



**THE ETHICS AND ANTI-CORRUPTION COMMISSION**

**THE 4<sup>TH</sup> QUARTERLY REPORT COVERING THE PERIOD FROM  
1<sup>ST</sup> OCTOBER 2021 TO 31<sup>ST</sup> DECEMBER 2021**

**DECEMBER 2021**

## **PREAMBLE**

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under Section 35 of the ACECA, 2003 as read with Section 11(1) (d) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney General.
4. The Attorney General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the fourth quarter and is for the period commencing 1<sup>st</sup> October 2021 to 31<sup>st</sup> December 2021.

**INVESTIGATION REPORTS COVERING THE PERIOD FROM 1<sup>ST</sup> OCTOBER 2021 TO 31<sup>ST</sup> DECEMBER 2021**

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**1. EACC/NYR/FI/INQ/02/2020**

**INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AGAINST KIRINYAGA COUNTY GOVERNOR FOR RECEIVING IMPREST AMOUNTING TO KSHS. 10,634,614 FOR TRIPS THAT WERE NON-EXISTENT OR NOT OFFICIAL**

The Commission commenced investigations following a report received on 2<sup>nd</sup> April 2020 from the media alleging that the Governor of Kirinyaga County abused her office by irregularly receiving travel imprest amounting to Kshs. 10,634,614 in respect of trips that were either non-existent or unofficial.

Investigations examined twelve international trips and established that there were documents indicating that the Governor was invited for the said trips, however, there were no documents supporting the inclusion of other County officials who attended the said trips. Investigations found that many of the said officials were verbally nominated to join the governor on the said trips.

Investigations also established that the application for the said imprests was not supported with proper documentation.

Investigations further established that the Governor, Chief of Staff and the CECM Gender were granted imprests for trips while holding outstanding imprests.

Investigations further established that the governor and officers from the Finance Department in an attempt to account for the imprest advanced to the governor made and uttered to the Commission false documents purporting to be the accounting documents for the imprest.

On 7<sup>th</sup> December 2021, a report was compiled and forwarded to the DPP with recommendations to charge the Governor and the Chief Officer Finance with 1 count of conspiracy to commit an offence of corruption contrary to Section 47A (3) as read with Section 48 of ACECA and 1 count of deceiving the principal contrary to Section 41 (2) as read with Section 48 of ACECA; charge the Ag.



Director Administration and the Chief Officer Finance with 1 count of abuse of office contrary to Section 46 as read with Section 48 of ACECA and 2 counts of wilful failure to comply with applicable law relating to the management of public funds contrary to Section 45 (2) (b) as read with Section 48 of ACECA; charge the Chief Officer Finance, Director Accounting Services and Assistant Director Accounting Services 1 count of false accounting by a public officer contrary to Section 331 (2) of the Penal Code.

Awaiting DPP's response.

## **2. EACC/NYR/FI/INQ/10A/2019**

### **INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND EMBEZZLEMENT OF PUBLIC FUNDS MEANT FOR SCHOOL PROJECTS AGAINST THE OFFICIALS OF OI KALOU NATIONAL GOVERNMENT CDF COMMITTEE**

The Commission commenced investigations following a report that the OI Kalou National Government Constituency Development Fund (NG-CDF) Committee members were administering the funds to their own benefit.

Investigations established that the Project Manager and Secretary of the NG-CDF irregularly awarded nine tenders for construction of classrooms in various public schools within the OI Kalou Constituency to two companies that belonged to the said Secretary of the NG-CDF. Further, a tenth tender for the said construction was awarded to a company belonging to the Project Manager of the NG-CDF.

Investigations further established the schools' Boards of Management were not involved in the procurement of the said companies and that in fact no procurement process was conducted before awarding the three companies the said tenders.

On 9<sup>th</sup> December 2021 a report was compiled and forwarded to the DPP on 23<sup>rd</sup> December 2021 recommending 1 count of knowingly holding a private interest in a contract connected with a public body contrary to Section 42 (3) as read with Section 48 of ACECA against the Project Manager and 9 counts of knowingly holding a private interest in a contract connected with a public body contrary to



Section 42 (3) as read with Section 48 of ACECA against the Secretary of the Ol Kalou NG-CDF.

On 31<sup>st</sup> January 2022, the DPP returned the inquiry file with recommendation for further investigations.

### **3. EACC/NYR/FI/10B/2019**

#### **INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND EMBEZZLEMENT OF PUBLIC FUNDS MEANT FOR ROAD PROJECTS AGAINST THE OFFICIALS OF OL KALOU NG-CDF COMMITTEE**

The Commission commenced investigations following a report that the Ol Kalou NG-CDF Committee members were embezzling funds meant for construction of roads within the constituency.

Investigations revealed that a total of Kshs. 62,424,650 was disbursed to the Ol Kalou Constituency Road Project Account for the period covering 15<sup>th</sup> May 2014 to 31<sup>st</sup> October 2018. That during the same period, cheques and cash withdrawals totalling Kshs. 55,833,650 were made out in favour of the NG-CDF Roads Project Committee officials and 7 companies purportedly in relation to various roads works for the financial years 2013/2014, 2014/ 2015, 2015/2016, 2016/2017 and 2017/2018.

On 9<sup>th</sup> December 2021 a report was compiled and forwarded to the DPP on 23<sup>rd</sup> December 2021 recommending charges against the members of the Ol Kalou NG-CDF with conspiracy to commit an offence of corruption contrary to Section 47A (3) as read with Section 48 of ACECA, 2 counts of wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) of ACECA against the chairman, Secretary and fund Account Manager, 3 counts of fraudulent acquisition contrary to Section 45 (1) of ACECA, 3 counts of abuse of office, 1 count each of fraudulent acquisition contrary to Section 45 (1) of ACECA, 3 counts of abuse of office contrary to Section 46 of ACECA for 2 members of the NG-CDF as well as each for each of the 7 Companies paid together with their directors, and a count each of abuse of office contrary to Section 46 of ACECA against the Chairperson and 2 members of the NG-CDF all as read with Section 48 of ACECA.

Awaiting DPP's response.

#### **4. EACC/NYR/FI/INQ/47/2018**

##### **INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF PUBLIC FUNDS AMOUNTING TO KSHS. 6,687,843.00 BY FORMER MP OF OLJORO-OROK CONSTITUENCY.**

The Commission commenced investigations following a report that the Ol Joro Orok Constituency Development Fund (CDF) officials and former Member of Parliament had misappropriated funds from the said CDF.

Investigations established that the Ol Joro Orok NG- CDF Committee planned to procure five school buses for five different schools- Ol Joro Orok Secondary School, Gatimu Mixed Secondary School, Ruiru Secondary school, Gathanji Secondary School and Weru Secondary School. The total amount of funds allocated to the said school bus project for the five schools in the two financial years was Kshs. 30.6 million. The said amount was held in the project account number 016026191497 at Equity Bank.

Investigations further established that the NG-CDF Committee and other stakeholders conducted fundraising exercise that raised a total of Kshs. 6,687,843.

Investigations revealed that the five buses were duly procured from Thika Motor Dealers (K) Limited at a total cost of Kshs. 30,500,000 and each school received a school bus with a registration number and a log book under its name. Investigations further established that out of the raised amount of the Kshs. 6,687,843/-; Kshs. 1,000,000 was transferred to the account of the Member of Parliament at the time and the remaining Kshs. 4,180,695 was withdrawn in cash and could not be accounted for by the NG-CDF Committee.

On 23<sup>rd</sup> November, 2021 a report was compiled and forwarded to the DPP with recommendations that the former MP of Ol Oljoro Orok Constituency with 1 count of fraudulent acquisition of public funds contrary to Section 45 (1) (a) as read with Section 48 of ACECA, officials of the NG-CDF Committee be charged with 2 counts of wilful failure to comply with the law applicable to incurring of expenditure contrary to section 45(2) (b) as read with Section 48 of ACECA and 1 count of



failure to keep records contrary to Section 197 (l) as read with Section 199 of the PFMA, 1 count of abuse of office contrary to section 46 all as read with section 48 of ACECA against the Chairperson and Accountant of the NG-CDF.

On 28<sup>th</sup> January 2022, the DPP returned the inquiry file with recommendations for further investigations.

#### **5. EACC/GSA/FI/INQ/01/2020**

#### **INQUIRY INTO ALLEGATIONS AGAINST THE DEPUTY COUNTY COMMISSIONER, ASSISTANT COUNTY COMMISSIONER AND AREA CHIEF FOR THEFT OF RELIEF FOOD BELONGING TO TANA NORTH SUB- COUNTY WITHIN TANA RIVER COUNTY**

The Commission commenced investigations following a report that the Deputy County Commissioner and the Assistant County Commissioner of Tana North Sub-County unlawfully sold 300 bags of relief food (rice) meant for Hosingo Location worth Kshs. 2,230,000/-.

Investigations established that in December 2019, the Department of Special Programmes allocated 1,000 bags of rice, 400 bags of beans and 200 bales of fortified food to the Tana North Sub-county. That on 3<sup>rd</sup> April 2020, the National Cereal and Produce Board (NCPB) released 124 bags of rice, 4 bags of beans and 3 bales of fortified food for Hosingo Location. Investigations established that the Relief Food Distribution Committee was not convened to discuss the distribution modalities of the said relief food.

Investigations established that the Chief of Hosingo Location, the Assistant County Commissioner and the Deputy County Commissioner of Tana North Sub- County diverted the said relief food to a number of traders at Bura Township in exchange for money.

On 7<sup>th</sup> October 2021, a report was compiled and forwarded to the DPP with recommendations to charge Chief of Hosingo Location, the Assistant County Commissioner and the Deputy County Commissioner with the following offences: 3 counts of fraudulent disposal of public property contrary to Section 45 (1) (b) of ACECA, 2 counts of abuse of office contrary to Section 46 of ACECA all as read



with Section 48 of ACECA, 2 counts of breach of trust contrary to Section 127 (1) as read with 127 (2) of the Penal Code.

On 23<sup>rd</sup> December 2021, the DPP returned the inquiry file with recommendations for further investigations.

#### **6. EACC/ELD/FI/INQ/35/2017**

#### **INQUIRY INTO ALLEGATIONS THAT ADMINISTRATION POLICE COMMANDERS FROM TRANS NZOIA COUNTY HAVE BEEN EMBEZZLING APPROPRIATION IN AID (AIA) COLLECTIONS IN REGARDS TO PRIVATE HIRE OF POLICE OFFICERS TO VARIOUS ENTITIES**

The Commission commenced investigations following a report on 15<sup>th</sup> March 2016 that some senior Administration Police Officers within Trans Nzoia Sub County were embezzling the Appropriation in Aid (AIA) funds accruing from private hire of Administration Police Officers.

Investigations established that the Administration Police Officers in Trans Nzoia offered security services to various private firms at a fee and the monies were required to be deposited in the KCB Account number 1119759730 Moi Avenue Branch under the name OOP-Principal Secretary – Ministry of Interior and Coordination.

Investigations further established that the Sub- County AP Commanders opened a Co-operative Bank account number 0119502163700 named AP Welfare Group-Kitale and directed the said private firms to pay the fees for private hire into the new account. That the said Commanders would subsequently withdraw the money and embezzle it. Investigations established that between 2012 and 2016 the said AP Commanders embezzled a total of Kshs. 18,147,000/-.

Investigations further established that the said AP Commanders did deposit some of the private hire fees into the official KCB account during the said period amounting to Kshs. 4,270,950/-. The said commanders did make returns of this amount as required.

