



THE ETHICS AND ANTI-CORRUPTION COMMISSION

**THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST
OCTOBER 2018 TO 31ST DECEMBER 2018**

PREAMBLE

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

Section 36 of ACECA provides that:

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

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2018 to 31st December, 2018.

INVESTIGATION REPORT COVERING THE PERIOD 1ST OCTOBER 2018 TO 31ST DECEMBER

1. EACC/FI/INQ/42/2016

INVESTIGATION ON ALLEGATION OF IRREGULAR PAYMENT OF KSHS. 68,000,000/- MADE BY NAIROBI CITY COUNTY TO A FIRM OF ADVOCATES

The Commission commenced investigations following a feature in the Nairobi Star electronic media on 2nd February, 2017 involving a scam in the then City Council of Nairobi (CCN) for the sum of Kshs. 2.4 billion.

Investigations established that a sum of Kshs. 58,000,000/- was unlawfully paid/transferred to a firm of advocates as purported legal fees for representing the Nairobi City Council in a suit that was fictitious. It was established that the said money was thereafter transferred to the accounts of or held on behalf of the suspects.

It was established that the payments that were made were unlawful and that there was a well-organized conspiracy by several actors to defraud the City Council of Nairobi. A report was compiled and forwarded to the DPP on 11th December, 2018 recommending to charge the suspects.

The offences included; conspiracy to commit an economic offence contrary to Section 47A (3) as read with section 48 (1) of ACECA, unlawful acquisition of public property 45 (1) (a) as read with section 48 (1) of ACECA, dealing with suspect property contrary to Section 47(2)(a) as read with sections 47(1) and 48(1) of ACECA and making fraudulent payments from public revenues for services not rendered contrary to Section 45(2)(iii) as read with Section 48 of ACECA.

On 13th March, 2019 the DPP returned the inquiry file recommending further investigations.

2. EACC/ISL/EL/INQ/5/2015

INVESTIGATION INTO ALLEGATIONS OF IRREGULAR RECRUITMENT OF ASSISTANT CHIEF WASO SUB-LOCATION BY THE DEPUTY COUNTY COMMISSIONER ISIOLO SUB - COUNTY

The Commission began investigations into this matter following receipt of a complaint that the person who was appointed to the position of Assistant Chief Waso Sub-Location did not meet the requirements for appointment to the position.

The investigations established that indeed the said person did not meet the requirements for appointment to the position due to facts including the fact that she was 28 years old yet for one to be appointed one needed to be at least 35 years old. The said person had also not met the academic requirement for appointment to the position- She had a D plain yet for appointment to the position a mean grade of KCSE C plain was required.

The investigations further established that there was a candidate who had met both the age and academic qualifications, but for unknown reasons that person was ranked position 2, thus denied the opportunity to get the position.

A report was compiled and forwarded to the DPP on 11th December, 2018 recommending to charge the suspects for the offences of Abuse of office contrary to Section 46 as read with Section 48 of ACECA, deceiving principal contrary to section 41 (2) as read with section 48 of ACECA.

On 4th March, 2019 the DPP returned the inquiry file recommending further investigations.

3. EACC/FI/INQ/127/2015

INVESTIGATION INTO ALLEGATIONS THAT THE CHAIRMAN OF THE NATIONAL INDUSTRIAL TRAINING AUTHORITY BOARD IRREGULARLY RECEIVED ALLOWANCES AMOUNTING TO KSHS. 3,487,864/-

The Commission commenced this investigation following a report that the Chairman of the National Industrial Training Authority Board, (NITA) irregularly received allowances amounting to Kshs. 3,487,864/- during the months of July 2013 to February 2014.

Evidence on record reveals that on various dates during the period under question the Chairman received payment of **Kshs. 1,396,684/-** for allowance claims without proper or requisite supporting documents between 5th and 9th September, 2013. The payments were authorized by senior officers at NITA who also failed to ensure they had the requisite supporting documents.

A report was compiled and forwarded to the DPP on 11th December, 2018 recommending to charge the suspects with the offences of forgery contrary to section 347(a) as read with section 349 of the Penal Code, uttering false documents contrary to section 353 of the Penal Code, deceiving principal contrary to section 41(2) as read with section 48(1) of ACECA, unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of ACECA and abuse of office contrary to section 46 as read with section 48 (1) of ACECA.

On 7th March, 2019 the DPP returned the inquiry file accepting recommendation for prosecution.

4. EACC. NKR/FI/INQ/53/2017

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND PROCUREMENT IRREGULARITIES BY THE MANAGING DIRECTOR OF PYRETHRUM PROCESSING COMPANY OF KENYA IN THE AWARD OF A CONTRACT FOR ESTATE MANAGEMENT

The Commission commenced investigations following a complaint that was received alleging that the Managing Director for Pyrethrum Processing Company (PPCK) formerly known as Pyrethrum Board of Kenya abused his

office and violated the procurement laws and regulations in the award of a contract for estate management to Bonnkam Ventures Limited.

Investigations revealed that on 20th January 2017 vide award letter ref PPCK/NKR/001/2017, the Managing Director gave a Notice of Conditional Contract Award to a firm to offer estate management services without following the due process of procurement as required by the Public Procurement and Asset Disposal Act 2015.

The investigation revealed further that the Managing Director received about Kshs. 363,773.50 being money advanced to him by the Finance manager without following the provisions of regulation 93 of the Public Finance Management (National Government) Regulations 2015.

A report was compiled and forwarded to the DPP on 11th December, 2018 recommending to charge the suspects with the offences of financial misconduct by public officers contrary to Section 197(1)(o)(i) as read with Section 199 of the Public Finance Management Act, Unlawful acquisition of public property contrary to Section 45 (1)(a) as read with Section 48(1) (a) of ACECA and Wilful failure to comply with the law and regulations relating to procurement contrary to Section 45(2) (b) as read with Section 48(1) (a) of ACECA.

The Commission further recommended that recovery proceedings be instituted to recover the outstanding imprest amounting to Kshs. 363,773.50 from the Managing Director and Kshs. 738,010/- from the senior officials.

Further the members of the Evaluation Committee be subjected to disciplinary measures in accordance with the State Department of Agriculture and or the PPCK disciplinary measures and the PPAD Act, 2015 pursuant to the provisions of Section 46(5) of the PPAD Act, 2015.

On 25th February, 2019 the DPP returned the inquiry file recommending further investigations.

