



**THE ETHICS AND ANTI-CORRUPTION COMMISSION**

**THE SECOND QUARTERLY REPORT COVERING THE PERIOD  
1<sup>ST</sup> APRIL, 2016 TO 30<sup>TH</sup> JUNE, 2016**



## **PREAMBLE**

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

Section 36 provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions 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 the Anti-Corruption and Economic Crimes Act, 2003. The report covers second quarter and is for the period commencing 1<sup>st</sup> April, 2016 to 30<sup>th</sup> June, 2016.

03 JUL 2016

## **INVESTIGATION REPORTS COVERING THE PERIOD 1<sup>ST</sup> APRIL, 2016 TO 30<sup>TH</sup> JUNE, 2016**

### **1. EACC/EL/25/2015**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST OFFICERS OF THE TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING AUTHORITY (TVETA)**

The EACC commenced investigations on receipt of allegations that officials from the Technical and Vocational Training Authority (TVETA), had extorted money from North Pole College in order to frustrate the College's competitors so as not to register and issue them with relevant licenses.

Investigations revealed that the officials of TVETA did not solicit, neither receive bribes from the College. Further financial investigations found no suspicious financial transactions on the part of the officials.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 4<sup>th</sup> April, 2016 recommending closure of the Inquiry File.

On 14<sup>th</sup> June, 2016 the DPP accepted the recommendation for closure of the file.

### **2. EACC/FI/INQ/03/2013**

#### **INQUIRY INTO ALLEGED EMBEZZLEMENT OF KSHS. 20 MILLION FROM TIGANIA CDF FUNDS MEANT FOR TIGANIA WATER SUPPLY AUGMENTATION PROJECT**

Investigations established that in the financial year 2008/2009 the Tigania CDF was allocated Kshs. 10 million for Tigania Water Project. That however this project was taken over by the Government for implementation at a cost of Kshs. 80 million and that part of the sum allocated, Kshs. 9 million was properly reallocated to other projects within the Constituency. Investigations however established that the Fund Manager and Office Manager at the CDF reallocated Kshs. 1 million to Baingeru Water Project without the relevant approval from the National Constituencies Development Fund Board.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> April, 2016 recommending that the Fund Manager and Office Manager at the Tigania CDF be charged with the offence of wilful failure to comply with the law relating to incurring expenditure contrary to section 45 (2) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 15<sup>th</sup> July, 2016 the DPP declined the recommendation for prosecution but advised that administrative action be taken against the said officials.



### **3. EACC/ISL/FI/INQ 15/2015**

#### **INQUIRY INTO ALLEGATIONS OF IRREGULAR RECRUITMENT OF THE CHIEF OFFICER FINANCE, MERU COUNTY**

Investigations established that the position of Chief Officer Finance (COF) became vacant at Meru County Government following the transfer of the previous office holder. That the County Public Service Board (CPSB) then advertised for the post and six applicants applied. The Board shortlisted four of the applicants and invited them for interview. Only three turned up for interview and the Board accordingly interviewed them.

The investigations further established that on conclusion of the interview, some of the Board members convened another interview panel that interviewed the person who finally got the job as COF. In the process of doing this the Panel came up with minutes ostensibly to show that proper interview had taken place which were presented to the CPS Band County Assembly for appointment of the latest interviewee into the position of COF.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> April, 2016 recommending that the Chairperson and Member of the Meru County Public Service Board and County Executive Committee Member who interviewed and recommended the employment of the said interviewee as the Chief Officer Finance, together with the interviewee (Chief Finance Officer) himself, to be charged variously for the offences of abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003, conspiracy to commit an offence of corruption contrary to 47A (3) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 and deceiving principal contrary to section 41 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

It was further recommended that the members of the Meru County Assembly to be sensitized on the need to adhere to the law when carrying out their public duties as investigations established that they flouted Part II of Leadership and Integrity Act.

On 14<sup>th</sup> June, 2016 the DPP accepted the recommendation for prosecution and sensitization of members of the Meru County Assembly on the requirements of Part II of Leadership and Integrity Act.