On 7<sup>th</sup> October 2021, a report was compiled and forwarded to the DPP with recommendations to charge the named AP Commanders with the following charges: 6 counts of fraudulent acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 of ACECA, 3 counts of wilful failure to comply with the law related to management of funds contrary to Section 45 (2) (b) as read with Section 48 of ACECA, 6 counts of failing to pay public money into a government bank account contrary to Section 197 (1) (g) as read with Section 199 of the Public Finance Management Act (PFMA), 5 counts of fraudulent false accounting by a public officer contrary to Section 331 of the Penal Code.

Awaiting DPP's response.

#### **7. EACC/BGM/FI/INQ/3(a)/2019**

#### **INQUIRY INTO ALLEGATION OF PROCUREMENT IRREGULARITIES AND IRREGULAR PAYMENTS TO TRITEK CONSULTING COMPANY FOR TENDER NO. BGM/CNTY/RFP/144/2014-15 BY THE COUNTY GOVERNMENT OF BUNGOMA OFFICIALS**

The Commission commenced investigations following a report that in the financial years 2016/2017, 2017/2018, 2018/2019 irregular payments were made by the County Government of Bungoma officials to Tritex Consulting Company Limited for tender no. BGM/CNTY/RFP/144/2014-15. Amounting to Kshs. 138,000,000.

Investigations established that the County Government of Bungoma officials breached the procurement law in the award of tender for the Provision of Revenue Automated Management System Tender no. BGM/CNTY/RFP/144/2014-15 to M/S Tritex Consulting Company in the sum of Kshs. 138,000,000/-.

On 2<sup>nd</sup> November 2021, a report was compiled and forwarded to the DPP with recommendations to charge the Chief Officer, the Procurement Officer, the Evaluation and Inspection and Acceptance Committee members, Tritex Consulting and its directors with the following charges: 1 count each of wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) as read with Section 48 of ACECA against the Evaluation Committee and the



Inspection and Acceptance Committee members, 1 count of making fraudulent payments from public funds for services not rendered in full contrary to Section 45 (2) (iii) of as read with Section 48 ACECA against the Chief Officer, Economic Planning, charges against the Tritex Consulting, its directors and the Lead Consultant as follows: 1 count of fraudulent acquisition of public property contrary to Section 45 (1) of ACECA as read with Section 48 of ACECA, 1 count of fraudulent practice in procurement contrary to Section 41 (1) as read with Section 137 of the Public Procurement and Asset Disposal Act, 2015 (PPADA) 2 counts of uttering a false document contrary to Section 353 of the Penal Code.

On 13<sup>th</sup> January 2022 the DPP returned the inquiry file with recommendations for further investigations.

#### **8. EACC/ISL/FI/INQ/34/2016**

#### **INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITY BY ISIOLO COUNTY ASSEMBLY IN THE AWARD OF TENDER FOR THE PROPOSED CONSTRUCTION OF MASONRY PERIMETER FENCE, RENOVATION OF EXISTING BUILDINGS, PAVEMENT WORKS AND PARKING LOT**

The Commission commenced investigations following a report received on 4<sup>th</sup> July 2016 that the Isiolo County Assembly flouted procurement laws in the award of tender for construction of masonry perimeter wall, gate house, renovation of existing buildings, pavement works and parking lot with shade at Tuberculosis Manyatta Land.

Investigations established that there were procurement irregularities in the award of the subject tender and that the winning bidder Malka Contractors Limited submitted forged the National Construction Authority (NCA) (and Tax Compliance Certificates.

Investigations further established that the Personal Assistant to the Speaker of Isiolo County Assembly, the Clerk of the Isiolo County Assembly and the Speaker of the Isiolo County Assembly received a total of Kshs. 41,000/-, Kshs. 50,000 and Kshs. 40,000/= into their respective M-pesa accounts from the director of Malka Contractors Limited during the procurement process of the subject tender.



On 23<sup>rd</sup> November, 2021 a report was compiled and forwarded to the DPP with recommendations to charge the Speaker, Clerk, Personal Assistant to the Speaker with 1 count each of abuse of office contrary to Section 46 as read with Section 48 of ACECA, 1 count of conflict of interest contrary to Section 42 (3) as read with Section 48 of ACECA against the Personal Assistant to the Speaker, 2 counts of uttering a false document contrary to Section 353 as read together with 349 of the Penal Code, 2 counts of engaging in a fraudulent practice in a procurement contrary to Section 41 (1) as read with Section 41 (4) of the Public Procurement and Disposal Act (PPDA), 2005 against Malka Contractors Limited and its director.

Awaiting DPP's response.

#### **9. EACC/NKR/INQ/FI/17/2018**

##### **INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND EMBEZZLEMENT OF PUBLIC FUNDS IN THE PURCHASE OF BOMET COUNTY SENATE OFFICE FURNITURE BY THE SENATOR OF BOMET.**

The Commission commenced the investigation upon receipt of a report that the Senator, Bomet County had awarded several contracts to his wife. It was alleged that she had been paid Kshs. 600,000/- vide cheque number 000038.

Investigations revealed Isel Creative Design Limited supplied furniture to the said Senate Office and were duly paid Kshs. 600,000/- yet the said company did not bid for the said contract and that the directors of the said company were the Senator and his daughter.

On 23<sup>rd</sup> November, 2021, a report was compiled and forwarded to the DPP with recommendations for the Senator Bomet County with 1 count of conflict of interest contrary to Section 42(3) of ACECA; The County Senate Office Manager with 1 count wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) of ACECA ; both the Senator Bomet County and The County Senate Office Manager with 1 count each of abuse of office contrary to section 46; charge Isel Creative Design and its directors with 1 count of Fraudulent acquisition of public property contrary to section 45(1)(a)all as read with section 48 of ACECA.

On 8<sup>th</sup> February 2022, the DPP returned the inquiry file with recommendation for further investigations.

#### **10. EACC/NKR/FI/INQ/36/2018**

#### **INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF PUBLIC FUNDS IN THE CONSTRUCTION OF KIRATINA MARKET IN MENENGAI WARD, NAKURU COUNTY IN THE FINANCIAL YEAR 2016/2017.**

The Commission commenced investigations upon receipt of a complaint that Kiratina Market in Menengai Ward of Nakuru County was budgeted for in the financial year 2016/2017 under the Ministry of Trade, Nakuru County at a cost of Kshs. 8 million; that the contract was awarded to Levi Contractors Limited which completed construction in 2017 and was paid a total of Kshs. 10,899,342.95; that the said market was not handed over for use; and that in September 2018 the structures erected collapsed due to substandard works. It was further alleged that the Chief Officer, Ministry of Trade Nakuru County is also the director of Levi Contractors Limited and the daughter of Hon. Kimani Ngunjiri, MP Bahati Constituency.

Investigations revealed that five bids were received purportedly from Light Brothers Contractors Limited, Levi Contractors Limited, Joe Dreams Limited, Karima Engineering & Construction Company Limited and Strafield Contractors Limited. as all the five bids were filled out by an employee of Levi Contractors Limited.

Investigations further revealed that there was no tender Opening Committee as the Chief Officer Department of Trade who prepared minutes for a purported tender opening committee. Further, the Evaluation Committee recommended award of tender to Levi Contractors Limited despite the fact that they did not have a valid tax compliance certificate and the NCA Certificate. Investigations further revealed that the said Chief Officer Trade did not involve the technical staff from the Department of Public Works in the evaluation of the said bids.

Investigations established that Levi Contractors Limited was contracted to build two market sheds but only constructed one which later collapsed due to shoddy works. The said company was paid a total of Kshs. 3,972,849.20 for the said works.



It was further established that the said Chief Officer Trade was not a director of the company as alleged.

Investigations further revealed that the form of agreement was signed by the aforesaid employee of Levi Contractors and husband to one of the company directors. The said employee signed for both the company and on behalf of the County.

On 23<sup>rd</sup> November, 2021, a report was compiled and forwarded to the DPP with recommendation to charge the Chief Officer, Ministry of Trade with 1 count of abuse of office contrary to Section 46 as read with Section 48 of ACECA, 1 count of deceiving an investigator acting under ACECA contrary to Section 66 (1) (b) as read with Section 66 (2) of ACECA and 1 count of wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) as read with Section 48 of ACECA; 1 count of wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) as read with Section 48 of ACECA and 1 count of deceiving an investigator acting under ACECA contrary to Section 66 (1) (b) as read with Section 66 (2) of ACECA against the Head of Supply Chain Management and a similar count against the Tender Processing Committee; 1 count of unlawful acquisition of public property contrary to Section 45 (1) (a) all as read with Section 48 of ACECA, 2 counts of fraudulent practice in procurement proceedings contrary to Section 66 91) as read with Section 177 of the PPADA, 3 counts of making a document without authority under Section 347 (i) (d) of the Penal Code against Levi Contractors Limited and its directors and its employee aforesaid.

Awaiting DPP's response.

#### **11. EACC/MSA/FI/INQ/16/2015**

#### **INQUIRY INTO ALLEGATIONS THAT THE FORMER LAND REGISTRAR OF KILIFI COUNTY, ABUSED HER OFFICE AND REGISTERED LAND PARCEL NUMBER KIKOMANI/ 179 TO A THIRD PARTY AGAINST THE INTERESTS OF THE RIGHTFUL OWNER (COMPLAINANT)**

The Commission commenced investigations upon receipt of a complaint that the Kilifi Land Registry officials had colluded with a third party to divest the



complainant of her land parcel number Kikomani/Makobeni/179 (Ribe Rabai Settlement Scheme) and register the same in the name of the said third party.

It was further alleged that the said rightful owner had filed High Court Case Number 480 of 1988 against the said third party on the subject parcel. That the High Court entered judgment in favour of the said complainant declaring her the rightful owner of the said land parcel. That in spite of the court order the Kilifi Land Registry officials still connived with the said third party and registered the said parcel in his name given rise to a double registration.

Investigations established that documents that updated and amended land adjudication documents that indicated that the said complainant was the lawful owner of the subject parcel were destroyed by rain; that the Commission could not trace the said Registrar who retired and thus could not gather sufficient evidence to establish the alleged abuse of office.

On 23<sup>rd</sup> November, 2021, a report was compiled and forwarded to the DPP with recommendation that the file be closed for lack of sufficient evidence.

On 3<sup>rd</sup> February, the DPP returned the inquiry file recommending further investigations.

## **12. EACC/MCKS/FI/INQ/7/2019**

### **INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF PUBLIC FUNDS MEANT FOR THE CONSTRUCTION OF A KITCHEN AND DINING HALL AT ENKORIKA SECONDARY SCHOOL LOCATED IN KAJIADO COUNTY**

The Commission commenced investigations following a report received on 15<sup>th</sup> March 2019 on allegations of embezzlement of public funds meant for the construction of a kitchen and a dining hall at Enkorika Secondary School. That the County Government of Kajiado paid Kshs. 1 million out of a contract of Kshs. 7.5 million for a project that never took off.

Investigations established that that Enkorika Secondary School procured a contractor to construct the proposed kitchen and dining hall at a total cost of Kshs.

12 million funded by the NG- CDF. Investigations established that the school proposed to change the project to construction of a dormitory to cater for the increased population and the said change was duly approved. Investigations further established that the building material that had been delivered for the construction of the kitchen and dining hall was used for the construction of the said dormitory. Investigations did not find irregularities in the procurement processes herein and neither was there any loss or misappropriation of public funds.

On 23<sup>rd</sup> November 2021, a report was compiled and forwarded to the DPP with recommendations for the file to be closed for lack of evidence to prove the allegations herein.

Awaiting DPP's response.