5. EACC/EL/INQ/57/2016

INVESTIGATION INTO AN ALLEGATION OF UNETHICAL CONDUCT OF AN ASSISTANT DIRECTOR OF EDUCATION-EMBU EAST SUB- COUNTY

The Commission commenced investigations when it received an anonymous report that an employee of the Ministry of Education, possessed fake academic certificates which he used to earn a promotion to job group 'P'.

Investigations established that the criterion for selection and promotion of the officers was not followed as stipulated in the Revised Scheme of Service for Education Officers. An officer gave misleading information in the PSC form in order to gain an edge over fellow candidates during the interview. As at the time that he was interviewed, he was not in possession of a Master's degree certificate.

Investigations have established that a Senior Lecturer at MKU and currently the Dean, School of Education misled the Principal Secretary in the Ministry of Education by indicating that the candidate for promotion had completed his Master's degree and was only awaiting graduation.

A report was compiled and forwarded to the DPP on 11th December 2018 recommending to charge the suspects with the offences of deceiving the Ministry of Education contrary to section 46(b) of the Leadership and Integrity Act and giving false information to a person employed in the public service contrary to section 129(a) of the Penal Code.

On 15th March, 2019 the DPP returned the inquiry file accepting recommendation to charge the suspect.

6. EACC/GSA/EI/INQ/10/2015

INVESTIGATION INTO ALLEGATIONS THAT THE FORMER PRINCIPAL GARISSA UNIVERSITY COLLEGE EARNED DOUBLE SALARY FROM BOTH THE UNIVERSITY OF NAIROBI AND GARISSA UNIVERSITY FOR THE PERIOD BETWEEN FEBRUARY 2013 AND NOVEMBER 2013

The Commission received a complaint that the former Principal Garissa University College earned double salary from February 2013 to November, 2013 from both University of Nairobi and Garissa University. It is reported that the said Professor in April, 2014 demanded payment of salary arrears and all allowances from February, 2013 to October, 2013 and was paid even though he was still earning from the University of Nairobi.

The Commission commenced investigations and established that the said Professor was appointed as the Principal Garissa University College with effect from 14th February, 2013. He however failed to inform the University of Nairobi that he had received SUCH an appointment as such Principal.

Investigations have revealed that in April, 2014 the Professor was paid salary arrears of Kshs. **1,022,330/-** House Allowance Arrears of Kshs. **17,673/-** responsibility allowance arrears of Kshs. **108,035/-**, entertainment allowance arrears of Kshs. **129,321/-** and telephone allowance arrears of Kshs. **76,071/-** by the Garissa University College. He thus earned salary from the University of Nairobi from the month of February, 2013 when he was appointed as the Principal Garissa University College to the month of November, 2013.

Investigations established that the Professor continued earning salary from the University of Nairobi up to October 2013 even though he had joined Garissa University College in February 2013.

A report was compiled and forwarded to the DPP on 11th December 2018 recommending administrative action on the public officer for breach of Chapter Six of the Constitution and Public Officers Ethics Act and recovery of salary paid to the Professor by the University of Nairobi from Garissa University.

On 5th March, 2019 the DPP returned the inquiry file recommending further investigations.

7. EACC/FI/INQ/59/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR PAYMENT OF KSHS. 30 MILLION TO REDLINE LIMITED BY KENYA PIPELINE COMPANY THROUGH THEIR ACCOUNT DOMICILED AT COMMERCIAL BANK OF AFRICA FOR THE SUPPLY, INSTALLATION AND COMMISSIONING OF THREE AUTOTRANSFORMERS PROCURED FROM AGECELEC INDUSTRY OF FRANCE

The Commission received a report that Kenya Pipeline Corporation (KPC) procured autotransformers from M/s AGECELEC INDUSTRIE of France (AIF) through the local agent, M/s Redline Limited without following the relevant procurement law. It was also reported that KPC irregularly paid a sum of Kshs.30 Million to Redline Ltd.

Investigations established that Redline Limited did not install autotransformers neither did it commission any installation of the said autotransformers. Despite this, KPC in addition to paying for the value of the autotransformers supplied, paid Redline Ltd for the alleged "installation and commissioning of the said transformers" in the sum of Euros 8695.65 (translated to Kshs. 112 x 8695.65 = Kshs. 973,912.80, based on the then prevailing exchange rate).

A report was compiled on 28th October, 2015 and forwarded to the DPP who on 13th November 2015 concurred with the recommendations and the suspects were accordingly arraigned in court. The matter could not proceed in light of the decision in the Court of Appeal in Civil Appeal No. 102 of 2016: Eng. Michael Sistu Mwaura Kamau vs. EACC & 4 others.

On the basis of this decision, the DPP withdrew this case under section 87 (a) of the Criminal Procedure Code on 24th October, 2017. The DPP returned the file to the Commission vide a letter dated 30th October, 2017 with the advice for EACC to investigate the matter afresh.

The Commission, having been properly constituted and in compliance with the aforesaid Court of Appeal decision, launched fresh investigations, recorded statements and obtained all the relevant documents.

Further investigations revealed that the public officers who were concerned with the management of public property authorised and approved payments without due diligence.

A report was compiled and forwarded to the DPP on 11th December 2018 recommending charges for the offences of making of false document contrary section 347 (a) as read together with sections 349 of the Penal Code, wilful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with section 48 of ACECA and abuse of office contrary to section 46 as read with section 48 (1) of ACECA.

On 7th March 2019, the DPP returned the inquiry file recommending further investigations.

8. EACC/GSA/FI/INQ/05/2017

INQUIRY INTO ALLEGATIONS OF THEFT OF RELIEF FOOD IN IJARA SUB COUNTY BY THE DEPUTY COUNTY COMMISSIONER, IJARA SUB COUNTY

The Commission received a report on 16th February, 2015 from an informant that the Deputy County Commissioner (DCC) Ijara Sub County misappropriated relief food received from the Directorate of Special Programmes. It is alleged that on the night of 7th February, 2017, the said Deputy Commissioner sold the rice meant for hunger stricken members of the said sub county.

Investigations established that the DCC was the person in charge of the store and was the custodian of the keys to the store. However, he could not account for 78 bags of rice, 13 bags of beans and 5 bales of fortified food hence the reasonable presumption that he had misappropriated the food.

Investigations also revealed that he forged the payment schedule to surrender the imprest purportedly applied to pay loaders.

A report was compiled and forwarded to the DPP on 24th October 2018 recommending charges against the DCC for the offences of fraudulent acquisition of public property contrary to section 45(1)(a) as read with section (48) (1) of ACECA, giving a false document contrary to section 197 (1)(n) as read with section 199 of the Public Finance Management Act, 2012, forgery contrary to section 349 as read together with section 345-348 of the Penal Code and false accounting contrary to section 331 as read with section 331(2) of the Penal Code.

