



**THE ETHICS AND ANTI-CORRUPTION COMMISSION**

**THE FIRST QUARTERLY REPORT COVERING THE PERIOD FROM  
1<sup>ST</sup> JANUARY, 2017 TO 31<sup>ST</sup> MARCH, 2017**

## **PREAMBLE**

The Ethics and Anti-Corruption 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 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 of ACECA 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 ACECA. The report covers the First Quarter and is for the period commencing 1<sup>st</sup> January, 2017 to 31<sup>st</sup> March, 2017.

## **INVESTIGATION REPORT COVERING THE PERIOD 1<sup>ST</sup> JANUARY, 2017 TO 31<sup>ST</sup> MARCH, 2017**

### **1. EACC/FI/INQ/62/2015**

#### **INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF AUDIT VAULT SOFTWARE BY THE OFFICE OF THE AUDITOR GENERAL (OAG)**

The EACC commenced investigations on receipt of a letter from the Permanent Secretary, Treasury on the alleged irregular procurement of an Audit Vault Software for the OAG at an exorbitant price outside the budget for the Financial Year (FY) 2013/2014.

Investigations revealed that OAG had no approved Procurement Plan for the subject FY 2013/2014. The FY 2012/2013 too had no provision for the subject procurement. The software was however procured in November, 2013. This was done through single sourcing as approved by Auditor General (AG) and the Executive Committee. Investigations further revealed that the supplier submitted a proposal that was signed by the Deputy AG, Corporate Services before even the Tender Committee approved the use of the direct procurement method; this approval came much later on.

Investigations further established that the award of the tender was done without the involvement of the Evaluation and Tender Committees. There was no notification of award as the Tender Committee made no award. The OAG then proceeded to pay the supplier despite a Senior Manager, Audit raising a number of valid questions about the regularity of such payment. The payment was even made before delivery and installation of the software.

Investigation also showed that the OAG belatedly notified the Public Procurement Oversight Authority about this tender and even misrepresented facts about the subject procurement.

Financial investigations showed that the supplier on receipt of payment for the procurement, paid out some money to a law firm's account which in turn transferred some money to bank accounts in the name of the Deputy AG, Corporate Services and his companies, and some money used to buy his children property.

The investigations established that there were several infractions of the law in the subject procurement and several persons were found to be culpable.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 4<sup>th</sup> January 2017 recommending that:



- The Auditor General (AG) be charged with 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 (ACECA), engaging in a project without prior planning contrary to section 45 (3), as read with section 48 (1) of the ACECA and wilful failure to comply with the law relating to procurement contrary to section 45 (2) (b) of ACECA;
- The Deputy AG, Corporate Services be charged with the offences of abuse of office contrary to section 46 as read with section 48 (1) of ACECA, dealing with suspect property contrary to section 47 (1) as read with section 48 (1) of the ACECA and acquisition of proceeds of crime contrary to section 16 (1) (a) of the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA);
- The Deputy AG, Corporate Services and Director of IT be charged with wilful failure to comply with the law relating to procurement contrary to section 41 (2) of ACECA, jointly with Manager IT with the offence of knowingly deceiving principal contrary to section 46 as read with section 48 (1) of ACECA;
- The Sales Executive of the Supplier be charged with the offence of acquisition of proceeds of crime contrary to section 16 (1) (a) of POCAMLA;
- The Deputy AG, Corporate Services and Directors of the Suppliers be charged jointly with conspiracy to commit an economic crime contrary to section 47 A (3) as read with section 48 (1) of the ACECA.

On 3<sup>rd</sup> February, 2017, the DPP returned the file accepting the recommendation for prosecution save for one suspect against whom he noted that there was insufficient evidence. He further advised that charges be preferred against other suspects namely companies and directors who benefitted from the proceeds of the contract.

## **2. EACC/NYR/FI/INQ/24/2015**

### **INQUIRY INTO ALLEGATIONS OF IRREGULAR EXPENDITURE OF KSHS. 6,567,393/= BY OFFICERS OF THE COUNTY ASSEMBLY OF MURANG'A ON A FOREIGN TRIP TO SOUTH AFRICA BETWEEN 11/5/2014 AND 19/5/2014**

The EACC commenced investigations on receipt of the Auditor General's report that had established that Members of County Assembly (MCAs) of Murang'a had irregularly expended money for a trip to South Africa.

Investigations revealed that the MCAs were paid the per diem and other allowances for the subject travel. That the money spent for this trip was over and above the approved budget for the relevant financial year.



A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 17<sup>th</sup> January 2017 recommending that the MCAs be charged for the offences of abuse of office contrary to section 46 as read with section 48 (1) of ACECA and wilful failure to comply with the law relating to procurement contrary to section 45 (2) (b) of ACECA.

On 31<sup>st</sup> March, 2017 the DPP declined the recommendation for prosecution and advised that the suspects be surcharged for the allowances irregularly received.