### **13. EACC/GSA/FI/INQ/32/2017**

#### **INQUIRY INTO ALLEGATION OF MISAPPROPRIATION OF PUBLIC FUNDS AT LAGDERA CONSTITUENCY DEVELOPMENT FUND (CDF) DURING THE FINANCIAL YEAR 2013/2014**

The Commission commenced investigations following the Auditor General's report that revealed that the CDF Management Committee of Lagdera Constituency awarded bursaries to students in various learning institutions but that there was no cheque dispatch register nor acknowledgement letters from the said institutions to confirm the award and disbursements. It was reported that the Lagdera CDF Committee allocated Kshs. 10,902,630.75 out of a total budgetary allocation of Kshs. 77,164,284 during the financial year 2013/2014.

Investigations established that the requisite procedures for awarding bursaries from the Lagdera CDF to the various beneficiaries were followed. Investigations sampled several random Secondary, College and University institutions to confirm whether the bursaries were disbursed; all the sampled institutions confirmed receiving the said bursaries.

On 23<sup>rd</sup> November a report was compiled and forwarded to the DPP recommending closure of the file for lack of evidence.



On 28<sup>th</sup> January 2022, the DPP returned the inquiry file accepting our recommendation to close the file.

#### **14. EACC/MSA/FI/INQ/01/2017**

#### **INQUIRY INTO ALLEGATIONS OF IRREGULAR REALLOCATION OF PUBLIC FUNDS AND INCURRING OF EXPENDITURE BY KWALE COUNTY GOVERNMENT IN ITS CONTRIBUTION TO THE COUNCIL OF GOVERNORS**

The Commission commenced investigations following a report in the Standard Newspaper of 25<sup>th</sup> February 2017 that indicated that the Public Accounts Committee required that the Governor of the County Government of Kwale to explain how a payment of over Kshs. 13 million was made to the Council of Governors (COG). The Auditor General in his report for the period 1<sup>st</sup> July 2013 to 30<sup>th</sup> June 2014 had also raised queries concerning how payments of Kshs. 6,100,880 were made by the County Government of Kwale to COG.

Investigations established that the payments to the COG were made following the COG resolutions in which counties were requested to pay for the same and the said payments were made with no intention to misappropriate or defraud the County Government since the County Assembly had approved the budgetary estimates of the Departments from which the said payments were made.

On 23<sup>rd</sup> November 2021, a report was compiled and forwarded to the DPP with recommendation that the file be closed for lack of evidence.

On 28<sup>th</sup> January 2022, the DPP returned the file accepting our recommendation to close the file and recommending that an advisory be made to the County Government of Kwale to ensure that the internal processes and procedures are still being followed to date in processing of payments.

#### **15. EACC/FI/INQ/06/2020**

#### **INVESTIGATION INTO AN ALLEGATION OF PROCUREMENT IRREGULARITY AND ABUSE OF OFFICE AT RIFT VALLEY WATER WORKS DEVELOPMENT AGENCY IN THE CONSTRUCTION OF NAIVASHA INDUSTRIAL PARK WATER SUPPLY PROJECT**



The Commission commenced investigations upon receipt of a report that the Cabinet Secretary (CS) in the Ministry of Labour (previously the Cabinet Secretary in the Ministry of Water) was a director of Afrey Global Logistics Limited, a company that had received lucrative tenders from the Rift Valley Water Works Development Agency (RVWDA). It was alleged that Afrey Global Logistics Limited was subcontracted for tender number RVWDA/NIP/WORKS/2018-2019 construction of Naivasha Industrial Park Water Supply Project at a sum of Kshs. 126,715,743.58 in the financial year 2018/2019.

Investigation established that China Civil and Engineering Construction Corporation Limited was contracted to construct the Naivasha Industrial Park Water Supply Project under tender number RVWDA/NIP/WORKS/2018-2019 and not Afrey Global Logistics Limited as alleged. Investigations further established that the CS ceased being a director of Afrey Global Logistics Limited in May 2018 after he was appointed the Cabinet Secretary for Water.

On 24<sup>th</sup> November 2021, a report was prepared and forwarded to the DPP with recommendation to close the file for lack of evidence.

Awaiting DPP's response.

#### **16. EACC/FI/INQ/38/2021**

#### **INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF PUBLIC FUNDS AGAINST OFFICIALS OF THE GATUNDU SOUTH NATIONAL GOVERNMENT CONSTITUENCY DEVELOPMENT FUND (NG-CDF).**

The Commission initiated investigations following a complaint received against the officials of the Gatundu South National Government Constituency Development Fund (NG-CDF). It was alleged that the former chairperson of the Gatundu South-NG- CDF fraudulently received Kshs. 96,696,011/- from the Fund and that one of the members of the said NG- CDF fraudulently received Kshs. 8,979,0000/-. It was further alleged that Kshs. 15 million was fraudulently paid to Stamic Agencies Limited in relation to the Gakunju Memorial Primary School and that part of the said Kshs. 15 million was then transferred to Raret Enterprises in the financial year 2016/2017.

Investigations established that in the financial year 2016/2017 Gatundu South NG-CDF received a budget allocation of Kshs, 66,970,689.00 out of which Kshs. 15 million was allocated to the Gakunju Memorial Primary School Project. Investigations further established that no proper procurement process was conducted in respect of the said Gakunju Memorial Primary School project before a notification of award was issued to Stamic Agencies Limited to carry out construction under the said project.

Investigations established that Stamic Agencies Limited was paid a total of Kshs. 14,956,320 and that it transferred a total of Kshs. 9,177,700/- to Raret Enterprises. Investigations established that Raret Enterprises was wholly owned by the then chairperson of the Gatundu South NG-CDF and a signatory to the Project Management Committee's account. He participated in the decision to pay Stamic Agencies Limited.

Investigations revealed that the said chairperson of the Gatundu South NG-CDF upon receipt of the Kshs. 9,177,700/- from Stamic Agencies Limited, made a cash deposit of Kshs. 3,700,000/- to account number 0660263591736 at Equity Bank, Gatundu Branch belonging to the MP Gatundu South Constituency.

On 24<sup>th</sup> November, 2021 a report was compiled and forwarded to the DPP with recommendations to charge the MP Gatundu South Constituency with 1 count of fraudulent acquisition of Public property contrary to Section 45 (1) (a) as read with Section 48 of ACECA and 1 count of dealing in suspect property contrary to Section 47 (1) as read with section 48 of ACECA; charge the Chairman of the Gatundu South NG-CDF with 1 count of conflict of interest contrary to Section 42 (3) as read with Section 48 of ACECA and 1 count of failure to disclose a private interest contrary to Section 42 (1) (a) as read with section 48 of ACECA; charge the Fund Account Manager with 1 count of wilful failure to comply with the law relating to procurement contrary to Section 45 (2) as read with Section 48 of ACECA; charge the officials of the Gatundu South NG-CDF with 3 counts of abuse of office contrary to Section 46 as read with Section 48 of ACECA and charge Stamic Agencies and its director with 1 count of fraudulent acquisition of Public property contrary to Section 45 (1) (a) as read with Section 48 of ACECA.



Awaiting DPP's response.

#### **17. EACC/MSA/FI/INQ/10/2019**

#### **INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF FUNDS AND IRREGULAR PROCUREMENT BY KWALE COUNTY ASSEMBLY FOR THE CONSTRUCTION OF KWALE COUNTY ASSEMBLY COMPLEX AT KSHS. 466,892,170/- DURING FY 2014/2015.**

The Commission commenced investigation upon receipt of a complaint on 8<sup>th</sup> April 2019 that the Kwale County Assembly had misappropriated funds amounting to Kshs. 4.1 million during the financial year 2014/2015 through irregular procurement of Exchange Investment Limited for the construction of the Kwale County Assembly Complex.

Investigations established that the procurement for the construction of the Kwale County Assembly Complex was done in accordance with the provisions of the Public Procurement and Disposal Act, 2005 (PPDA) save that an Inspection and acceptance Committee was not duly appointed.

Investigations further revealed that the winning bidder Exchange Investment Limited submitted fake documents in support of its bid namely the NCA Certificate and the KRA Tax Compliance Certificate. Investigations established that the company had outstanding tax liability of Kshs. 41,089,248/- as corporate tax and Kshs. 21,914,266 as VAT at the time and could not therefore have been issued with a Tax Compliance Certificate. Investigations established that the Evaluation Committee failed to conduct due diligence that would have revealed the said fake documents.

Investigations further established that Exchange Investment Limited was paid in excess of Kshs. 55,421,840 as VAT. As at September 2018, the County Assembly had recovered Kshs. 30,000,000 from the contractor of the said excess payment. Investigations further established that the company was paid Kshs. 401,653,422 for works done, following valuation by the project manager and the valuation team. Independent valuation of the works valued the same at Kshs. 162,497,239.76/=.



On 24<sup>th</sup> November 2021, a report was compiled and forwarded to the DPP with recommendations to charge the Kwale County Assembly valuation team members with 1 count of abuse of office contrary to Section 46 as read with Section 48 of ACECA; the County Clerk, Deputy Clerk and Director Finance with 1 count of making excessive payments contrary to Section 45 (2) (iii) as read with Section 48 of ACECA and 1 count of financial misconduct contrary to Section 197 (1) (i) as read with Section 199 of the Public Finance Management Act, 2012 (PFMA); the Project Manager Works Officer and structural engineer with 1 count of deceiving the principal contrary to Section 41 (2) as read with Section 48 of ACECA; the Tender Evaluation Committee with 1 count of wilful failure to comply with the law relating to procurement contrary to Section 45 (2) of ACECA and 1 count of knowingly making a misleading statement to one's principal contrary to Section 41(1) as read with Section 48 of ACECA; Exchange Investment Limited and its directors with 1 count of fraudulent practice in procurement proceedings contrary to Section 176 (1) (i) as read with Section 176 (2) of the PPADA and 1 count of fraudulent acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 of ACECA.

On 31<sup>st</sup> January 2022, the DPP returned the file with recommendations for further investigations.

#### **18. EACC/BGM/FI/INQ/05/2019**

#### **INQUIRY INTO ALLEGATIONS OF IRREGULAR AWARD OF TENDER FOR PERIODIC MAINTENANCE OF CHEBOSI-WANELOPI-KITUNI ROAD AT A TENDER SUM OF KSHS. 5,742,870 TENDER NUMBER BGM/CNTY/RPW/OT/51/2018-2019 TO FASTEC GENERAL SUPPLIES BY THE COUNTY GOVERNMENT OF BUNGOMA**

The Commission commenced investigations after receipt of a complaint on 27<sup>th</sup> February 2019 that the County Government of Bungoma had fraudulently awarded the tender for periodic maintenance of Chebosi – Wanelobi- Kituni Road to Fastec General Suppliers at a tender sum of Kshs. 5,742,870/-

Investigations established that the procurement of works for the said project was initiated in accordance with the PPADA. However, the evaluation was not

conducted in accordance with the set criteria since award was recommended to Fastec General Supplies which did not provide all the documents/information required in their bid such as program of works and proof of financial capacity. Investigations further revealed that the said Fastec General Supplies also presented false documents in its bid including proof of previous works at Kilifi and Busia Counties.

Investigations further revealed that the said maintenance works were not inspected and accepted by the County Government and, there was no status report by Fastec.

Investigations established that the contractor and the county government agreed on a mutual termination of contract without any payments made to Fastec.

On 26<sup>th</sup> November, 2021 a report was prepared and forwarded to the DPP with recommendation that the County Tender Evaluation Committee with wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) of ACECA, 1 count of deceiving the principal contrary to Section 41 (2) of ACECA both as read with Section 48 of ACECA, the Chief Officer Roads and Infrastructure with wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) as read with Section 48 of ACECA, Fastec General Supplies and its directors with 1 count of fraudulent practice in procurement contrary to Section 41 (1) as read with Section 137 of PPADA.