#### **4. EACC/FI/INQ /35/2015**

##### **INQUIRY INTO ALLEGATIONS THAT MEMBERS OF THE PUBLIC ACCOUNTS COMMITTEE (PAC) RECEIVED KSHS. 1.5 MILLION FROM THE FORMER INTERIOR PERMANENT SECRETARY TO EXPUNGE HIS NAME FROM THE COMMITTEE'S REPORT ON UNEXPLAINED EXPENDITURE AT THE OFFICE OF THE PRESIDENT**

Investigations revealed that the former Interior Permanent Secretary did not give any bribe to members of PAC and that no officer at the Office of the President gave the PAC Chairman bribe of Kshs. 5 million so as to allegedly influence them to come up with a favourable report regarding the allegation on unexplained expenditure at the Office of the President during the Financial Year 2012/2013.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> April, 2016 recommending closure of the file with no further action.

On 31<sup>st</sup> May, 2016 the DPP accepted the recommendation that the file be closed with no further action.

#### **5. EACC/MSA/EL/INQ. 6/2015**

##### **INQUIRY INTO ALLEGATIONS OF IRREGULARITIES IN EMPLOYMENT BY THE TAITA TAVETA COUNTY PUBLIC SERVICE BOARD**

Investigations revealed that the Taita Taveta County Government had the need to recruit Medical Social Workers. The County Public Service Board (the Board) then initiated this recruitment by advertising for the posts that attracted a number of applicants including the complainant. The Board then shortlisted and interviewed the applicants. The Board however at the end settled on other applicants, leaving out the complainant who had emerged as the best, on considerations based on Article 10 the Constitution of Kenya, 2010 and Section 65 (2) of the County Government Act. The best candidate complained.

Investigations established that the Board was right in law to overlook the best candidate in recommending other applicants for the vacant positions based on the legal considerations such as regional balance, gender, ethnicity, amongst others.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> April, 2016 recommending that the file be closed with no further action.

On 6<sup>th</sup> June, 2016 the DPP accepted the recommendation that the file be closed with no further action.

#### **6. EACC/ EL/INQ. 41/2015**

##### **INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT BY A MEMBER OF COUNTY ASSEMBLY (MCA) CENTRAL GEM WARD, SIAYA COUNTY**

Investigations revealed that the Member of County Assembly, Central Gem Ward stripped himself naked as he addressed members of the Press within the precincts of the Siaya County Assembly. This incident was reported to the Committee of Privileges of the Siaya County Assembly. This Committee deliberated on this conduct and meted out the relevant sanction as per the law.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> April, 2016 recommending that EACC issues a warning letter to the MCA against further violation of the Constitution of Kenya, 2010 and Leadership and Integrity Act, 2012 and that the MCA tenders a public apology regarding that conduct.

On 11<sup>th</sup> July, 2016 the DPP accepted the recommendation for a caution letter be issued to the MCA and also the need for him to make a public apology.

#### **7. CR. 148/30/2015 ACC NO. 26/2015**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTLY SOLICITING AND RECEIVING A BENEFIT AGAINST A VOLUNTEER CHILDREN'S OFFICER BASED AT WESTLANDS NAIROBI**

Investigations revealed that the suspect solicited for a benefit of Kshs. 10,000/= from the complainant but received a benefit of Kshs. 6,000/= as an inducement to compile a favourable evaluation report.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> April, 2016 recommending that the suspect be charged with offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 13<sup>th</sup> May, 2016 the DPP accepted the recommendation for prosecution.

#### **8. CR: 314/302/2015 CF: NO. ACC 20/2015**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN EMPLOYEE OF SGS LIMITED BASED AT MARIAKANI WEIGHBRIDGE IN KILIFI COUNTY**

Investigations revealed that the suspect who at the time was working for SGS Ltd in the company of a police officer had stopped the complainant wife's truck for alleged overloading and removed the registration number plate from that truck. He then solicited for a benefit of Kshs. 50,000/= which he later on reduced to



Kshs. 30,000/= but received a benefit of Kshs. 10,000/= as an inducement to return the number plate.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> April, 2016 recommending that the suspect be charged with offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31<sup>st</sup> May, 2016 the DPP accepted the recommendation for prosecution.

#### **9. EACC/MSA/FI/INQ/12/2015**

##### **INQUIRY INTO ALLEGATIONS THAT TECHNICAL UNIVERSITY OF MOMBASA IRREGULARLY PROCURED SMART TVS**

Investigations revealed that the suspects, the Deputy Vice Chancellor, Administration, Finance and Planning and the Chairperson and members of the Tender Committee for Technical University of Mombasa, procured Smart TV sets worth Kshs. 4.75 million, yet the said procurement was not in the procurement plan or budget for the University's financial year 2014/2015, thereby flouting several provisions of the Public Procurement and Disposal Act, 2005.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> April, 2016 recommending that the Deputy Vice Chancellor, Administration, Finance and Planning and the Chairperson and members of the Tender Committee for Technical University of Mombasa be charged with one count of engaging in a project without prior planning contrary to section 45 (2) (c) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; four counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; and one count of abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 14<sup>th</sup> July, 2016 the DPP accepted the recommendation for prosecution.