### **3. EACC/ISL/EL/INQ. 02/2016**

#### **INQUIRY INTO ALLEGATIONS OF ILLEGAL EVICTION OF AFRICALITY FROM MARALAL SAFARI LODGE BY THE COUNTY GOVERNMENT OF SAMBURU**

Investigations revealed that Africality, a non-governmental organization registered in Britain through its registered trustees approached the County Government of Samburu with a view to leasing Maralal Safari Lodge, a facility owned by Samburu County Government. That some officials of the County Government, namely: County Secretary and County Executive Committee Member for Tourism allowed the trustees to run the facility pending a formal agreement. Investigations revealed that this matter was referred to the County Assembly for deliberation and the Assembly resolved to nullify the said lease of the Lodge to the Africality and directed Africality to vacate the facility.

Investigations further revealed that the said County Officials failed to follow the applicable procurement laws in leasing out the said County Government facility.

A report was compiled and forwarded to the DPP on 17<sup>th</sup> January, 2017 recommending that the two County Government officials be charged with offences of abuse of office contrary to section 46 as read with section 48 (1) of ACECA and wilful failure to comply with the procedures relating to tendering of contracts contrary to section 45 (2) (b) as read with section 48 (1) of ACECA.

On 4<sup>th</sup> April, 2017 the DPP accepted the recommendation for prosecution.

### **4. CR. 148/28/2016 CF. ACC. 19/2016**

#### **INQUIRY INTO ALLEGATIONS THAT A CLERK AT THE NAIROBI CITY COUNTY GOVERNMENT SOLICITED FOR AND RECEIVED A BENEFIT FROM A BUSINESSMAN IN ORDER TO ISSUE HIM WITH A BUSINESS PERMIT**

Investigations revealed that the suspect, an employee of Nairobi City County Government working in the Trade Licensing Unit, solicited from the Complainant for a benefit of Kshs. 3,000/= which he later on reduced to Kshs. 2,500/= as an

inducement so as to facilitate issuance of a proper permit. Investigations further established that the suspect finally received the bribe of Kshs. 2,500/= upon which he was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 9<sup>th</sup> January, 2017 recommending that the two counts of corruptly soliciting for a benefit and one count of corruptly receiving a benefit, each contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 already filed in court against the suspect be prosecuted to logical conclusion.

On 24<sup>th</sup> January, 2017 the DPP accepted the recommendation for prosecution.

## **5. EACC/FI/INQ/17/2015**

### **INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT AND INSTALLATION OF SPORTS EQUIPMENT IN SIAYA COUNTY**

Investigation established that the Siaya County Government in the Financial Year (FY) 2012/2013 initiated procurement for sports equipment for the benefit of all the thirty wards in the County. There was requisite allocation of Kshs. 15 million in that FY approved budget. The investigations further revealed that the County Government applied the request for quotation method of procurement which was not allowable within the thresholds in the First Schedule of the Public Procurement and Disposal Regulations, 2006; that the County Government did not constitute the relevant evaluation and tender committees for the procurement process. The award of tender was purportedly made by a fictitious committee.

The investigations established that the Secretary to the Tender Committee signed minutes of meetings purportedly of genuine Tender Committee proceedings, the Director of Supply Chain Management signed the contract resulting from the fictitious tender award and the Interim County Secretary also countersigned the impugned contract and issued the notification of award.

A report was compiled and forwarded to the DPP on 26<sup>th</sup> January, 2017 recommending that the Secretary to the Tender Committee and the Director of Supply Chain Management be charged with wilful failure to comply with the law relating to procurement; the County Secretary and the Director of Supply Chain Management be charged with abuse of office contrary to section 46 as read with section 48 (1) of ACECA; the County Secretary and the Director of Supply Chain Management be charged with conspiracy contrary to section 47A as read with section 48 (1) of ACECA; and the Interim County Tender Committee Secretary be charged with forgery contrary to section 347(a) as read with section 48 (1) of ACECA.

On 24<sup>th</sup> March, 2017 the DPP accepted the recommendation for prosecution.



#### **6. EACC/FI/INQ/070/2014**

##### **INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES IN THE PURCHASE OF GDC LAND RIGS TENDER, TWO INCIDENTS OF FINANCIAL IMPROPRIETIES AND GROSS STAFF MISMANAGEMENT AT THE GEOTHERMAL DEVELOPMENT COMPANY (GDC)**

Investigations revealed that the alleged irregularities regarding procurement in respect of installation of power plants and single sourcing an extra rig; financial impropriety on the part of the Managing Director; and irregular recruitment and promotion of employees, did not exist. The said procurement processes were carried out within the law, there was no evidence of financial impropriety and that recruitments and promotion at GDC were done as per laid down procedures, and that personnel at the Institution were employed based on academic qualifications and experience in the relevant field.

A report was compiled and forwarded to the DPP on 26<sup>th</sup> January, 2017 recommending that the file be closed as the evidence available did not support any wrongdoing on that part the officials of GDC.

On 24<sup>th</sup> March, 2017 the DPP returned the file for further investigations.

#### **7. KACC/INQ/54/2003**

##### **INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF TENDER CONTRACT NO. CT/1/2003-2004 FOR INSURANCE SERVICES FOR CITY COUNCIL OF NAIROBI**

Investigations revealed that the then City Council of Nairobi set out to procure insurance services for the financial year 2003/2004. That mid-way the process, there was a Presidential directive suspending all procurement processes for supply of goods and services to public bodies, including the Council. This effectively halted the finalization of the subject procurement.