On 28<sup>th</sup> January 2022, the DPP returned the inquiry file with recommendations for further investigations.

#### **19.EACC/PI/INQ/66/2018**

#### **INVESTIGATIONS INTO ALLEGATIONS OF IRREGULAR PAYMENT AMOUNTING TO KSHS. 460,083,000 AND CONFLICT OF INTEREST BY THE STATE DEPARTMENT FOR CORRECTIONAL SERVICES TO EIGHTEEN COMPANIES FOR THE SUPPLY OF FOOD AND RATION THAT WAS NOT SUPPLIED TO SEVEN PRISONS WITHIN NAIROBI**

The Commission commenced investigations following a report of irregular payment amounting to Kshs. 460,083,000 by the State Department for Correctional



Services to eighteen companies for the supply of food and ration that was not supplied to Langata Women's Prison, Kamiti Medium Prison, Nairobi West Prison, Nairobi Remand Prison, Kamiti Main Prison, Kamiti Youth Correctional Training Centre (YCTC) & Borstal Institution and the Nairobi Medium Prison.

Investigations established that the seven prisons aforesaid never made any request for food deliveries to the eighteen companies that are subject to investigations herein yet the eighteen companies were fraudulently paid a total of Kshs. 450,138,000/-. Investigations further established that the said eighteen companies were owned by four persons one of whom is a Senior Support Staff at the State Department of Correctional Services.

Investigations further revealed that a Principal Accountant at the State Department of Correctional Services received Kshs. 800,000/- from the proprietor of Josil General Supplies after he received Kshs. 12,000,000 for fictitious supplies. Further the said Principal Accountant approved payment of Kshs. 4,780,000/- to Reen East Africa which then immediately wired Kshs. 4,000,000 to Housing Finance Development Limited for purchase of a house in favour of the said Principal Accountant.

On 3<sup>rd</sup> November 2021, a report was compiled and forwarded to the DPP with recommendations to charge the officials of the State Department of Correctional Services, the eighteen companies and their directors with the following offences: conspiracy to commit an offence of corruption contrary to Section 47A (3) as read with Section 48 of ACECA, charge the officials of the State Department of Correctional Services with 1 count of abuse of office contrary to Section 46 as read with Section 48 of ACECA, 4 counts of unlawful acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 of ACECA against the four proprietors of the said eighteen companies, 1 count of fraudulently making payments from public revenue for goods not supplied contrary to Section 45 (2) (a) (ii) as read with Section 48 of ACECA and 1 count of financial misconduct contrary to Section 197 (1) (h) as read with Section 199 of the PFMA against the Deputy Commissioner General of Prisons, 2 counts of conflict of interest contrary to Section 42 93) as read with Section 48 of ACECA against the Principal



Accountant and 1 count of conflict of interest contrary to Section 42 93) as read with Section 48 of ACECA against a Senior Support Staff who is also the proprietor of seven out of the eighteen companies.

On 28<sup>th</sup> January 2022, the DPP returned the inquiry file with recommendations for further investigations.

## **20. EACC/PI/INQ/6/2019**

### **INVESTIGATION INTO AN ALLEGATION OF EMBEZZLEMENT PUBLIC FUNDS AND CONFLICT OF INTEREST BY THE MEMBER OF PARLIAMENT- GATUNDU SOUTH.**

The Commission commenced the investigation upon receipt of allegations on 7<sup>th</sup> February 2019 that the MP for Gatundu South Constituency's siblings as well as close allies have incorporated limited liability companies for the purpose of doing business with the Gatundu South NG-CDF. That the said companies have continued to get tenders from the NG-CDF through restricted tendering. The allegation provided a list of affected tenders including details of the winning bidders. This report related to tender number NG-CDF/GS/ENV/NDUNDU/SEC/001/2019 proposed levelling and landscaping of field at Ndundu Secondary School and tender number NG-CDF/GS/ENV/GTTI/TER/001/2019 proposed block making machine base and shed at Gatundu Technical Training Institute. The tenders were awarded to True Bidders Construction Company Limited at a cost of Kshs. 2,179,324/-.

Investigations established that the procurement process for the two tenders was flawed. Investigations further revealed that the chairperson of the Gatundu South NG-CDF during the procuring of the two tenders herein was also a director of True Bidders Construction Company Limited. Investigations established that he did not declare his interest in the said company; he took part in the evaluation that recommended award of the two tenders to the said company.

Investigations revealed that True Bidders Construction Company Limited received a total of Kshs. 2,179,342/- for the two tenders and subsequently transferred a total of Kshs. 1,800,000 to African Diaspora Finance Limited whose two directors, are the

area MP and Emerging Capital Holdings Limited which in turn has the MP as its sole director.

On 23<sup>rd</sup> November, 2021, a report was compiled and forwarded to the DPP with recommendations to charge the MP Gatundu South Constituency with conflict of interest contrary to Section 42 (3) as read with Section 48 of ACECA, unlawful acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 of ACECA and dealing with suspect property contrary to Section 47 (1) as read with Section 48 of ACECA; the NG-CDF Chair with conflict of interest contrary to Section 42 (3) as read with Section 48 of ACECA, failure to disclose a private interest to one's principal contrary to section 42 (1) and (b) as read with Section 48 of ACECA and unlawful acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 of ACECA; the Fund Administration Manager with 5 counts of wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) as read with Section 48 of ACECA and 1 count of engaging in a project without prior planning contrary to Section 45 (2) (c) as read with Section 48 of ACECA; 2 counts of wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) as read with Section 48 of ACECA against the Tender Evaluation Committee; True Bidders Construction Company Limited and its directors with unlawful acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 of ACECA.

Awaiting DPP's response.

#### **21.EACC/PI/INQ/41/2020**

#### **INQUIRY INTO ALLEGATION OF RECEIPT OF BENEFIT OF KES 3.3 MILLION AND CONFLICT OF INTEREST BY GATUNDU SOUTH MP THROUGH FINISHLINE CONSTRUCTION THAT HAD BEEN AWARDED TENDER FOR CONSTRUCTION OF A DORMITORY AT WAMWANGI SECONDARY SCHOOL AT A COST OF KES. 12 MILLION BY THE MINISTRY OF EDUCATION.**

The Commission commenced investigations after receiving a report of receipt of benefit of Kshs. 3.3 million and conflict of interest by Gatundu South MP through Finishline Construction that had been awarded tender for construction of a



dormitory at Wamwangi Secondary School at a cost of Kshs. 12 million by the Ministry of Education.

Investigations revealed that the procurement for the proposed construction of an administration block at Wamwangi Secondary School was not conducted in accordance with the requirements of the PPADA. That the procurement herein was initiated by the said area MP who wrote a letter to the Principal of Wamwangi Secondary School informing her that the Ministry of Education had allocated Kshs. 12 million for the completion of the school's administration block.

Investigations revealed that Finishline Construction Limited completed the construction of the said administration block and was paid a total of Kshs. 11,999,720/- by Wamwangi Secondary School. Finishline in turn transferred Kshs. 3,300,000 to Smith & Gold Production Limited. Investigations further revealed that one of the directors of Finishline Construction Limited is brother to the area MP. The Directors of Smith & Gold Production Limited are the said bother and Emerging Capital Holdings Limited. Emerging Capital Holdings in turn has the area MP as its sole director. Investigations therefore established that the area MP was the beneficial recipient of the Kshs. 3,300,000 from Finishline Construction Company Limited.

On 23<sup>rd</sup> November, 2021, a report was compiled and forwarded to the DPP with recommendations to charge the MP with 1 count of dealing in suspect property contrary to Section 47 (1) as read with Section 47 (2) (a) and Section 48 of ACECA; 1 count each of unlawful acquisition of public property contrary to Section 45 (1)(a) as read with Section 48 of ACECA against the Principal of Wamwangi Secondary School, the Vice Chair of the Board of Management of the School and the Chair of the Parents Teachers Association (PTA) at the said school; 1 count of wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) as read with Section 48 of ACECA and 1 count of failing to enter into a written contract contrary to Section 135 (7) as read with Section 177 of PPADA against the Principal of Wamwangi Secondary School; 1 count of wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) as read with Section 48 of ACECA against the Tender Evaluation Committee at Wamwangi



Secondary School; 1 count of fraudulent practice in procurement contrary to Section 66 (1) as read with Section 177 of the PPADA against Finishline Construction Company Limited and its directors.

Awaiting DPP's response.

## **22. EACC/PI/INQ/67/2019**

### **INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF KSHS. 1.4 BILLION IN THE TENDER FOR PROVISION OF DRILLING SERVICES FOR 15 TO 29 GEOTHERMAL WELLS AT BARINGO-SILALI FOR GEOTHERMAL DEVELOPMENT CORPORATION**

The Commission commenced investigations following a report of an allegation of possible embezzlement/misappropriation of funds at the Geothermal Development Company (GDC) in the tender for provision of drilling services for 15 to 20 geothermal wells at Baringo-Silali (also referred to as Bogoria-Sialli) project. It was further alleged that Kshs. 1.4 billion was paid to the contractor Hong Kong Offshore Oilfield Supply and Logistics (HOOSL) before any work could start.

Investigations established that there was no irregularity in the subject procurement process but that HOOSL had submitted a forged performance bond purportedly from Industrial and Commercial Bank of China amounting to USD 5,851,980.80 to GDC. This action by HOOSL amounts to an offence of uttering a false document contrary to Section 353 of the Penal Code and GDC had already reported the matter to Directorate of Criminal Investigations (DCI) for action. Investigations established that HOOSL had been paid an advance of USD 14,629,952. The said amount constituted 25% of the contract sum as provided for by the contract. The said advance was refunded in full after the said company breached the contract by failing to mobilize to carry out the drilling project.

On 23<sup>rd</sup> November 2021, a report was compiled and forwarded to the DPP with recommendations to the Public Procurement Regulatory Authority (PPRA) to debar Hong Kong Offshore Oil Services and Logistics (HOOSL) and for the inquiry file herein to be closed.

On 25<sup>th</sup> January 2022, the DPP returned the inquiry file with recommendations for administrative action.

### **23. EACC/PI/INQ/49/2020**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AND UNETHICAL CONDUCT AND INFLUENCE BY THE GOVERNOR IN THE ISSUANCE OF BUSINESS PERMIT AND MINING LICENSE TO KAREBE GOLD MINING LIMITED BY THE COUNTY GOVERNMENT OF NANDI**

The Commission commenced investigations following a complaint received on 23<sup>rd</sup> December 2020 that there was corruption and unethical conduct in the issuance of business permit and mining license to Karebe Gold Mining Limited (KGML) by the County Government of Nandi. Further that the Governor for County Government of Nandi had demanded USD 50,000 which was later lowered to USD 25,000 to fund the political activities of the Deputy President in the year 2017.

Investigations were not able to establish the foregoing allegations, they instead revealed that KGML had leased land for the prospecting of gold but that the lessor was not willing to renew the said lease thereby making it difficult for the said company to renew its mining license and business permit. The resulting dispute between KGML and the said lessor gave rise to a number of court cases some of which are yet to be determined. There was no evidence of the alleged bribe demand.

On 23<sup>rd</sup> November, 2021 a report was compiled and forwarded to the DPP with recommendation that the file be closed for lack of evidence to establish the allegations herein.

Awaiting DPP's response.