#### **10. EACC/FI/INQ/118/2014**

##### **INQUIRY INTO ALLEGATIONS THAT TURKANA COUNTY AWARDED KABARAIT BUILDERS AND CONTRACTORS A CONTRACT TO REHABILITATE KALOKOL-LOBOLO-ELIYE SPRINGS ROAD AT AN INFLATED AMOUNT**

Investigation established that the County Government of Turkana in the FY 2013/2014 had allocated Kshs. 350 million, in the Supplementary Budget Estimates of 14<sup>th</sup> March, 2014 for the construction and upgrading of feeder roads. Thereafter the County Government advertised for the prequalification for



the supply and provision of works, goods and services leading to compilation of a prequalified list.

Investigations revealed that the County Government then used the restrictive tendering method in awarding M/s Kabarait Builders and Contractors the tender for the construction of Kalokol – Lobolo - Eliye Springs at Kshs. 10,544,400/=. The Contractor embarked on the construction and finally received payment in the sum of Kshs. 10,122,623.60 less VAT, withholding tax and supervision fees.

Investigations further revealed the works done were worth Kshs. 8, 178,000/= meaning that the Contractors were overpaid by Kshs. 2,366,400/=. It was also established that an employee of the County Government, who was also in the employment of Kenya Rural Roads Authority as Roads Superintendent, was paid Kshs. 1,630,686/= allegedly as supervision fees which he was not entitled to.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> April, 2016 recommending that the Head of Supply Chain, Chief Finance Officer at the Ministry of Transport, Roads, Housing and Public Works in the Turkana County Government, the Roads Superintendent at Kenya Rural Roads Authority, County Executive Member in charge of Ministry of Transport, Roads, Housing and Public Works in the Turkana County Government and the proprietor of Kabarait Builders and Contractors Ltd, be charged variously with four counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; two counts of unlawful acquisition of public property contrary to section 45 (1) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; and three counts of abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31<sup>st</sup> May, 2016 the DPP accepted the recommendation for prosecution.

## **11. EACC/MSA/FI/INQ/12/2015**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST FORMER CHIEF PLANNING OFFICER-GARISSA COUNTY**

Investigations established that the Complainant visited the offices of Ministry of Lands, Roads, Housing Development and Public Works at Garissa County with a view to processing a title document to her farm when she was introduced to the suspect, Chief Planning Officer of the said Ministry. That the suspect asked the complainant for Kshs. 100,000/= as facilitation fees for that process and the complainant later on paid that amount.

Investigations further established that finally the suspect did not process the title as he had undertaken, causing the complainant to report the matter to EACC offices at Garissa County.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> April, 2016 recommending that the suspect to be charged with the offence of obtaining by false pretenses contrary to section 313 of the Penal Code.

On 12<sup>th</sup> July, 2016 DPP accepted the recommendation for prosecution.

## **12.EACC/MKS/FI/INQ/01/2015**

### **INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF PUBLIC FUNDS, ABUSE OF OFFICE BY UWEZO FUND CHAIRMAN IN MWALA SUB-COUNTY IN MACHAKOS COUNTY**

Investigations revealed that some members of Constituency Uwezo Fund Management Committee in Mwala Sub-county, Machakos County, irregularly allocated public funds to a number of youth groups and one member of the Fund allocated himself the Fund money without disclosing his interest to the Fund.

A report was compiled and forwarded to the DPP on 5<sup>th</sup> April, 2016 recommending that the suspect to be charged with one count of wilful failure to comply with the guidelines relating to issuance of Uwezo Funds contrary to section 45 (2) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; five counts of abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; one count of fraudulent acquisition of public property contrary to section 45 (1) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; and failure to disclose a private interest to one's principal contrary to section 42 (1) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 30<sup>th</sup> May, 2016 the DPP accepted the recommendation for prosecution.

## **13.CR.760/17/2016-ACC.1/2016**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER AT BUSIA POLICE STATION**

Investigations revealed that the suspect, a police officer attached at Busia Police Station, solicited from the two complainants a benefit Kshs. 300,000/= but only received Kshs. 100,000/= as an inducement to release to them their gold product which he had confiscated from them at a road block along Busia-Kisumu Highway.