Investigations established that the said financial year was about to come to an end and therefore with no provision of insurance covers in place the Council property would be exposed to unforeseen risks. The then Minister for Local Authorities effectively authorized the Council to award the tender to the insurance company that was on board then to continue providing the insurance services.

Investigation further established this decision was challenged at the then Public Procurement Complaints, Review and Appeals Board. The Board affirmed the decision of the said Minister, as the Council property would be exposed to risk without any insurance cover.

A report was compiled and forwarded to the DPP on 26<sup>th</sup> January, 2017 recommending that the file be closed with no further action.



On 29<sup>th</sup> March, 2017 the DPP accepted the recommendation for closure.

#### **8. EACC/EL/INQ/18/2015**

##### **INQUIRY INTO ALLEGATIONS OF PROVIDING FALSE INFORMATION TO EACC IN THE SELF DECLARATION FORM SUBMITTED TO EACC BY THE EXECUTIVE COMMITTEE MEMBER IN CHARGE OF TOURISM, FORESTRY, ENVIRONMENT AND NATURAL RESOURCES, BUNGOMA COUNTY GOVERNEMENT**

Investigations revealed that the said Executive Committee Member (the suspect) submitted a self-declaration form to EACC as she sought clearance to be appointed by the County Government of Bungoma. The suspect indicated in the said form that she had completed a degree course at the University of Nairobi. The investigations established that the suspect despite having registered at the said university for a degree course, she never completed her studies and therefore was never awarded with any degree certificate. Further the Advocate said to have commissioned the self-declaration form denied having done so.

Investigations revealed that the suspect used this forged form to secure the said employment with the Bungoma County Government.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> February, 2017 recommending the suspect be charged with offences of providing false information to EACC contrary to section 46 (1) as read with section 46 (2) of the Leadership and Integrity Act and in the alternative the offence of deceiving EACC contrary to section 46 (1) as read with section 46 (2) of the Leadership and Integrity Act; making a false statutory declaration contrary to section 11 of the Oaths and Statutory Declarations Act; making a document without authority contrary to section 347 (a) of the Penal Code and uttering a document without authority contrary to section 353 of the Penal Code. A further recommendation was made for the removal of the suspect from the said public office for breach of Chapter Six of the Constitution of Kenya, 2010.

On 24<sup>th</sup> March, 2017 the DPP accepted the recommendation for prosecution.

#### **9. EACC/FI/INQ/94/2015**

##### **INQUIRY INTO ALLEGATION OF FRAUDULENT TRANSFER OF A PRIVATE LAND TO THE SUSPECT FROM THE ALLEGED REGISTERED OWNERS, ONE OF WHOM IS DECEASED**

Investigations revealed that the suspect filed a civil suit in the High Court of Kenya praying to be declared the rightful owner of the subject property of fraud. That the suspect then, based on those proceedings, forged a vesting order, purporting to have been properly issued by the Court. The suspect

thereafter registered the said forged vesting order at the Lands office and was issued with the provisional title for the land.

Investigations further revealed that the suspect using that title, fraudulently sold the said land to an unsuspecting buyer for Kshs. 3.65 million.

A report was compiled and forwarded to the DPP on 2<sup>nd</sup> May, 2017 recommending that this matter be referred to the Directorate of Criminal Investigations (DCI) for their necessary action. This is because the investigations disclosed offenses that are within DCI's mandate, namely, obtaining by false pretenses contrary to section 313 of the Penal Code, uttering false documents contrary to section 353 of the Penal Code and making a false document contrary to section 347 (a) of the Penal Code.

On 6<sup>th</sup> April, 2017 the Director of Public Prosecutions accepted the recommendation that the file be referred to DCI for further necessary action.

#### **10. EACC/GSA/FI/07/20142016**

##### **INQUIRY INTO ALLEGATIONS OF THEFT OF RELIEF FOOD BY DEPUTY COMMISSIONER OF BURA-SUB COUNTY AND HIS CLERK**

Investigations established that the Ministry of Devolution and Planning supplied relief food to Bura Sub-County for the benefit of the most vulnerable persons. The Deputy Commissioner of the Bura Sub-County was the one to oversee the distribution of the said relief food. Investigation revealed that the Deputy Commissioner and his clerk however in the course of the said distribution failed to properly account for that exercise and the Clerk even forged some accounting documents, including a Relief Food Letter (permit) purportedly in support of the subject distribution exercise.

A report was compiled and forwarded to the DPP on 26<sup>th</sup> January, 2017 recommending that the Deputy Commissioner of the Bura Sub-County be charged with two counts of neglect of official duties contrary to section 128 as read with section 36 of the Penal Code; the Clerk be charged with a count of neglect of official duties contrary to section 128 as read with section 36 of the Penal Code and four counts forgery contrary to section 347 (a) as read with section 347 (d)(i) of the Penal Code.

On 27<sup>th</sup> March, 2017 the DPP accepted the recommendation for prosecution.

#### **11. EACC/KIS/EL/INQ/1/2016**

##### **INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT BY A MEMBER OF KISII COUNTY ASSEMBLY (MCA) FOR BASI BOGETAORIA WARD WHO ASSAULTED, INSULTED AND HARRASED A NURSING OFFICER AT A HEALTH CENTRE**



Investigations revealed that the MCA took a patient to the Health Centre for medical attention. That the suspect found the complainant, a nursing officer, whom he physically and verbally abused on the grounds that she was slow in attending to the patient.

