therefore, this cast doubt on any existing relationship or business in the United Kingdom.
- 1.38 It was also noted that as part of the technical proposal's, a document indicating EAA had leased Office Space in Tilbury port dated 19th August 2014, could not be verified or authenticated by the Port Manager of Tilbury Mr. Cox Laurence. The deed was signed by Mr. Christopher Boniface Lukosi. On enquiry the special audit team was informed that Mr. Christopher Boniface Lukosi was a director in both EAA and a company called Serengeti Global Services. The yard and brand at the Offices of Serengeti indicated they were involved in Sea and Coast Services.
- 1.39 In an interview with Mr. Prosper Sugai and Mr. Lee Sayer, it was confirmed that a visit to any of the purported Inspection Centers was not necessary on revelation that such facility did not exist because there was no reason to retain the centers when there was no business. A request to also visit any of the purported partners of M/s. EAA was also not granted either. This confirmed that even the listed employees; one Manager Supervisor, 3 Supervisors and 6 Inspectors stationed within the United Kingdom was misrepresented by EAA in its technical proposal.
- 1.40 EAA Offices in UAE was supported by an attachment relating to a registration document to justify it does business within the Free Zone Area, Sharjah

Media City which had no relationship with the tender prerequisites as per the tender requirements where bidders were required to be legally registered and licensed to perform the service, and confirm if they owned inspections centers against the set criteria for UAE where subcontracting is not allowed. Mr. Prosper Sugai, Director, EAA Company Ltd and an EAA UAE representative Mr. Rashid Abeid Suba who was not identified anywhere in the technical proposal hosted the team at location named Jabal Kilimanjaro Auto Elec. Mech.

- 1.41 Mr. Rashid Abeid Suba was actually the owner of M/s. Jabal Kilimanjaro Auto Elec. Mech., and is also a current Pre-Export Verifying Agent for Tanzania (TBS). TBS requirement for Pre-Export Verifying are done independently and in zones and therefore there could not have been an existing relation between M/s. Jabal Kilimanjaro Auto Elec. Mech. and M/s. EAA for purposes of this bid and being cognizant of the requirements of TBS for service providers of inspections.
- 1.42 EAA Company Ltd, provided a document which could not be verified as it purported to indicated that EAA bought the inspection facility in UAE in 2014, from M/s. Jabal Kilimanjaro Auto Elec. Mech. and entered into agreement with Mr. Rashid Abeid Suba to guide their operations, an allegation that Mr. Rashid Abeid Suba could not confirm as he owns the facility and uses it to service another contract for Tanzania.
- 1.43 M/s. EAA did not provide documentation to demonstrate its legality and presence in South Africa and Thailand.
- 1.44 The special audit also noted a due diligence report dated 9th January 2015 by KEBS which highlighted important findings worth noting in this special audit report as follows:
 - The bidder, East African Automobile Services Limited (EAAS) had its ISO 17020 accreditation status in Japan suspended and therefore not valid as per the governing conditions of the Japan Accreditation Board (JAB). The same company had attached a professional license for a different company called Jabal Kilimanjaro Auto. Elec. Mech in the UAE;
 - In the United Kingdom, it did not exist in the physical address it had provided in the bid documents as the premises, 16D Tilbury Forth Port, was found to be for Serengeti Global Services which was a sea and coastal freight company;
 - EAAS had also forged its registration documents depicting it was registered in 2013 instead of 2014, which was a forgery; and

- This team reported that the company M/s. EAAS Limited lacked the requisite infrastructure in the UK and UAE, and that the company had presented forged and falsified documents in their bidding which enabled them to erroneously attain the minimum technical score for advancement to the financial evaluation stage. The team recommended disqualification from the procurement process and debarment from any such similar exercises by KEBS.

1.45 It is therefore apparent that the company, EAA has been knowingly providing falsified documents in the past and continued to do so in present tender submissions, and thus failed to meet the threshold of the tender for misrepresentation and not having the required physical and technological infrastructure required to satisfactorily perform services required under this tender in the United Kingdom, Japan, United Arab Emirates South Africa or Thailand. Because of the gross misrepresentation on its technical proposal it should therefore be subjected to the proceedings of the law as they contravened Section 41 (1) (h) of the Public Procurement and Disposals Act, 2015, and in such events recommend that it would be appropriate for relevant institutions to initiate debarment proceedings against such bidder(s). Further, they contravened the ethos of the sworn statement by the Managing Director as M/s. EAA had sworn a statement that the company or its associated companies was not associated with any business that may lead to a conflict of interest, and that the tenderer has given full disclosure of its directors and associated companies. This questioned the authenticity and the veracity of the documents attached as part of the technical proposals and indicated a serious red flag on the credibility of M/s. EAA as a company.

Summary of Findings on M/s. Quality Inspection Services Inc. Japan (QISJ)

1.46 QISJ had earlier been an interested party to a petition by M/s. ATJ, and they filed an affidavit in response to the application by M/s. ATJ to the Public Procurement Administrative Review Board (PPRAB) on the decision of KEBS dated 10th January 2018, referenced Application No.14 of 2018. On 6th February 2018, the PPARB heard the appeal in the presence of representatives from both the applicant, KEBS and interested parties and the Board noted that M/s. ATJ did not comply with several requirements of the tender document and consequently dismissed it and advised KEBS to proceed with the procurement process to its logical conclusion. Earlier on, QISJ had also been an interest party of another petition filed against KEBS for the Tender No. KEBS/T057/2014-2015. Again, the PPARB, on 28th January 2015 in its wisdom made several orders in respect of application No.55/2014,

No.56/2014 and No.59/2014 in respect to the provisions of Section 98 of the Public Procurement and Disposal Act (2005).

- 1.47 The Public Investments Committee (PIC) drawing its mandate from Standing Order No. 206 (6) had also previously made a resolution and commenced an inquiry into the award of KEBS Tender No. KEBS/T057/2014-2015 for provision of pre-export inspection services to QISJ based on the decision by KEBS to award to QISJ a contract of used motor vehicle inspection services for a period of 36 months. The PIC requested the Office of the Auditor-General (OAG) to undertake a special forensic audit on the aforementioned tender. The audit was carried out to its conclusion pursuant to the request from the Clerk of the National Assembly on behalf of the PIC as per Article 229 of the Constitution, and the findings of the Auditor-General were laid on the table of the House on 11th February, 2016.
- 1.48 The special audit report noted that the winning bidder QISJ was capable of handling the contract as required by KEBS standard No KS 1515:2000 code of practice, and further recommended that KEBS should ensure that contracted company(s) have a long term commitment to inspection and keep off speculative bidders, and this was achievable by setting minimum requirements for full ownership of inspection facilities by the inspection companies based on number of vehicles coming from those country. The audit even recommended in details that the inspection company should fully own at least fifteen (15) facilities in Japan, three (3) in the United Kingdom and one in United Arab Emirates, distributed at major ports and towns. Leases in these towns should only be allowed to supplement fully owned facilities and that KEBS should be keen to properly evaluate ownership of these facilities.
- 1.49 QISJ were also a subject of due diligence review by KEBS management/various committees. In 2016 and 2018 KEBS teams were sent to Japan, United Kingdom and United Arab Emirates to carry out due diligence to verify and validate documentary evidence, infrastructural, technical and managerial competence of QISJ to provide service as per the Kenya Standard KS 1515:2000 code of practice. A report dated 9th January 2015 was issued by the due diligence team of six members who were involved in the exercise recommending that KEBS enter into contractual agreement with QISJ. The team was satisfied that the company had the requisite capacity to provide the service as per the Kenya Standard KS 1515:2000. The team established that QISJ is a legal entity with an adequate presence in all the key regions required, and with sufficient preparedness in terms of human, infrastructural

and technical capacity to provide the services outlined in the RFP for the Tender No. KEBS/T057/2014-2015.

1.50 A recent report named; Supplier's Surveillance Audit Report on QISJ conducted between 13th and 20th February 2019 performed in line with the provisions of the contract also concluded that:

- QISJ had systems in place to perform the roadworthiness inspection of used motor vehicles, machineries and used spare parts which met the requirements of KS1515:2000 and KS2190:2013;
- QISJ had met all the required timelines stipulated in the contract in issuance of Certificate of Compliance (CoC)/Non-Conformity Reports (NCR) and remittance of reports; and
- That the visited inspection centers were found to have all the equipment specified in the standard and were up to date in their calibration status.

1.51 The aforementioned findings notwithstanding, the special audit team focused its independent review on the tender documents versus the evidence by the bidders to corroborate the physical and technological infrastructure required to satisfactorily perform services required under this tender in Japan, United Kingdom and United Arab Emirates where subcontracting is not allowed, and South Africa where subcontracting is allowed and noted the following:

1.52 M/s. Quality Inspection Services Inc. Japan was incorporated in Japan on 22nd July 2009. The Company's Head Office and physical address in Japan at the time of registration was 1-18-12 Komaoka, Tsurumi, Yokohama. The sole shareholder of the Company is the Managing Director - Mr. Kiyooki Hatano. The Company moved in March 2011 to its current Headquarters which is based on the 6th Floor at YCC 1608, 22 Daikoku Fotou, Tsurumi, Yokohama, Japan and has a registration number 0200-010062427 which corresponded with the registration document submitted for the tender under review. The special audit also reviewed the latest lease document and records of recent rent payments to confirm they had been occupying the premises.

1.53 QISJ has a total of 20 inspection centers (11 owned facilities and 9 leased). However, the special audit noted that QISJ had only submitted a listing of fifteen (15) inspection centers for purposes of the tender. These inspection centers were noted to be spread around the four provinces of Japan; Kanto, Kansai, Kyusu and Chubu and they were all positioned near ports of export of Yokohama, Hitachinaka, Kobe, Nagoya, Kisarazu, KitaKyusu and Osaka. To validate these, the review focused on the documentation to verify the

existence and to prove the presence of the said inspection centers that were either owned or leased by QISJ in Japan. Assurance was obtained from receipts and invoices of the on-going rental payment and fees for the leased premises. The team confirmed using a tailored checklist that the sampled machines were performing the activities as required under KS 1515:2000 and the equipment were modern and had valid calibration status. The facilities were also branded QISJ for ease of identification. The sampled and visited inspection center were located in the following:

- Kawasaki, at the address; 80HiagashiOgishima, Kawasaki-ku, Kawasaki-shi, Kanagawa. The Machine was verified to have been bought from a company named M/s. Banzai and the invoice and calibration was verified. There was evidence of monthly payment to the leased land.
- Nagoya, at the address, 5-8 Nishi Suehiro, Yatomi-shi, Aichi the audit noted that the land was leased from M/s. Flash Rise and the inspection facility was also bought from M/s. Flash Rise. This was verified with the receipt for payment of the lease and equipment and monthly payment of the commissions due.

1.54 QISJ had also invested on an IT infrastructure platform for efficiency. The team undertook a walkthrough of the system and experienced a live demonstration of how to on board new clients, make requests for inspection, tracking progress of inspection real-time. QISJs' platform is interfaced with a Japanese government database to corroborate on the vehicles year of manufacture. This was complemented by a risk management procedure that QISJ adhered to in terms of documentation, manuals, procedures and processes to be followed to mitigate against fraudulent practices. The IT platform was also noted to be interfaced with the Procuring Entity (KEBS) for real time monitoring on the activities the service provider is undertaking.

1.55 Enquiry on potential conflict of interest between JANS Trading and QISJ as had been previously reported in PIC report to parliament dated 22nd November 2016. The special audit noted there was no relationship between Jan's Trading Co. Ltd and Quality Inspection Services Inc. Japan (QISJ). It was noted that the Directors of the Jan's Trading Co. Ltd were Mr. Umar H. Jan and Mr. Yassin Jan who are brothers. They are of Pakistani origin doing business in Japan. The special audit confirmed that that current Managing Director of QISJ Mr. Kiyooki Hatano was a former employee of Jan's Trading Co. Ltd up until 2009. Mr. Kiyooki Hatano, later formed QISJ to undertake pre-export inspections services of used motor vehicles for export. The

special audit therefore noted no conflict of interest between Jan's Trading Co. Ltd and Quality Inspection Services Inc. Japan (QISJ).

- 1.56 M/s. Quality Inspections Services Japan Limited was registered as a private limited Company in United Kingdom on 21st February 2012, and as a subsidiary of the parent company in Japan. The company registration number was 7957279. The company was subsequently changed to be a branch of the headquarters and was renamed to M/s. Quality Inspection Services Inc Japan UK Branch Limited with a registration number 10651781. M/s. QISJ UK Branch Ltd reported to owns two (2) inspection centers/facility in Edmonton and Tilbury and also had leased other facilities which are approved by Ministry of Transport and Communications. The special audit performed an inspection and noted the machines were performing the activities as required under KS 1515:2000 and all the equipment were modern and had valid calibration status. The facilities were also branded QISJ for ease of identification.
- 1.57 QISJ UK branch had staff at the inspection center in Tilbury, United Kingdom. The technical proposal presented indicated a total of three (3) senior members of staff who were present during our visit on 11th March 2019. The audit also noted two inspectors performing inspection services, all whom demonstrated competency and capacity to offer inspection services based on their resume and years of experience working with QISJ in the United Kingdom.
- 1.58 In the UAE, QISJ had leased a warehouse in RAS Al Khor, alAwir Industrial 3, Dubai from Mr. Essa Al Kous for the purpose of vehicle inspection. There was evidence of QISJ operations at the said facility and this was further corroborated with the existing lease agreement, and records of rent payments to the landlord. It was noted that company has both the Registration Renewal Certificate for the Branch of Foreign Facility No. 4157 valid from 20th March 2013 to 19th March 2020 and professional license No. 684010 valid from 21st February 2013 for surveying and evaluating services. These license are required for companies to conduct inspection services in the UAE.
- 1.59 To support ownership of the equipment, the audit team reviewed invoice No. 1577 dated 3rd March 2013 from M/s. Jaffer Moh'd Ali Garage to support the purchase of a full set of used motor vehicle testing equipment namely; Hydraulic jacks/ pit, slid slip tester/wheel alignment tester, brake tester, speedometer tester, exhaust proximity noise tester, headlight tester, Exhaust gas tester for petrol engines and diesel engines and tape measure.

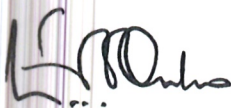
The audit team met with the staff including the Chief Inspector Mr. Rommel, who took the audit team through the process of inspection for both motor vehicle at the inspection centre and used spare parts at the yards in Sharja - UAE. The team noted that QISJ has on record four (4) qualified technical staff.