A report was compiled and forwarded to the DPP on 5<sup>th</sup> April, 2016 recommending that the suspect be charged with offences of corruptly soliciting



for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 26<sup>th</sup> May, 2016 the DPP accepted the recommendation for prosecution.

#### **14. EACC/FI/INQ/62/2013**

##### **INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF A GRANT FROM NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES BY OFFICIALS OF AHERO DISABLED GROUP**

Investigations established that the National Council for Persons with Disabilities under the Ministry of Labour, Social Security and Services gave a grant of Kshs. 500,000/= to Ahero Disabled Group that was to be applied for starting up a micro enterprise scheme. That the suspects who are officials of the Group however misappropriated that money.

A report was compiled and forwarded to the DPP on 5<sup>th</sup> April, 2016 recommending that the Chairperson and other officials of Ahero Disabled Group be charged with offences of fraudulently acquiring public property contrary to section 45 (1) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; conspiracy to commit an economic crime contrary to section 47A (3) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; and making a false document contrary to section 347 (a) as read with section 349 of the Penal Code.

On 14<sup>th</sup> July, 2016 the DPP accepted the recommendation for prosecution.

#### **15. EACC/FI/INQ/05/2015**

##### **INQUIRY INTO ALLEGATIONS OF BIASED ISSUANCE OF AIE TO WESTERN AND NYANZA REGIONS IN THE FINANCIAL YEAR 2012/2013 AND BRIBERY IN AWARD OF CONTRACTS FOR BUILDING WATER PANS/DAMS IN TARDA AGAINST OFFICERS OF THE MINISTRY OF WATER**

Investigations revealed that there was no evidence to suggest conspiracy between the Principal Accounts Controller, Chief Finance Officer and Permanent Secretary (who served the Ministry from 2008 to 2013) of the then Ministry of Water and Irrigation and District Water Officers within formerly Nyanza and Western Provinces to misappropriate alleged public money in respect of Authority to Incur Expenses of Kshs. 10 million. The investigations also established no evidence of bribery on the part of the officials mentioned in regard to misuse of Authority to Incur Expenses.

Further investigations established that the former Principal Secretary in the State Department of Water and Regional Authorities and Senior Assistant Director in the Land Reclamation and Water Storage both of the Ministry of Environment,



Water and Natural Resources, and Engineering Services Manager, Civil Engineering Department at Tana-Athi River Development Authority (TARDA) did not solicit for bribes prior to awarding contracts to construct dams and water pans within the TARDA areas. However the investigations established that these three officials were operating businesses and earning substantial amount of income and it was not clear if they were disclosing this income to Kenya Revenue Authority for purposes of tax payment.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> April, 2016 recommending that the file be closed save for referral to Kenya Revenue Authority for investigations regarding the tax issues.

On 16<sup>th</sup> June, 2016 DPP accepted the recommendation to close the file.

#### **16. EACC/GSA/FI/INQ/24/2015**

##### **INQUIRY INTO ALLEGATIONS OF ALLEGED EMBEZZLEMENT AND MISAPPROPRIATION OF PUBLIC FUNDS BY ELDAS CDF MANAGER AND COMMITTEE**

Investigations established that Eldas CDF Committee, in the financial year 2013/2014, allocated funds for street lighting and fresh produce market within Wajir County. However the Wajir County Government took over the implementation of the said projects. Eldas CDF Committee therefore applied to the National CDF Board for the reallocation of those funds for other projects, namely purchase of desks and drilling of a borehole, which application was allowed and the funds used for the said projects. There was therefore no wrongdoing on the part of the Eldas CDF Manager and Committee.

A report was compiled and forwarded to the DPP on 26<sup>th</sup> April, 2016 recommending that the file be closed with no further action.

On 14<sup>th</sup> June, 2016 the DPP accepted the recommendation for closure of the file.

#### **17. CR.832/325/2015**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST CRIMINAL INVESTIGATION OFFICERS, BASED AT KITALE POLICE STATION**

Investigations revealed that the suspects, both police officers attached at Kitale Police Station, solicited from the complainant a sum of Kshs. 200,000/= which they later on reduced to Kshs. 100,000/=, as an inducement so as to withdraw a criminal case the complainant was facing at Kitale Law Court. Investigations further established that the suspects however did not to receive the benefit as the suspects kept on changing the meeting points and therefore the

complainant was unable to meet the suspects. Investigations therefore only established the aspect of soliciting for a benefit.