Investigations further revealed that the MCA was later on charged for causing grievous harm contrary to section 234 of the Penal Code and the criminal proceedings are still ongoing. Investigations established the conduct on the part of the MCA was in breach of Chapter Six of the Constitution of Kenya, 2010.

A report was compiled and forwarded to the DPP on 30<sup>th</sup> March, 2017 recommending that, in addition to the criminal proceedings against the MCA, the County Assembly should institute disciplinary proceedings against the MCA as envisaged under section 42 (9) of Leadership and Integrity Act.

On 6<sup>th</sup> April, 2017 the Director of Public Prosecutions accepted the recommendation for administrative action.

## **12. EACC/KSM/FI/INQ/27/2015**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION IN THE PROCUREMENT PROCEDURES AGAINST THREE OFFICERS OF MIGORI COUNTY GOVERNMENT IN THE PROCUREMENT OF WATER STORAGE TANKS FOR THE COUNTY GOVERNMENT IN THE AMOUNT OF KSHS. 10,000,000/=.**

EACC commenced investigations on receipt of a report alleging irregularities in awarding of a contract for supply and delivery of water tanks by the Migori County Government.

Investigations revealed that the procurement of the water tanks was undertaken without prior planning; the County used direct procurement without the relevant authority from the Tender Committee; there was no written contract as required for the subject procurement; awarding the subject tender to six suppliers not in the prequalified list for the subject financial year.

A report was compiled and forwarded to the DPP on 17<sup>th</sup> January, 2017 recommending that the County Director of Water, Deputy County Director of Water, Head of Supply Chain Management be charged each with five counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act (ACECA) and all the three be jointly charged with ten counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with section 48 (1) (a) of ACECA.

On 24<sup>th</sup> March, 2017 the DPP accepted the recommendation for prosecution.



### **13. CR. 148/26/2016 CF. ACC. 17/2016**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTLY SOLICITING FOR A BENEFIT BY AN EMPLOYEE OF NATIONAL POLICE SERVICE**

Investigations revealed that the suspect, an employee of National Police Service, solicited from the Complainant for a benefit of Kshs. 5,000/= which he later on reduced to Kshs. 2,000/= as an inducement so as to release the car keys and driving license he had confiscated from him for allegedly driving his vehicle without the relevant insurance cover. Investigations further established that the suspect finally received the bribe of Kshs. 2,000/= upon which he was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 17<sup>th</sup> January, 2017 recommending that the counts of corruptly soliciting for a benefit and one count of corruptly receiving a benefit, each contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 already filed in court against the suspect be prosecuted to the logical conclusion.

The DPP accepted the recommendation for prosecution.

### **14. CR. 973/356/2016**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A CRIMINAL INVESTIGATIONS DEPARTMENT (CID) POLICE OFFICER ATTACHED TO KABRAS POLICE STATION**

Investigations revealed that the suspect, a CID officer, an employee of National Police Service, solicited from the Complainant for a benefit of Kshs. 10,000/= which amount was reduced to Kshs. 6,000/= as an inducement to facilitate investigations into a report the Complainant had filed at the Kabras Police Station against his son for sending him abusive and threatening text messages.

Investigations further established that the suspect finally received the bribe of Kshs. 6,000/= but gave back Kshs. 1,000/= to the Complainant, and immediately thereafter she was arrested and upon search Kshs. 5,000/=, the bribe money, was recovered.

A report was compiled and forwarded to the DPP on 17<sup>th</sup> January, 2017 recommending that the two counts of corruptly soliciting for a benefit and one count of corruptly receiving a benefit, contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 already filed in court against the suspect be prosecuted to the logical conclusion.

On 16<sup>th</sup> February, 2017 the DPP accepted the recommendation for prosecution.

### **15. CR. 345/188/2016 CF. 3/2016**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN ENFORCEMENT OFFICER BASED AT MOMBASA COUNTY GOVERNMENT**

Investigations revealed that the suspect, an employee of Mombasa City County Government working as an Enforcement Officer, solicited from the Complainant for a benefit of Kshs. 5,000/= as an inducement so as to release the Complainant's employee who had been arrested and kept in custody at Nyali Police Station.

Investigations further established that a sting operation was arranged and the Complainant met the suspect who on soliciting for the bribe of Kshs. 5,000/= was given the bribe money and immediately thereafter he was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 17<sup>th</sup> January, 2017 recommending that the charges of two counts of corruptly soliciting for a benefit and one count of corruptly receiving a benefit, contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003, already filed in court be prosecuted to the logical conclusion.

On 24<sup>th</sup> January, 2017 the DPP accepted the recommendation for prosecution.

### **16. CR. 641/5/ 2016**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST THE DEPUTY LANDS REGISTRAR AT KISII LANDS OFFICE**

Investigations revealed that the Complainant had long standing land boundary dispute with his neighbour and therefore reported this matter to the Kisii Lands Registry for resolution. Investigations established that the suspect, the Deputy Lands Registrar an employee of Ministry of Lands based at the Kisii Lands Registry, solicited from the Complainant for a benefit of Kshs. 6,000/= as an inducement so as to facilitate the Land and Survey officers to visit the disputed land, failure of which they would not go.