### **24. EACC/MCKS/EL/INQ/3/2019**

#### **INQUIRY INTO ALLEGATIONS THAT MAKUENI COUNTY NATIONAL GOVERNMENT AFFIRMATIVE ACTION FUND (NGAAF) COORDINATOR HAS BEEN INFLUENCING AWARD OF TENDERS TO COMPANIES HE HAD A PERSONAL INTEREST IN.**

The Commission commenced investigations upon receipt of a report on 15<sup>th</sup> February 2019 alleging conflict of interest and embezzlement of funds perpetrated



by the Makueni County National Government Affirmative Action Fund (NGAAF) Co-ordinator through influencing of tender awards to companies owned by or associated with himself; specifically, M/s Waloi Enterprises, M/s Oltoret Solutions Kenya Limited and Redseal Investment Limited which were awarded a total of about Kshs. 10 million. It was further alleged that the said Coordinator also received kickbacks from Community Based Organisations (CBOs) and Self Help Groups that were funded by NGAAF.

Investigations revealed that the said Coordinator participated in decision making in relation to allocation of funds to Bendor Self Help Group that has his sister, brother in law and wife as members without declaring his interest in the same.

Investigations further revealed that the said Coordinator participated in the opening, evaluation and inspection of seven tenders that were awarded either to Waloi Enterprises, Oltoret Solutions Kenya Limited and Redseal Investment Limited all of which were owned and or run by his wife. Investigations revealed that the said Coordinator did not declare his interest in the said companies at any point during the said procurements.

Investigations established that the said companies were paid a total of Kshs. 9,441,470 for the said seven procurements.

Investigations also revealed that the bids submitted by Waloi Enterprises contained a false Tax Compliance Certificate.

On 22<sup>nd</sup> November, 2021 a report was compiled and forwarded to the DPP with recommendations to charge the Makueni County National Government Affirmative Action Fund Coordinator with the following offences; 11 counts of conflict of interest contrary to Section 42 (1) (a) as read with Section 48 of ACECA, 11 counts of abuse of office contrary to Section 46 as read with Section 48 of ACECA, 3 counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with Section 48 of ACECA; the said Coordinator's wife be charged with 2 counts of forgery contrary to Section 347 (a) as read with Section 349 of the Penal Code.



Awaiting DPP's response.

**25. EACC/ELD/EL/INQ/08/2016**

**INQUIRY INTO ALLEGATIONS THAT THE MEMBERS OF COUNTY ASSEMBLY FOR SOY WARD MISAPPROPRIATED MONEY ALLOCATED TO SOY WARD IN THE FINANCIAL YEAR 2013/2014**

The Commission commenced investigations following a complaint received on 19<sup>th</sup> December 2016 that the Member of County Assembly (MCA) Soy Ward had misappropriated public funds.

Investigations established that the MCA Soy Ward assumed office in 2013 and thereafter appointed five members of staff to manage his Ward office. This included the Ward Office Assistant and the AIE holder. Investigations further established that in the financial year 2013/2014 the Ward was allocated a total of Kshs. 1,040,000 that was used for rent, staff salaries, stationery and for refurbishment of the ward office. Investigations established that all the monies were accounted for with the exception of monies related to refurbishment of the office. Refurbishment was allocated Kshs. 200,000 out of which Kshs. 129,636/- was accounted for but Kshs. 70,364 was not.

On 23<sup>rd</sup> November, 2021, a report was prepared and forwarded to the DPP with recommendation that an advisory be issued to Soy Ward recommending closure of one of their accounts at Cooperative Bank number 01141443412300 which has a signatory who has long since left the Ward office; that the Kshs. 70,364 be recovered from the AIE holder; that the allegations against the MCA Soy Ward have not be proved and the matter be closed for lack of evidence.

Awaiting DPP's response.

**26. EACC/ELD/EL/INQ/06/2019**

**INQUIRY INTO ALLEGATIONS THAT THE COUNTY EXECUTIVE COMMITTEE MEMBER (CEC) INFRASTRUCTURE, TRANSPORT AND PUBLIC WORKS TURKANA COUNTY USED FALSIFIED DOCUMENTS TO SECURE EMPLOYMENT.**

The Commission commenced investigations following allegations that the CEC Member for Infrastructure, Transport and Public Works for Turkana County used falsified academic certificates to secure employment.

Investigations established that the CEC's Kenya Certificate of Secondary Education (KCSE) obtained in 1994 was genuine. Investigations however established that the Diploma in Business Administration purportedly from Premese Africa Development Institute in 2008 was fake and did not originate from the said institutions. The Degree Certificate purportedly obtained from Chuka University for Bachelor of Economics and Sociology (Economics) Second Class honour Upper Division was also established to be fake and the purported admission number cited by the CEC member belongs to another student.

On 23<sup>rd</sup> November, 2021, a report was compiled and forwarded to DPP with recommendations that the CEC Member for Infrastructure, Transport and Public Works for Turkana County be charged with the following offences; 2 counts of providing false information to the EACC contrary to Section 46 (1) as read with Section 46 (2) of the Leadership and Integrity Act (LIA), 1 count of knowingly using a misleading document to one's principal contrary to Section 41 (1) as read with Section 48 of ACECA, 1 count of fraudulent acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 of ACECA, 2 counts of making a document without authority contrary to Section 357 (A) of the Penal Code.

Awaiting DPP's response.

#### **27. EACC/MSA/EL/INQ/4/2015**

#### **INQUIRY INTO ALLEGATIONS OF CONFLICT OF INTEREST AGAINST AN EMPLOYEE OF KPA AND EXECUTIVE DIRECTOR/ CEO OF ETHICS-EA**

The Commission commenced investigations following a report on 28<sup>th</sup> February 2018 that two public officers namely the Director General- Kenya Maritime Authority (KMA) and also the Vice Chair of the Ethics Institute of East Africa (EIEA) together with of Kenya Ports Authority (KPA) who was also the CEO of EIEA were in conflict of interest as they were offering consultancy and training services to KMA



and KPA as EIEA and were paid for the said services without having made any disclosures.

Investigations established that the said employee had been working with KPA since 1997. That he was a director of EIEA which was incorporated in on 28<sup>th</sup> October 2020. EIEA started offering training services to KPA in May 2012. He wrote a letter to KPA indicating his interest in EIEA on 6<sup>th</sup> June 2012. EIEA was paid Kshs. 2,037,000/- for the said training services.

On the 23<sup>rd</sup> November, 2021, a report was prepared and forwarded to the DPP with recommendations that the said employee be charged with 1 count of conflict of interest contrary to Section 42 (3) as read with Section 48 of ACECA.

Awaiting DPP's response.

#### **28. EACC/EL/INQ/68/2016**

#### **INQUIRY INTO AN ALLEGATIONS THAT AN EMPLOYEE OF ETHICS AND ANTI-CORRUPTION COMMISSION FORGED A DEGREE IN BACHELOR OF ARTS FROM MOI UNIVERSITY AND SUBMITTED FALSE INFORMATION TO THE COMMISSION AND THE UNIVERSITY OF NAIROBI**

The Commission commenced this investigation after it received a report in 2016 that an employee of the Commission may have secured employment as a Prevention Officer II in 2013 using false academic certificates.

Investigations established that the Degree Certificate, purported to be from Moi University for Bachelor of Arts in Economics presented by the suspect herein during his recruitment was false and the admission number indicated therein belongs to another student. Investigations established that the suspect was never a bona fide student of Moi University. Investigations further revealed that the qualifications presented purported to be for KASNEB CPA were forged and the admission number indicated therein was a non-existent number in the said institution.

On 23<sup>rd</sup> November, 2021 a report was prepared and forwarded to the DPP with recommendation that the said employee be charged with; 1 count of fraudulent

acquisition of public property contrary to Section 45 (1) as read with Section 48 of ACECA, 1 count of forgery contrary to Section 345 as read with Section 349 of the Penal Code, 2 counts of uttering a false document contrary to Section 353 of the Penal Code and 3 counts of giving false information to a person employed in the public service contrary to Section 129 (a) of the Penal Code.

On 28<sup>th</sup> January 2022, the DPP returned the file accepting our recommendation to charge the suspect herein.

### **29. EACC/ELD/EL/INQ/03/2017**

#### **INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT BY MEMBER OF COUNTY ASSEMBLY OF TURKWEL WARD IN TURKANA COUNTY**

The Commission commenced investigations following a complaint on 27<sup>th</sup> January 2017 that the MCA for Turkwel Ward fraudulently acquired a Bachelor's Degree in counselling at the Kenya Methodist University (KeMU) Nakuru campus in December 2014. It was alleged that he graduated in July 2016, one and a half years after enrolment for a degree that ordinarily takes four years to complete. It was further alleged that he did not have the requisite KCSE grades, Certificate or Diploma that would allow him to enrol for a degree course at the University.

Investigations established that the said MCA was registered as a student at KeMU in the Pre-University Programme (PUP) under admission number PUP-0-1334-1/2012. Investigations established that this number was illegally edited into the system in 2015 and the original number was PUP-0-1334-1/2009 belonging to a different person. Investigations further revealed that his registration number for a diploma course at the said KeMU was also illegally entered into the system on 16<sup>th</sup> January 2016. Similarly, investigations revealed that he was initially registered for the degree in psychology course as COU-1-6339-3/2014, the admission number was changed around 15<sup>th</sup> December 2015 in the system to COU-1-6339-1/2014 in order to facilitate his clearance for graduation in 2016 before the course duration was complete. Investigations established that the registration of the said MCA into the KeMU system to enable him fraudulently acquire the said degree certificate must



necessary have been done in collusion with officers of the KeMU. KeMU has since recalled the said degree certificate.

On 23<sup>rd</sup> November, 2021 the report was prepared and forwarded to the DPP with recommendation that the MCA for Turkwel Ward be charged with the offence of providing false information to the EACC contrary to Section 46 (1) as read with Section 46 (2) of the Leadership and Integrity Act.

Awaiting DPP's response.

### **30. EACC/ELD/EL/INQ/22/2017**

#### **INQUIRY INTO ALLEGATIONS THAT SOME OFFICIALS OF NANDI COUNTY ASSEMBLY WERE AWARDED CARRIER OCCUPIER ALLOWANCE CONTRARY TO THE APPROVAL OF THE COUNTY ASSEMBLY PUBLIC SERVICE BOARD**

The Commission commenced investigations after report that some officers of the Nandi County Assembly were receiving owner occupier allowance yet the said allowance had been scrapped.

Investigations established that a Collective Bargaining Agreement (CBA) had been signed on 12<sup>th</sup> October 2012 between the Association of Local Government Employers and the Kenya Local Government Workers Union. The said CBA provided for the payment of the owner occupier allowance to union members who had constructed their own houses and were living in them. Investigations also established that the said CBA was for a period of 2 years, which was never extended and it therefore lapsed on 1<sup>st</sup> September 2014. Investigations established that some staff from the Local Authorities transited to the County upon promulgation of the 2010 Constitution.

Investigations established that the Nandi County Assembly Service Board approved payment of the owner occupier allowance to the Clerk, the Clerk Assistant, the Principal Finance Officer and the Budget Officer, who were eligible to receive the allowance under the defunct Local Government and the lapsed CBA.

Investigations further established that there was no recognition agreement that had been signed between the new employer (Nandi County Assembly Service Board) and the Kenya County Government Workers Union (the successor of the Kenya Local Government Workers Union). Investigations further established that the Nandi County Assembly Service Board failed to seek the advice of Salaries and Remuneration Commission (SRC) as provided for under Section 13 (6) of the County Government Act.

On 23<sup>rd</sup> November 2021, a report was compiled and forwarded to the DPP with recommendation for EACC to recover the irregular allowances from the Clerk, the Clerk Assistant, the Principal Finance Officer and the Budget Officer at the Nandi County Assembly. That further the EACC to issue an advisory to the Nandi County Assembly to stop the remittance of the owner occupier allowance to the said employees and for the closure of the file herein.