On 12th February, 2019 returned the inquiry file accepting recommendation to charge the suspect.

9. EACC/F1/INQ/90/2016

INVESTIGATIONS OF OVER EXPENDITURE OF KSHS. 268,889,993/- UNDER VOTE HEAD 005501 ITEM 2630101 IN THE FINANCIAL YEAR 2015/2016 BY MINISTRY OF HEALTH

The Commission received a complaint that there was an over allocation of Kshs. 268,889,993/- paid to Kenya Medical Training College (KMTC) under vote head 005501 item 2630101 in the financial year (FY) 2015/2016 at the Ministry of Health (MOH) based on an Internal Audit Report dated 29th August, 2016.

The auditor alleged in his report that the Ministry of Health had transferred a lot more funds to KMTC than what was required. He noted a net of Kshs. 2,208,947,224/- ought to have been transferred after deducting the Appropriation in Aid (AIA) of Kshs. 1,068,700,000/-.

He alleged that vote head 005501 item 2630101 to KMTC (current grants to semi-autonomous government agencies) had an over expenditure of Kshs.

268,889,993/-. It thus appeared to the auditor that the grant which was transferred was more than what was authorized (Kshs. 2,208,947,224/-).

Investigations have established that KMTC received a total of Kshs. 2,423,903,794/- from MOH during the 2015/2016 financial year hence the reason as to why MOH is seen to have disbursed more than what was provided for in the FY 2015/2016 printed estimates.

Investigations also established that MOH had pending bills of Kshs. 184,078,935/- since it had not paid KMTC the June, 2016 grant. Therefore, there is no evidence of misappropriation of funds on the part of either MOH or KMTC.

A report was prepared and forwarded to the DPP on 16th November 2018 with recommendations to close the file with no further action.

On 15th March 2019, the DPP returned the inquiry file recommending further investigations.

10.EACC/EL/INQ/01/2018

INVESTIGATIONS INTO ALLEGATIONS THAT A MEMBER OF PARLIAMENT FOR UGENYA CONSTITUENCY FORGED A LETTER PURPORTEDLY FROM ALFAROOQ HOSPITAL, MOMBASA AND USED THE SAME LETTER IN A PETITION CHALLENGING HIS ELECTION AT THE HIGH COURT IN KISUMU

The Commission received a complaint on 1st January, 2018 that the Member of Parliament for Ugenya Constituency, uttered a false affidavit in Election Petition No. 1 of 2017. He was elected the Member of National Assembly for Ugenya Constituency having contested for the position on an Orange Democratic Movement (ODM) ticket in the August 2017 General Elections. He emerged the winner and was given the certificate by the Returning Officer. His election was however contested by one of the candidates who filed an election petition. The Hon. MP did not file his response immediately meaning he was statutorily barred from filing a response to the petition. He however filed

a Notice of Motion dated 25th September, 2017 seeking to have his response to the petition

The said Member of Parliament (MP) swore a supporting affidavit deposed on 23rd September, 2017 where he stated that he was unwell and had been admitted from 6th to 13th September, 2017 and by the time he was being discharged, time for filing his response to the election petition had lapsed. He attached a letter from a Hospital dated 6th September, 2017 to buttress his claim.

The Commission commenced investigations to establish whether indeed this letter from the hospital was a forgery and whether it had been uttered to the court as part of his primary annexures. Investigations established that the Hon. MP was not sick and that he was never admitted at the alleged Hospital. He thus deposed an affidavit with the intent of misleading the court.

A report was compiled and forwarded to the DPP on 16th October 2018 recommending charges against the MP for the offences of forgery contrary to section 349 of the Penal Code uttering false document contrary to section 353 as read with section 349 of the Penal Code making a document without authority contrary to section 357(a) of the Penal Code, perjury contrary to section 108 (a) of the Penal Code and providing misleading information contrary to section 46(1) (d) as read with section 46(2) of the Leadership and Integrity Act.

On 4th March, 2019 the DPP returned the inquiry file accepting recommendation for prosecution.

11. EACC/FI/INQ/55/2017

INVESTIGATION INTO ALLEGATIONS THAT THE PRINCIPAL CHANIA GIRLS' HIGH SCHOOL PURCHASED 10 COMPUTERS AT A COST OF KSHS. 403,100/- WITHOUT FOLLOWING PROCUREMENT PROCEDURES

The Commission received a complaint on 9th July, 2016 that the Principal Chania Girls High School procured 10 computers in 2016 at a cost of Kshs. 403,100/- without following the procurement procedures.

Investigations established that on 21st October, 2015 an advertisement of categories of goods and services was placed in the daily newspaper under tender number CGHS/19/2016 for the supply of computer accessories. The school needed to refurbish its ICT infrastructure. Three suppliers presented their quotations. The school's Procurement Committee on 5th February, 2016 evaluated the bids and awarded the contract to supply 10 computers to the lowest evaluated bidder which had quoted the cost of each computer at Kshs. 32,500/-.

Investigations established that the allegation levelled against the Principal that she procured 10 computers at a cost of Kshs. 403,100/- is not true save for the fact that the procurement procedure was not strictly adhered to.

A report was compiled and forwarded to the DPP on 16th November 2018 with recommendations to charge the Principal for 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 and forgery contrary section 349 as read together with sections 345 – 348 of the Penal Code. It was further recommended that the Director of the winning bidder be charged for corruptly giving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of ACECA as read with section 27 (2) of the Bribery Act and the School Bursar and the Computer Studies Teacher be charged with corruptly receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of ACECA as read with section 27 (2) of the Bribery Act.

On 8th March, 2019 the DPP returned the inquiry file recommending further investigations.

12. EACC/MSA/EL/INQ/14/2017

INQUIRY INTO ALLEGATIONS OF UNFAIR DISMISSAL OF A FORMER EMPLOYEE BY THE MANAGING DIRECTOR COAST DEVELOPMENT AUTHORITY

The Commission received a complaint on 11th October, 2017 from a former employee of Coast Development Authority (CDA) that he had been unfairly dismissed after he had lodged a complaint with EACC against the Managing Director of CDA.

Investigations established that on 10th October 2016, the CDA Board convened a meeting and resolved that the complainant be removed as a Project Manager. The complainant instituted a court case to dispute his dismissal which is still pending. Investigations did not establish any evidence against the Managing Director on the various accusations levelled against him.

A report was prepared and forwarded to the DPP on 16th October 2018 with recommendations to close the file with no further action.