Investigations further established that a sting operation was arranged and the Complainant met the suspect who on soliciting for the bribe of Kshs. 6,000/= was given the bribe money and immediately thereafter he was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 17<sup>th</sup> January, 2017 recommending that the charges of three counts of corruptly soliciting for a benefit and one count of corruptly receiving a benefit, contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act,



2003, already filed in court as against the Suspect be prosecuted to the logical conclusion.

On 14<sup>th</sup> February, 2017 the DPP accepted the recommendation for prosecution.

#### **17. CR. 148/24/2016 ACC: 15/2016**

##### **INQUIRY INTO AN ALLEGATION THAT THE HEAD OF ENVIRONMENTAL OPERATIONS WITH THE NAIROBI CITY COUNTY GOVERNMENT SOLICITED FOR A BENEFIT AS A CONDITION TO ALLOW EXCAVATION WORK IN KAREN TO CONTINUE WITHOUT AN APPROVAL LETTER AND TO FACILITATE THE WITHDRAWAL OF CASE NUMBER 12132/2016 PENDING BEFORE CITY COURT**

Investigations established that the Head of Environmental Operations with the Nairobi City County Government solicited for Kshs. 140,000/= from the complainant so that he could assist the complainant get excavation approval letter and have the case before the City Court withdrawn.

Investigations further established that a sting operation was arranged and the Complainant met the suspect who on soliciting for the bribe, received Kshs. 90,000/= and immediately thereafter he was arrested. The bribe money was recovered.

A report was compiled and forwarded to the DPP on 26<sup>th</sup> January, 2017 recommending that the charges of corruptly soliciting for a benefit and corruptly receiving a benefit, contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003, already filed in court be prosecuted to the logical conclusion.

On 9<sup>th</sup> February, 2017 the DPP accepted the recommendation for prosecution.

#### **18. EACC/OPS/INQ 193/2016**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A DRIVER OF PUBLIC SERVICE VEHICLE (PSV)**

Investigations revealed that a driver of a PSV, (the suspect), on being stopped by the National Transport Safety Authority (NTSA) officials, corruptly offered and gave a benefit of Kshs. 3,000/= to an officer of NTSA as an inducement so as not to be charged for contravening traffic laws. The suspect was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 26<sup>th</sup> January, 2016 recommending the suspect 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 27<sup>th</sup> March, 2017 the DPP accepted the recommendation for prosecution.

**19. CR. 148/29/2016 CF. ACC 20/2016**

**INQUIRY INTO ALLEGATIONS OF CORRUPTLY OFFERING AND GIVING A BENEFIT AGAINST TWO STUDENTS AT CATHOLIC UNIVERSITY OF EAST AFRICA**

Investigations established that two students at the Catholic University of East Africa corruptly offered to the University's Deputy Registrar, a benefit, initially, of Kshs. 500,000/=, then reduced the offer to Kshs. 300,000/= which offer they finally reduced to Kshs. 10,000/=, as an inducement so that they could be allowed to irregularly graduate with the degree certificate of Bachelor of Laws, whereas they had not qualified.

Investigations further revealed that these students corruptly gave the benefit of Kshs. 10,000/- to the said Registrar upon which they were arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 14<sup>th</sup> February, 2017 recommending that the charges of corruptly offering and one count of corruptly giving a benefit contrary to section 39 (3) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003, already filed in court against the suspects be prosecuted to the logical end.

On 27<sup>th</sup> February, 2017 the DPP accepted the recommendation for prosecution.

**20. CR. 148/27/2016 CF. ACC 18/2016**

**INQUIRY INTO ALLEGATIONS OF CORRUPTLY SOLICITING AND RECEIVING A BENEFIT AGAINST A POLICE OFFICER ATTACHED TO KILIMANI POLICE STATION**

Investigations revealed that the suspect corruptly solicited for a benefit of Kshs. 20,000/= which he later on reduced to Kshs. 15,000/= but in the course of sting operation he corruptly received Kshs. 10,000/= from the complainant as an inducement so as to release to the complainant the motor vehicle which had been impounded and parked at the Police Station. The suspect was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 17<sup>th</sup> February, 2017 recommending that the charges of corruptly soliciting for a benefit and corruptly receiving a benefit, contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 already filed in court against the suspect be prosecuted to their logical end.

On 30<sup>th</sup> March, 2017 the DPP accepted the recommendation for prosecution.

## **21. EACC/OPS/INQ 177/2016**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A DRIVER OF PUBLIC SERVICE VEHICLE (PSV)**

Investigations revealed that a driver of a PSV, (the suspect), was arrested by the National Transport Safety Authority (NTSA) officials, for operating a PSV without a valid road service licence. Investigations however revealed that the allegation that he corruptly offered and gave a benefit of Kshs. 3,000/= to an officer of NTSA as an inducement so as not to be charged for contravening traffic laws could not be sustained as the witnesses present at the scene did not confirm that allegation.