On 28<sup>th</sup> January 2022, the DPP returned the file with recommendation to complete recovery of the said amount and agreeing with our recommendation to close the file.

### **31. EACC/MSA/EL/INQ/05/2019**

#### **INQUIRY INTO ALLEGATIONS OF CONFLICT OF INTEREST AND PROCUREMENT IRREGULARITIES IN THE AWARD OF TENDER NUMBER KPA/083/2015-16 CE FOR URGENT CONCRETING OF UNDERDEVELOPED TRIANGULAR PLOT TO MUKITEK INVESTMENT, WEST OF NAIROBI INLAND CONTAINER DEPOT, KENYA PORTS AUTHORITY**

The Commission commenced investigations following a report on 19<sup>th</sup> June 2016 that through a biennial contract, the firm of Mukitek Investment (Mukitek) had been irregularly paid Kshs. 84,736,220 by the Kenya Ports Authority (KPA) for excavation and concrete works via tender number KPA/083/2015-16/CE. It was further alleged that one of the signatories to Mukitek's bank account is a Senior Works Officer, Infrastructure Division at KPA.

Investigations established that on 1<sup>st</sup> March 2016, KPA advertised for various tenders including the biennial contract for excavation and concrete works in the Daily Nation



Newspaper. That a total of 132 bids were received for the said tender and that the Evaluation Committee made a recommendation for award to ten bidders according to the evaluation instructions. However, Mukitek was not among those recommended for award. That the Head of Procurement prepared a professional opinion recommending award to additional firms including Mukitek in disregard of the evaluation findings. The Managing Director approved the said opinion and awarded the contract to Mukitek among others.

Investigations further revealed that Mukitek issued fake documents including proof of previous works undertaken, the National Construction Authority (NCA) Certificate, the KRA PIN Certificate, the Registrar of Companies CR 12 form and purported audited financial report for the last three years before 2016.

Investigations further established that the Senior Works Officer Infrastructure Division at KPA was the Project Manager of the tender herein by Mukitek. That he was the one who prepared the BQs for the said project. Investigations further revealed that at the time of award of tender to Mukitek, he was a director of the company and also a signatory to the company's bank account; a fact he failed and or neglected to disclose to KPA during the award and execution of tender by Mukitek.

On 26<sup>th</sup> November, 2021, a report was compiled and forwarded to the DPP with recommendations to charge the Head of Procurement with deceiving the principal contrary to Section 41 (2) as read with Section 48 of ACECA and abuse of office contrary to Section 46 as read with Section 48 of ACECA, MD KPA with wilful failure to comply with the law relating to procurement contrary to Section 45 (2) as read with Section 48 of ACECA, the Senior Works Officer Mukitek Investment Limited and its directors with fraudulent practice in procurement contrary to Section 66 as read with Section 177 of the PPADA and fraudulent acquisition of public property contrary to Section 45 (1) as read with Section 48 of ACECA, employee of KPA and Director of Mukitek Investments Limited with conflict of interest contrary to Section 42 (3) as read with Section 48 of ACECA.

On 28<sup>th</sup> January 2022, the DPP returned the file with recommendation for further investigations.

### **32. EACC/MCKS/OPS/INQ/10/2016**

#### **INQUIRY INTO ALLEGATIONS THAT OFFICERS FROM KENYA MUSIC COPYRIGHT SOCIETY DEMANDED FOR A BRIBE OF KSHS. 10,000/-**

The Commission commenced investigations after a report that staff working at Friend Pub in Machakos were arrested on allegations that the music they were playing at the said establishment was pirated and that a person purportedly from the Music Copyright Society (MCS) demanded for Kshs. 10,000/- in order to release the said staff.

Investigations could not establish the identity of the said MCS officer since he could not be traced. It was alleged that the OCS Migwani Police Station where the arrested persons had been detained, was working with the said MCS officer to request and demand for the said Kshs. 10,000/-. A recorded conversation between the complainants who were the owners of the said Friend Pub and the OCS did not reveal any demand for a bribe from the said complainants. The recorded conversations instead revealed that the OCS advising them to post bail for their arrested employees of Kshs. 5,000/- each in order to have them released from custody and to appear in court on 25<sup>th</sup> October 2017.

Investigations did not establish any bribe demand or receipt.

On 7<sup>th</sup> October a report was compiled and forwarded to the DPP with recommendation to close the file for lack of evidence.

On 20<sup>th</sup> December 2021, the DPP returned the inquiry file accepting our recommendation for closure of the file.

### **33. EACC/BGM/OPS/INQ/9/2019**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A SECURITY ENFORCEMENT OFFICER, BUSIA COUNTY WHO DEMANDED KSHS. 50,000/-**

The Commission commenced after receiving a complaint on 11<sup>th</sup> September 2019 that an Enforcement Officer at the Enforcement and Security Directorate at the County Government of Busia requested for Kshs. 50,000/- from the complainant in



order to forebear to prosecute him for constructing a building without a building plan.

Investigation established that a bribe demand of Kshs. 15,000/- was made by the suspect and that the suspect was given Kshs. 5,000/- by the complainant on 11<sup>th</sup> September 2019. A trap operation for the remaining Kshs. 10,000/- was planned for the next day 12<sup>th</sup> September 2019 and the suspect was arrested for receiving the bribe money treated cash amounting to Kshs. 10,000/-.

On 7<sup>th</sup> October 2021, a report was compiled and forwarded to the DPP with recommendations to charge the said Enforcement Officer with 4 counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

On 27<sup>th</sup> January 2022, the DPP returned the inquiry file with recommendations for further investigations.

#### **34. EACC/OPS/INQ/114/2020**

##### **INQUIRY INTO ALLEGATIONS THAT A DCI OFFICER ATTACHED TO GITHURAI POLICE STATION DEMANDED A BRIBE OF KSHS. 100,000/-**

The Commission commenced investigations following a report made on 10<sup>th</sup> November 2020 by a complainant that the suspect, a Police Officer attached to Githurai Kimbo Police Station requested for a bribe of Kshs. 200,000/- as an inducement to forebear charging the suspect with the alleged offence of stealing a motor cycle.

Investigations established that the complainant was arrested for allegedly stealing a motor cycle after the said motor cycle was brought to his workshop for repair. Investigations further established that the said police officer demanded for a bribe of Kshs. 100,000 in order to release the complainant and received Kshs. 80,000/- into his M-pesa.

On 7<sup>th</sup> October 2021, a report was compiled and forwarded to the DPP with recommendations to charge the said police officer with four counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

On 31<sup>st</sup> January 2022, the DPP returned the inquiry file with recommendations for further investigations.

### **35. EACC/KSM/OPS/INQ/13/2019**

#### **INQUIRY INTO ALLEGATIONS THAT THE ASSISTANT CHIEF NYALENDA A SUB-LOCATION REQUESTED FOR A BRIBE OF KSHS. 5,000/-**

The Commission commenced investigations following a complaint received on 23<sup>rd</sup> August 2019 that the Assistant Chief of Nyalenda A Sub-location was improperly requesting for a benefit from the complainant in order to issue him with a succession letter for the estate of his late father who died intestates on 18<sup>th</sup> May 1992.

Investigations established, that the said Assistant Chief did make a demand for Kshs. 5,000/- in order to issue the said succession letter. A trap operation was conducted on 4<sup>th</sup> September 2019 wherein the suspect was arrested for receiving the trap money that was recovered from his left trouser pocket.

On 7<sup>th</sup> October 2021, a report was compiled and forwarded to the DPP with recommendation to charge the said Assistant Chief with 2 counts of receiving a bribe contrary to Section 6 (1) (b) as read with Section 18 of the Bribery Act.

On 27<sup>th</sup> January 2022, the DPP returned the inquiry file with recommendations for further investigations.

### **36. EACC/KSM/OPS/INQ/3/2020**

#### **INQUIRY INTO ALLEGATIONS THAT A CLERICAL OFFICER AT THE NATIONAL REGISTRATION BUREAU KISUMU EAST DEMANDED FOR A BRIBE OF KSHS. 2,000/-**

The Commission commenced investigations following a complaint received on 24<sup>th</sup> June 2020 that a Clerical Officer at the Department of Births and Deaths in Nyalenda Kisumu County demanded Kshs. 2,000/- from the complainant in order to process the death certificates of his late parents.

Investigations established that the suspect had made a demand of Kshs. 1,000/- in order to process the said death certificate. A trap operation was conducted on



24<sup>th</sup> June 2020 where the suspect received the Kshs. 1,000/- and upon arrest the treated cash was recovered from him.

On 7<sup>th</sup> October 2021, a report was compiled and forwarded to the DPP with recommendation to charge the said Clerical Officer with 3 counts of receiving a bribe contrary to Section 6 (1) (b) as read with Section 18 of the Bribery Act.

On 28<sup>th</sup> January 2022, the DPP returned the inquiry file with recommendations for further investigations.

### **37. EACC/NYR/OPS/INQ/04/2020**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN EMPLOYEE OF KPLC DEPLOYED AT KERUGOYA TOWNSHIP AS A METRE READER REQUESTED FOR A BRIBE OF KSHS. 300,000/- AND RECEIVED KSHS. 50,000.**

The Commission commenced investigations following a complaint that a Kenya Power and Lighting Company (KPLC) metre reader deployed to Kerugoya Township requested for a bribe of Kshs. 300,000/- and received Kshs. 50,000/- from the complainant as an inducement to reconnect electric power which had been disconnected on grounds that it had been connected illegally.

Investigations established that the suspect had made a request for Kshs. 50,000/- in relation to the alleged illegal connection by the complainant. A trap operation was conducted on 16<sup>th</sup> March 2020 where the suspect was arrested for receiving Kshs. 50,000/- of the treated cash.

On 7<sup>th</sup> October 2021, a report was compiled and forwarded to the DPP with recommendations to charge the said suspect with 3 counts of receiving a bribe contrary to Section 6 (1) (b) as read with Section 18 of the Bribery Act.

On 28<sup>th</sup> January 2022, the DPP returned the inquiry file with recommendations for further investigations.

### **38. EACC/OPS/INQ/107/2020**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN OFFICER WORKING WITH ANTI-COUNTERFEIT AUTHORITY WHO ALLEGEDLY REQUESTED FOR A BRIBE OF KSHS. 12,000/-**

The Commission commenced investigations following a complaint that two ladies, who identified themselves as officers from the Anti-Counterfeit Authority, confiscated 238 Toyota motor vehicle spark plugs from the complainant's shop alleging that they were fake.

Investigations confirmed the said confiscation and one of the said Anti-Counterfeit officers called the complainant demanding for Kshs. 12,000/- in order to release the confiscated goods.

On 7<sup>th</sup> October 2021, a report was compiled and forwarded to the DPP with recommendation to charge the Anti-counterfeit officer with one count of receiving a bribe contrary to Section 6 (1) (b) as read with Section 18 of the Bribery Act.

On 28<sup>th</sup> January 2022, the DPP returned the file rejecting our recommendation for prosecution and recommending administrative action against the suspect.

### **39. EACC/OPS/INQ/10/2021**

#### **INQUIRY INTO ALLEGATIONS THAT THE SENIOR ASSISTANT CHIEF MUTHURWA SUB LOCATION AND A VILLAGE ELDER REQUESTED FOR A BRIBE OF KSHS. 5,000/-**

The Commission commenced investigations following a complaint that the Muthurwa Assistant Chief and a Village Elder went to the complainant's wines and spirits shop and demanded to be given Kshs. 5,000/- as protection fee.

Investigations established the bribe demand which was negotiated down to Kshs. 1,800/-.