On 4th December, 2018, the DPP accepted the recommendation for closure.

13. EACC/ELD/FI/INQ/34/2015

INVESTIGATION INTO AN ALLEGATION THAT THE CEO & CHAPLAIN OF MOI TEACHING AND REFFERAL HOSPITAL WERE DEMANDING BRIBES IN ORDER TO EMPLOY STAFF OF THE HOSPITAL CONTRARY TO THE LAID DOWN HOSPITAL REGULATIONS

The Commission received a complaint on 9th July 2015 on allegations of abuse of office by the Chief Executive Officer (CEO) and the Chaplain of Moi Teaching and Referral Hospital. Amongst the serious allegations identified were issues of corruption during staff recruitment through the office of the CEO.

The Complainant further alleged that in March 2015 he applied for a job as an Information Communication Technology at the hospital. He met the Chaplain

who informed him that he had connections with the CEO who was in a position to employ him upon payment of Kshs. 150,000/-.

Investigations established that the Chaplain corruptly solicited and received money from the complainant on the pretext that he would facilitate his employment at Moi Teaching and Referral Hospital.

A report was compiled and forwarded to the DPP on 16th October 2018 recommending to charge the suspect with the offence of corruptly soliciting a benefit contrary to section 39 (3) (a) as read with section 48 (1) of ACECA as read with section 27 of the Bribery Act, corruptly receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of ACECA as read with section 27 of the Bribery Act and obtaining money by false pretence contrary to section 313 of the Penal Code.

On 22nd November 2018, the DPP accepted the recommendation to charge the suspect.

14.EACC/KSM/PI/2/2014

INQUIRY INTO ALLEGATIONS OF IRREGULARITIES IN THE RECRUITMENT OF STAFF OF THE COUNTY ASSEMBLY BY THE COUNTY ASSEMBLY SERVICE BOARD OF BUSIA COUNTY GOVERNMENT

The Commission received a complaint on 17th November 2014 with various allegations of irregularities in the recruitment of staff of the County Assembly by the County Assembly Service Board of Busia County Government.

The Commission commenced investigations with the persons of interest at the time being members of Busia County Assembly Service Board, Speaker, Majority Leader, Minority Leader, Public Representative Busia County Assembly Service Board and Busia County Assembly Clerk.

Investigations established that all the employees who were recruited (110) applied, were shortlisted and interviewed apart from the 47 former employees

of the defunct Local Authority who were subjected to a suitability test. No evidence was obtained to indicate that there was bribery or favouritism or nepotism. Regional balance was found to be a challenge but the implementation of the 1/3rd regional balance is a progressive rule that is to be attained over time and the County Assembly had demonstrated the willingness to implement it through setting measures to ensure that they incorporated employees from other communities as proposed in the Justice and Legal Affairs Committee's report.

A report was compiled and forwarded to the DPP on 16th November 2018 with recommendations to close the file and consider undertaking an advisory to the County Government of Busia to advise them on the identified loopholes and recommend ways to address them in recruitment processes.

On 11th March, 2019 the DPP returned the inquiry file recommending further investigations.

15. EACC/KIS/EL/INQ/14/2017

INVESTIGATIONS INTO ALLEGATIONS OF ABUSE OF OFFICE AGAINST THE GOVERNOR OF NYAMIRA COUNTY

The Commission received a report with allegation that the Governor for Nyamira County had unilaterally appointed a Chief Officer for ICT in total disregard of the County Public Service Board's recommendation (CPSB).

The Commission carried out investigations where it was established that the Governor, being the appointing authority, disregarded the recommendations of the CPSB, in spite of the fact that the appointed candidates were not recommended for the positions of Chief Officers. Their names were forwarded to the County Assembly for approval. They were later appointed and served as Chief Officers for Education & ICT and Transport Roads & Public Works respectively through appointment letters signed by the Governor.

A report was compiled and forwarded to the DPP on 16th October 2018 with recommendations to charge the Governor with abuse of office contrary to section 46 as read with section 48 of ACECA for conferring a benefit .

On 29th November, 2018 the DPP returned the inquiry file recommending further investigations.

16.EACC/MCKS/FI/NQ/43/2017

INVESTIGATION INTO ALLEGATIONS THAT MACHAKOS COUNTY ASSEMBLY MEMBERS WERE PAID SUBSISTENCE ALLOWANCE TO ATTEND WORLD PLOUGHING COMPETITION IN BORDEAUX FRANCE IN 2014 BUT DID NOT ATTEND

The Commission noted that in the Auditor's Report on Financial Statements for the County Government of Machakos for the financial year that ended 30th June 2015, the members of Machakos County Assembly were allegedly paid conference fee amounting to Kshs. 756,000/- for World Ploughing Competition (WPC) in Bordeaux, France with each member being paid an amount of Kshs. 252,000/- being allowances.

Investigations established that the ASK wrote to the Speaker of County Assembly of Machakos, requesting that three members of the County Assembly who had been nominated to attend a World Ploughing Contest that was to happen in France, be facilitated to enable them travel for the event. It was resolved on 5th August, 2014 that the nominated members could travel for the event in France.

Investigations have established that the three members travelled to France on 30th August, 2014 and returned on 8th September, 2014. However instead of staying for eleven (11) days, they stayed for ten (10) days hence they were supposed to refund the allowances for one extra day.

A report was compiled and forwarded to the DPP on 16th October 2018 with recommendations for closure of the file. The Commission further

recommended that the Machakos County Assembly to recover the outstanding sum of Kshs. 6,752/- from the said former Members of County Assembly.

On 20th December, 2018, the DPP accepted recommendation for closure.

17. EACC/ISL/FI/INQ/53/2016

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITY BY THE MANAGING DIRECTOR MERU COUNTY INVESTMENT AND DEVELOPMENT CORPORATION IN THE PROCUREMENT OF CONSULTANCY SERVICES FOR THE REFURBISHMENT OF MERU COUNTY HOTEL

The Commission received a complaint on 21st September 2016 concerning several allegations of corruption against the Managing Director (MD) of Meru County Investment and Development Corporation (Corporation).

It was alleged that there were several irregularities in the public procurement of consultancy services for the detailed design, preparation of bidding documents and supervision of refurbishment of the Meru County Hotel. Investigations established that there were breaches of procurement procedures as provided in the PPDA and PPDR.

A report was compiled and forwarded to the DPP on 16th December 2018 recommending to charge the suspects with the offences of wilful failure to comply with the applicable law relating to procurement contrary to section 45(2)(b) as read with section 48 of ACECA. A recommendation was made to the Tender Committee Members of the Meru County Investment and Development Corporation.