- 1.60 In South Africa, M/s. QISJ had subcontracted M/s. International Conformity Assessment Solutions (PTY) Ltd. (ICAS) as its liaison office and M/s. DEKRA Ltd as a testing station to manage the roadworthy inspections of motor vehicles. Field inspection on 28 February 2019 by the special audit team confirmed that M/s. DEKRA Ltd is located at 97, Wilem Cruywagen Avenue, Klrsoord, Rosslyn Pretoria. The company has six technical staff who carry out the vehicle testing. Further the team confirmed that DEKRA Ltd owns all the testing equipment listed in the tender documents namely; Hydraulic jacks/pit, slid slip tester/wheel alignment tester, brake tester, speedometer tester, exhaust proximity noise tester, headlight tester, exhaust gas tester for petrol engines and diesel engines and tape measure.
- 1.61 The special audit thus concluded that M/s. QISJ had demonstrated capacity to deliver one the current contract as it had delivered on its past contracts with KEBS. QISJ was noted to have the required physical and technological infrastructure, and the right capacity and competency of staff to satisfactorily perform services required under this tender in Japan, United Kingdom, United Arab Emirates, and South Africa where sub-contracting is allowed. Further, there had not been any recorded complains levelled against QISJ in the past contracts by the contractor KEBS. A similar conclusion was reached in a recent due diligence surveillance audit report by KEBS' report dated 20th February 2019.

RECOMMENDATIONS

1.62 Based on the aforementioned findings and conclusion, the special audit therefore recommends the following:

- The Procurement Entity - KEBS, should put in place control mechanisms to deter and detect the use of falsified documents by bidding companies and speculative bidders. Furthermore, the Procurement Entity - KEBS together with relevant state institutions should ensure that these aforementioned companies M/s. Autoterminal Japan Ltd. and EAA Company Limited and any future bidding company that provide falsified documentation or misrepresented themselves, be subjected to the proceedings of the law as they have contravened Section 41 (1) (h) of the Public Procurement and Disposals Act, 2015, and in such events recommend that it would be appropriate to initiate debarment proceedings to serve as an example of deterring such practices by speculative bidders in the public procurement arena; and
- The Procurement Entity - KEBS, should structure its due diligence processes for bids and bidders to commence at the start of the evaluation by having special teams perusing through the documents thoroughly to ensure the bidders demonstrate with evidence their capability to service any tender. Further, the Procurement Entity - KEBS, should enforce the requirement that the awarded company, currently Quality Inspection Services Inc. Japan transfer the knowledge and technology of inspections services to ensure sustainability and improve on local content since it is already provided for in the contractual arrangements with such companies.



FCPA EDWARD R. O. OUKO, CBS
AUDITOR - GENERAL

10 July 2019

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2 INTRODUCTION

2.1 What Governed and Triggered the Special Audit?

- 2.1.1 Article 252 Section 1(a) and (d) of the Constitution of Kenya mandates the Auditor-General to carry out investigations on financial mis/management in the public sector. The investigation could either be undertaken as a reactive special audit resulting from written requests to the Auditor-General when fraud has occurred, or a proactive special audit which involves the analysis of probable risks in an entity's operations that may lead to occurrence of fraud.
- 2.1.2 The purpose of such a special audit is to identify the weakness and identify culpability at both the individual level and/or institutional level or even third parties involved with a public institution, and suggest preventive mechanism that may deter and prevent the re/occurrence of fraud. Article 229(6) of the Constitution of Kenya also requires the Auditor-General to confirm and report to the public whether public funds were used in a lawful and effective manner.
- 2.1.3 Section 38 of the Public Audit Act, 2015, requires the Auditor-General to examine the public procurement and asset disposal processes of a state organ(s) or a public entity(s) with a view to confirm as to whether procurement is done lawfully and in an effective way. Additionally, Section 34 of the Public Audit Act, 2015 also mandates the Auditor-General at his own initiative to conduct periodic audits which shall be proactive, preventive, and deterrent to fraud and corrupt practices, systemic and shall be determined with a view to evaluating the effectiveness of risk management, control and governance processes in state organ(s) or a public entity(s).
- 2.1.4 Based on public interest and on his own initiative, the Auditor-General conducted a special audit at Kenya Bureau of Standards (KEBS). The special audit scoped the work into two phases; Phase 1, which is a subject of this special audit report focused on the procurement of Pre-Export Verification of Conformity (PVOC) to Standards Services - For used Motor Vehicles, Mobile Equipment and Used Spare Parts by KEBS - Tender Number: KEBS/T019/2017-2020. This special audit also serves as a follow-up on the previous tender and special audit report and incorporates stakeholders and parliamentary interests on the recent happenings at KEBS, which also led to the suspension of the MD of KEBS.

2.1.5 The Auditor-General has scheduled to review the Pre-Export Verification of Conformity (PVOC) to Standards Services - For General Goods under Phase 2 in the next financial year 2019/2020.

2.2 Background Information about KEBS and the Criteria

2.2.1 Kenya Bureau of Standards (KEBS) is a government agency responsible for governing and maintaining the standards and practices of metrology in Kenya. It was established by an Act of Parliament; *the Standard Act*, Chapter 496 of the Laws of Kenya. KEBS started its operations in July 1974. Its Head Office is in Nairobi, and has Regional Offices throughout Kenya. It was mandated by the Standards Act, Chapter 496 of the Laws of Kenya to provide Standards, Metrology and Conformity Assessment (SMCA) Services.

2.2.2 KEBS developed a code of practice, the Kenya Standard Code of Practice for Inspection of Road Vehicle (KS 1515:2000), for inspection of road vehicles that specify general, safety and environmental requirements. The standard applies to both used and new motor vehicles, which include motorbikes, cars, vans, buses and truck of all sizes. Inspection of imported vehicles in Kenya thus began pursuant to a Legal Notice No. 78 of 15 July 2005. It provides a list of products to be inspected.

2.2.3 KS 1515:2000 required that the inspection be carried out by an authorized government body which is KEBS before importation. KEBS then introduced the Pre-Export Verification of Conformity (PVOC) to meet these standards on imported vehicles which required these vehicles to be accompanied by a certificate of road worthiness from the exporting country. The road vehicles were to be inspected in inspection centers approved by relevant authorities and equipment used in inspection centers were to be certified by an authorized authority.

2.2.4 KS 1515:2000 critical parameters include:

- The age limit shall be less than 8 years from the year of first registration;
- The difference between the date of manufacture and the date of first registration shall be not more than one year;
- The drive shall be Right Hand Drive-(RHD);
- Road-Worthiness shall be determined by compliance to requirements specified in the standard; and
- Prohibition of modified vehicles; It is imperative that all used vehicles undergo inspection and verification to detect any major modification e.g. LHD to RHD.

2.3 Pre-Export Verification of Conformity (PVOC) to Standards Services.

- 2.3.1 PVOC program was started on 29th September 2005 by KEBS, through the publication of Legal Notice No. 78 of 15th July, 2005 by the Minister for Trade and Industry. It is a Conformity Assessment Program applied to products at the respective exporting countries, to ensure their compliance with the applicable Kenyan Technical Regulations and Mandatory Standards or approved specifications. The PVOC program is operated by a qualified third party inspection company(s) on behalf of KEBS in the trade regions in the world.
- 2.3.2 These conformity assessment procedures are used to verify that Used Motor Vehicles exported to Kenya are in compliance with the KS 1515:2000 before shipment from Japan, United Kingdom United Arab Emirates, South Africa and Thailand as used motor vehicles are mainly imported from these countries. Statistically, by 2018 Japan provided nearly ninety five (95) per cent of the imported vehicles in Kenya. KEBS has no capacity to undertake this exercise not only in Japan but other enlisted countries, hence it contracts qualified third party inspection company(s) with presence in these countries to undertake the exercise on its behalf. A royalty payment is made to KEBS for this service.
- 2.3.3 The volume and activities of imports for used Motor-vehicles from these top five countries are analyzed as per the table below, for FY 2017/2018:

Table 1: PVOC Countries

	Name of country/ region	Units inspected
1.	Japan	82,975
2.	United Kingdom	3,158
3.	United Arab Emirates	794
4.	South Africa	327
5.	Thailand	314
	Total	87,568

Source: OAG Analysis of KEBS data.

- 2.3.4 Since the Legal Notice No. 78 of 15th July 2005 became effective, and the introduction of PVOC on Used Motor Vehicle, KEBS has awarded five cycle of contracts for the conformity assessment procedures. The service provider(s) is identified after a procurement processes by the procuring entity and the winning bidder is awarded a contract for a period of three (3) years. The Service Provider for such a contract is therefore required to have presence in Japan, United Arab Emirates (UAE), United Kingdom (UK), and may sub-contract in other areas like South Africa, Thailand, and other jurisdictions.

- 2.3.5 Phase 1, which is a subject of this special audit report noted there were five cycle of contracts, and the following service providers have been contracted by KEBS as shown in table 2 below:

Table 2: Chorology of the PVoC on Used Motor Vehicles

Cycle	Name of Company (s)	Period
1	JAAI	2005 to 2008
2	JEVIC	2009 to 2011
3	JEVIC, QISJ and ATJ	2012 to 2015
4	QISJ	2015 to 2018
5	QISJ	2018 to 2021

Source: OAG Analysis

- 2.3.6 The special audit noted that four out of the five contracts were performed by one Service Provider, and for the only cycle (2012 to 2015), where three Service Providers were awarded a contract, one of the service provider was actually terminated. The provider M/s. JEVIC was accused of permitting radioactive contaminated and overage vehicles into the country when a high radioactive reading was found to be coming from a container with four second hand vehicles at the Port of Mombasa.
- 2.3.7 In a letter dated 14th June 2016, JEVIC admitted that it inspected some of the vehicles with extremely radioactive contaminations, and following complaints and investigations of letting in defective and overage vehicles into the country, against the regulations, KEBS terminated its contract with JEVIC in 21st July, 2014, see **Appendix 38**, six (6) months before the end of the contract period, and for the list of overage vehicles certified by JEVIC, see **Appendix 39**. This therefore raises significant doubts as to whether KEBS can achieve Conformity to Standards under a multiple contract regime.
- 2.3.8 The current cycle under contract is the fifth cycle, signed between KEBS and Quality Inspections Services Japan, Inc. on 3 April 2018 for a period of **three years**. The contracts' deliverables were timeliness in meeting customers' requests for vehicle inspection, procedures of handling customer complaints, inspection fees and payment of royalties to KEBS. KEBS is also required under the contract to audit the service provider to establish adherence to the provisions of the contract which was undertaken by KEBS during the period from 13th - 20th February, 2019.

2.4 Objectives of the Special Procurement Audit

- 2.4.1 The special procurement audit aimed at reviewing the entire procurement process, procedures followed and documentation by the procuring entity and

the bidders of the tender for Pre-Export Verification of Conformity (PVOC) to Standards Services - For used Motor Vehicles, Mobile Equipment and Used Spare Parts. This were reviewed for compliance against the Public Procurement and Disposals Act, 2015 and the Regulations of 2006 and 2018 to verify if the procurement for the agent was done lawfully and in an efficient and effective manner.

2.4.2 The special procurement audit also aimed to identify and report if any of the bidding companies provided any fraudulent and misleading information which contravenes Section 41 (1) (h) of the Public Procurement and Disposals Act, 2015, and in such events recommend that it would be appropriate for relevant institutions to initiate debarment proceedings against such bidder(s).

2.4.3 Additionally, the special procurement audit aimed to confirm if there were any irregularities in the tendering process and if the services procured are actually being delivered as per the terms of the contract.

2.5 Terms of References of the Special Audit

2.5.1 The special audit developed the following Terms of References to guide the special audit:

- Identify factor(s) that triggered the need for the procurement of Pre-Verification of Conformity (PVOC) Services - For used Motor Vehicles, Mobile Equipment and Used Spare Parts;
- Review the procurement process in line with PPAD, Act 2015 and Regulations of 2006 and reference to the Regulations of 2018;
- Identification of any suspicious, forged or misrepresentation on the documents used in the tendering and procurement process by any of the bidding companies;
- Review the appeals filed by bidding company(s) at the Procurement Administration Review Board, Court or Tribunals and the justifications and eventual ruling;
- Review due diligence and internal audit reports by KEBS to assess the level of performance of current and past bidders;
- Ascertain the terms of the contract and the actual existence of the services as specified in the contracts;
- Establish current performance of the service provider and total amounts paid in relation to service provided; and
- Identify and report on any irregularities and culpabilities on the above processes.

2.6 Sampling Procedures and Scope of Work

- 2.6.1 Due to time and resource constraints, the special audit sampled a total of ten (10) regional inspection centers distributed within Japan, United Kingdom, Dubai and the Republic of South Africa to form the subject of this special procurement audit. This was based on the data collected and highlighted under **table 1** which indicates the level of activities in each country. Thailand was therefore excluded from inspection on this premise.
- 2.6.2 To obtain a more accurate sample population, the exporting countries were stratified according to the number of inspection centers there-in and the number of units (volume) of motor vehicles inspected in each center as detailed in **Appendix 1**. Consequently, the inspection centers with the highest units of motor vehicles inspected were selected as follows representing 57 per cent of the total population:

Table 3: Sampling procedures and Sample Size for the period under review

No.	Country	Inspection Centers	Units Inspected
1	Japan	Kisarazu, Nagoya and Yokohama	45,613
2	United Kingdom	Tilbury	3,158
3	United Arab Emirates	Dubai	372
4	Republic of South Africa	Johannesburg	129
Total			49,272

Source: OAG Sample Size Analysis

2.7 Source of Information and Audit Procedures:

- 2.7.1 The special procurement audit team obtained information based on the following audit procedures:
- Document examination: several documents were reviewed in the course of the special audit. These included procurement records, contracts and correspondences.
 - Data analysis: Procurement and expenditure transactions.
 - Inspection: site visits and inspection in select regions.
 - Interviews and meetings: The table below details Officers interviewed during the special audit identified depending on the role they played.

