

# ANNUAL REPORT

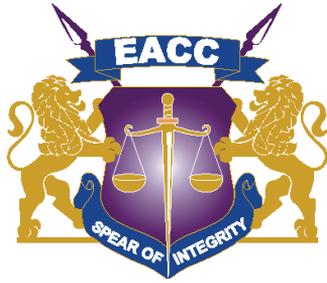
2011/2012



## **Ethics and Anti-Corruption Commission**

Prepared and issued in accordance with Section 27 of  
the Ethics and Anti-Corruption Act, 2011





Ethics and Anti-Corruption Commission

**Report of Activities  
and  
Financial Statements  
for the  
Financial Year 2011/2012**

**Prepared and issued in accordance with Section 27 of the  
Ethics and Anti-Corruption Act, 2011**

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## List of Abbreviations and Acronyms

<b>ACECA</b>	-	Anti -Corruption and Economic crimes Act
<b>ADB</b>	-	African Development Bank
<b>APSD</b>	-	African Public Service Day
<b>APSEA</b>	-	Association of Professional Societies in East Africa
<b>BKMS</b>	-	Business Keeper Monitoring System
<b>CACCS</b>	-	Constituency Aids Control Committees
<b>CAMPS</b>	-	Conference of African Ministers for Public Service
<b>CEO</b>	-	Chief Executive Officer
<b>CCN</b>	-	City Council of Nairobi
<b>CDF</b>	-	Constituency Development Fund
<b>CIC</b>	-	Commission for the Implementation of the Constitution
<b>CPD</b>	-	Continuing Professional Development
<b>DDO</b>	-	District Development Officer
<b>EACC</b>	-	Ethics and Anti-Corruption Commission
<b>EIA</b>	-	Environmental Impact Assessment
<b>EFT</b>	-	Electronic Funds Transfer
<b>FY</b>	-	Financial Year
<b>GOK</b>	-	Government of Kenya
<b>HCCC</b>	-	High Court Civil Case
<b>HC JR</b>	-	High Court Judicial Review
<b>IAO</b>	-	Integrity Assurance Officer
<b>IEC</b>	-	Information, Education and Communication
<b>ITP</b>	-	Integrity Testing Programme
<b>ICT</b>	-	Information and Communication Technology
<b>IDP</b>	-	Internally Displaced Persons
<b>IPRS</b>	-	Integrated Population Registration System
<b>KPA</b>	-	Kenya Ports Authority
<b>KPLC</b>	-	Kenya Power and Lighting Company
<b>KPC</b>	-	Kenya Pipeline Company
<b>KEMRI</b>	-	Kenya Medical Research Institute
<b>KEPSA</b>	-	Kenya Private Sector Alliance

<b>KShs</b>	-	Kenya Shilling
<b>KACC</b>	-	Kenya Anti-Corruption Commission
<b>KACAB</b>	-	Kenya Anti-Corruption Advisory Board
<b>KENAO</b>	-	Kenya National Audit Office
<b>KISGG</b>	-	Kenya Institutional Support for Good Governance
<b>LATF</b>	-	Local Authority Transfer Fund
<b>MOU</b>	-	Memorandum of Understanding
<b>MLA</b>	-	Mutual Legal Assistance
<b>NBI</b>	-	Nairobi
<b>NCPB</b>	-	National Cereals and Produce Board
<b>NEMA</b>	-	National Environment Management Authority
<b>NGOs</b>	-	Non - Governmental Organizations
<b>NKU</b>	-	Nakuru
<b>NACC</b>	-	National Anti-Corruption Council
<b>NACP</b>	-	National Anti-Corruption Plan
<b>NCPS</b>	-	National Corruption Perception Survey
<b>NSIS</b>	-	National Security Intelligence Service
<b>NSSF</b>	-	National Social Security Fund
<b>NWCP</b>	-	National Water Conservation & Pipeline Corporation
<b>NVS</b>	-	National Values System
<b>NYS</b>	-	National Youth Service
<b>PPDA</b>	-	Public Procurement and Disposal Act
<b>PPDR</b>	-	Public Procurement and Disposal Regulations
<b>PPOA</b>	-	Public Procurement Oversight Authority
<b>PS</b>	-	Permanent Secretary
<b>PSIP</b>	-	Public Service Integrity Programme
<b>SACCO</b>	-	Savings and Credit Co-operative
<b>SEPU</b>	-	School Equipment Project Unit
<b>UNCAC</b>	-	United Nations Convention against Corruption
<b>UNODC</b>	-	United Nations Office on Drugs and Crime

## **EACC MISSION STATEMENT**

### **Mandate**

To combat corruption and economic crime in Kenya through education, prevention, law enforcement and conduct mediation, conciliation and negotiation, as stipulated in Section 13 of the Ethics and Anti-Corruption Act No. 22 of 2011.