On 7<sup>th</sup> October 2021, a report was compiled and forwarded to the DPP with recommendation to charge the Senior Assistant Chief and the Village Elder with 3



counts of receiving a bribe contrary to Section 6 (1) (b) as read with Section 18 of the Bribery Act.

On 31<sup>st</sup> January 2022, the DPP returned the inquiry file accepting our recommendation to charge after further investigations.

#### **40. EACC/OPS/INQ/122/2019**

### **AN INQUIRY INTO ALLEGATIONS OF WILFUL FAILURE TO COMPLY WITH PROCUREMENT LAWS AND ABUSE OF OFFICE AGAINST A RETIRED EMPLOYEE OF THE NAIROBI CITY COUNTY GOVERNMENT**

The Commission commenced investigations after receiving a complaint on 16<sup>th</sup> June 2012 that the Kenya Trade Network Agency (Kentrade) was involved in procurement malpractice in the procurement of office refurbishment services at 1<sup>st</sup> Floor Embarkment Plaza.

Investigations into the matter were initially conducted and as a result the then County Works Officer was charged in Nairobi Chief Magistrate's Anti-Corruption Case No. 29 of 2015 with one count of wilful failure to comply with the law relating to tendering of contracts and one count of abuse of office. He was convicted and fined Kshs. 700,000/- or one-year imprisonment in default for each count. Following the ruling in Michael Sistu Kamau V EACC & 4 Others (2017) eKLR, the said County Works Officer filed an appeal on seven grounds including that the Commission was not properly constituted when the file was forwarded to the DPP. The High Court set aside the conviction and sentence on the said ground. As a result, the Commission re-investigated the matter and submitted the report herein.

Investigations re-established that the said County Works Officer engaged a contractor to carry out phase II of the refurbishment of the Kentrade Offices at Embarkment Plaza without a proper tendering process. The Tender Committee in a meeting held on 23<sup>rd</sup> October 2012 had rejected the Phase II tender works on the grounds that splitting the works into the two phases amounted to splitting the procurement contrary to Section 30 (1) of the PPDA, 2005.

Investigations established that despite the decision of the Tender Committee aforesaid, the said County Works Officer went ahead to instruct the contractor to proceed with phase II without any procurement procedure being conducted.

On 23<sup>rd</sup> November, 2021, a report was compiled and forwarded to the DPP with recommendation for the said County Works Officer to be charged as follows: 1 count of wilful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) of ACECA and 1 count of abuse of office contrary to Section 46 of ACECA both as read with Section 48 of ACECA.

On 28<sup>th</sup> January 2022, the DPP returned the inquiry file with recommendations for further investigations.

#### **41. EACC/OPS/INQ/90/2020**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST REVENUE OFFICERS ATTACHED TO BIRIKA CESS STATION IN THE COUNTY GOVERNMENT OF KAJIADO**

The Commission commenced investigations upon receipt of a complaint on 8<sup>th</sup> October 2020 that the Kajiado County Government Revenue officers based at Birika Road Cess Station located along Kajiado - Namanga were colluding with officers of the ICT Department to divert revenue money collected from transporters each day for personal use.

Based on the complaint, the Commission's officers conducted surveillance at the said Birika Cess Station and established that the said Revenue Officers were not issuing receipts to all the transporters and that some transporters were paying less Cess fee as required.

A sting operation was conducted on 10<sup>th</sup> November 2020 at the Birika Cess Station. The commission's investigators conducted a body search of the said Revenue Officers but did not make any recoveries. The search was extended to the Mabati Revenue office where Kshs. 138,600 was recovered as the day's collection. Printout of the Z reports for the POS machines used by the said Revenue Officer, indicated that the total monies received was Kshs. 204,000/-. The said officers could not account for Kshs. 65,400/-.



Investigations established that the said revenue officers failed to issue receipts to all the transporters that paid the Cess, they also failed to bank the collected revenue on time resulting in their inability to account for the aforesaid Kshs. 65,400/- collected in the past 24 hours.

On 23<sup>rd</sup> November, 2021 a report was prepared and forwarded to the DPP with recommendation that appropriate administrative action be taken against the revenue officers by the Kajiado County Government and an advisory be issued to the Kajiado County Government to review revenue collection procedures at the Cess Stations within the county to prevent leakage of revenue.

On 2<sup>nd</sup> February 2022, the DPP returned the inquiry file with recommendation for administrative action to be taken against the revenue collection officers.

#### **42.EACC/OPS/INQ/17/2018**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A TRAFFIC POLICE OFFICER.**

The Commission commenced investigations upon receipt of several complaints in October 2016 that a Traffic Police Officer was soliciting and receiving bribes from motorists plying the Thika -Garissa Highway.

Based on the said complaints, the Commission's officers conducted surveillance along the said route on 11<sup>th</sup> October 2016. The said surveillance indicated that the said Police Officer was waving down motorists and taking money from them and in some instances was even giving them change.

The Commission had filed a recovery suit against the said Police Officer being ACEC 63/2017 with regard to unexplained wealth amounting to Kshs. 47 million. The suit was settled after an out of court settlement that saw the Police Officer forfeit Kshs. 26 million to the State.

On 23<sup>rd</sup> November, 2021 a report was prepared and forwarded to the DPP with recommendation that disciplinary action be taken against the said Police Officer

and that in view of the recovery of Kshs. 26 million from him in settlement of the aforesaid recovery suit, this inquiry file be closed.

Awaiting DPP's response.

#### **43. EACC/OPS/INQ/26/2021**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A SENIOR PUBLIC RELATIONS OFFICER IN THE ENFORCEMENT DEPARTMENT OF NAIROBI CITY COUNTY GOVERNMENT**

The Commission commenced investigations upon receipt of a complaint on 6<sup>th</sup> April 2021 alleging that an employee of Nairobi City County government had requested for Kshs. 400,000/- later reduced to Kshs. 200,000/- from the complainant in order to allow her client to construct a balcony and stairs for his containers placed within Clay City Ward, Kasarani Sub-County.

Investigation was conducted on 23<sup>rd</sup> April 2021 wherein the Senior Public Relations Officer was arrested for receiving Kshs. 150,000/- treated cash. Recorded conversations confirmed that he requested for Kshs. 180,000/- and received Kshs. 150,000/-.

On 23<sup>rd</sup> November, 2021 a report was prepared and forwarded to the DPP with recommendation that the said Public Relations Officer be charged with 2 counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act, 2016.

Awaiting DPP's response.

#### **44. EACC/ ELD/OPS/INQ/4/2020**

##### **INQUIRY INTO BRIBERY ALLEGATIONS AGAINST AN EMPLOYEE OF THE NATIONAL REGISTRATION BUREAU.**

The Commission commenced investigations following a report received on 26<sup>th</sup> October 2020 from the complainant who alleged that an employee of the National Registration Bureau (NRB) attached to Kapseret Sub-County Pioneer Office had demanded for Kshs. 5,000/- from him in order to facilitate the correction



of his name in his National ID Card. He had made his application for the said correction in April 2020.

Investigations was carried out on 27<sup>th</sup> October 2020 where the said employee of the NRB was arrested after she received Kshs. 5,000/- treated cash.

On 23<sup>rd</sup> November, 2021 a report was prepared and forwarded to the DPP with recommendation that the said employee of NRB be charged with 3 counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act, 2016.

Awaiting DPP's response.

#### **45. EACC/MLD/OPS/INQ/3/2020**

#### **INVESTIGATIONS INTO AN ALLEGATION THAT A MALINDI SUB-COUNTY DEVELOPMENT OFFICER REQUESTED AND RECEIVED A BRIBE FROM THE COMPLAINANT WHO WAS DEVELOPING HIS PARCEL OF LAND IN ORDER FOR HIM TO OBTAIN AN APPROVED DEVELOPMENT PLAN**

The Commission commenced investigations following a complaint received on 22<sup>nd</sup> April 2020 that the Malindi Sub-County Development Officer was demanding a bribe of Kshs. 53,500/- from the complainant so that he could help him acquire an approved development plan.

Investigations was conducted which established a demand for Kshs. 46,000/- by Sub-County Development Officer. A trap operation conducted on 23<sup>rd</sup> April 2020 where he was arrested for receiving Kshs. 24,000 treated cash. Kshs. 22,000 was deposited into a Barclays Bank account due to the County government upon instructions from the suspect.

On 23<sup>rd</sup> November 2021, a report was prepared and forwarded to the DPP with recommendation that the said Sub-County Development Officer be charged with 2 counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act, 2016.

On 27<sup>th</sup> January 2022, the DPP returned the file with recommendations for further investigations.

**46. EACC/OPS/INQ/59/2020**

**INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TRAFFIC OFFICERS ATTACHED AT KITALE POLICE STATION.**

The Commission commenced investigations after receiving a report on 4<sup>th</sup> May 2020 that Kitale Traffic Police Officers were requesting and receiving bribes of between Kshs. 50 and Kshs. 100 from motorcycle riders and Public Service Vehicle (PSV) drivers operating within Kitale Township.

Following the report, investigators conducted a sting operation at the Aturkan Hotel Junction along the Kitale- Kapenguria Road. They observed the police officers performing their traffic check duties and saw one of the said police officers receive money from a driver of a PSV which had been placed inside a driving licence and put it in her pocket. The investigation team proceeded to arrest her and recover Kshs. 3,100/-.

On 23<sup>rd</sup> November, 2021 a report was prepared and forwarded to the DPP with recommendation that the file be closed for lack of sufficient evidence.

On 31<sup>st</sup> January 2022, the DPP returned the inquiry file accepting our recommendation to close the file.

**47. EACC/OPS/INQ/142/2018**

**INQUIRY INTO ALLEGATIONS THAT A NTSA OFFICER REQUESTED FOR A BRIBE OF KSHS. 10,000/- FROM A PSV DRIVER AS AN INDUCEMENT TO FACILITATE ENDORSEMENT OF A DRIVING LICENSE TO CLASS A.**

The Commission commenced investigation after receiving a complaint on 3<sup>rd</sup> October 2018 that a National Transport and Safety Authority (NTSA) officer had requested the complainant for a financial advantage of Kshs. 10,000 to facilitate upgrading of his license in the NTSA system.



Investigations established that it is the security guard who made a demand for a financial advantage of Kshs. 10,000/- to facilitate the upgrading of his driving license aforesaid and for receiving Kshs. 7,000/- treated cash.

On 23<sup>rd</sup> November 2021, a report was compiled and forwarded to the DPP recommending that the security guard be charged with two counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

On 27<sup>th</sup> January 2022, the DPP returned the inquiry file with recommendations for further investigations.

#### **48. EACC/OPS/INQ/105/2020**

##### **INQUIRY INTO ALLEGATIONS THAT THE HEAD OF INFORMATION TECHNOLOGY AT JAVA HOUSE LIMITED RECEIVED A BRIBE OF KSHS. 2 MILLION TO FACILITATE A DUBAI BASED COMPANY TO GET A CONTRACT FOR AN I.T SYSTEM AT JAVA HOUSE LIMITED**

The Commission commenced investigations after receiving a report that the Head of Information Technology at Nairobi Java House Africa Limited (NJHAL) was promised Kshs. 2 million and a set of golf clubs as a bribe by Alfazance, a Dubai Based company that was contracted by NJHAL to install a new Enterprise Resource Planning System (ERPS). It was alleged that the Kshs. 2 million and the gold clubs were offered as in exchange of information that gave Alfazance an advantage in the procuring process for the new ERP system.