Table 4: Persons Interviewed during Field Work

	Name of Officer	Designation
1	Mr. Bernard Nguyo	Ag. Managing Director - KEBS
2	Mr. Adan Muhammed	Director Finance & Strategy - KEBS
3	Dr. John Ngeno	Head of Procurement - KEBS
4	Mr. Andrew Maiyo	Head of Planning & Strategy - KEBS
5	Mr. Birgen Rono	Ag. QA Chief Manager - KEBS
6	Ms. Luise Rasanga	Head of Legal Department - KEBS
7	Ms. Anne Wanjala	Head of Accounts - KEBS
8	Ms. Phoebe Gituku	Corporate Comm. Manager & PA/MD - KEBS
9	Mr. Augustine Wachira	Deputy Regional Manager Coast - KEBS
10	Mr. Musa Saleri	Officer In Charge of Kilindini Port - KEBS
11	Mr. Patrick Kiptoo	Quality Inspector - KEBS
12	Hatano Kiyooki	Managing Director - QISJ Inc
13	Masashiro Fushiki	Technical Manager - QISJ Inc
14	Mari Iwamoto	Operations Manager - QISJ Inc
15	Michiko Atarashi	Finance & Human Resource Manager - QISJ Inc
16	Hazuki Ono	Quality Assurance Manager - QISJ Inc
17	Abubakar S. Hassan	IT Manager - QISJ Inc.
18	Hayato Sato	Chief Inspector - QISJ Inc
19	Rommell	Chief Inspector - QISJ Inc, UAE Branch
20	Said Mohamed	Branch Manager, QISJ Inc, UAE Branch
21	Jaffar Hassan	Branch Manager, QISJ Inc, UK Branch
22	Charles Karobia	Director - ICAS Pty (QISJ SA Representative)
23	Prosper Sugai	CEO/President - EAA Company Ltd.
24	Lee Sayer	Vice President/Director - EAA Company Ltd.
25	Toyohiko Hishano	General Manager - EAA Company Ltd.
26	Koichi Mizue	Technical Manager - EAA Company Ltd.
27	Yuichi Sota	Quality Manager - EAA Company Ltd.
28	Shinji Koguma	Administrative Manager - EAA Company Ltd.
29	Rashid Abeid Suba	Representative - EAA Ltd., UAE Agency
30	Mamoru Fujie	CEO/Director - ATJ
31	Isaac P. Kalua	Director, African Affairs - ATJ
32	Seiichi Funami	Technical Manager - ATJ
33	Kaori Nishida	Accounting & Admin Manager - ATJ
34	Osamu Nishihara	Sales Manager - ATJ
35	Mirane B. Nakata	Quality Management Officer - ATJ
36	Shinya Nakatsugawa	Quality Management Chief - ATJ
37	Tomoko Sakihama	Quality Management Staff - ATJ
38	Yushi Kurihara	Quality Management Staff - ATJ
39	Nikul Lakshman	Director, PAL Auto Garage
40	Wilson Mutabazi	Agent for ATJ in UK
41	Hirohito Bando	Vice President - ECL Agency Ltd.
42	Hiroki Yamamoto	Deputy General Manager - ECL Agency Ltd.
43	Toru Kobayashi	Assistant Manager - ECL Agency Ltd.
44	Kotaro Araki	Strategy Officer - ECL Agency Ltd.

Source: OAG summary of persons meet and discussed with during fieldwork

2.8 Previous Special Audit Recommendations.

- 2.8.1 To minimize unmerited litigation by losing bidders, KEBS should have a register of service providers who are pre-qualified through due diligence to ensure that only companies with required competence, experience to undertake inspection are invited to bid for future contracts.
- 2.8.2 In order to ensure contracted company, have a long term commitment to inspection and keep off speculative bidders, the Bureau should set minimum requirements for full ownership of inspection facilities by the inspections companies based on proportion of number of vehicles coming from each country. It is recommended that the inspection company should fully own at least fifteen owned facilities in Japan, three in the United Kingdom and one in United Arab Emirates distributed to major ports and towns. Leases in these towns can only be allowed to supplement fully owned facilities. KEBS should adequately evaluate ownership of these facilities.
- 2.8.3 KEBS and the inspections company should enhance present system of preventing and detecting tampering after inspection by instituting punitive measures against those exporters who have been found to have tampered with already inspected vehicles.
- 2.8.4 KEBS and its appointed inspections service provider should evaluate possibilities of signing agreements with logistics service providers in country of origin to ensure that custody of inspected vehicles is changed from exporter to the shipping company and moved to the port of exit immediately after inspection.

2.9 Limitations of the Special Audit.

- 2.9.1 The following were some of the limitations encountered during the special audit exercise. However, these limitations mentioned may not affect the results of this final special audit report:
 - It was not possible to visit all the inspection sites for all the bidders under review as they were widely scattered in the Countries. It was also not possible to visit Thailand due to internal resource constraints.

3 DETAILED FINDINGS

3.1 Project Identification and Planning

- 3.1.1 Kenya Bureau of Standards (KEBS) has in place Standard Operating Procedure (SOPs) guiding the PVOC program specifying, the agents for general goods, zones / countries of responsibility, the certification routes for general goods and respective fees charged for each certification route. Most importantly, it has guidance on inspection of used motor vehicle, mobile equipment and used spare parts, and the respective fees charged for their inspection.
- 3.1.2 The SOPs are mainly developed from the KS 1515:2000 standard codes which require that the inspection be carried out by an authorized government body before importation, and imported vehicles be accompanied by a certificate of road worthiness from the exporting country. The road vehicles are to be inspected in inspection centers approved by relevant authorities and equipment used in inspection centers were to be certified by an authorized authority.
- 3.1.3 KEBS relied on Section 4 of the Legal Notice No. 78 dated 15th July 2005, and the Standards Act. Cap 496 to appoint an agent(s) to conduct conformity assessments on its behalf under a contractual arrangement. The legal framework states that KEBS shall appoint an inspection body or bodies in the country of origin of goods to undertake conformity to Kenya Standards or approved specifications.

3.2 Project Budgeting and Financing

- 3.2.1 KEBS prepared the Annual Procurement Plan for the year 2017/2018, and was approved by its Management. In the procurement plan, tender No KEBS/T057/2017-2020 was captured as cost center 20135 detailed as, "Tender Expenses-Evaluation Outside Working Stations, Due Diligence Inspection (PVOC) and Acceptance Committee Procurement of PVOC Inspection Agency for Motor Vehicle and Goods".
- 3.2.2 The special audit noted that the PVOC program is quite broad and the total income budget for the financial year 2017/2018 was Kshs.4,903,608,060, and out of this amount a total of Kshs.1,493,088,000 was allocated to be collectable from the PVOC program. Under the PVOC program KEBS managed to collect a total of Kshs.1,493,486,045 as analyzed in the table below:

Table 5: Receipts in relation to PVOC program for the period 2017/18

S/N	PVOC Contractors	Revenue in Kshs.
Services		
1	Societe Generale De Surveillance	694,445,653
2	Bureau Veritas	125,303,838
3	Intertek International	153,481,765
4	China Certification Inspection	111,770,891
5	Cotecna SA	12,308,998
	Sub-total for Services	1,097,311,145
Used Motor Vehicles, Mobile Equipment and Spare Parts		
6	Quality Inspection Services Inc. Japan	396,174,900
	Total Receipts from PVOC Program	1,493,486,045

Source: KEBS Financial Reports

3.3 Finding on the Procurement Process

- 3.3.1 The special audit reviewed the procurement process for used motor vehicles, mobile equipment and used spare parts respectively for Phase 1 as reported under section 2 of this special audit report.

KEBS/T019/2017-2020

INTERNATIONAL TENDER FOR PROVISION OF PRE- EXPORT VERIFICATION OF CONFORMITY (PVOC) TO STANDARD SERVICES: USED MOTOR VEHICLES, MOBILE EQUIPMENT AND USED SPARE PARTS

Advertisement of the International Tender

- 3.3.2 The International Tender for provision of Pre-Export Verification of Conformity to Standard Services: Used Motor Vehicles, Mobile Equipment and Used Spare Parts was advertised in two local dailies; The Daily Nation and The East African Standard Newspapers on 21st November 2017 and on KEBS website for a period of 21 days in accordance to the PPDA Section 96(2) and 89(b). Details of the International Tender are provided under [Appendix 2](#).
- 3.3.3 Some bidders sought clarifications because of some conflicting information between the provisions of the instructions to tenderers and the provisions of the appendix to the instructions to tenderers. KEBS replied to these clarifications through an Addendum Number 1 of the Tender No. KEBS/T019/2017-2020 issued on 6th December 2017, which was 15 days after the original advertisement. Details of the Addendum is provided under [Appendix 3](#).

3.3.4 A total of six firms purchased the tender documents namely;

- Nippon Inspection Centre Corporation;
- Auto Terminal Japan;
- Quality Inspection Services Inc. Japan;
- East Africa Automobile Services (EAA) Company Limited;
- SGS Kenya Ltd; and
- JAAI Japan.

3.3.5 M/s. SGS Kenya Ltd and JAAI Japan did not return their bid documents and were therefore not considered for further processing at the preliminary evaluation. Only four firms returned their bids for consideration at the preliminary evaluation. The four firms are listed as per the table below.

Table 6: Bidders for PVOC; Used Motor vehicles, Mobile Equipment and Spare Parts

No.	Particulars	Bid Security in USD
1	Nippon Inspection Centre Corporation	200,000
2	Auto Terminal Japan (ATJ) Ltd	200,000
3	Quality Inspection Services Inc. Japan (QISJ)	200,000
4	EAA Company Limited	200,000

Source: KEBS

Opening of the International Tenders

3.3.6 The international tender for PVOC to Standard Services; Used Motor vehicles, Mobile Equipment and Used Spare Parts was closed and opened on 17th December 2017. The tender opening and processing committee had been earlier appointed by Mr. Charles Ongwae - Managing Director on 13th December 2017 as per Section 46 (1) of the PPAD Act, 2015.

3.3.7 The aforementioned committee was duly constituted and mandated to carry out a comprehensive technical and financial evaluation, due diligence and inspection for the tender in strict adherence to the compliance and evaluation criteria set out in the tender document. This said committee was chaired by Mr. Chris Kibett and its members were; Mr. Birgen Rono, Mr. Gordon Onjore, Mr. James Onyiengo, Mr. Ken Keya, Mr. Brian M'mbwanga and Ms. Rhoda Kirui.

3.3.8 Evaluation of bids was done in three stages using the criteria set out in Section 2.11.2 of the Tender Document pursuant to Section 80 (2) of the PPAD Act, 2015 as follows:

- Preliminary Evaluation;
- Technical Evaluation; and
- Financial Evaluation.

Preliminary Evaluation

3.3.9 At the preliminary evaluation the firms were checked for the following documents:

- Copy of certificate of incorporation;
- List of directors;
- Copy of passport or identification for each of the listed directors;
- Copy of current tax compliance certificate or equivalent document certified by a notary public;
- Organizational chart identifying (i) inspection management (ii) ICT services (iii) quality assurance/ risk management and (iv) monitoring of subcontractors' two firms;
- Copies, certified by a notary public of licenses issued by relevant government authority to do business in Japan, United Arab Emirates, United Kingdom;
- Copies of licenses issued by the relevant government authority issued either to tenderer or subcontractor to do business in Thailand and South Africa;
- Duly completed signed and stamped confidential business questionnaire;
- Evidence of accreditation to ISO/ IEC 17020:2012 conformity assessment - Requirements for the operation of various types of bodies performing inspection (Type A Accreditation);
- Verifiable proof of financial strength to perform the contract with minimum annual turnover of USD 10Million; and
- Sworn statement that the company has not filed for bankruptcy, that the company has not had any contract with KEBS terminated because of deficiencies, the tenderer or its associated companies is not associated with any business that may lead to a conflict of interest, and that both tenderer and its legal representatives are free of any impediment to contract with KEBS or the Government of Kenya, and that the tenderer has given full disclosure of its directors and associated companies.

3.3.10 Analysis of KEBS procurement documents revealed the following:

3.3.11 M/s. Nippon Inspection Centre Corporation, provided only certificate of incorporation and identification of the listed company's directors and was therefore disqualified at this stage of the evaluation.

3.3.12 M/s. EAA Co. Ltd. was also disqualified at this stage of the evaluation for failure to avail the following documents:

- Copy of current tax compliance certificate;
- Copies, certified by a notary public of licenses issued by relevant government authority to do business in Japan, United Arab Emirates, United Kingdom;
- Copies of licenses issued by the relevant government authority issued to the tenderer or subcontractor to do business in Thailand and South Africa;
- Verifiable proof that the company has the financial strength to perform the contract having handled roadworthiness inspection for vehicles with a minimum of annual turnover of USD 10 million for the last three years, approved audited accounts for the last three years; and
- Sworn statement that the company has not filed for bankruptcy.

3.3.13 M/s. Auto Terminal Japan and M/s. Quality Inspection Services Inc. Japan were considered responsive to all the preliminary evaluation requirements, and were therefore recommended to proceed for the technical evaluation stage.

Technical Evaluation

3.3.14 The technical evaluation stage required the bidding firms to provide the following information:

- Evidence of physical presence and technical capacity to offer inspection services (For UK, Japan and UAE, where subcontracting is not allowed, bidders were required to lease not more than 50 per cent of their required facilities i.e.; Japan - 15 Centers, United Kingdom - 2 Centers, UAE - 1 Center);
- Accreditation scope of ISO 17020:2012 for machinery, mobile equipment, used spare parts, radiation detection and covers inspection centers;
- Experience gained by providing conformity assessment services to regulatory authorities;
- Qualifications and experience of the company's personnel;
- Information communication technology resources;
- Risk management system; and
- Professional Membership.

3.3.15 Clause 2.22.1 of the tender documents required a firm to score a minimum of 70 marks out of 80 marks to be considered for the next stage of financial evaluation. Documentation provided indicated that M/s. Auto Terminal Japan only managed to score a total of 40 marks out of the possible 80 marks and was therefore disqualified.

3.3.16 Reasons for disqualification M/s. Auto Terminal Japan were itemized as follows:

- No copies of title/lease/tenancy agreement attached for inspection center certified by an attorney in UAE, Thailand and South Africa. In Japan there were 10 copies of lease agreements and 1 copy of title attached out of the 15 centers required as per clause 2.22.1 of the bid document;
- Availability of inspection equipment required to test all parameters specified in KS 1515:2000 and radiation not provided for all centers. There was no list of equipment in United Kingdom, South Africa and Thailand. In Japan there were only 4 centers with list of equipment out of 15 centers which fell below 50 per cent ownership requirement.
- No evidence of ownership of inspection equipment in United Kingdom. Attached photos of equipment in the United Kingdom but no traceability to list of centers provided. Further, there were no serial numbers, make and model as per tender requirement). In Japan there was evidence of ownership of equipment in 4 centers only;
- Attached accreditation certificate number 7558 issued by International Accreditation New Zealand (IANZ), which did not cover machinery, equipment and radiation inspection in the scope of accreditation;
- Figures provided for contracts awarded on total number of vehicles inspected for roadworthiness was below 60,000. The figures provided for New Zealand were for Biosecurity and Quarantine inspection and not roadworthiness);
- Provided evidence of 14 inspectors with Diploma in automotive engineering (or equivalent) and driving license for inspectors instead of 20 inspectors;
- Provided evidence of only 12 inspectors with a minimum of 5 years' experience instead of 20 inspectors;
- No evidence of on brief explanation supported by copies of roadworthiness inspection documents for consignments whose shipment was prevented following successful profiling in the last 3 years; and
- No evidence that the bidder is a member of a professional body/association regulating the conduct of inspection bodies (attached recommendation

letter from Japan Used Motor Vehicle Exporters Association (JUMVEA) which did not indicate any kind of regulation on the conduct of inspection bodies in its activities.

3.3.17 M/s. Quality Inspection Services Inc. Japan scored a total of 74 marks out of 80 marks at the technical evaluation, and was recommended to proceed to the financial evaluation stage. The evaluation committee further recommended that a due diligence be undertaken on M/s. Quality Inspection Services Inc. Japan in all the countries namely Japan, United Kingdom, United Arab Emirates, South Africa and Thailand to confirm the information presented in the technical proposal and any inconsistencies.

Financial Evaluation

3.3.18 The tender processing committee opened the financial bids on 22nd December 2017. In the tender form dated 8th December 2017, M/s. Quality Inspection Services Inc. Japan offered to provide provision of Pre-Export Verification of Conformity (PVOC) to Standard Services - Used Motor Vehicles, Mobile Equipment and Used Spare Parts for the sum of USD 44,903,585.