A report was compiled and forwarded to the DPP on 28<sup>th</sup> February, 2017 recommending the inquiry file be closed save for the prosecution of the suspect for the traffic offence.

On 22<sup>nd</sup> March, 2017 the DPP accepted the recommendation for closure of the inquiry file for lack of evidence.

## **22. EACC/OPS/INQ 189/2016**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A DRIVER OF PUBLIC SERVICE VEHICLE (PSV)**

Investigations revealed that a driver of a PSV, (the suspect), on being stopped by the National Transport Safety Authority (NTSA) officials for careless driving, corruptly offered and gave a benefit of Kshs. 2,000/= to an officer of NTSA as an inducement so as not to be charged for contravening a traffic laws. The suspect was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 28<sup>th</sup> February, 2017 recommending the suspect 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 15<sup>th</sup> March, 2017 the DPP accepted the recommendation for prosecution.

## **23. EACC/OPS/INQ 190/2016**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A DRIVER OF A UNIVERSITY BUS**

Investigations revealed that a driver of the university bus, (the suspect), was stopped by the National Transport Safety Authority (NTSA) officials for careless driving. It was claimed that the suspect corruptly offered and gave a benefit of



Kshs. 1,000/= to an officer of NTSA as an inducement so as not to be charged for contravening traffic laws. He was arrested and bribe money recovered.

Investigations established that there was reasonable doubt as to whether the suspect offered and gave that money as a bribe and not as cash bail; the tape recorded conversation showed that the suspect was trying to negotiate the reduction of the cash bail payable.

A report was compiled and forwarded to the DPP on 28<sup>th</sup> February, 2017 recommending the inquiry file be closed with no further action.

On 29<sup>th</sup> March, 2017 the DPP accepted the recommendation for closure of the inquiry file.

#### **24. CR. 924/156/2016**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A CLERICAL OFFICER AT BUTERE LAW COURTS**

Investigations established that the suspect, a Clerical Officer based at Butere Law Courts, corruptly solicited for and corruptly received a benefit of Kshs. 6,000/= from the complainant as an inducement so as to facilitate the release of the complainant's relative on bond. The suspect was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> February, 2017 recommending that the charges of corruptly soliciting for a benefit and one count of corruptly receiving a benefit, contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003, already filed in court against the suspect be prosecuted to the logical conclusion.

On 22<sup>nd</sup> March, 2017 the DPP accepted the recommendation for prosecution.

#### **25. CR. 924/156/ 2016**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A LAW ENFORCEMENT OFFICER ATTACHED TO KITENGELA SUB-COUNTY, KAJIADO COUNTY**

Investigations established that the suspect corruptly solicited for and corruptly received a benefit of Kshs. 15,000/= from the complainant as an inducement so as to release the motor vehicle the suspect had impounded for the reason that the complainant had no delivery permit. The suspect was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> February, 2017 recommending that the charges of corruptly soliciting for a benefit 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, already filed in court against the suspect be prosecuted to their logical conclusion.

On 22<sup>nd</sup> March, 2017 the DPP accepted the recommendation for prosecution.

## **26. EACC/OPS/INQ 173/2016**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST THE OWNER OF A PRIVATE VEHICLE**

Investigations revealed that a driver of the suspect's motor vehicle was stopped by the National Transport Safety Authority (NTSA) officials for careless driving, and on being asked to pay cash bail so that he could appear in court on a later date to answer to the charges of flouting traffic laws, the suspect corruptly offered and gave a benefit of Kshs. 2,000/= to an officer of NTSA as an inducement so that his driver could not be so charged. The suspect was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> February, 2017 recommending the suspect 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 4<sup>th</sup> April, 2017 the DPP accepted the recommendation for prosecution.

## **27. EACC/OPS/INQ 175/2016**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A PRIVATE PERSON WHO WAS A PASSENGER IN A SCHOOL BUS**

Investigations revealed that a driver of the school bus was stopped by the National Transport Safety Authority (NTSA) officials for driving without the requisite authorization from the School owning the bus. On being asked to pay cash bail so that he could appear in court on a later date to answer to the relevant traffic charges, the suspect who was a passenger in that bus, corruptly offered and gave a benefit of Kshs. 2,500/= to an officer of NTSA as an inducement so that the driver could not be so charged. The suspect was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> February, 2017 recommending that the suspect 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 10<sup>th</sup> April, 2017 the DPP returned the file for further investigations.

## **28. EACC/OPS/INQ 198/2016**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST THE DRIVER OF PUBLIC SERVICE VEHICLE (PSV)**

Investigations revealed that a driver of the PSV was stopped by the National Transport Safety Authority (NTSA) officials for driving without the necessary Transport Licensing Board License. On being asked to pay cash bail so that he could appear in court on a later date to answer to the charges of flouting traffic laws, the suspect gave out his driving licence with Kshs. 500/= to the NTSA official.

Investigations established that that act on the part of the driver without more incriminating evidence could not amount to commission of a corruption offence.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> February, 2017 recommending that the file be closed with no further action.

On 15<sup>th</sup> March, 2017 the DPP accepted the recommendation for closure of the inquiry file with no further action.