Further, a recommendation was made to charge the Managing Director of the Meru County Investment and Development Corporation for willful failure to

comply with the law relating to procurement contrary to section 45(2)(b) as read with section 48 of ACECA.

On 4th March, 2019 the DPP accepted recommendations for prosecution.

18. EACC/FI/INQ/ELD/29/2018

INVESTIGATIONS INTO ALLEGATIONS OF IRREGULAR PURCHASE OF MAIZE BY OFFICIALS OF THE NATIONAL CEREALS AND PRODUCE BOARD FROM UNSCRUPULOUS BUSINESSMEN

The Commission received several reports that officials of the National Cereals and Produce Board were purchasing maize from brokers and unregistered farmers who had not been vetted to supply maize. It was reported that unscrupulous businessmen were smuggling maize from a neighboring country and selling the same to the National Cereals and Produce Board (the Board) and as a result genuine farmers were denied an opportunity to sell their maize.

Investigations established that the four traders covered in the investigations were allowed to supply maize without the requisite approvals as envisaged in the guidelines issued to the depot managers. The officers involved in the vetting exercise did not seek to verify the information supplied by the purported farmers. The traders not only used a flawed vetting process but also abused the process further by supplying beyond the quantities stated in the irregular vetting forms.

A report was compiled and forwarded to the DPP on 6th November 2018 recommending to charge the suspects severally and jointly with; willful failure to comply with the laws relating to the management of public funds contrary to section 45(2) (b) as read with section 48(1) of ACECA, conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48(1) of ACECA, conspiracy to defraud the public contrary to section 317 of the Penal Code, neglect of official duty contrary to section 128 as read with section 36 of the Penal Code, abuse of office contrary to section 46 as read

with section 48(1) of ACECA, fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48(1) of ACECA and dealing with suspect property contrary to section 47(1) as read with section 47(2)(a) and 48(1) of ACECA.

On 7th December, 2018, the DPP accepted the recommendation for prosecution of the suspects.

19.EACC/NYR/FI/INQ/33/2016

INQUIRY INTO ALLEGATION OF IRREGULAR PROCUREMENT AND IRREGULAR PAYMENT FOR ANALYZING A FACEBOOK PAGE FOR KIRINYAGA COUNTY GOVERNMENT AND THE GOVERNOR IN THE YEAR 2013

The Commission received a complaint on an allegation of irregular payment of Kshs. 1,231,280/- to a private company for offering a service of analysing a Facebook page for the County Government of Kirinyaga. It was alleged that the County Government paid Kshs. 410,640/- on the 11th March 2013 for services which were offered between 27th July 2013 and 27th October 2013 while the contract was signed on 9th October 2013.

Investigations established that there was no budget or plan in the Financial Year 2012/2013. The tender that was awarded to the private company by the Tender Committee in their Meeting held on 12th September 2013 was irregular.

A report was compiled and forwarded to the DPP on 24th October 2018 recommending to charge the the Interim Head of Supply Chain Management and the Interim County Secretary for wilful failure to comply with the law relating to protection of public property and revenue contrary to section 45 (2) (b) as read with section 48 of ACECA, engaging in a project without prior planning contrary to section 45(2) (c) as read with section 48 of ACECA and abuse of office contrary to section 46 as read with section 48(1) of ACECA.

On 1st March, 2019 the DPP returned the inquiry file recommending further investigations.

20. EACC/ISL/PI/INQ.43/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF TRACTORS, PLOUGHS, HARROWS, PLANTERS AND MOBILE DRIERS BY SAMBURU COUNTY GOVERNMENT THROUGH TENDER NO. SCG/009/2014-2015

The Commission on 3rd April 2016 received a complaint on allegation that the County Executive Committee Member (CECM) for Livestock and Agriculture in Samburu County Government embezzled public funds during the purchase of tractors. It alleged that each tractor was to cost Kshs. 2.5 Million but was bought at Kshs. 6 Million each.

From the investigations conducted, the Annual Procurement Plan for the Department of Agriculture, Livestock and Fisheries (ALF) for Financial Year 2014/2015 projected the purchase of six (6) tractors and implements through open tender at an estimated cost of Kshs. 41 Million. It also projected purchase of one boom sprayer and six motorized mist sprayers at an estimated cost of Kshs. 1 Million.

Investigations established that there were breaches in the procurement process and the payment process. The Chief Officer Finance who was the AIE holder and the Head of Supply Chain Management at Samburu County Government were in breach of the PFM Act.

A report was compiled and forwarded to the DPP on 16th October 2018 recommending to charge the suspects with wilful failure to comply with applicable law relating to procurement in tendering of contract contrary to section 45(2) (b) as read with section 48 of ACECA. Further, a recommendation was made for disciplinary action against the vote book accountant and the authorizing or approving officer for breach of the PFM Act.

On 15th March 2019, the DPP accepted with the recommendation to charge.

21.EACC/FI/69/2018

INQUIRY INTO ALLEGATIONS OF IRREGULAR WITHDRAWAL OF KSHS. 26.1 MILLION FROM THE IMPREST ACCOUNT NUMBER 1141515873 HELD BY THE COUNTY GOVERNMENT OF WAJIR AT THE KENYA COMMERCIAL BANK, WAJIR BRANCH WITHOUT SUPPORTING DOCUMENTS THROUGH CHEQUES NUMBERS 007482 TO 007487 SIGNED BY ONE SIGNATORY

The Commission received information that the officials of the County Government of Wajir in collaboration with officials at the Kenya Commercial Bank (KCB) fraudulently withdrew public funds amounting to Kshs. 26.1 million from the imprest account number 1141515873 held by the said County Government at the KCB Wajir Branch.

Investigations established that the County Executive Committee Member (CECM) Finance wrote a letter unlawfully introducing the Head of Treasury as the sole signatory to the imprest account. Based on the authority, he collected and signed cheques and presented at the KCB for payment. The Branch Manager authorized the withdrawal of Kshs. 26.1 million. The money was never surrendered at the cash office but was embezzled.

A report was compiled and forwarded to the DPP on 23rd November 2018 recommending charges against the CECM – Finance and Planning, County Secretary and Head of Public Service, Head of Treasury and Economic Advisor to the Governor and Branch Manager, Kenya Commercial Bank Wajir Branch. The proposed offences include; conspiracy to commit an economic offence contrary to Section 47A (3) as read with section 48 (1) of ACECA, abuse of office contrary to Section 46 as read together with Section 48 of ACECA, Wilful failure to comply with the law relating to management of public property contrary to Section 45(2) (b) as read with Section 48(1) (a) of ACECA, Wilful failure to comply with the law relating to custody of public property contrary to Section 45(2) (b) as read with

Section 48(1) (a) of ACECA, unlawful acquisition of public property 45 (1) (a) as read with section 48 (1) of ACECA and forgery contrary to section 347(a) as read with section 349 of the Penal Code.