3.3.19 Further discussions revealed that the inspection fees quoted per vehicle were as follows:

Inspection of Mobile Equipment and Used Spare Parts

3.3.20 M/s. Quality Inspection Services Inc. Japan proposed to charge an inspection fee of 0.5 per cent of Free on Board (FoB) Value per shipment of mobile equipment and used spare parts subject to minimum of USD265 and a maximum of USD2700 per unit or consignment. This was the minimum against a set criteria of a maximum 0.75 per cent of Free on Board (FoB) Value per shipment of mobile equipment and used spare parts, subject to minimum of USD265 and a maximum of USD2700 per unit or consignment

Inspection of Used Road Vehicles and other Off-Road Vehicles

3.3.21 The proposed motor vehicle inspection fee in USD charged to the exporter per vehicle was as follows as provided for in the requirements for the financial evaluation:

Table 7: Proposed Inspection fees per Motor Vehicle

No.	Country/ Item	Fees charged in USD
1	Japan	155
2	United Arab Emirates	192
3	United Kingdom	225
4	Thailand	250
5	Republic of South Africa	225

Source: Financial proposal for QISJ

Royalty fees payable to KEBS

3.3.22 M/s. Quality Inspection Services Inc. Japan proposed to remit to KEBS on monthly basis royalty fees in the equivalent of 31 per cent of revenue obtained from inspection of Mobile Equipment and Used Spare Parts, and USD45 for each Used Motor Vehicle inspected. This was against a set criteria of royalty fees minimum of 31 per cent of revenue obtained from inspection of Mobile Equipment and Used Spare Parts, and a minimum of USD43 for each Used Motor Vehicle inspected.

3.3.23 M/s. Quality Inspection Services Inc. Japan was therefore awarded a total score of 20 Marks for being within the pricing threshold. This therefore meant that M/s. Quality Inspection Services Inc. Japan the combined score was 94 marks.

3.3.24 Based on the foregoing, the tender processing and evaluation committee therefore recommended the award of International Tender No. KEBS/T019/2017-2020 for provision of Pre- Export Verification of Conformity (PVOC) to Standard services: Used Motor Vehicles, Mobile equipment and Used Spare Parts to M/s. Quality Inspections Services Inc. Japan (QISJ) who had the highest combined score of 94 marks out of 100 marks.

3.3.25 Due diligence exercise was carried out by a team of eight (8) KEBS officials between 17th February 2018 and 3rd March 2018 as listed below

Visiting Japan and UAE

Mr. Chris Kibett
Mr. Gordon Onjore
Mr. Ken Keya
Ms. Rhoda Kirui

Visiting UAE

Mr. James Onyiego
Mr. Joab Mbalanya

Visiting Thailand

Mr. Birgen Rono
Mr. Brian M'mbwanga

3.3.26 The due diligence team concluded in their report to management that information provided by M/s. Quality Inspection Services Inc. Japan was found to be true, complied with the requirements of the tender document and the company had the capacity to perform the contract.

3.3.27 On 10th January 2018, the Head of Procurement at KEBS, issued his professional opinion recommending the award of the tender to the most responsive bidder M/s. Quality Inspection Services Japan Inc. in accordance with Section 84 of the PPAD Act, 2015. A copy of the opinion is attached under **Appendix 4**.

Tender Appeals, Award and Contract

3.3.28 On the same day, 10th January 2018, the Mr. Charles Ongwae - Managing Director at KEBS notified the successful bidder, M/s. Quality Inspection Services Japan Inc. of the award of tender. On the same day the unsuccessful bidder was also notified through letters.

3.3.29 On 17th January, 2018, the Public Procurement Administrative Review Board (PPARB) wrote letter ref: PPRA/ARB/7/14/2018 to the Managing Director of KEBS informing him that the Board had received a request for review of the tender for provision of Pre-Export Verification of Conformity (PVOC) to Standard Services: Used Motor vehicles, Mobile Equipment and Used Spare Parts.

3.3.30 In their application, M/s. Auto Terminal Japan Ltd sought for a re-evaluation of the technical proposals on Section 2.22.1 of the tender document to ensure fairness and non-discrimination of the evaluation criteria.

3.3.31 On 6th February 2018, the PPARB heard the appeal in the presence of representatives from both the applicant, KEBS and interested parties. Upon perusal of the Applicant's tender documents, the Board noted that M/s. Auto Terminal Japan did not comply with several requirements of the tender document and consequently dismissed it and advised KEBS to proceed with the

procurement process to its logical conclusion. A copy of the ruling of the PPARB is included under **Appendix 5**.

- 3.3.32 The contract agreement between KEBS and M/s. Quality Inspection Services Inc. Japan was signed on 3rd April 2018 for a period of three years effective 15th April 2018. As part of the contract the special audit highlights that the inspection fees charged per vehicle and paid under the contract in United States Dollars were as detailed in the table below:

Table 8: Inspection fees charged per vehicle and paid under the contract

No.	Country/ Item	Fees charged in USD
1	Japan	155
2	United Arab Emirates	192
3	United Kingdom	225
4	Thailand	250
5	Republic of South Africa	225

Source: Contract document between KEBS & QJSJ

- 3.3.33 Also, there was inspection service fee charged for mobile equipment and used spare parts to be equivalent to 0.5 per cent of the FoB value subject to a minimum of USD265 and a maximum of USD2700 per unit of consignment submitted for inspection.

- 3.3.34 Royalty fees charged for mobile equipment and used spare parts shall be 31 per cent of the fees charged. Royalty fees per vehicle payable to the KEBS were as follows:

Table 9: Royalty fees per vehicle

No.	Country/ Item	Fees charged in USD
1	Japan	45
2	United Arab Emirates	45
3	United Kingdom	45
4	Thailand	45
5	South Africa	45

3.4 Finding on Inspection and Documentation Review during Field Visits

- 3.4.1 The special audit team carried out physical verification, interviews and documentation review of the regional sites for all the bidders to understand the firms that bid for the International Tender No. KEBS/T019/2017-2020 for

provision of Pre-Export Verification of Conformity (PVOC) to Standard services: Used Motor Vehicles, Mobile Equipment and Used Spare Parts.

- 3.4.2 Specifically, the special audit reviewed the details of three out of the four firms that responded to our request for meeting at the various firm's headquarters. These were; M/s. Quality Inspection Services Inc. Japan (QISJ), M/s. EAA Company Limited and M/s. Auto Terminal Japan (ATJ) Ltd. M/s. Nippon Inspection Centre Corporation did not respond to our request for a meeting to discuss the procurement process.
- 3.4.3 The verification exercise involved in-depth review and verification of documents submitted by the contractors during the tendering process, onsite inspection and observation to confirm ownership and existence of inspection equipment, and the agents' staff. Further, the special audit team held interviews with both management and local representatives of the agents in the selected countries and carried out a walk-through test of the inspection process and sites used by the agents.
- 3.4.4 The reviews were also guided by the common practices of doing business in certain jurisdictions. For example, in Japan, which contributes nearly 95 per cent of used motor vehicle into the country expects that inspection service companies to buy or lease land, however, considering the nature of business, it does not actually pay-off for an inspection company to buy or own land unless it is involved with other logistics of used motor vehicle, like M/s. ECL Agency Ltd that is a logistic company and therefore own large parcels of land around the ports of Japan. It's on this premise that the expectation is that:
- Inspection service agents lease land, then buy and install an inspection facility/equipment on the leased land; or
 - Lease an inspection facility from its owner and operate it with ones' own staff within ones' own approved procedures; or
 - Sub-contract a facility and the staff from another service provider/agent and pay convenience fee for such services.

3.4.5 The findings are as enumerated per firm below:

3.5 Findings on M/s. Auto Terminal Japan (ATJ)

- 3.5.1 The special audit team visited M/s. Auto Terminal Japan (ATJ) offices on 27 February 2019 and meet with the Senior Management of the Company. The special audit was focused on determining facts regarding ATJs operations as represented in the technical proposal as part of the submission for Tender No:

KEBS/T019/2017- 2020, for provision of Pre- Export Verification of Conformity (PVOC) to Standard services: Used Motor Vehicles, Mobile equipment and Used Spare Parts.

3.5.2 The focus areas were to understand the operations of ATJ and review documentations submitted by ATJ for the aforementioned tender. The areas included:

- The physical presence of the Company and supporting registration documents;
- The physical and technological infrastructure required to satisfactorily perform services required under this tender in all the requisite jurisdictions;
- Evidence of ownership of the equipment or existing contracts/leases, and supporting documentation for the same;
- Listing of the equipment at each inspection facility, with the calibrations status;
- The human resources required to satisfactorily perform services required under this tender in all the requisite jurisdictions; and
- Quality management systems as required by the Accreditation Agency.

3.5.3 Based on the aforementioned, field inspections of M/s. ATJ mainly focused on the authenticity and validation of information contained in their documents as submitted for the Tender No: KEBS/T019/2017- 2020 in the technical proposal, being their part fulfillment of the tender requirement for each jurisdiction similar to the other bidding companies.

3.5.4 The special audit interest was also exacerbated by the fact that ATJ had filed for a request for a review against the decision of KEBS in the matter of Tender No: KEBS/T019/2017-2020 for provision of Pre- Export Verification of Conformity (PVOC) to Standard services: Used Motor Vehicles, Mobile equipment and Used Spare Parts at the Public Procurement Administrative Review Board on 17 January 2018. Further, the special also noted the same company M/s. ATJ has also filed a petition before PPRAB for the decision of award for tender Number KEBS/T057/2015 on 22 December 2014. The review filed by M/s. ATJ was struck out by PPARB on 30th December 2014, on the ground that it was filed out of time and that the applicants were to bear their own cost for the request for review

3.5.5 In following the tender requirements as detailed in [Appendix 6](#), one of the most important requirements was for the bidders to provide evidence of physical presence and technical capacity to offer inspection services.

Specifically, a bidder had to demonstrate ownership of inspection equipment and facilities in the jurisdiction that the company is legally registered to perform services required in; Japan, United Kingdom and United Arab Emirates. Further, the tenderer had the option to sub-contracts in Thailand and South Africa. For UK, Japan and UAE, where subcontracting is not allowed, bidders were required to lease not more than 50 per cent of their required facilities i.e.; Japan - 15 Centers, United Kingdom - 2 Centers, UAE - 1 Center)”.

- 3.5.6 This means the special audit focused its review on the documents versus the evidence by the bidders to corroborate the physical and technological infrastructure required to satisfactorily perform services required under this tender in Japan, United Kingdom and United Arab Emirates where subcontracting is not allowed. The findings for each jurisdiction is as enumerated below.

Auto Terminal Japan (ATJ) - Japan Headquarters

- 3.5.7 The special audit noted the physical presence of M/s. Auto Terminal Japan (ATJ) in Japan and confirmed the following in regards to the legitimacy of the registration documents onsite against the documents submitted in the tender.
- 3.5.8 The special audit noted conflicting information regarding M/s. Auto Terminal Japan (ATJ) proposal as it listed Mr. Mamoru Fujie as the sole Director (Appendix 7a - d) of the company as part of the confidential business questionnaire. Other details provided in the technical proposals highlighted that Mr. Tetsuro Shirahama was listed as the owner of the company with 100 percent shares but not included as a director in the confidential business questionnaire, and list of directors which were not part of the confidential business questionnaire are per the table below:
- 3.5.9 The tender documents also indicated that it was a serious offence to provide false information, and therefore M/s. ATJ should be subjected to the proceedings of the having committed the offence of not providing accurate or conflicting information in their confidential business questionnaire.

Table 10: List of other Directors of ATJ as attached in the technical proposal

Name	Nationality	Coverage	Title
Dr. Isaac Kalua	Kenya	Africa	Director, Africa
Wilson Mutabazi	British	Europe/UK	Director, ATJ Inspection UK Ltd.
Nithul Lakshmanan	Indian	UAE	Director, ATJ Auto Services

- 3.5.10 M/s. Auto Terminal Japan (ATJ) had listed their Offices as per the table below. The special audit confirmed the physical presence of the Head Office and confirmed their addresses as listed in the table below. The lease documents and records of rent payments were verified by the special audit team to confirm they had been occupying the facilities in question.

Table 11: List of Offices of ATJ

Offices	Visited
Autoterminal Japan Ltd. Tokyo-bay East Main Office 1-17-69 Shiohama Kisarazu- City Chiba 292-0838 Japan	Yes
Tokia Branch Office 99 Ishizuka Chikarao Tado-cho Kuwana Mie 511-0125 Japan	Yes
Kobe Branch Office 1 Mayafuto Nada-ku Kobe 657-0854 Japan	No
Nagoya Branch Office 8-2 Hasshoukawata Shirrahama-cho Tsushima-city Aichi 496-0016 Japan	Yes

- 3.5.11 The special audit noted that ATJ failed to meet the threshold of the tender as they didn't have the physical and technological infrastructure required to satisfactorily perform services required under this tender in Japan. The special audit noted that ATJ only owned four (4) inspection centers, and additionally had eight (8) other contracted inspection centers through "corporate partnerships". This was against the set criteria for Japan where subcontracting is not allowed, and therefore bidders were required to lease not more than 50 per cent of their required facilities i.e. Japan - 15 Centers.
- 3.5.12 Out of the list of sixteen (16) inspection lines that were purported to be stationed in twelve (12) inspection centers, attached under **Appendix 8**, the special audit sampled, visited and confirmed the presence of Tokyo-Bay Main Office in Kisarazu, Tokai and Nagoya Branch Office.
- 3.5.13 For the Tokyo-Bay Main Office based in Kisarazu, it was noted there was an agreement between Kisarazu Comprehensive Home Sale Commerce Housing Complex Cooperative Association and M/s. ATJ for leasing of the facility addressed as 1-17-69 Shiohama Kisarazu-city, Chiba-Japan, effective 1 April

2011, with the purpose to provide inspections services using its inspection facilities for Roadworthiness Inspection for export of used motor vehicles, see [Appendix 9](#). This meant it contradicted the information provided that the facility actually belongs to M/s. ATJ or whether it was fully leased from Kisarazu Comprehensive Hole Sale Commerce Housing Complex Cooperative Association. Further analysis revealed a similar arrangement with Kobe City Government agreement signed on 1 August 2011 where the facility was also leased by M/s. ATJ which cast doubt of this lease arrangement, see [Appendix 10](#).

3.5.14 An on-site visit to M/s. ATJ Office in Tokai highlighted a large parcel of land with other logistics operations including clearing and forwarding agents. With this parcel of land being owned by M/s. ATJ, it cast doubt on their involvement with only Road Worthiness Inspection of used motor vehicles for export. Further scrutiny highlighted that the attachment was evidence of purchase of a parcel of land approximately 20,000 square meters at JPY555,000,000 (USD5Million), see [Appendix 11](#).