## **29. CR 14/30/2016 CF. 1378/2016**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST THE CHIEF OF ITHANGA LOCATION**

Investigations revealed that suspect corruptly solicited for a benefit of Kshs. 20,000/= which the complainant gave, so as to facilitate the change of name in a title deed so as to reflect that of the complainant in place of the complainant deceased mother's name. Investigation also established that the suspect further corruptly solicited for further benefit of Kshs. 10,000/= which he reduced to Kshs. 7,000/=.

Investigation further established that the complainant corruptly received the benefit of Kshs. 7,000/= upon which he was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 30<sup>th</sup> March, 2017 recommending that the charges of corruptly soliciting for and corruptly receiving a benefit, contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003, already filed in court against the suspect be prosecuted to their logical conclusion.

On 6<sup>th</sup> April, 2017 the DPP accepted the recommendation for prosecution.



### **30. CR 351/315/2016**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A CONDUCTOR OF A PUBLIC SERVICE VEHICLE (PSV)**

Investigations revealed that the driver of the PSV was stopped by the National Transport Safety Authority (NTSA) officials for driving without the necessary road service license and on being issued with bond receipt so that he could appear in court on a later date to answer to the charges of flouting traffic laws, the suspect, the bus conductor, corruptly offered and gave Kshs. 2,000/= to the NTSA official. This was an inducement so that NTSA official may not charge the said driver. The suspect was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 30<sup>th</sup> March, 2017 recommending that the charges 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, already filed in court against the suspect be prosecuted to their logical conclusion.

On 6<sup>th</sup> April, 2017 the DPP accepted the recommendation for prosecution.

### **31. EACC/OPS/INQ/186/2016**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A DRIVER OF A LORRY**

Investigations revealed that the driver of a lorry was stopped by the National Transport Safety Authority (NTSA) officials for careless driving and on being asked for cash bail so that he could appear in court on a later date to answer to the charges of flouting traffic laws, the suspect, corruptly offered and gave Kshs. 2,000/= to the NTSA official. This was an inducement so that NTSA official may not charge the said driver. The suspect was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 30<sup>th</sup> March, 2017 recommending that the driver 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.

On 6<sup>th</sup> April, 2017 the DPP accepted the recommendation for prosecution.

### **32. EACC/OPS/207/2016**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A DRIVER OF A PUBLIC SERVICE VEHICLE (PSV)**

Investigations revealed that the driver of the PSV was stopped by the National Transport Safety Authority (NTSA) officials for driving without the necessary PSV license. The driver (suspect) was arrested and asked to pay cash bail for court appearance on a later date, but he allegedly offered and gave Kshs. 1,000/= to the NTSA official said to have been a bribe.

Investigation further established that there was doubt as to whether the money was offered and given corruptly or as cash bail; the doubt thus created is resolved to the suspect's favour.

A report was compiled and forwarded to the DPP on 30<sup>th</sup> March, 2017 recommending that the inquiry file be closed with no further action.

On 6<sup>th</sup> April, 2017 the DPP accepted the recommendation for closure of the inquiry file.

### **33. EACC/OPS/INQ/208/2016**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTLY OFFERING AND GIVING A BENEFIT AGAINST A DRIVER OF PUBLIC SERVICE VEHICLE (PSV)**

Investigations revealed that the driver of the PSV was stopped by the National Transport Safety Authority (NTSA) officials for driving without the necessary PSV license, inspection sticker and PSV insurance. On being asked for cash bail so that he could appear in court on a later date to answer to the charges of flouting traffic laws, the suspect corruptly offered and gave Kshs. 1,000/= to the NTSA official. This was an inducement so that NTSA official may not charge him. The suspect was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 30<sup>th</sup> March, 2017 recommending that the charges 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, be preferred against the suspect.

On 7<sup>th</sup> April, 2017 the DPP accepted the recommendation for prosecution.

### **34. CR. 531/200/2016 GARISSA ACC. NO: 14/2016**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTLY SOLICITING AND RECEIVING A BENEFIT BY PROSECUTION COUNSEL BASED AT WAJIR OFFICE**

Investigations revealed that the complainant's daughter was a complainant in a criminal case in Wajir Law Courts prosecuted by the suspect. Investigations established that the matter was later on withdrawn.



Investigations revealed that the suspect thereafter corruptly solicited from the complainant a benefit of Kshs. 50,000/= so as to reinstate the criminal case and prosecute it to its logical end. Investigation established that the suspect finally corruptly solicited for and received Kshs. 30,000/=, and upon arrest the bribe money was recovered.

A report was compiled and forwarded to the DPP on 30<sup>th</sup> March, 2017 recommending that the charges of corruptly soliciting for and receiving of a benefit, contrary to section 39 (3) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003, already filed in court against the suspect, be prosecuted to their logical conclusion.

On 6<sup>th</sup> April, 2017 the DPP accepted the recommendation for prosecution.

### **35. CR 148/18/2016 CF. ACC. 6031/2016**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TWO JOURNALISTS**

Investigations revealed that a teacher at a Private School had been charged for indecent assault of a school girl. That the suspects both working for the media approached the proprietor of the school and corruptly solicited for Kshs. 140,000/= as an inducement so that that information about the indecent assault was not published in the newspapers.