On 24th November 2018, the DPP accepted with the recommendation to charge.

22. EACC/EL/INQ/50/2017

INQUIRY INTO ALLEGATIONS THAT A GUBERNATORIAL CANDIDATE IN TAITA TAVETA COUNTY HAD FORGED ACADEMIC CERTIFICATES

The Commission commenced this investigation following allegations that a gubernatorial candidate for Taita Taveta County on a Wiper Party ticket had forged his academic certificates.

Investigations have established that an aspirant for the Taita Taveta gubernatorial seat submitted a self-declaration form to the Commission as required for all candidates. Attached to his form were academic certificates purportedly acquired from the Kenyatta University.

Investigations established that there were discrepancies in the documents attached to the self-declaration form submitted to the Commission and the records at Kenyatta University. It was established that the said aspirant engaged in acts of forgery, uttered false documents and contravened provisions of the Leadership and Integrity Act.

A report was compiled and forwarded to the DPP on 11th December 2018 recommending to charge the suspect for providing false information contrary to section 46(1) (d) as read with section 46(2) of the Leadership and Integrity Act, Cap 182 and uttering a false document contrary to section 353 as read with section 349 of the Penal Code Cap.

On 6th February, 2019, the DPP returned the inquiry file recommending further investigations.

23. EACC/OPS/INQ/41/2018

INVESTIGATION INTO ALLEGATIONS OF BRIBERY AGAINST A KENYA REVENUE AUTHORITY EMPLOYEE

The Commission received a complaint on 23rd April 2018 that a revenue officer at Kenya Revenue Authority (**KRA**) had requested for a financial advantage for Kshs. 150,000/- to cover up her penalty of Kshs. 500,000/- accruing from the complainant failure to file rental tax returns for the year 2016 and 2017 respectively.

A trap operation was organised resulting to the arrest of the suspect after receiving the bribe money of Kshs. 100,000/-. The evidence gathered revealed that the suspect had indeed requested for a financial benefit of Kshs. 150,000/- and received Kshs 100,000/- from the complainant.

A report was compiled and forwarded to the DPP on 11th December 2018 recommending to charge the suspect for the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016.

On 6th February, 2019, the DPP accepted recommendation for prosecution.

24. CASE FILE REF. NO. 755/284/2018

INVESTIGATIONS INTO ALLEGATIONS OF CORRUPTION LEVELLED AGAINST AN OFFICER SERVING IN THE JUDICIARY AND STATIONED AT THE NANYUKI LAW COURTS

The Commission received a complaint against a Clerical Officer, employed by the Judicial Service Commission stationed at the Nanyuki Law Courts that he was demanding for Kshs. 10,000/- from them in order to facilitate the verification of Title Deeds before they would be used as security/surety for the release of a person from custody pending trial.

A trap operation was organised resulting to the arrest of the suspect after receiving the bribe money of Kshs. 10,000/-.

A report was compiled and forwarded to the DPP on 11th December 2018 recommending to charge the suspect with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016 and abuse of office contrary to Section 46 as read together with Section 48 of ACECA.

On 31st January, 2019, the DPP accepted recommendation for prosecution.

25. EACC/NYR/OPS/INQ/3/2018

INVESTIGATIONS INTO ALLEGATIONS OF CORRUPTION LEVELLED AGAINST AN OFFICER SERVING IN THE MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT

The Commission received a complaint on 11th April 2018 against a public officer employed as a Senior Clerical Officer by the Ministry of Transport, Infrastructure, Housing and Urban Development, based at the Ministry's Regional Office (in Nyeri) that he had demanded for a bribe of Kshs. 5,000/- from her before he would assist her in tracing her late father's Personnel File and furnishing her with the information that she required therefrom.

A trap operation which culminated in an operation that resulted in the arrest of the Senior Clerical Officer on 16th April 2018. On 9th May 2018 the DPP gave a temporary consent to charge the suspect.

A report was compiled and forwarded to the DPP on 11th December 2018 recommending to charge the suspect with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016 and abuse of office contrary to Section 46 as read with Section 48 of ACECA.

On 20th February, 2019, the DPP returned the inquiry file accepting the recommendation for prosecution.

26. EACC/OPS/INQ/57/2017

INVESTIGATION INTO AN ALLEGATION OF CONSPIRACY TO COMMIT AN ECONOMIC CRIME AGAINST A GSU OFFICER DURING A POLICE RECRUITMENT EXERCISE AT THE CID TRAINING SCHOOL, SOUTH C IN NAIROBI

The Commission commenced investigations on the matter herein following a surveillance that was conducted during the countywide police recruitment that was held on 11th May 2017. Officers from the Commission were tasked to covertly monitor the exercise with a view to arresting those found engaging in corrupt practices. One of the recruitment centres was the DCI Training School, at South C (Recruitment Centre).

During this surveillance that a Police Constable from the General Service Unit attached to the Sports office at the Police Headquarters was spotted in a tele conversation with someone.

Investigations established that the said Police Officer was spotted receiving money from a person in a transaction that looked suspicious. The said officer together with two other persons were arrested and when a body search was conducted a total of Kshs. 148,200/- was recovered from the officer.

A report was compiled and forwarded to the DPP on 11th December 2018 recommending that administrative action against the officer pursuant to section 42(2) of the Leadership and Integrity Act. This is because he was at the recruitment center when he was not authorized to participate in the recruitment exercise raising suspicion on his part.

On 22nd February, 2019 the DPP returned the inquiry file accepting recommendations for administrative action against the suspect.

27. EACC/ELD/OP/11/2018

INVESTIGATION INTO BRIBERY ALLEGATIONS AGAINST A POLICE OFFICER ATTACHED TO OLANGATONGO POLICE POST

The Commission received a complaint on 17th May, 2018 against Police Officers at Olangatongo Police Post that they had seized and detained livestock and that they were demanding for a bribe of Kshs. 29,500/- before the animals could be released.

A trap operation was conducted which established that the suspects requested for Kshs. 29,500/- which was reduced to Kshs. 20,000/- and received as bribe money. He was immediately arrested and the trap money recovered from him.

A report was compiled and forwarded to the DPP on 29th November 2018 recommending to charge the Police Officer with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016. On 6th June, 2018, the DPP gave a temporary consent to charge the suspect.