A report was compiled and forwarded to the DPP on 21<sup>st</sup> April, 2016 recommending that the suspects be charged with offences of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 8<sup>th</sup> June, 2016 the DPP accepted the recommendation for prosecution.

#### **18. EACC/FI/INQ/90/2015**

##### **INQUIRY INTO ALLEGATIONS OF IRREGULARITIES IN THE AWARD OF THE TENDER FOR CLEARING, REPAIR AND REPAINTING OF TANK 14-TK-301 AT KIPEVU OIL STORAGE FACILITY (KOSF) IN MOMBASA BY KENYA PIPELINE COMPANY**

Investigations established that Kenya Pipeline Company followed the law in the procurement process that eventually resulted to the award of the Tender for Clearing, Repair and Repainting of Tank 14-tk-301 at Kipevu Oil Storage Facility (KOSF) in Mombasa.

A report was compiled and forwarded to the DPP on 22<sup>nd</sup> April, 2016 recommending that the closure of the file.

On 6<sup>th</sup> July, 2016 the DPP accepted the recommendation to close the file.

#### **19. EACC/JKIA/FI/INQ/04/2015**

##### **INQUIRY INTO IRREGULARITIES IN THE TENDER KAA/193/2013-2014 PROCUREMENT OF SINGLE MASTER LICENSEE FOR THE DEVELOPMENT AND MANAGEMENT OF DUTY FREE SHOPS AT JOMO KENYATTA INTERNATIONAL AIRPORT TERMINAL 1A**

Investigations established that the procurement process for the tender of procurement of single master licensee for the development and management of duty free shops at Jomo Kenyatta International Airport Terminal 1A, was above board. Investigations further established that the KAA officials received no bribe in the said procurement process.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> May, 2016 recommending that the closure of the file with no further action.

On 6<sup>th</sup> July, 2016 the DPP accepted the recommendation to close the file.



**20.CR.148/4/2016-ACC. 4/2016**

**INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST EMPLOYEES OF NAIROBI CITY COUNTY**

Investigations revealed that the suspects, both employees of Nairobi City County, solicited from the complainant a benefit of Kshs. 165,000/= but received a benefit of Kshs. 80,000/=, as an inducement so as not to inflate the water bill and disconnect the sewer line for the complainant.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> May, 2016 recommending the suspects be charged with offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 10<sup>th</sup> June, 2016 the DPP accepted the recommendation for prosecution.

**21.CR.313/22/2016-ACC. 1/2016**

**INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A PRIVATE CITIZEN**

Investigations revealed that the suspect offered and gave a benefit of Kshs. 2,000/= to officers from Kenya Police Service and Kenya Defence Forces manning a road block along Mombasa - Malindi Highway as an inducement so as not to be arrested for unlawful possession of suspected narcotic drugs.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> May, 2016 recommending the suspects be charged with offences of corruptly offering and giving a benefit contrary to section 39 (3) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31<sup>st</sup> May, 2016 the DPP accepted the recommendation for prosecution.

**22.CR.449/40/2016-MACHAKOS ACC. CF 2/2016**

**INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TRAFFIC POLICE OFFICERS AT THE KAMBURU ROAD BLOCK ALONG EMBU-MWINGI ROAD**

Investigations revealed that the suspects, all police officers from Masinga Police Post, were in the practice of soliciting and receiving bribes from drivers of motor vehicles at Kamburu Road Block, along Embu - Mwingi Road. Investigations further established that one suspect received a benefit from some of the drivers along that road apparently as an inducement to forbear applying the traffic law.

A report was compiled and forwarded to the DPP on 6<sup>th</sup> May, 2016 recommending that one of the suspects be charged with the offence of



dealing with suspect property contrary to section 47 (2) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 and abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003, and that administrative action be taken against the other suspects.

On 13<sup>th</sup> May, 2016 the DPP accepted the recommendation for prosecution of one of the suspects and administrative action against the others.

### **23. CR.313/393/2015**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST REVENUE OFFICERS WITHIN THE KILIFI COUNTY GOVERNMENT**

Investigations revealed that the suspects, all employees of Kilifi County Government as Revenue Officers, solicited from and received from the complainant a benefit of Kshs. 1,500/= as an inducement so as to allow him continue operating his butchery business without paying for another license.

A report was compiled and forwarded to the DPP on 6<sup>th</sup> May, 2016 recommending that the suspects be charged with offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003, and a further offence of conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31<sup>st</sup> May, 2016 the DPP accepted the recommendation for prosecution.