3.5.15 A visit to the Nagoya inspection facility located at 8-2 Hasshoukawata Shirrahama-cho Tsushima-city Aichi 496-0016, revealed no activity and a dilapidated structure that had seemingly been idle and with no staff presence. While these had been noted to be an owned inspection center, the facility did not exhibit a state-of-the-art testing equipment as alleged in the technical proposal of the tenderer. With the level of dilapidation, it was difficult to identify the serial numbers of the equipment or confirm if the testing equipment had been calibrated.

3.5.16 The special audit also noted that while the separate lease agreements between M/s. ATJ and M/s. Flash rise Co, LTD, M/s. Nagase Auto Inc, M/s. Daiei Jidousya Kogyo Co Ltd, M/s. Hotta Auto Aichi Co, Ltd, M/s. Gulliver International Co, Ltd. M/s. Kojima Corporation and M/s. FWT Logistics Co, Ltd provided that on every 10th date of the month an invoice will be raised to M/s. ATJ by all these entities to confirm activity, however, there was no documentary evidence or invoices raised by these sampled companies to M/s. ATJ to validate the authenticity of the leases and inspection activity at the leased locations. Which therefore cast doubt on the technical proposals that misrepresented M/s. ATJ to be undertaking 1,500 and 1,380 monthly inspections in owned and partner facility respectively, see [Appendix 12](#).

3.5.17 While undertaking on-site inspection, the special audit noted that M/s. ATJ had indicated to have leased 2 inspection lines from M/s. Flash rise Co, LTD, effective 20 January 2015, with the purpose of providing an inspection facility

for Roadworthiness Inspection for export of used motor vehicles. The special audit however noted the following while visiting the Flash Rise yard:

- The site had two inspection lines; one of the lines belonged to M/s. Flash Rise Ltd., and the other Line belonged to M/s. QISJ who were actually undertaking inspections during the time of field visit.
- This therefore cast doubt on the authenticity of the technical proposal by M/s. ATJ for misrepresenting to have leased two inspection facilities from M/s. Flash Rise Ltd and indicating to be undertaking inspection for 1,380units per line.

3.5.18 Further review and verification of the list of the inspection centers and the physical and technological infrastructure in each of the regions revealed inconsistencies between the sworn affidavit by the Managing Director of M/s. ATJ, dated 7 December 2017, where it confirmed that M/s. ATJ only had ten (10) inspection centers instead of the purported twelve (12). This sworn statement also misled the tender as the listing repeated the agreement between M/s. ATJ and M/s. Nagase Auto Inc. Despite only having sworn to have only ten (10) inspection centers, M/s. ATJ provided agreements for twelve (12) centers which cast doubt on the authenticity of the said lease agreements.

3.5.19 In understanding the overall capacity of M/s. ATJ to provide inspection services, the special audit relied on the representation of the technical proposal of M/s. ATJ where it was indicated that each of the owned inspection lines were undertaking 1,500 inspections and leased ones undertaking and 1,380 inspections monthly as represented under Appendix 12 as aforementioned. It was however noted that this may not have been practical to have a consistent number of inspection of motor vehicle on all centers.

3.5.20 It is on this background that the special audit therefore confirmed that M/s. ATJ failed to meet the technology threshold of the tender as they didn't have the physical and technological infrastructure with a listing and calibration of the equipment required to satisfactorily perform services required under this tender in Japan.

3.5.21 The special audit noted that M/s. ATJ attached as part of its technical proposal a translated version of its license issued by the Japan's Ministry of Land, Infrastructure, Transport and Tourism (MLTT). The copy and duly notarized translated accreditation under [Appendix 13](#), clearly stated that M/s. ATJ was in the business of maintaining motor vehicles. Additionally, the Accreditation statements by M/s. ATJ confirmed being a recipient of the Type A

accreditation which gave the company the added benefit and advantage of being able to provide diagnostic services onsite. These conflicted the sworn statements, dated 7 December 2017, which were also attached stating that the company was not conflicted. This was therefore against the tender requirement where bidders were not expected to be a conflict of interest.

- 3.5.22 Under Section 10 of the verifiable proof of financial strength to perform the contract, M/s. ATJ attached the audited accounts for the past three years. The special audit noted that in the statements of accounts details relating to sales from Domestic and Export business which was approximately 82 per cent of the total companies revenues (sales of export JPY427,414,033 out of total revenue of JPY521,391,887). The company also disclosed having consumption tax receivable, which would only be for companies engaged in export business. The statements also disclose accounts payable and receivable to companies like M/s. Japan Forwarding Agency Ltd. And M/s. Jacanna Customs & Freight and their relationships could not be clearly explained by M/s. ATJ management. These could therefore be possible conflicting the expectations of the tenderer to undertake inspection services.
- 3.5.23 On enquiry on potential conflict of interest between M/s. Japan Forwarding Agency Ltd and M/s. ATJ, the special audit noted that Mr. Mamoru Fujie, CEO of ATJ Ltd was a director of Japan Forwarding Agency Ltd for the period from September 2013 to February 2015 as noted under [Appendix 14a](#), this was a clear conflict of interest and information was not disclosed to KEBS while M/s. ATJ was a service provider for the third cycle of contract between 2012 - 2015. Further scrutiny noted records of ATJ having been granted a permit for customs clearance business effective 10th January 2007, by the Director of Yokohama Customs - Mr. Hiromichi Tanigawa for the Tokyo-Bay area, see [Appendix 14b](#), which exacerbated the potential conflict of interest for the said company being involved in export business.
- 3.5.24 The special audit also noted M/s. ATJ had also invested on an IT infrastructure platform for efficiency. The team undertook a walkthrough of the system and experienced a live demonstration of how to on board new clients, make requests for inspection, tracking progress of inspection real-time. Other discussion with management noted that M/s. ATJ is currently undertaking Roadworthiness inspection of used motor vehicles for Zambia, Tanzania and most recently was awarded a tender as the sole inspector of used motor vehicles to Jamaica. Further, M/s. ATJ also provides bio-security inspection on behalf of Ministry of Agriculture and Forestry of New Zealand and the Department of Agriculture Water and Resources of Australia.

Auto Terminal Japan (ATJ) - United Kingdom

- 3.5.25 M/s. ATJ had indicated to have presence in the United Kingdom. In determining the physical presence of M/s. ATJ in the United Kingdom, the team visited the ATJ UK Office on 13th March 2019, to meet with the local staff as indicated in the technical proposal submitted to KEBS. The special audit noted that M/s. ATJ does not own any inspection centers nor had they contracted an inspection center (s) through “corporate partnerships” against the requirement for the United Kingdom where subcontracting is not allowed, and therefore bidders were required to lease not more than 50 per cent of their required facilities i.e. United Kingdom - two (2) centers. See **Appendix 15** for evidence provided as listing of owned or leased facilities.
- 3.5.26 The special audit further searched for record of M/s. ATJ in the United Kingdom and analyzed its activity which were not represented or misrepresented in the technical proposal. This information was obtained and is still available under the companies records in the United Kingdom (find a company <https://beta.companieshouse.gov.uk/company/09300209/filing-history>). This is summarized as below:
- 3.5.27 M/s. ATJ Inspection UK Ltd was registered on 11th December 2017 just six days before the tender closing date of 17th December 2017. The company registration document indicated it had a registration number 11105092 with Mr. Peter Valaitis listed as the sole director and shareholder of the company. The special audit noted that Mr. Peter Valaitis was not identified anywhere in the technical proposal of M/s. ATJ and even ceased as being a director of the company on the same date of its registration, 11th December 2017, and therefore there was no evidence of affiliation between these two companies, M/s. Auto Terminal Japan Ltd and M/s. ATJ Inspection UK Ltd. This means that as at the time of the tender submission and closer there was company affiliated to M/s. ATJ in the United Kingdom. See **Appendix 16**.
- 3.5.28 In validating the physical presence of M/s. ATJ Inspection UK Ltd, the tenderer attached a letter from an Attorney, M/s. Drake & Scoll Solicitors. The letter dated, 8th December 2017, was meant to confirm the existence of M/s. ATJ Inspection UK Ltd, and its affiliation with M/s. Auto Terminal Japan. Firstly, this was not a company registration as per the requirements of the tender. Secondly, the letter confirmed the Solicitor having related with the client for the past two years. However, a search for the Solicitor in the United Kingdom (find you solicitor <http://solicitors.lawsociety.org.uk/>) yielded no results as the firm did not exist, which could mean the document was forged and thus fraudulent see **Appendix 17**. Registration documents actually identified the

agents of M/s. ATJ Inspection UK Ltd as Duport Associates Limited and not M/s. Drake & Scoll Solicitors.

- 3.5.29 To further corroborate and validate or determine the physical presence of M/s. ATJ in the United Kingdom, an interview was convened with Mr. Wilson Mutabazi - Director, ATJ Inspection UK Limited, on 13th March 2019, at a location, Clipper House, Tilbury Free Port - Tilbury, United Kingdom RM 18 7SG, which was not the address identified in the technical proposal and therefore not the Office for M/s. ATJ in the UK. A request to visit any of the purported Inspection Centers was not granted on revelation by Mr. Wilson Mutabazi that such facility did not exist.
- 3.5.30 A request to also visit any of the purported partners of M/s. ATJ Inspection UK Ltd was not granted either. For example, a company identified as M/s. JLS Investment Group located at Unit 11, Industrial Complex Tilbury Port, Tilbury Essex RM18 7JB United Kingdom could not be located despite an existing agreement attached to the technical proposal, dated November 1, 2014. Field inspection noted that this same unit was being used by a different company named M/s. Dry Docks Autos.
- 3.5.31 As a part of the technical proposal the special audit also noted M/s. ATJ attached lease agreements signed by M/s. Autoterminal Japan UK Ltd., a company that does not exist and had ceased effective 9th February 2016. This means all the lease agreements attached were not binding and therefore misleading to the procuring entity. For example, a sample review of a lease agreement with Vehicle Approval.com, dated 14 November 2014. The address of this company was noted as Opp 4A Berth, Tilbury, Freeport Essex RM18 7EH United Kingdom. However, a visit on the said address revealed that no such company existed at the said location. This cast doubt on any existing relationship between Vehicle Approval.com and M/s. ATJ Japan (UK) Ltd.
- 3.5.32 Further scrutiny of the documentation filed as lease agreements noted that there was no amount indicated on any of the contract which really cast doubt on the authenticity of the said agreements with the said companies; M/s. JLS Investment Group for Unit 11, Industrial Complex Tilbury Port, Tilbury Essex RM18 7JB United Kingdom and M/s. Vehicle Approval.com, for; Opp 4A Berth, Tilbury, Freeport Essex RM18 7EH United Kingdom, Kleer House, Sheerness Docks Sheerness ME12 1 RS United Kingdom and Unit 1, Estuary Works, Wolton Avenue, FelixStowe Suffolk IP11 3HH United Kingdom.
- 3.5.33 In regards to the employees in ATJ United Kingdom, the special audit noted that M/s. ATJ had listed its Offices in the United Kingdom having Mr. Mark Bead

- Test Centre Manager, Mr. Andy Burvill - Vehicle Inspections Manager, and Mr. John Williamson - without a title, whom were all employed in 2014. However, on enquiry none of the employees were available on-site and cast doubt on the authenticity of the employees listed in the had been engaged with technical proposal.

Auto Terminal Japan (ATJ) - United Arab Emirates (U.A.E)

3.5.34 In determining the physical presence of M/s. ATJ in the United Arab Emirates (UAE), the special audit requested to visit the ATJ UAE Office, 5th March 2019, to meet with the staff as indicated in the technical proposal submitted to KEBS. The special audit noted that M/s. ATJ attached a reservation name as indicated under **Appendix 18**, with no further details to demonstrate that it owns any inspection centers nor had they contracted an inspection center (s) through “corporate partnerships” against the requirement for the UAE where sub-contracting is not allowed, and therefore bidders were required to lease not more than 50 per cent of their required facilities i.e. United Arab Emirates - one (1) centers.

3.5.35 This is despite ATJ having indicated in their proposal to own an inspection centers in the UAE which could not be verified. See **Appendix 19** for evidence provided as listing of owned or leased facilities. The special audit also noted an existing leased document as evidence of existing operations within the United Arab Emirates. The lease documents dated 27 May 2014 was actually signed between M/s. Green Coast Real Estate and M/s. Pal Auto Garage signed on 1st June 2014 and did not demonstrate any relationship with M/s. ATJ. This therefore cast doubt on the physical presence of M/s. ATJ in the UAE. While M/s. ATJ also listed Mr. Nithul Lakshmanan as a director for ATJ Auto Service, it was noted he was an employee of M/s. PAL Auto Garage (PAL).

3.5.36 The above notwithstanding, the special audit further meet with Mr. Nithul Lakshmanan of PAL Auto Garage in the presence of one of ATJs Director in charge of Africa to understand the existing relationship between M/s. ATJ and M/s. PAL Auto Garage (PAL) in case the facts were not represented or misrepresented in the technical proposal. The special audit noted and corroborated the following:

- There was no company existing in the UAE prior to the submission of the technical proposal. The attached documents related to a trade name reservation certificate which indicated this was still work-in-progress to have a company set up in the UAE for purposes of the tender.

- On enquiry, the certificate of incorporation had not been issued as at the time of field work on 5th March 2019 despite the trade name reservation certificate having been issued on 28th November 2017, with a reservation of M/s. ATJ Auto Services.
- These all conflicted the sworn statement dated 11th December 2017, by the MD of M/s. ATJ indicating that they had submitted an original registration of M/s. ATJ Auto Service. The tradenames business activity was identified as car registration and transfer services.
- Enquiry on the operations of PAL Auto Garage (PAL) indicated that PAL was a garage with operations which includes; mechanical works, computerized vehicle fault diagnosis, regular maintenance works, chassis repairs, dent repairing and painting, wheel alignment and balancing among others. This was also confirmed on the company brochures Attached under **Appendix 20**.
- The aforementioned confirmed that PAL Auto Garage (PAL) actually deals with motor vehicle repairs and would therefore be in conflict if they were to engage in motor vehicle inspection against the requirements of the tender.
- A service contract provided to demonstrate the relationship between PAL and ATJ being specific to inspection services was noted to have expired on 30 April 2017 and therefore could not be used as evidence of an existing relationship for purposes of the special audit. See excerpt of the contract under **Appendix 21**.
- The special audit also noted that On 25th November 2017, M/s. ATJ Ltd. signed a sale agreement purporting to have bought the testing equipment from PAL Auto Garage, see **Appendix 22**; Testing lane, headlight tester, emission testers for petrol and diesel respectively, brake tester, side slips, and shock absorber. This was confirmed to be false as audit inspection and discussions with Mr. Nitsul Lakshman, Manager of PAL Auto Garage revealed that the above equipment is still owned by M/s. PAL Auto Garage and motor vehicle services is being carried out Pal Auto Garage employees. Further, there was no evidence of payment for the equipment which could imply the document was forged.

Auto Terminal Japan (ATJ) - South Africa

3.5.37 Due to constraint of time, the special audit could not visit the ATJ agents based in Durban South Africa. This has also been noted under section 2.9 on the Limitation of the special audit.