On 11th February, 2019, the DPP returned the inquiry file accepting that there is sufficient evidence to sustain the case pending before court.

28. EACC/ISL/OPS/8/2018

INVESTIGATION INTO THE ALLEGATION THAT A POLICE OFFICER BASED AT MAUA POLICE STATION WITHIN MERU COUNTY, REQUESTED FOR A BRIBE OF KSHS. 5,000/- SO AS TO RELEASE DRIVING LICENSE, NATIONAL IDENTITY CARD AND EQUITY BANK ATM CARD THAT HE HAD CONFISCATED FROM A TAXI OPERATOR IN MERU TOWNSHIP

The Commission commenced investigations following a report that a Police Officer based in Maua was requesting for a bribe of Kshs. 5,000/- so as to release a driving license, national identity card and Equity Bank ATM Card that he had confiscated from a taxi operator in Meru Township.

A trap operation was organised which established that the suspect had solicited for Kshs. 5,000/- and which he later on reviewed downwards to Kshs. 2,000/-. The operation was not successful since the suspect did not receive the money.

A report was compiled and forwarded to the DPP on 21st November 2018 recommending to charge the suspect, the Police Officer, with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016.

On 31st January 2019, the DPP advised that the case before court be withdrawn for want of sufficient evidence.

29.EACC/ISL/OPS/INQ. 7/2018

INVESTIGATIONS INTO ALLEGATIONS OF REQUESTING FOR AND RECEIPT OF A FINANCIAL ADVANTAGE BY A CLERICAL OFFICER IN THE REGISTRATION OF PERSONS SOUTH IMENTI OFFICE, MERU COUNTY

The Commission received a complaint on 13th March 2018 that a Clerical Officer at the Registration of Persons, Imenti South Office had requested for Kshs. 200/- bribe in order to facilitate the issuance of a national identity card (ID) to an applicant who is the complainant.

A trap operation was organised which established that the suspect had solicited and received Kshs. 200/-.

A report was compiled and forwarded to the DPP on 21st November 2018 recommending to charge the suspect with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016.

On 4th March, 2019 the DPP returned the inquiry file recommending that the case before court be withdrawn and the accused be dealt with administratively.

30. EACC/OPS/INQ/138/2017

INVESTIGATION INTO ALLEGATIONS OF BRIBERY AGAINST TRAFFIC POLICE OFFICERS

The Commission commenced investigations on 9th October 2017 after receiving a complaint that a Traffic Police Officer with at Athi River Weighbridge Police Station had requested for a financial advantage for Kshs. 10,000/- as an inducement to forbear charging the complainant with a traffic offence for over speeding.

A trap operation was organised which established that the suspect solicited for Kshs. 10,000/- and received Kshs. 2,000/- culminating to the arrest of the suspect.

A report was compiled and forwarded to the DPP on 16th November 2018 recommending to charge the suspect with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016.

On 13th December 2018, the DPP accepted the recommendation for prosecution.

31. EACC/MKS/OPS/INQ/7/2016 -CR.573/16

INVESTIGATION INTO ALLEGATIONS OF CORRUPTION AGAINST AN EMPLOYEE OF NATIONAL POLICE SERVICE

The Commission received a complaint against traffic police officers of Salama Police Station that they had detained a lorry belonging to a businessman which was ferrying goods from Mombasa to Nairobi. The police officers had alleged that the said lorry did not have the relevant documents for

transporting goods and were demanding for a bribe of Kshs. 10,000/- from the driver so as to facilitate the release of the same.

A sting operation was conducted which culminated to the arrest of an employee of Ministry of Interior and Co-ordination of National Government – National Police Service after he received Kshs. 15,000/- treated money.

A report was compiled and forwarded to the DPP on 16th November 2018 recommending prosecution against the suspect for soliciting for a benefit and receiving a benefit contrary to section 39 as read with section 48 of ACECA.

On 10th December 2018, the DPP accepted the recommendation for prosecution.

32. EACC/MCKS/OPS/INQ/01/2018

INVESTIGATIONS IN RESPECT OF ALLEGATIONS OF RECEIVING A BRIBE AGAINST AN ASSISTANT CHIEF ATTACHED TO KAMUKUTI SUB-LOCATION IN KITUI COUNTY.

The Commission received a complaint against an Assistant Chief attached to Kamukuti Sub-Location, Kitui County that he had demanded for Kshs. 1,000/- from a couple in order to fill a form from Kenya Electricity Transmission Company Ltd. (KETRACO) towards compensation in favour of the complainant.

A trap operation was organised which established that the suspect solicited for and received Kshs. 1,000/- culminating to his arrest.

A report was compiled and forwarded to the DPP on 16th November 2018 recommending that the case against the accused on the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016 proceeds to its logical conclusion.

On 7th December, 2018, the DPP accepted the recommendation that prosecution of the case before court should proceed to its logical conclusion.

33. EACC/NKR/INQ/OPS/12/2017

INQUIRY INTO ALLEGATION OF RECEIVING A BENEFIT CONTRARY TO SECTION 6(1)(a) AS READ WITH SECTION 18 OF THE BRIBERY ACT NO. 47 OF 2016

The Commission received a complaint on 19th June 2017 that some land officials at the Narok Lands Registry at Narok County Lands Registry had solicited for Kshs. 54,000/- from an applicant who is the complainant to facilitate a Self Help Group to obtain the Land Control Board (LCB) Letter of Consent.

A trap operation was organised which established that the suspect solicited for Kshs. 30,000/- and received Kshs. 20,000/- culminating to the arrest of three Land Officials.

A report was compiled and forwarded to the DPP on 16th November 2018 recommending to charge the Land Officials with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016 and concealing evidence contrary to section 66(1)(c) as read with section 66(2) of ACECA.

On 20th February, 2019, the DPP returned the inquiry file recommending further investigations.

34. EACC/ELD/OPS/INQ/12/2018

INVESTIGATION INTO BRIBERY ALLEGATIONS AGAINST A POLICE OFFICER OF NYAYO POLICE PATROL BASE-TRANS-NZOIA COUNTY

The Commission received complaint on 5th February 2018 that a police officer attached to Nyayo Police Patrol Base was soliciting for a benefit of Kshs. 10,000/- from the complainant in default of which the said police officer threatened to arrest his wife.

A trap operation was organised which established that the suspect solicited for Kshs. 10,000/- and received Kshs. 5,000/- culminating to his arrest. From the

evidence it was established that the recorded conversation did not establish any demand of a bribe against the Police Officer. Investigations however revealed that the Police Officer exceeded and abused his powers by arresting and placing the complainant in custody without following the procedures under the **National Police Service Act**, Rules made thereunder and the applicable **Service Standing Orders**.