### **24. CR.21/53/2015-CF: ACC. MSA 13/2015**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN ADMINISTRATION POLICE OFFICER BASED AT MIKINDANI**

Investigations revealed that the suspect, an Administration Police Officer employed by the National Police Service based at Mikindani, solicited from the complainant a benefit of Kshs. 2,000/= as an inducement so as to release to him a motorcycle he had impounded ostensibly for the reason that it had no registration number plates. Investigations further established that the suspect later on declined to receive the benefit. Investigations however established the aspect of soliciting for a benefit.

A report was compiled and forwarded to the DPP on 9<sup>th</sup> May, 2016 recommending that the suspect be charged with the offence of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 30<sup>th</sup> May, 2016 the DPP accepted the recommendation for prosecution.

## **25. CASE FILE NO. 442/43/16**

### **INQUIRY INTO ALLEGATIONS OF IMPERSONATING AN EACC INVESTIGATOR**

Investigations revealed that two of the three suspects, impersonating themselves as employees of Ethics and Anti-Corruption Commission made calls to Mlolongo Directorate of Criminal Investigations within Athi-River Police Division asking for the release of a Chinese national who had been detained in police custody for the offence of being in unlawful possession of wildlife trophies. The suspects were found in possession of employment cards from Ethics and Anti-Corruption Commission, Kenya Bureau of Standards and Kenya Revenue Authority yet they were not employees of the said entities.

A report was compiled and forwarded to the DPP on 9<sup>th</sup> May, 2016 recommending that the two of the suspects be charged with the offence of impersonating an investigator contrary to section 34 (1) as read with section 34 (2) of the Anti-Corruption and Economic Crimes Act, 2003, and in the alternative, the offence of acting as an investigator contrary to section 34 (1) as read with section 34 (2) of the Anti-Corruption and Economic Crimes Act, 2003; and one of the two suspects be charged with two counts of making a document without authority contrary to section 357 (A) of the Penal Code. The third suspect has been proposed to be a prosecution witness since the evidence did not establish culpability on his part.

On 8<sup>th</sup> June, 2016 the DPP accepted the recommendation for prosecution.

## **26. EACC/FI/INQ/99/2015**

### **INQUIRY INTO ALLEGATIONS THAT THE NATIONAL CAMPAIGN AGAINST ALCOHOL AND DRUG ABUSE (NACADA) IRREGULARLY PROCURED ERNEST AND YOUNG AS THE FUND MANAGER TO DISBURSE MONEY TO CIVIL SOCIETY ORGANISATIONS**

Investigations established that there was need for NACADA to procure the services of a Fund Management Agency to manage and disburse the sum of Kshs. 99 million that NACADA had set aside for Civil Society Organisations. Further investigations revealed that the suspects who are employees of NACADA breached procurement law in the procurement process of the said fund management agency.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> May, 2016 recommending that the Accounting Officer together with members of the Tender Committee be charged with two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003, and one count of abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2003 and the members of the tender committee be charged with



two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 14<sup>th</sup> July, 2016 the DPP accepted the recommendation for prosecution.

## **27. EACC/OPS/INQ/NYR/5/2015**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A SENIOR SUPPORT STAFF AT MAKURWENI LAW COURTS**

Investigations revealed that the suspect, a senior Support Staff at Makurweni Law Courts solicited for and received from the complainant a benefit of Kshs. 1,500/= as an inducement so as to facilitate the release of court proceedings in Makurweni Principal Magistrate's Court, Criminal Case number 30/2015.

A report was compiled and forwarded to the DPP on 24<sup>th</sup> May, 2016 recommending that the suspect be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 14<sup>th</sup> June, 2016 the DPP accepted the recommendation for prosecution.

## **28. CR. 313/367/2015**

### **INQUIRY INTO ALLEGATIONS OF SOLICITING AND RECEIVING A BRIBE OF KSHS. 10,000/= BY AN ENFORCEMENT OFFICER IN THE RANK OF A CONSTABLE IN KILIFI COUNTY GOVERNMENT**

Investigations revealed that the suspect, an Enforcement Officer in the rank of a constable in Kilifi County Government solicited for and received from the complainant a benefit of Kshs. 10,000/= as an inducement so as not to stop the complainant from constructing his house.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> May, 2016 recommending that the suspect be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 13<sup>th</sup> May, 2016 the DPP accepted the recommendation for prosecution.