Investigations established that the procurement process for the new ERP system was conducted by KPMG Consultants. Investigations were not able to verify allegations that the Head of Information Technology shared information related to the Oracle NetSuite bid price for the ERP System with Alfazance during the bidding process. Investigations were further not able to find evidence that the Head of Information Technology had received USD 16,000 from Alfazance. Examination of his bank accounts found no trace of the said bribe of Kshs. 16,000/- aforesaid.

On 23<sup>rd</sup> November 2021, a report was compiled and forwarded to the DPP recommending closure of the file for lack of evidence.

On 1<sup>st</sup> February 2022, the DPP returned the inquiry file with recommendation for further investigations.

#### **49. EACC/MLD/OPS/07/2019**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTION LEVELLED AGAINST A SENIOR ASSISTANT CHIEF STATIONED IN SHELLA SUB-LOCATION, MALINDI SUB-COUNTY, KILIFI COUNTY**

The Commission commenced investigations after receipt of a complaint on 27<sup>th</sup> September 2019 that the Senior Assistant Chief was demanding a bribe of Kshs. 10,000/- from the complainant in order for him to intervene and settle a land dispute between the complainant and a third party.

Investigations established that the said Senior Assistant Chief demanded for bribe of Kshs. 20,000/- which was to be paid in two instalments of Kshs. 15,000/- and Kshs. 5,000/-. A trap operation was conducted on 2<sup>nd</sup> October 2019 whereby the said Senior Assistant Chief was arrested for receiving Kshs. 15,000/- treated cash.

On 23<sup>rd</sup> November 2021, a report was compiled and forwarded to the DPP recommending that the said Senior Assistant Chief be charged with 3 counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

On 7<sup>th</sup> February 2022, the DPP returned the inquiry file with recommendation for further investigations.

#### **50. EACC/MCKS/OPS/INQ/35/2018**

##### **INQUIRY INTO ALLEGATIONS THAT POLICE OFFICERS ALONG WOTE- KATHONZWENI-MUKUYUNI ROAD WITHIN MAKUENI COUNTY WERE DEMANDING AND RECEIVING BRIBES FROM MOTORISTS AS AN INDUCEMENT NOT TO CHARGE THE MOTORISTS WITH UNSPECIFIED TRAFFIC OFFENCES**

The Commission commenced investigation following numerous complaints received from motorists that traffic police officers along the Wote-Kathonzweni-Mukuyuni Road were demanding for bribes so as to forebear charging the said motorists with various traffic offences.



Surveillance of the said traffic police officers was conducted on 16<sup>th</sup> and 17<sup>th</sup> May 2018 where it was observed that the said police officers collected money from motorists. The investigations team arrested the said police officers on 18<sup>th</sup> May 2018 and recovered Kshs. 800/- in denominations of 200 and 100. It was not established whether or not the monies recovered from the said police officers constituted bribes demanded and received. Investigations established that the police officers' M-pesa accounts had several suspicious transactions.

On 23<sup>rd</sup> November 2021, a report was compiled and forwarded to the DPP recommending that the file herein be closed for lack of evidence and that the Commission pursues the said police officers for unexplained assets.

On 1<sup>st</sup> February 2022, the DPP returned the inquiry file accepting our recommendation to close the file and to pursue the said police officers for unexplained assets.

#### **51. EACC/OPS/INQ/173/2019**

#### **INQUIRY INTO ALLEGATIONS THAT THE SUSPECT IMPERSONATED AN EACC INVESTIGATOR AND SOLICITED FOR A FINANCIAL ADVANTAGE FROM THE TURKANA COUNTY CHIEF EXECUTIVE COMMITTEE MEMBER (CEC) FOR WATER, ENVIRONMENT AND NATURAL RESOURCES**

The Commission commenced investigations following the receipt of a report on 17<sup>th</sup> October 2019 that a person purportedly known as Annastacia was soliciting for benefits from Turkana County Officials so that she could stop conducting investigations against them.

Investigations established that the suspect also known as Annastacia was impersonating an EACC officer and had requested for a bribe of Kshs. 1 million from the complainant. The said complainant declined to record a statement over the issue with the Commission. The suspect has already been charged in court for personating a public officer contrary to Section 106 (B) of the Penal Code in Lodwar Criminal Case No. 482 of 2019.

On 23<sup>rd</sup> November 2021, a report was compiled and forwarded to the DPP recommending that the file be closed as the suspect has already been charged as aforesaid.

On 27<sup>th</sup> January 2022, the DPP returned the inquiry file accepting our recommendation to close the file.

#### **52. EACC/MCKS/OPS/INQ/11/2017**

##### **INQUIRY INTO ALLEGATIONS THAT THE FORMER OFFICER COMMANDING MAKUENI POLICE STATION (OCS) REQUESTED FOR A BRIBE OF KSHS. 100,000/-**

The Commission commenced investigations after receiving a complaint against the Officer Commanding Makueni Police Station (OCS) that he had requested for a bribe of Kshs. 100,000/- in order to withdraw a case against the complainant.

Investigations established that the complainant was arrested on 7<sup>th</sup> October 2016 for the offence of theft by servant and was later released on a cash bail of Kshs. 10,000/-. Investigations established that the Kshs. 100,000 was money that the complainant was supposed to pay the complainant in the said theft by servant case in order to settle the same. Investigations established that the complainant was refunded his cash bail on 2017. Investigations thus established that there was no bribe demand from the OCS as alleged.

On 23<sup>rd</sup> November 2021, a report was compiled and forwarded to the DPP recommending for the file to be closed for lack of evidence.

On 31<sup>st</sup> January 2022, the DPP returned the inquiry file accepting our recommendation to close the file.

#### **53. EACC/OPS/INQ/4/2018**

##### **INQUIRY INTO ALLEGATIONS THAT THE HEAD TEACHER PARK ROAD PRIMARY SCHOOL RECEIVES A BRIBE OF BETWEEN KSHS, 3,000 AND KSHS. 6,000 FROM PARENTS SEEKING NEW ADMISSIONS FOR THEIR CHILDREN TO JOIN SCHOOL**

The Commission commenced investigations following a report on 3<sup>rd</sup> January 2018 that the Head Teacher of Park Road Primary School requests and receives bribes



of between Kshs. 3,000 and Kshs. 6,000 from parents seeking admissions for their children in the school.

Investigations established that new parents were required to pay for maintenance of the swimming pool, for swimming lessons, track suits and other requirements that had been duly approved and authorised by the Board of Management of the School; and that there were no bribe requests as reported.

On 23<sup>rd</sup> November 2021, a report was compiled and forwarded to the DPP with recommendation to close the file for lack of evidence.

On 3<sup>rd</sup> February 2022, the DPP returned the inquiry file accepting our recommendation to close the file.

#### **54. EACC/OPS/INQ/70/2020**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST POLICE OFFICERS ATTACHED TO IMARA DAIMA POLICE POST FOR REQUESTING AND RECEIVING KSHS. 3,000 AS AN INDUCEMENT TO RELEASE TWO WELDING MACHINES**

The Commission commenced investigations following a complaint that two Administrative Police Officers from Imara Daima Chief's Campo had demanded for Kshs. 5,000 from the complainant in order to release the complainant's welding machines that they had impounded earlier from his shop in Mukuru Kwa Reuben for illegal electricity connection.

Investigations established that one of the said police officers had made a demand for Kshs. 3,000/- in order to release the said welding machines and the said police officer was arrested for receiving Kshs. 3,000/- treated cash. Upon his arrest a scuffle ensued with two of his fellow police officers threatening and physically assaulting the EACC officers attempting to arrest the suspect.

On 23<sup>rd</sup> November 2021, a report was compiled and forwarded to the DPP recommending that the police officer who demanded a bribe be charged with 2 counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act, the other two police officers be charged with 2 counts of obstruction contrary to Section 66 (1) (a) as read with Section 66 (2) ACECA and 1

count of concealing evidence contrary to Section 66 (1) (c) as read with Section 66 (2) of ACECA.

Awaiting DPP's response.

#### **55. EACC/OPS/INQ/198/2019**

##### **INQUIRY INTO ALLEGATIONS THAT NYAMIRA COUNTY SPEAKER REQUESTED FOR A BRIBE OF KSHS. 500,000 TO FACILITATE PAYMENT OF PENDING BILLS FOR THE PROVISION OF LEGAL SERVICES TO THE COUNTY**

The Commission commenced investigations following a report received from the complainant that the Speaker of Nyamira County Assembly had requested for a bribe of Kshs. 500,000 so as to facilitate the payment of legal fees due to the said complainant for legal services rendered to the Nyamira County Assembly in the financial year 2015/2016.

Investigations established that the Speaker made a demand for Kshs. 500,000/- that he then reduced to Kshs. 300,000. A trap operation was conducted on 13<sup>th</sup> December 2019 whereby the Speaker was arrested for receiving Kshs. 200,000/- treated cash.

On 23<sup>rd</sup> November 2021, a report was compiled and forwarded to the DPP with recommendation to charge the Speaker with 3 counts of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act.

Awaiting DPP's response.

#### **56. EACC/OPS/INQ/61/2018**

##### **INQUIRY INTO ALLEGATIONS THAT MCA FOR UTALII WARD AND OTHER MCAS RECEIVED A BRIBE OF KSHS. 1 MILLION FROM A MEMBER OF THE EXECUTIVE REGARDING THE NAIROBI COUNTY AAR HEALTH INSURANCE**

The Commission commenced investigations following a report from the former Governor of Nairobi that the MCAs who were members of the Labour and Social Welfare Committee had received a bribe of Kshs. 1 million from the AAR Health officials in order to influence their report regarding the said insurance. The said



former governor supplied the Commission with a DVD of an audio recording in which the said MCA and other unidentified voices were confirming having received Kshs. 1 million from AAR Health.

Investigations established that the AAR Health Insurance was awarded a contract for provision of medical cover to the staff of Nairobi City County in January 2018. Investigations further established that the Labour and Social Welfare Committee of the Nairobi County Assembly went for a retreat in May 2018 where they discussed matters of staff welfare. There was no indication that the AAR Health Insurance cover was part of the said discussions. Investigations further established that AAR had filed suit against a former MCA in Civil Suit No. 6872 of 2018 and that the said MCA was not present in the Mombasa Retreat in which it was alleged the bribe money was given. The audio clip supplied by the complainant could not be independently authenticated. Investigations into the said MCAs M-pesa did not yield anything suspicious.

On 23<sup>rd</sup> November 2021, a report was compiled and forwarded to the DPP recommending closure of the file for lack of sufficient evidence.

On 4<sup>th</sup> February 2022, the DPP returned the inquiry file accepting the Commission's recommendation for closure.

**STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS**

1.	Total No. of files forwarded to the Director of Public Prosecutions	56
2.	No. of files recommended for prosecution	37
3.	No. of files recommended for administrative or other action	2
4.	No. of files recommended for closure	17
5.	No. of files recommended for prosecution and the cases are already lodged before Court	1
6.	No. of files where recommendation to prosecute accepted	1
7.	No. of files where recommendation for administrative or other action accepted	2
8.	No. of files where recommendation for closure accepted	10
9.	No. of files returned for further investigations	21
10.	No. of files where recommendation to prosecute not accepted	0
11.	No. of files where recommendation for administrative or other action not accepted	0
12.	No. of files where closure not accepted	0
13.	No. of files where prosecution declined but administrative action recommended	1
14.	No. of files awaiting the DPP's advice	21

DATED AT NAIROBI THIS

14<sup>th</sup>

DAY OF

February

2022



**ARCHBISHOP (RTD) ELIUD WABUKALA, EBS  
CHAIRPERSON**

/gko. rmg



**TWALIB MBARAK, CBS  
SECRETARY/CHIEF EXECUTIVE OFFICER**