3.5.38 Overall, these all means that ATJ failed to meet the threshold of the tender as they didn't have any physical and technological infrastructure required to satisfactorily perform services required under this tender in the United Kingdom, Japan and the United Arab Emirates. It further had gross misrepresentation on its technical proposal and should therefore be subjected to the proceedings of the law as they contravened Section 41 (1) (h) of the Public Procurement and Disposals Act, 2015, and in such events recommend that it would be appropriate for relevant institutions to initiate debarment proceedings against such bidder(s). Further, these contravene the ethos of the sworn statement by the bidder, M/s. ATJ had sworn statement that the company or its associated companies is not associated with any business that may lead to a conflict of interest, and that the tenderer has given full disclosure of its directors and associated companies. This questioned the authenticity of the documents attached as part of the technical proposals and indicated a serious red flag on the credibility of M/s. ATJ as a company.

3.6 Findings on M/s. EAA Company Limited

3.6.1 The special audit team visited the M/s. EAA Company Limited offices on 26th February 2019 and meet with the Senior Management of the Company. The special audit was focused on determining facts about EAAs operations as represented in the technical proposal as part of the submission for Tender No: KEBS/T019/2017- 2020, for provision of Pre- Export Verification of Conformity (PVOC) to Standard services: Used Motor Vehicles, Mobile equipment and Used Spare Parts.

3.6.2 The focus areas were to understand the operations of the EAA and review documentations submitted by EAA for the aforementioned tender. The areas included:

- The physical presence of the Company and supporting registration documents;
- The physical and technological infrastructure required to satisfactorily perform services required under this tender in all the requisite jurisdictions;

- Evidence of ownership of the equipment or existing contracts/leases, and supporting documentation for the same;
- Listing of the equipment at each inspection facility, with the calibrations status;
- The human resources required to satisfactorily perform services required under this tender in all the requisite jurisdictions; and
- Quality management systems as required by the Accreditation Agency.

3.6.3 The special audit noted that M/s. EAA Company Limited never filed for any review against the decision of KEBS in the matter of Tender No: KEBS/T019/2017- 2020 as they confirmed being content with the decision of KEBS of not meeting the requirements, having failed at the pre-liminary evaluation stage. M/s. EAA however, filed for a request for a review against the decision of KEBS in the matter of Tender No: KEBS/T057/2014-2015, for provision of Pre- Export Verification of Conformity (PVOC) to Standard services: Used Motor Vehicles, Mobile equipment and Used Spare Parts.

3.6.4 Despite this, the management of M/s. EAA Company Limited however confirmed their interest to be a part of the special audit by availing staff and documentation to facilitate the special audit processes as participants of the tender No: KEBS/T019/2017-2020 with an objective of understanding areas of improvement for subsequent tenders. Field inspections of M/s. EAA Company Limited was therefore also focused on the authenticity and validation of information contained in their documents as submitted for the Tender No: KEBS/T019/2017-2020 in the technical proposal, being their part fulfillment of the tender requirement for each jurisdiction similar to the other bidding companies.

3.6.5 In following the tender requirements, one of the most important requirements was for the bidders to provide evidence of physical presence and technical capacity to offer inspection services. Specifically, a bidder had to demonstrate ownership of inspection equipment and facilities in the jurisdiction that the company is legally registered to perform services required in; Japan, United Kingdom and United Arab Emirates. Further, the tenderer had the option to sub-contracts in Thailand and South Africa. For UK, Japan and UAE, where subcontracting is not allowed, bidders were required to lease not more than 50 per cent of their required facilities i.e.; Japan - 15 Centers, United Kingdom - 2 Centers, UAE - 1 Center)".

3.6.6 This means the special audit focused its review on the documents versus the evidence by the bidders to corroborate the physical and technological

infrastructure required to satisfactorily perform services required under this tender in Japan, United Kingdom and United Arab Emirates where subcontracting is not allowed. The findings for each jurisdiction is as enumerated below.

M/s. EAA Company Limited (EAA) - Japan Headquarters

- 3.6.7 The special audit noted the physical presence of EAA in Japan and confirmed the following in regards to the legitimacy of the registration documents onsite against the documents submitted in the tender:
- 3.6.8 M/s. EAA Company Limited (EAA) is privately owned company with its head office located at the physical address; 1-20-5-101, Rinkan, Yamato-shi, Kanagawa-Ken, Japan 242-0003. The company was incorporated on 6 July 2007, with a company registration number 0210-01-029586. The CEO/President and sole shareholder of the company then was Mr. Guku Prosper Japhet. The special audit also noted that EAA had a branch office located at YCC 1608, 22 Daikoku Fotou, Tsurumi, Yokohama, Japan. The special audit reviewed the lease document and records of rent payments to confirm they had been occupying the Office for some time.
- 3.6.9 The special audit noted the company names changed as filed in the registration documents. It was noted that East Africa Automobile Services Company Limited changed to EAA Company Limited in an effort to rebrand to get business out of the East African Community as per management. This name change was confirmed on the certificate of name change dated 27 October 2017.
- 3.6.10 It was also noted that prior to the name change the company undertook inspection services for motor vehicles to Uganda, Tanzania and Zanzibar. Subsequent to the name change, EAA has since on-boarded pre-export inspection business in Zambia, Mauritius, and in also the only Service Provider for inspection of motor vehicle to the Bahamas. The Director also registered a name change from Mr. Guku Prosper Japhet to Mr. Sugai Prosper, which was noted to be customary when one becomes a Japanese citizen.
- 3.6.11 The registration documents revealed that the EAA Company Limited was licensed to conduct the following businesses:
- Export inspection business of a used car;
 - Consulting services of the commercial transaction of a domestic company, and the overseas government and company, and all other businesses related to the above.

3.6.12 The tenderer listed having (17) inspection centers in Japan in its technical proposal. EAA also provided a receipt as evidence of purchasing 17 inspection facilities/equipment. The listing provided in the technical proposal is attached under **Appendix 23**. However, the company only provided eight leases agreements as part of the technical proposal which included:

- Lease between Run Global Co. Ltd. (Nagoya) and EAA;
- Lease between Moji Kuon Co. Ltd (Kita-Kyusyu, Moji) and EAA;
- Lease between Sankyu Co. Ltd (Kita-Kyusyu, Kanda) and EAA;
- Lease between Mitsui Soko Co. Ltd (Yokohama) and EAA;
- Lease between Nippon Express Co. Ltd (Kawasaki) and EAA;
- Lease between ECL Agency Co. Ltd. (Osaka) and EAA;
- Lease between ECL Agency Co. Ltd. (Kobe) and EAA; and
- Lease between ECL Agency Co. Ltd. (Kisarazu) and EAA.

3.6.13 These lease agreements are also attached under **Appendix 24 (a - h)**. These eight leases did not demonstrate how the 17 equipment purported to have been purchased were distributed to the twelve (12) inspection centers.

3.6.14 Out of the list of seventeen (17) inspection equipment that were purported to be stationed in twelve (12) inspection centers, the special audit sampled, Yokohama, Kisarazu, and Nagoya and the Offices as per the table below:

Table 12: List of Office of EAA Company Limited

Offices	Visited
EAA Head Office 1-20-5-101, Rinkan, Yamato-shi, Kanagawa-Ken, Japan 242-0003	No
Yokohama YCC Office YCC1411, 22 Diakokufuto, Tsurumi-Ku, Yokohama-Shi, Kanagawa-Ken,	Yes
Yokohama Silk Centre Office Room No.205, Silk Centre. No.1 Yamashitacho, Naka-Ku, Yokohama-Shi, Kanagawa-Ken	No
Nagoya Office 2-28-12 Izumi, Hasshoukawata Higashi-Ku, Nagoya- Shi Aichi-Ken	No

- 3.6.15 In visiting the Nagoya Region where M/s. EAA had indicated to own an inspection facility, EAA management opted to have the team visit a leased facility from M/s. Flash Rise Limited. The lease agreement provided in the tender documents for an existing relationship between M/s. EAA and M/s. Flash Rise indicated that EAA had listed the facility and not the land which was confirmed to have been falsified as the lease agreement attached was between M/s. EAA and M/s. Runglobal Co. Limited (Nagoya), see [Appendix 24 a](#). The inspection further revealed no activity by EAA and EAA Senior Management could not identify the facility they purported to have leased, it was noted that one of the inspection lines actually belonged to QISJ Inc., who was actually undertaking real-time inspection at the time of our visit on 1st March 2019. The was no presence of EAA staff noted either.
- 3.6.16 The special audit team also sampled and engaged one of the agents According to the list of leased contracts M/s. ECL Agency Ltd. and a meeting with ECL was prompted by the fact that two of the bidders claimed to have contracts with M/s. ECL Agency Ltd. ECL was noted to be a logistic company where inspections companies lease land or equipment's for inspections. M/s. ECL Agency Ltd. agreed to the meeting and actually disowned the EAA leases presented to the special audit team for verification. M/s. ECL confirmed that they do not have any lease agreements with M/s. EAA but only had an agreement with company called M/s. Hamanasu Company Limited. Furthermore, ECL confirmed EAA uses the staff of ECL to perform inspection service for other countries. This scenarios exacerbated the doubt as to whether M/s. EAA really does inspections by itself or sub-contracts using other service providers staff.
- 3.6.17 EAA Company Limited indicated in their proposal to have a total of twenty-five (25) members of staff consisting of fifteen (15) inspectors and one Quality Manager stationed in Tokyo/Yokohama, Nagoya and Osaka/Kobe/Kyushu. There was no listing of staff assigned in Kisarazu, Kawasaki, Kitakyushu and Moji. The special audit further noted there were no staff assigned to any of the mentioned regions and management noted that all these technical staff were on contract and were only on boarded when there was inspection services needed for those regions. It therefore cast doubt as to the staff capacity and equally all the accreditation attached for the key staff could not be validated as no originals/notarized copies were provided to prove the qualifications and therefore cast doubt as to the staff competency.
- 3.6.18 The special audit also noted EAA had also invested on an IT infrastructure platform for efficiency. The team undertook a walkthrough of the system and

experienced a live demonstration of how to on board new clients, make requests for inspection, tracking progress of inspection real-time.

3.6.19 The special audit also noted that EAA was one of the companies accredited to the coveted ISO/IEC 17020:2012 by the Japan Accreditation Board (JAB). The accreditation was first issued in 11 November 2012, prior to the name change. However, interviews with senior management confirmed that the Accreditation of ISO 17020:2012 was once cancelled by JAB effective 27th November 2014, for reason which management of EAA could not disclose. The special audit however noted that their accreditation certificate was reinstated on 9th November 2016 and was to be valid until 31st July 2020. A search on the authenticity of the documents under the JAB website under <https://www.jab.or.jp/en/system/iso/search/> yielded no results.

3.6.20 The special audit also verified for potential conflict of interest between M/s. Rosper International Co. Ltd and M/s. EAA. In an interview with Mr. Prosper Sugai, the CEO of EAA, confirmed he was not aware of the said company nor having been involved as a director. However, a search of company records in Japan actually confirmed that Mr. Prosper Sugai was the owner of Rosper International Co. Ltd. for the period from 18th November 2002 to 18th August 2014, see **Appendix 25**. The objectives of M/s. Rosper International Co. Ltd as per the attached certificate was listed among others as:

- Purchase and sale and export of used cars, used motorcycles, used car parts, used compressors, used crane trucks, etc;
- Purchase and sale and export of used items; and
- Importing and sales of beauty devices and cosmetic items.

This was a clear conflict of interest and information that was concealed to KEBS when the EAA was tendering for the current contract and a service provider in the past contract cycle.

M/s. EAA Company Limited (EAA) - United Kingdom Branch

3.6.21 The special audit noted that there was limited information regarding the legality of the company in the United Kingdom, except for the physical address in the technical proposal. A visit was confirmed and an interview held with EAA Management on 12th March 2019, in Tilbury, United Kingdom.

3.6.22 In an effort to determine the physical presence of M/s. EAA in the United Kingdom, the special audit searched for online records of M/s. EAA in the

United Kingdom and analyzed its activity which may not have been presented or misrepresented in the technical proposal. This information was obtained and is still available under the companies records in the United Kingdom (find a company <https://beta.companieshouse.gov.uk/company/09300209/filing-history> . This is summarized as below:

- EAA CO LTD LIMITED, company number 10341831, was originally registered on 23 August 2016 as a private company limited by shares. The shareholder were; Mr. Prosper Sugai (80 percent) and Mr. Seth Nguku (20 per cent). Having noted an error in the naming of the company, it necessitated the company to pass a resolution to change its name to EAA Automobile Ltd, effective 1 September 2016. The renamed company was located at Capstan House Tilbury, Freeport Tilbury, Essex, England RM18 7SG. See **Appendix 26**.
- Effectively, 7 November 2016, barely two months after registration, Mr. Prosper Sugai who was the majority shareholder (80 percent) transferred his shares to Mr. Seth Nguku who eventually became the sole shareholder of EAA Automobile Ltd with 100 per cent shareholding, on the same date, Mr. Prosper Sugai ceased to be a director of the company. This means the company was officially a standalone with no affiliation with M/s. EAA Company Limited by either common directorship or even shareholding a fact that was also misrepresented in the technical proposal as it was noted that the EAA Automobile Ltd was a branch. See **Appendix 27**.

3.6.23 The special audit noted that EAA does not own any inspection centers against a required one (1) owned inspection center. The special audit also failed to confirm that EAA had contracted an inspection center (s) through “corporate partnerships” against a required minimum of one (1) to bring the total of two (2) as per the tender specifications. This is despite having indicated in their proposal to have leased (2) inspection facilities at Woodhouse MOT 96A, London and Unit Tilbury Industrial, Freeport Tilbury, Essex, England RM18 7HB, in the United Kingdom, which were not verifiable.

3.6.24 However, EAA attached a lease deed dated 1 May 2014, **Appendix 28**, which seemed forged as there was no presence of EAA in the United Kingdom at the time. Similar tele conversations with the Port Manager of Tilbury Mr. Cox Laurence confirmed that the Company EAA was not a tenant in any of the identified premises on facilities as indicated on the technical proposal. Therefore, this cast doubt on any existing relationship or business in the United Kingdom.

3.7.20 As part of the technical proposal, QISJ reported to be owning inspection equipment used in eleven (11) inspection centers as listed in the table below. Equipment in the remaining four (4) inspection centers namely; Hakata, two centers in Kitakyushu and Yokohama were leased.