### **29. CR. 313/262/2015**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTLY SOLICITING AND RECEIVING A BRIBE BY EMPLOYEES OF KILIFI COUNTY ASSEMBLY IN THE MALINDI TOWN WARD REPRESENTATIVE'S OFFICE**

Investigations revealed that the suspects, both employees of the Kilifi County Government Assembly solicited for and received from the complainant a benefit of Kshs. 3,000/= as an inducement so as to release to him a bursary cheque of Kshs. 3,000/=.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> May, 2016 recommending that the suspect be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 13<sup>th</sup> May, 2016 the DPP accepted the recommendation for prosecution.

### **30. EACC/NKR/INQ/71/29/2015**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST BOMET COUNTY GOVERNMENT OFFICIALS IN THE PROCUREMENT FOR THE SUPPLY OF BUILDING MATERIALS AND RENNOVATION OF GOVERNOR'S RESIDENCE**

Investigations established that there were irregularities in the procurement for works in renovating a building that was to serve as the Governor's residence. Investigations further revealed that there was no budget neither plan for this procurement in the financial year 2013/2014.

Investigations also revealed that the officials of the County Government despite these procurement irregularities procured the services of a private limited company that finally carried out the subject renovation works. The County Government finally paid the company for the works done.

A report was compiled and forwarded to the DPP on 23<sup>rd</sup> May, 2016 recommending that the Chief Officer Administration be charged with the offence of engaging in a project without prior planning contrary to section 45 (2) (c) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; Head of Accounts be charged with the offence of abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2003; Chief officer Administration and Chief Finance Officer be charge with the offence of careless failure to comply with applicable procedures and guidelines relating to procurement contrary to section 45 (2) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003; Head of Accounts be charged with the offences of deceiving EACC investigator contrary to section 66 (1) (b) as read with section 66 (2) of the Anti-Corruption and Economic Crimes Act, 2003 and making a false document contrary to section 347 (a) of

the Penal Code; members of the Tender Committee be charged with the offence of careless failure to comply with applicable procedures and guidelines relating to procurement contrary to section 45 (2) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 ; the limited liability company and its proprietor be charged with the offence of carrying o business of a contractor without registration contrary to section 15 (1) as read with section 15 (3) of the National Construction Authority Act, No: 41 of 2011.

On 13<sup>th</sup> July, 2016 the DPP accepted the recommendation for prosecution.

### **31.CR. 671/20/2016-ACC. 1/2016 MIGORI**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST POLICE OFFICERS BASED AT NTIMARU POLICE STATION**

Investigations revealed that the suspects, an Officer Commanding Police Station and a police officer attached at Ntimaru Police Station, solicited for and received a benefit of Kshs. 20,000/= from the complainant as an inducement so as not to charge him for impersonating a medical practitioner.

A report was compiled and forwarded to the DPP on 2<sup>nd</sup> June, 2016 recommending that the suspects be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 13<sup>th</sup> July, 2016 the DPP accepted the recommendation for prosecution against one suspect.

### **32.EACC/FI/INQ/92/2015**

#### **INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES AT KENYA PIPELINE COMPANY IN AWARDED TENDER NO: SU/QT/3068F/12 FOR PURCHASE OF THREE COMPLETE SPINNING ROTORS FOR SULZER DALIAN VERTICAL PUMP**

Investigations revealed that the Kenya Pipeline Corporation (KPC) had the need to procure three complete spinning rotors and that the Tender Committee approved the direct procurement be used in the procurement process. That the KPC finally awarded this tender to the supplier and forwarded to it the relevant contract document for execution. That the supplier however failed to execute the contract document neither did it supply the rotors.

A report was compiled and forwarded to the DPP on 17<sup>th</sup> June, 2016 recommending that the file be closed and KPC to liquidate the performance bond issued in this contract.

On 13<sup>th</sup> July, 2016 the DPP accepted the recommendation to close the file.



**33. CR. 148/1/2016-CF. ACC. 1/2016 MILIMANI**

**INQUIRY INTO ALLEGATIONS AGAINST EMPLOYEES OF THE NAIROBI COUNTY GOVERNMENT FOR CORRUPTLY OFFERING A BENEFIT**

Investigations revealed that the suspects, both employees of the Nairobi County Government offered and gave a bribe of Kshs. 1 million to the Senator of the Nairobi County as an inducement so that the Senator does not expose to the public issues of corruption involving misappropriation of public funds and grabbing of public land by officials of the Nairobi City County.

A report was compiled and forwarded to the DPP on 17<sup>th</sup> June, 2016 recommending that the suspects be charged with the offences of corruptly offering and giving a benefit contrary to section 39 (3) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 and conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 13<sup>th</sup> July, 2016 the DPP accepted the recommendation for prosecution.