A report was compiled and forwarded to the DPP on 16th November 2018 recommending that appropriate disciplinary action be taken by the National Police Service.

On 31st January 2019, the DPP advised that the suspect face disciplinary action through the National Police Service.

35. EACC/MSA/OPS/INQ/33/2018

INVESTIGATION INTO ALLEGATION THAT A BUSINESSMAN OFFERED A BRIBE OF KSHS. 5,000,000/- TO THE GOVERNOR NAIROBI CITY COUNTY SO AS TO ALLOW CONSTRUCTION OF HOTEL KNOWN AS GRAND MANOR WITHOUT REQUISITE BUILDING APPROVALS FROM THE NAIROBI CITY COUNTY GOVERNMENT

The Commission received a complaint made by the Governor of Nairobi City County that a businessman and proprietor of Grand Manor Hotel was offering to give him Kshs. 5,000,000/- as bribe so as to be allowed to continue with the construction of his Grand Manor Hotel built on LR No. 91/239 whose construction had been stopped by the County Government of Nairobi City on 16th August 2018.

A sting operation was organised which established that the suspect offered and gave Kshs. for Kshs. 1,000,000/- culminating to his arrest.

A report was compiled and forwarded to the DPP on 16th October 2018 recommending charges against the businessman for the offence of receiving

a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016.

On 13th December 2018, the DPP accepted the recommendation for prosecution.

36. EACC/OPS/INQ/146/2018

INVESTIGATION INTO ALLEGATIONS OF BRIBERY AGAINST AN ASSISTANT CHIEF IN DONHOLM LOCATION AND A VILLAGE ELDER

The Commission received a complaint on 31st October 2017 against an Assistant Chief in Donholm Location and a Village Elder in Donholm that they had requested for a financial advantage for Kshs. 1,000/= as an inducement to release the complainant's household items.

A trap operation was organised which did not establish any solicitation or receipt of a bribe from the suspect.

A report was compiled and forwarded to the DPP on 16th October 2018 recommending that the inquiry file against the suspects be closed with no further action for lack of evidence to sustain any charge.

On 14th December, 2018, the DPP accepted the recommendation for closure.

37. EACC/ISL/OPS/18/2017

INVESTIGATION INTO ALLEGATIONS THAT THE OFFICER COMMANDING MARALAL POLICE STATION DEMANDED FOR A BENEFIT OF KSHS. 30,000/- SO AS TO RELEASE TWO BETTING MACHINES THAT HE HAD CONFISCATED FROM A BUSINESS MAN IN MARALAL TOWNSHIP

The Commission received a complaint on 14th July, 2017 with several allegations that the Officer Commanding Police Station (OCS), Maralal Police Station in Samburu County requested for a bribe of Kshs. 30,000/- as a benefit

from a businessman so as to release two betting machines that had been confiscated from his place of business as well as malicious damage.

A trap operation was conducted on 17th July, 2017 but the same was unsuccessful. However, investigations established that established a solicitation of Kshs. 30,000/- which was negotiated to Kshs. 20,000/-.

A report was compiled and forwarded to the DPP on 11th December 2018 recommending to charge the suspect with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016.

On 29th January, 2019, the DPP returned the inquiry file recommending further investigations.

**38. CR.NO.421/128/2018; CHUKA ACC NO.1 OF 2018
INVESTIGATIONS INTO ALLEGATIONS OF REQUESTING AND RECEIVING A BRIBE
BY THE DIRECTOR PROCUREMENT THARAKA NITHI COUNTY**

The Commission received a complaint that the Director of Procurement Tharaka Nithi County requested for a financial advantage of Kshs. 40,000/- from a businessman as an inducement in order to prequalify his company in the list of prequalified bidders.

Investigations have established that the said officer received Kshs. 20,000/- in from the complainant but there is no evidence of solicitation and it appears that he was entrapped.

A report was compiled and forwarded to the DPP on 16th October 2018 with recommendations that the evidence gathered is incapable of establishing the charges preferred against the accused person. Recommendations were made for the prosecution commenced against the accused person to be terminated and in its place administrative action be instituted. It was also

recommended that investigation be conducted with a view of charging the complainant with the offence of offering a bribe contrary to section 5 as read with section 18 of the Bribery Act, 2016.

On 23rd November, 2018, the DPP concurred with the recommendation for withdrawal of charges and institution of administrative action.

39.EACC/ELD/OP/15/2017

INVESTIGATION INTO BRIBERY ALLEGATIONS AGAINST THE NATIONAL LAND COMMISSION COORDINATOR - TRANS-NZIOA COUNTY

The Commission received a complaint on 21st November 2017 that the National Land Commission (NLC) Coordinator- Trans-Nzoia County was demanding a bribe of Kshs. 300,000/- in order to facilitate the issuance of a lease certificate in favour of the complainant.

A trap operation was conducted and investigations established that the suspect solicited and received the sum of Kshs. 100,000/- culminating to his arrest.

A report was compiled and forwarded to the DPP on 3rd October 2018 recommending to charge the suspect with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016.

On 17th December, 2018, the DPP accepted the recommendation that prosecution of the case before court should proceed to its logical conclusion.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

| | | |
|------------|--|-----------|
| 1. | Total No. of files forwarded to the Director of Public Prosecutions | 39 |
| 2. | No. of files recommended for prosecution | 28 |
| 3. | No. of files recommended for administrative or other action | 6 |
| 4. | No. of files recommended for closure | 5 |
| 5. | No. of files recommended for prosecution and the cases are already lodged before Court | 3 |
| 6. | No. of files where recommendation to prosecute accepted | 18 |
| 7. | No. of files where recommendation for administrative or other action accepted | 3 |
| 8. | No. of files where recommendation for closure accepted | 3 |
| 9. | No. of files returned for further investigations | 13 |
| 10. | No. of files where recommendation to prosecute not accepted | 1 |
| 11. | No. of files where recommendation for administrative or other action not accepted | 0 |
| 12. | No. of files where closure not accepted | 0 |
| 13. | No. of files where prosecution declined but administrative action recommended | 1 |
| 14. | No. of files awaiting the DPP's advice | 0 |

DATED AT NAIROBI THIS

DAY OF

2019

ARCHBISHOP (RTD) ELIUD WABUKALA, EBS
CHAIRMAN
 /nmo

TWALIB MBARAK
SECRETARY/CHIEF EXECUTIVE OFFICER