Table 13: Listing of owned inspection centers by QISJ

S/N	REGION	NAME	ADDRESS	NEAREST PORT
1	KANTO	QISJ KAWASAKI	80HiagashiOgishima, Kawasaki-ku, Kawasaki-shi, Kanagawa	KAWASAKI
2	KANTO	QISJ YOKOHAMA	43-21Daikoku-cho, Tsurumi-ku, Yokohama-shi, Kanagawa	YOKOHAMA
3	KANTO	QISJ YOKOHAMA DAIKOKU FUTOU	15 Daikoku-Futou, Tsurumi-ku, Yokohama-shi, Kanagawa	YOKOHAMA
4	KANTO	QISJ KISARAZU	14-1 Shin Minato, Kisarazu-shi, Chiba	KISARAZU
5	KANTO	QISJ FUTTU	104 Shin Tomi, Futtu-shi, Chiba	KISARAZU
6	KANTO	QISJ HITACHINAKA	768-38 Terunuma, Touka-mura, Naka-gun, Ibaraki	HITACHINAKA
7	CHUBU	QISJ NAGOYA	77 Shionagi-cho, Minato-ku, Nagoya-shi, Aichi	NAGOYA
8	CHUBU	QISJ FLASH RISE	5-8 Nishi Suehiro, Yatomi-shi, Aichi	NAGOYA
9	KANSAI	QISJ KOBE	9 Koyocho Naka, Higashi Nda-ku, Kobe-shi, Hyogo	KOBE
10	KANSAI	QISJ KOBE SHINKO HIGASHI	6-21 Onohama-cho, Chuo-ku, Kobe-shi, Hyogo	KOBE
11	KANSAI	QISJ OSAKA	9 Yunagi-cho, Izumi Otsu-shi, Osaka	OSAKA

3.7.21 To validate the aforementioned, the review focused on the documentation to verify the existence and to prove the presence of the said inspection centers that were either owned or leased by QISJ in Japan. Assurance was obtained from receipts and invoices of the on-going rental payment and fees for the leased premises. The team confirmed that these machines were performing the activities as required under KS 1515:2000 and all the equipment were modern

corroborate the physical and technological infrastructure required to satisfactorily perform services required under this tender in Japan, United Kingdom and United Arab Emirates where subcontracting is not allowed, and South Africa where subcontracting is allowed and the findings for each jurisdiction is as enumerated below.

M/s. Quality Inspection Services Inc. Japan (QISJ) - Japan Head Office

- 3.7.16 The special audit noted that M/s. Quality Inspection Services Inc. Japan was incorporated in Japan on 22 July 2009 and issued with a registration certificate No. 0200-01-062420. The Company's Head Office and physical address in Japan at the time of registration was 1-18-12 Komaoka, Tsurumi, Yokohama. The Company was incorporated to carry out the following functions among others:
- Survey, inspection, sworn measure & assessment of automobile/electronic product/industry products/ ship/ clinical products/ oil/ mineral products/plastic/metal/fibre/ farm products/foods /medical products; and
 - Inspection of products listed above, including physical examination and scientific analysis.
- 3.7.17 The company aggregate numbers of issuable shares is one thousands six hundred (1600) and the total numbers of shares so far issued is four hundred (400). The share capital of the company is JPY 20,000,000. The sole shareholder of the Company is the Managing Director
- 3.7.18 The Company moved in March 2011 to its current Headquarters gross misrepresentation on its technical proposal and should therefore be subjected to the proceedings of the law as they contravened Section 41 (1) (h) of the Public Procurement and Disposals Act, 2015, and in such events recommend that it would be appropriate for relevant institutions to initiate debarment proceedings against such bidder(s).
- 3.7.19 During interview with QISJ Management on 25th February 2019, it was noted that the company has a total of 20 inspection centers (11 owned facilities and 9 leased). However, the special audit noted that QISJ had only submitted a listing of fifteen (15) inspection centers for purposes of the tender, the other inspection centers were being used to service other contracts. These inspection centers were noted to be spread around the four provinces of Japan; Kanto, Kansai, Kyusu and Chubu and they were well positioned near ports of export of Yokohama, Hitachinaka, Kobe, Nagoya, Kisarazu, KitaKyusu and Osaka.

of QISJ to provide service as per the Kenya Standard KS 1515:2000 code of practice. A report dated 9th January 2015 was issued by the due diligence team of six members who were involved in the exercise recommending that KEBS enter into contractual agreement with Quality Inspection Service Japan Inc.

3.7.11 The team was satisfied that the company had the requisite capacity to provide the service as per the Kenya Standard KS 1515:2000. The team established that QISJ is a legal entity with adequate presence in all the key regions required, and with sufficient preparedness in terms of human, infrastructural and technical capacity to provide the services outlined in the RFP for the Tender No. KEBS/T057/2014-2015.

3.7.12 QISJ was eventually awarded the tender No. KEBS/T057/2014-2015 on 2nd February 2015 the MD of KEBS and MD of QISJ signed and sealed a contract so as QISJ could provide motor vehicle inspection service as per the Kenya Standard KS 1515:2000 code of practice. The contract was witnessed by Mr. George Sichangi for KEBS and Mr. Khalid S. Swaleh for QISJ.

3.7.13 PIC also undertook a due diligence visit between 28th May 2016 and 6th June 2016, and recommended among others, that to minimize unmerited litigation by losing bidders, KEBS should have a register of service providers who are pre-qualified through a due diligence exercise to ensure that only companies with required competence and experience to undertake inspection are invited to bid for future contracts.

3.7.14 A recent report named; Supplier's Surveillance Audit Report on QISJ conducted between 13th and 20th February 2019 performed in line with the provisions of the contract concluded that:

- QISJ had systems in place to perform the roadworthiness inspection of used motor vehicles, machineries and used spare parts which met the requirements of KS1515:2000 and KS2190:2013;
- QISJ had met all the required timelines stipulated in the contract in issuance of Certificate of Compliance (CoC)/Non-Conformity Reports (NCR) and remittance of reports; and
- That the visited inspection centers were found to have all the equipment specified in the standard and were up to date in their calibration status.

3.7.15 The aforementioned notwithstanding, this special audit also focused its independent review on the documents versus the evidence by the bidders to

No.56/2014 and No.59/2014 in respect to the provisions of Section 98 of the Public Procurement and Disposal Act (2005).

- 3.7.7 The Public Investments Committee (PIC) which also draws its mandate from the National Assembly Standing Order No. 206 (6) also previously made a resolution on 29th January, 2015, and commenced an inquiry into the award of KEBS Tender No. KEBS/T057/2014-2015 for provision of pre-export inspection services to Quality Inspection Services Inc. Japan (QISJ) on 12th February 2015, based on the decision by KEBS to award to QISJ a contract of used motor vehicle inspection services for a period of 36 months (3 years). The PIC requested the Office of the Auditor-General (OAG) too undertake a special forensic audit on the aforementioned tender.
- 3.7.8 Special forensic audit on KEBS Tender No. KEBS/T057/2014-2015 for provision of pre-export inspection services for used motor vehicles in Japan, United Arab Emirates, United Kingdom and South Africa in accordance with KEBS (K1515:2000) was carried out to conclusion pursuant to the request from the Clerk of the National Assembly on behalf of the PIC. The special forensic audit was done as per Article 229 of the Constitution, and pursuant to a request from PIC to the Auditor-General, dated 19th June, 2015 on the said tender. The findings of the Auditor-General were laid on the table of the House on 11th February, 2016.
- 3.7.9 The special audit report noted that the winning bidder QISJ was capable of handling the contract as required by KEBS standard No KS 1515:2000 code of practice, and further recommended that KEBS should ensure that contracted company(s) have a long term commitment to inspection and keep off speculative bidders, and this is achievable by setting minimum requirements for full ownership of inspection facilities by the inspection companies based on number of vehicles coming from those country. The audit even recommended in details that the inspection company should fully own at least fifteen (15) facilities in Japan, three (3) in the United Kingdom and one in United Arab Emirates, distributed to major ports and towns. Leases in these towns should only be allowed to supplement fully owned facilities and that KEBS should be keen to properly evaluate ownership of these facilities.
- 3.7.10 QISJ were also a subject of due diligence review by KEBS management/various committees. In 2016 and 2018 and teams were sent to Japan, United Kingdom and United Arab Emirates to carry out due diligence to verify and validate documentary evidence, infrastructural, technical and managerial competence

3.7.2 The focus areas were to understand the operations of the company and review documentations submitted by the company for the aforementioned tender. The areas included:

- The physical presence of the Company and supporting registration documents;
- The physical and technological infrastructure required to satisfactorily perform services required under this tender in all the requisite jurisdictions;
- Evidence of ownership of the equipment or existing contracts/leases, and supporting documentation for the same;
- Listing of the equipment at each inspection facility, with the calibrations status;
- The human resources required to satisfactorily perform services required under this tender in all the requisite jurisdictions; and
- Quality management systems as required by the Accreditation Agency.

3.7.3 It was noted that QISJ had earlier been an interested party to a petition by M/s. ATJ, and filled an affidavit in response to the application by M/s. ATJ to the Public Procurement Administrative Review Board (PPRAB) in respect to the application made on the decision of KEBS dated 10th January 2018, referenced Application No.14 of 2018.

3.7.4 This was triggered by a letter ref: PPRA/ARB/7/14/2018, dated 17th January, 2018, from the PPRAB to the MD of KEBS informing him that the Board had received a request for review of the tender for provision of Pre-Export Verification of Conformity (PVOC) to Standard Services: Used Motor vehicles, Mobile Equipment and Used Spare Parts from M/s. ATJ seeking for a re-evaluation of the technical proposals on Section 2.22.1 of the tender document to ensure fairness and non-discrimination of the evaluation criteria.

3.7.5 On 6th February 2018, the PPARB heard the appeal in the presence of representatives from both the applicant, KEBS and interested parties and the Board noted that M/s. ATJ did not comply with several requirements of the tender document and consequently dismissed it and advised KEBS to proceed with the procurement process to its logical conclusion.

3.7.6 Earlier on, QISJ had also been an interest party of another petition filed against KESB for the Tender No. KEBS/T057/2014-2015 in respect to motor vehicle inspection/verification services in accordance with Kenya standard code of practice for inspection of road vehicle. Again, the PPARB, on 28th January 2015 in its wisdom made several orders in respect of application No.55/2014,

- In the United Kingdom, it did not exist in the physical address it had provided in the bid documents as the premises, 16D Tilbury Forth Port, was found to be for Serengeti Global Services which was a sea and coastal freight company;
- East African Automobile Services had also forged its registration documents depicting it was registered in 2013 instead of 2014 which was a forgery; and
- This team reported that the company M/s. EAAS Limited lacked the requisite infrastructure in the UK and UAE, and that the company had presented forged and falsified documents in their bidding which enabled them to erroneously attain the minimum technical score for advancement to the financial evaluation stage. The team recommended disqualification from the procurement process and debarment from any such similar exercises by KEBS.

3.6.35 Overall, the company, EAA has been knowingly providing falsified documents in the past and present tender submissions, and thereby failed to meet the threshold of the tender as they didn't have any physical and technological infrastructure required to satisfactorily perform services required under this tender in the United Kingdom, Japan and the United Arab Emirates. It further had gross misrepresentation on its technical proposal and should therefore be subjected to the proceedings of the law as they contravened Section 41 (1) (h) of the Public Procurement and Disposals Act, 2015, and in such events recommend that it would be appropriate for relevant institutions to initiate debarment proceedings against such bidder(s). Further, these contravene the ethos of the sworn statement by the bidder, M/s. EAA had sworn statement that the company or its associated companies is not associated with any business that may lead to a conflict of interest, and that the tenderer has given full disclosure of its directors and associated companies. This questioned the authenticity of the documents attached as part of the technical proposals and indicated a serious red flag on the credibility of M/s. EAA as a company.

3.7 Findings on M/s. Quality Inspection Services Inc. Japan (QISJ)

3.7.1 The special audit team visited the QISJ Offices on 25th February 2019 and meet with the Senior Management of the Company. The special audit was focused on determining facts about QISJ operations as represented in the technical proposal as part of the submission for Tender No: KEBS/T019/2017- 2020, for provision of Pre- Export Verification of Conformity (PVOC) to Standard services: Used Motor Vehicles, Mobile equipment and Used Spare Parts.

between M/s. Jabal Kilimanjaro Auto Elec. Mech. and M/s. EAA for purposes of this bid and being cognizant of the requirements of TBS for service providers of inspections.

3.6.30 EAA Company Ltd, provided a document which seemed forged or could not be verified as it purported to indicated that EAA bought the inspection facility in UAE in 2014, ([Appendix 31](#)), and entered into agreement with Mr. Rashid Abeid Suba to guide their operations, an allegation that Mr. Rashid Abeid Suba could not confirm as he owns the facility and uses it to service another contract for Tanzania.

3.6.31 All the testing equipment listed in the tender documents namely; Brake, Alignment and suspension, Emission testers, Headlight, Vehicle hoist and sound meter were therefore confirmed to be owned by M/s. Jabal Kilimanjaro Auto Elec. Mech and being fully operated by M/s. Jabal Kilimanjaro Auto Elec. Mech. Staff.

3.6.32 Further, vehicle testing was noted to done by the following members of staff who have been contracted. However, a request for the records and qualifications was not provided by M/s. Jabal Kilimanjaro Auto Elec. Mech.

- i) Fernan M. Mesario
- ii) Edelson Cortez Santos
- iii) Ali Abdalla Juma
- iv) Adonis Moreno

EAA - South Africa

3.6.33 The special audit noted that this bidder did not provide its legality and presence in South Africa and Thailand which could therefore not be verified. See [Appendix 32](#).

3.6.34 The special audit also noted a due diligence report dated 9 January 2015 by KEBS which highlighted important findings worth noting in this special audit report as follows:

- The bidder, East African Automobile Services Limited had its ISO 17020 accreditation status in Japan suspended and therefore not valid as per the governing conditions of the Japan Accreditation Board (JAB). The same company had attached a professional license for a different company called Jabal Kilimanjaro Auto. Elec. Mech in the UAE;

- 3.6.25 It was also noted that as part of the technical proposal's, a document indicating to have leased Office Space in Tilbury port dated 19th August 2014, could not be verified or authenticated by the Port Manager of Tilbury Mr. Cox Laurence, **Appendix 29**. The deed was signed by Mr. Christopher Boniface Lukosi. On enquiry the special audit team was informed that Mr. Christopher Boniface Lukosi was a director in both EAA and a company called Serengeti Global Services. The yard and brand at the Offices of Serengeti indicated they were involved in Sea and Coast Services.
- 3.6.26 In an interview with Mr. Prosper Sugai and Mr. Lee Sayer, it was confirmed that a visit any of the purported Inspection Centres was not necessary on revelation that such facility did not exist because there was no reason to retain the centers when there was no business. A request to also visit any of the purported partners of M/s. EAA was also not granted either.
- 3.6.27 In regards to the employees in M/s. EAA in the United Kingdom, the special audit noted that M/s. EAA had listed that it had one Manager Supervisor, 3 Supervisors and 6 Inspectors stationed within the United Kingdom. However, on enquiry none of the employees were available nor were their human resource records available for scrutiny and discussions to confirm that they were indeed employees of EAA. Therefore, apparent that this was a misrepresentation on the part of EAA in its technical proposal.