Investigations further established that the suspects later on reduced the bribe demand to Kshs. 20,000/= which they received. They were arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 30<sup>th</sup> March, 2017 recommending that the charges of corruptly soliciting for and corruptly receiving, contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003, already filed in court against the suspects be prosecuted to their logical conclusion.

On 10<sup>th</sup> April, 2017 the DPP accepted the recommendation for prosecution.

### **36. EACC/OPS/201/2016**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A DRIVER OF A PUBLIC SERVICE VEHICLE (PSV)**

Investigations revealed that the driver of a PSV was stopped by the National Transport Safety Authority (NTSA) officials for driving without the necessary PSV license and on being asked to pay for cash bail so that he could appear in court on a later date to answer to the charges of flouting traffic laws, the suspect, corruptly offered and gave Kshs. 1,000/= to the NTSA official. This was

an inducement so that NTSA official may not charge him. The suspect was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 30<sup>th</sup> March, 2017 recommending the charges 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, as against the suspect.

On 7<sup>th</sup> April, 2017 the DPP accepted the recommendation for prosecution.

### **37. EACC/OPS/INQ/197/2016**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A DRIVER OF A PUBLIC SERVICE VEHICLE (PSV)**

Investigations revealed that the driver of a PSV was stopped by the National Transport Safety Authority (NTSA) officials for driving without the necessary road service license and on being asked for cash bail so that he could appear in court on a later date to answer to the charges of flouting traffic laws, the suspect, corruptly offered and gave Kshs. 2,000/= to the NTSA official. This was an inducement so that NTSA official may not charge the said driver. The suspect was arrested and the bribe money recovered.

A report was compiled and forwarded to the DPP on 30<sup>th</sup> March, 2017 recommending the charges 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, as against the suspect.

On 6<sup>th</sup> April, 2017 the Director of Public Prosecutions returned the file recommending further investigations.

### **38. CR 255/381/2016 CF. ACC. (NYERI) 2/2016**

#### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A PRIVATE CITIZEN REGARDING RECRUITMENT OF HIS RELATIVE BY KENYA DEFENCE FORCES**

Investigations revealed that the Kenya Defence Forces carried out a recruitment exercise in Nyeri County on 21.09.2016. Amongst those interested for recruitment was the nephew to the suspect. That the suspect offered and gave Kshs. 86,000/= to a Kenya Defence Forces officer so as to facilitate his nephew's recruitment to the Forces but he was arrested and the bribe money together with two suspect rubber stamps were recovered from him.

Investigations established that the two suspect stamps were capable of making the impression of a stamp of the Defence Forces Memorial Hospital.



A report was compiled and forwarded to the DPP on 30<sup>th</sup> March, 2017 recommending that the charges 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 knowingly being in possession of instrument capable of making the impression of a stamp of the Defence Forces Memorial Hospital contrary to section 352 (b) of the Penal Code, already filed in court against the suspect be prosecuted to the logical conclusion.

On 12<sup>th</sup> April, 2017 the DPP accepted the recommendation for prosecution.

### **39. EACC/AT/INQ/49/2011-F**

#### **INQUIRY INTO ALLEGATIONS THAT PUBLIC LAND RESERVED FOR DOCTORS OF NEW NYANZA GENERAL HOSPITAL WAS IRREGULARLY ALIENATED**

Investigations revealed that the Government had allocated the subject land and actually put up a government house on that land for use by Doctors at New Nyanza General Hospital. Therefore the land was not available for alienation.

Further investigations established that a land registrar based in Kisumu Land Registry and the then Commissioner of Lands in cahoots with the doctor in occupation of the property, and other private persons alienated that property to different persons.

A report was compiled and forwarded to the DPP on 30<sup>th</sup> March, 2017 recommending that the Land Registrar be charged with the offences of abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), corruptly receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of ACECA and uttering a false document contrary to section 353 of the Penal Code; the then Commissioner of Lands be charged with the breach of trust contrary to section 127 of the Penal Code; and the other private persons be charged with fraudulent disposal and acquisition of public property contrary to section 45 (1) (a) and (b) of ACECA and corruptly receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of ACECA.

On 12<sup>th</sup> April, 2017 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	<b>39</b>
No. of files recommended for prosecution	<b>31</b>
No. of files recommended for administrative or other action	<b>2</b>
No. of files recommended for closure	<b>6</b>
No. of files recommended for prosecution and the cases are already lodged before Court	<b>15</b>
No. of files where recommendation to prosecute accepted	<b>28</b>
No. of files where recommendation for administrative or other action accepted	<b>2</b>
No. of files where recommendation for closure accepted	<b>5</b>
No. of files returned for further investigations	<b>3</b>
No. of files where recommendation to prosecute not accepted	<b>1</b>
No. of files where recommendation for administrative or other action not accepted	<b>0</b>
No. of files where closure not accepted	<b>0</b>
No. of files awaiting Director of Public Prosecutions' action	<b>0</b>

DATED AT NAIROBI THIS

29<sup>th</sup>

DAY OF

May

2017



**ARCH. (RTD) ELIUD WABUKALA**  
**CHAIRMAN**



**HALAKHE D. WAQO, CBS, MCI Arb.,**  
**SECRETARY/CHIEF EXECUTIVE OFFICER**