**34. CR. 148/10/2016-CF. ACC. MILIMANI NO. 06/2016**

**INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST COMMITTEE MEMBERS FOR NGEI WARD DEVELOPMENT FUND.**

Investigations revealed that the suspects, both employees of Ngei Ward Development Fund under the Nairobi County Government solicited for and received a benefit of Kshs. 5,000/= to the complainant as an inducement to forbear charging him with him with failing to display a licence for his clinic.

A report was compiled and forwarded to the DPP on 14<sup>th</sup> June, 2016 recommending that the suspects be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 12<sup>th</sup> July, 2016 the DPP accepted the recommendation for prosecution.

**35. EACC/FI/INQ/92/2015**

**INQUIRY INTO ALLEGATIONS THAT A MEMBER OF PARLIAMENT FOR KAPSERET CONSTITUENCY DOES NOT POSSESS THE REQUISITE ACADEMIC QUALIFICATIONS AND IS SUSPECTED TO HAVE FORGED CERTIFICATES OR SUBMITTED A FALSE DECLARATION DURING THE 2013 GENERAL ELECTIONS**

Investigations revealed that the suspect who is a Member of Parliament for Kapseret Constituency presented forged Diploma Certificate in Business

Management and Kenya Certificate of Secondary Education to Independent Electoral and Boundaries Commission (IEBC) as he sought nomination for election as a Member of Parliament.

Investigations further revealed that the suspect made a false declaration under oath through a self-declaration form to IEBC. That the suspect also uttered the said forged documents to IEBC and Ethics and Anti-Corruption Commission (EACC) with intention to deceive these Commissions.

A report was compiled and forwarded to the DPP on 17<sup>th</sup> June, 2016 recommending that the Member of Parliament be charged with three counts of forgery contrary to section 349 as read with section 345 of the Penal Code; three counts of uttering of false documents contrary to section 353 of the Penal Code; two counts of providing a false information contrary to section 46 (1) (d) as read with section 46 (2) of the Leadership and Integrity Act; and making a false statutory declaration contrary to section 11 of the Oaths and Statutory Declarations Act .

On 13<sup>th</sup> July, 2016 the DPP accepted the recommendation for prosecution.

### **36. EACC/EL/INQ/33/2015**

#### **INQUIRY INTO ALLEGATIONS OF CONFLICT OF INTEREST AND INFLUENCING AWARD OF TENDERS BY AN EMPLOYEE OF SPORTS STADIA MANAGEMENT BOARD TO HIS MAGAZINE, THE EAST AFRICAN BUSINESS TIMES**

Investigations revealed that the suspect, an employee of Sports Stadia Management Board (the Board) at the same time is a co-director at the private company The East African Business Times Ltd, holding 50% shareholding. Investigations further revealed that the suspect held positions in both Tender Committee and Integrity Assurance Committee at the Board.

Investigations also established that the Board between December, 2012 and June, 2015 awarded this company contracts worth Kshs. 3,797,000/= yet the suspect failed to declare his interest or conflict of interest in these contracts as between his company and his employer, the Board.

A report was compiled and forwarded to the DPP on 17<sup>th</sup> June, 2016 recommending that the suspect be charged with one count of failure to disclose a private interest to one's principal contrary to section 42 (1) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 and two counts of conflict of interest contrary to section 42 (1) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 14<sup>th</sup> July, 2016 the DPP accepted the recommendation for prosecution.



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

Total No. of files forwarded to the Director of Public Prosecutions	36
No. of files recommended for prosecution	27
No. of files recommended for administrative or other action	1
No. of files recommended for closure	8
No. of files recommended for prosecution and the cases are already lodged before Court	18
No. of files where recommendation to prosecute accepted	26
No. of files where recommendation for administrative or other action accepted	1
No. of files where recommendation for closure accepted	8
No. of files returned for further investigations	0
No. of files where recommendation to prosecute not accepted	1
No. of files where recommendation for administrative or other action not accepted	0
No. of files where closure not accepted	0
No. of files awaiting Director of Public Prosecutions' action	0

DATED AT NAIROBI THIS

15<sup>th</sup>

DAY OF

Sept

2016

*Sophia Lepuchirit*

**SOPHIA LEPUCHIRIT**  
**VICE CHAIRPERSON**

*Halakhe D. Waqo*

**HALAKHE D. WAQO (ACI ARB)**  
**SECRETARY/CHIEF EXECUTIVE OFFICER**

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