M/s. EAA Company Limited (EAA) - United Arab Emirates Branch

- 3.6.28 The special audit team visited the EAA Offices in UAE and met with management on 4th March 2019. The team noted that EAA had only attached a registration document to indicate it does business within the Freezone, **Appendix 30** i.e. Sharjah Media City which had no relationship with the tender prerequisites as per the tender requirements where bidders were required to be legally registered and licensed to perform the service, and confirm if they owned inspections centers against the set criteria for UAE where subcontracting is not allowed, and therefore bidders were required to lease not more than 50 per cent of their required facilities i.e. UAE - 1 Center.
- 3.6.29 The team met and interviewed Mr. Prosper Sugai, Director, EAA Company Ltd and a purported EAA UAE representative Mr. Rashid Abeid Suba who was not identified anywhere in the technical proposal. Mr. Rashid Abeid Suba was noted to be actually the owner of a service provider called M/s. Jabal Kilimanjaro Auto Elec. Mech., and is also a current Pre-Export Verifying Agent for Tanzania (TBS). TBS requirement for Pre-Export Verifying are done independently and in zones and therefore there cannot be an existing relation

and had valid calibration status. The facilities were also branded QISJ for ease of identification. The leases are attached under [Appendix 33 a - k](#).

3.7.22 The sampled and visited inspection center were located in the following:

- Kawasaki, at the address; 80HiagashiOgishima, Kawasaki-ku, Kawasaki-shi, Kanagawa. The Machine was verified to have been bought from a company named M/s. Banzanja and the invoice and calibration was verified. There was evidence of monthly payment to the leased land.
- Nagoya, at the address, 5-8 Nishi Suehiro, Yatomi-shi, Aichi the audit noted that the land was leased from M/s. Flash Rise and the inspection facility was also bought from M/s. Flash Rise. This was verified with the receipt for payment of the lease and equipment and monthly payment of the commissions due.

3.7.23 In both of the facilities inspected, all the inspection equipment comprising of Speed Meter, Brake Tester, Side Slip Tester, Headlight Tester, CO/HC Tester, Diesel Tester, Sound Level Tester, Noise Level Tester, Radiation Tester and Scan Tool were confirmed to be owned by QISJ. The records present at the QISJ Site Office confirmed that indeed the company owned the facility. The special audit team also experience real time inspection at this same facility.

3.7.24 It was noted that QISJ has a large workforce that are distributes across the inspection centers in Japan. The technical proposal presented indicated a total of fifty two (52) members of staff out of which thirty (30) were working as inspectors and reporting to one Quality Control Manager, all whom demonstrated competency and capacity to offer inspection services based on the resume and years of experience working with QISJ.

3.7.25 QISJ had also invested on an IT infrastructure platform for efficiency. The team undertook a walkthrough of the system and experienced a live demonstration of how to on board new clients, make requests for inspection, tracking progress of inspection real-time.

3.7.26 QISJs' platform is interfaced with the Japanese government database to corroborate on the vehicles year of manufacture. This was complemented by a robust risk management procedure that QISJ adhered to in terms of documentation, manuals, procedures and processes to be followed to mitigate against fraudulent practices. The IT platform was also noted to be interfaced with the Procuring Entity (KEBS) for real time monitoring on the activities the service provider is undertaking.

3.7.27 QISJ has regulation for dealing with customer and maintaining customer complains records coded QIS-003-008. In this regulations, each complaint was noted to be handled to their logical conclusion in consultations with KEBS whenever necessary.

3.7.28 Enquiry on potential conflict of interest between JANS Trading and QISJ as had been previously reported in PIC report to parliament dated 22nd November 2016. The special audit confirmed that there was no relationship between JANS' Trading Co. Ltd and Quality Inspection Services Inc. Japan (QISJ). It was noted that the Directors of the JANS' Trading Co. Ltd were Mr. Umar H. Jan and Mr. Yassin Jan who are brothers. They are of Pakistani origin doing business in Japan.

3.7.29 The special audit confirmed that that current Managing Director of QISJ Mr. Kiyoaki Hatano was a former employee of JANS's Trading Co. Ltd up until 2009. Mr. Kiyoaki Hatano, later formed QISJ to undertake pre-export inspections services of used motor vehicles for export. See [Appendix 34 and 35](#) for the Certificate of incorporation between JANS and QISJ. The special audit therefore noted no conflict of interest between Jan's Trading Co. Ltd and Quality Inspection Services Inc. Japan (QISJ).

M/s. Quality Inspection Services Inc. Japan (QISJ) - United Kingdom

3.7.30 M/s. Quality Inspections Services Japan Limited was registered as a private limited Company in United Kingdom on 21st February 2012, and as a subsidiary of the parent company in Japan. The company registration number was 7957279. The company was subsequently changed to be a branch of the headquarters and was renamed to M/s. Quality Inspection Services Inc Japan UK Branch Limited with a registration number 10651781. See [Appendix 36](#).

3.7.31 M/s. QISJ UK Branch Ltd reported to owns two (2) inspection centers/facility in Edmonton and Tilbury and also had leased other facilities which are approved by Ministry of Transport and Communications.

3.7.32 The audit reviewed the documentation and verified the existence of documentation to prove the presence of the said inspection centers that were either owned or leased by QISJ in the United Kingdom. Assurance was obtained from receipts and invoices of the on-going rental payment and fees for the leased premises. The special audit confirmed that these machines were performing the activities as required under KS 1515:2000 and all the equipment

were modern and had valid calibration status. The facilities were also branded QISJ for ease of identification.

3.7.33 The special audit sampled and visited an inspection center located in Tilbury. The inspection center was leased in the Freeport area of Tilbury. All inspection equipment comprising of Speed Meter, Brake Tester, Side Slip Tester, Headlight Tester, CO/HC Tester, Diesel Tester, Sound Level Tester, Noise Level Tester, Radiation Tester and Scan Tool were confirmed to be owned by QISJ and was purchased from a company called V-Tech Ltd.

3.7.34 The records present at the QISJ Site Office confirmed that indeed the company owned the facility. The special audit also experienced real time inspection at this same facility. It was further noted the other center in Edmonton, UK has since been closed and the machine was seen on site at the inspection centre in Tilbury, UK. The same was notified to KEBS through letter dated 10th January 2019.

3.7.35 The special audit noted that QISJ UK branch had staff at the inspection center in Tilbury, United Kingdom. The technical proposal presented indicated a total of three (3) senior members of staff who were present and working at the time of our visit on 11 March 2019. The audit also noted two inspectors performing inspection services, all whom demonstrated competency and capacity to offer inspection services based on the resume and years of experience working with QISJ in the United Kingdom.

M/s. Quality Inspection Services Inc. Japan (QISJ) - United Arab Emirates

3.7.36 The special audit team visited the QISJ Branch in UAE and met with management on 3 March 2019. The special audit team confirmed that M/s. Quality Inspection Services Inc. Japan had leased a warehouse in RAS Al Khor, alAwir Industrial 3, Dubai from Mr. Essa Al Kous for the purpose of vehicles technical testing. There was evidence of QISJ operations at the said facility and this was further corroborated with the existing lease agreement, and records of rent payments to the landlord.

3.7.37 It was noted that, the company has both the Registration Renewal Certificate of Branch of Foreign Facility No. 4157 valid from 20 March 2013 to 19 March 2020 and professional license No. 684010 valid from 21 February 2013 for surveying and evaluating services. These license are required for companies to conduct inspection services in the UAE.

3.7.38 To support ownership of the equipment, the special audit team reviewed invoice No. 1577 dated 3 March 2013 from M/s. Jaffer Moh'd Ali Garage to support the purchase of a full set of used motor vehicle testing equipment namely; Hydraulic jacks/ pit, slid slip tester/wheel alignment tester, brake tester, speedometer tester, exhaust proximity noise tester, headlight tester, Exhaust gas tester for petrol engines and diesel engines and tape measure.

3.7.39 The audit team met with the staff including the Chief Inspector Mr. Rommel, who took the audit team through the process of inspection for both motor vehicle at the inspection centre and spare parts at the yards in Sharja - UAE. The team noted that QISJ has on record four (4) qualified technical staff.

M/s. Quality Inspection Services Inc. Japan (QISJ) - South Africa

3.7.40 M/s. Quality Inspection Services Inc. Japan (QISJ), subcontracted M/s. International Conformity Assessment Solutions (PTY) Ltd. (ICAS) as its liaison office and M/s. DEKRA Ltd as a testing station to manage the roadworthy inspections of motor vehicles.

3.7.41 A tripartite agreement between QISJ, ICAS and DEKRA Ltd was signed on 1 December 2017. According to the agreement ICAS was to collect the inspection fees and in turn pay DEKRA Ltd for roadworthy testing. ICAS has an office at 13 Sloane Street, Epsom Downs Office Park, Process House, Bryanston. The company was registered with the Companies and Intellectual Property Commission on 13th July 2010. In the same year, it was registered for Value Added Tax (VAT), Tax Registration No. 2010/014813/07. A copy of the agreement is attached under **Appendix 37**.

3.7.42 Field inspection on 28 February 2019 by the special audit team confirmed that M/s. DEKRA Ltd is located at 97, Willem Cruywagen Avenue, Klerksdorp, Rosslyn Pretoria. The company has six technical staff who carry out the vehicle testing. Further the team confirmed that DEKRA Ltd owns all the testing equipment listed in the tender documents namely; Hydraulic jacks/pit, slid slip tester/wheel alignment tester, brake tester, speedometer tester, exhaust proximity noise tester, headlight tester, exhaust gas tester for petrol engines and diesel engines and tape measure.

3.7.43 Overall, the special audit thus concluded that M/s. QISJ had demonstrated capacity to deliver one the current contract as it had delivered on its past

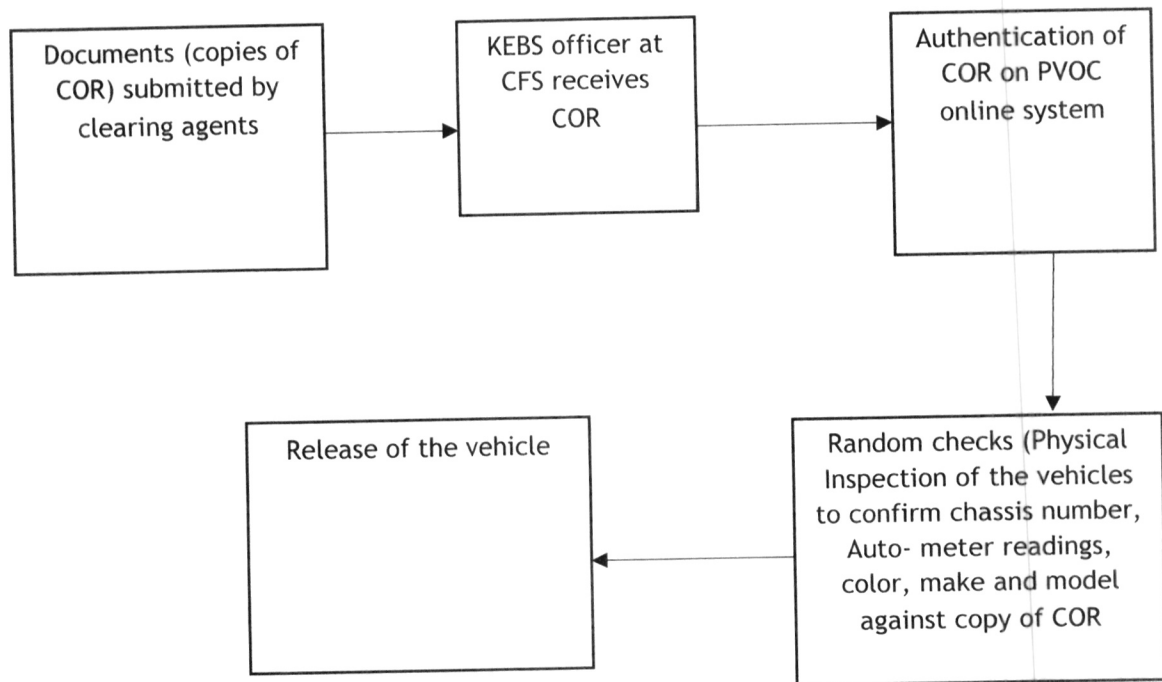
contracts with KEBS by virtue of having the physical and technological infrastructure required to satisfactorily perform services required under this tender, and the right capacity and competency of staff a to satisfactorily perform services required under this tender in Japan, United Kingdom and United Arab Emirates. Further, there had not been any recorded complains levelled against QISJ in the past two contracts by the contractor KEBS. A similar conclusion was reached in a recent due diligence surveillance audit report by KEBS' report dated 20th February 2019. As for South Africa where the requirement was sub-contracting, the special audit also concluded that M/s. QISJ had demonstrated capacity to deliver one the current contract as it had delivered on its past contracts with KEBS by virtue of having the physical and technological infrastructure required to satisfactorily perform services required under this tender in the South Africa the right capacity and competency of staff a to satisfactorily perform services required under this tender in South Africa.

3.8 Findings on Site Inspection at the Port of Mombasa

- 3.8.1 KEBS Mombasa Regional Office has four departments; import inspection, metrology and testing, quality assurance and administration. KEBS office at the Port of Mombasa falls under the import inspection department. Inspection of motor vehicles is done at the port of exit and a copy of the Certificate of Roadworthiness (COR) is posted by QISJ on the PVOC website.
- 3.8.2 Verification by KEBS at the port of entry is done on random basis and involves matching of the copies of COR submitted by the clearing agents against what is posted by QISJ on the PVOC website.

3.8.3 The motor vehicle inspection and clearance process involves the following stages:

Motor vehicle inspection and clearance process flow chart



3.8.4 Motor vehicles are imported and cleared at the Container Freight Stations (CFS) which are privately owned. There are a total of thirty (30) CFSs in Mombasa and KEBS officers from the import inspection department are deployed in the various CFSs to verify motor vehicle import documents.

3.8.5 The special audit team carried out data analysis of motor vehicles imported during the quarter starting October to December 2018. During this period, a total of 28,590 vehicles were received at the 30 CFSs. Out of this, a sample of eight (8) CFSs which handled high volume of imported motor vehicles was selected. The sampled CFSs handled a total of 19,563 motor vehicles as detailed in the table below:

Table 14: Sampled Container Freight stations

No.	Container Freight Station (CFS)	Quantity of vehicles inspected
1	Boss Freight	642
2	Consult Base 2	1,926
3	Interpel	1,534
4	Kencontainers	6,236
5	Mombasa Container Terminal 1	1,831
6	Mombasa Container Terminal 2	4,803
7	Mombasa Island Container Terminal	451
8	Unifreight	2,140
	Total	19,563

- 3.8.6 At the CFS, the special audit team observed the motor vehicle inspection process, which consisted of confirmation of the details contained in Certificate of Roadworthiness namely; the chassis number, auto meter reading, colour, make and model against the details posted online on PVOC system used by the QISJ after which the vehicles are cleared and released. Clearance documents submitted by agents including Certificates of Roadworthiness (COR) were reviewed for conformity and site visits of sampled CFS was done to observe and confirm the inspection process.

4 APPENDICES

CONTACTS

Office of the Auditor-General

Address: P.O. Box 30084-00100, NAIROBI.

Telephone: +254 796 52 85 60

E-mail: info@oagkenya.go.ke

Website: www.oagkenya.go.ke



@OAG_Kenya



Office of the Auditor-General Kenya