### **Vision**

To be a World Class Institution Fostering Zero tolerance to corruption in Kenya.

### **Mission**

To combat corruption and economic crime through education, prevention, law enforcement and conduct mediation, conciliation and negotiation.

### **Core Values**

Courage  
Integrity  
Teamwork  
Professionalism  
Fidelity to the law  
Excellence in service

## MESSAGE FROM THE ACTING SECRETARY/CHIEF EXECUTIVE OFFICER



This Annual Report for the Financial Year 2011-2011 has been published on the first anniversary since the establishment of the Ethics and Anti-Corruption in September 2011. The report therefore marks a significant milestone in the life of the Commission even as we transit from Kenya Anti-Corruption Commission (KACC) to the Ethics and Anti-Corruption Commission (EACC).

All journeys begin with a single step as the Chinese wisely observed. We can trace the origin of the Ethics and Anti-Corruption Commission, in its current structure and mandate, to the promulgation of the Constitution of Kenya on 27th August 2010. The Constitution envisaged a Commission that would not only focus its work on matters of ethics and anti-corruption but go beyond to deal with the broader and decisive ideals of leadership and integrity in Kenya. Through Chapter Six of the Constitution of Kenya, the people of Kenya envisaged a Commission that would spearhead and assist them in dealing with the lack of focus that has been the hallmark of our history for many years.

The people of Kenya were unequivocal about the need for our great country to break away from the entrenched habits where integrity has been treated as a peripheral attribute in deciding the course of leadership in Kenya. In dedicating an entire Chapter in the Constitution to Leadership and Integrity, the people of Kenya meant that there must be a prominently radical paradigm shift in our approach to leadership. This is the job description and duty that the people of Kenya assigned to the Commission. It remains my humble and singular belief that the Commission will rise up to that responsibility and, with the support and assistance of all Kenyans, deliver on this mission.

Although the details of the achievements of the Commission are contained in the body of this report, allow me to appreciate some of the good and positive things arising out of our work as a Commission during this reporting period.

### Law Enforcement

The Commission received and analyzed a total of 5,230 reports at its Headquarter and in its five Regional offices in Kisumu, Mombasa, Eldoret, Nyeri and Garissa. The number of relevant reports touching on the Commission's mandate increased to 42 per cent, up from 34 per cent in the 2010-2011 Financial Year. This is an indication that many more Kenyans are now better placed to distinguish between what is and what is not corruption. A good report can only lead to a good investigation.

The Commission recovered public assets including but not limited to Mombasa's Uhuru Gardens, valued at about Kshs 500 million and L.R. No. 22008/5 belonging to KARI valued at Kshs 20 million.

The Commission traced four (4) illegally acquired assets with an estimated value of Kshs 126.5 million and conducted corruption disruption activities that averted the loss of Kshs 1,208,200,000. In addition, the Commission recovered the official Nairobi Mayoral residence and restored the said property to the Permanent Secretary Treasury on 17th April 2012 in a public function.

The Commission forwarded 89 investigation files to the Directorate of Public Prosecutions out of which 54 recommendations to prosecute were accepted, three (3) recommended for administrative action and eight (8) for closure among other actions. Two hundred and thirty six (236) investigation files were completed.

The Commission also participated, in conjunction with other stakeholders, in formulating the Ethics and Anti-Corruption Act, 2011, the Leadership and Integrity Act, 2012 among others.

### **Preventive Services**

The Commission continued with the implementation of corruption prevention programmes by providing public education and awareness creation; offering advisory services; enhancing integrity in the public service; promoting standards and best practices; building partnerships and coalitions against corruption and undertaking research on corruption and governance related issues.

Examination into systems, policies, procedures and practices of two public institutions were launched, focusing on specific functional areas deemed more vulnerable and which exhibited systemic operational weaknesses.

The Commission established ongoing partnership with the Lands Sector where the development of the Lands Information Management System was done and in the Procurement Sector where together with the Public Procurement Oversight Authority and stakeholders, the Commission continued to address malpractices in the sector.

The Commission conducted several trainings of Integrity Assurance Officers and Corruption Prevention Committees drawn from Ministries, Departments and Agencies (MDAs). Regional outreach clinics were conducted in Meru, Embu and Garissa, outreach to schools and other learning institutions, establishing Integrity Clubs, training educational managers and university students.

The Commission conducted the 2011 National Corruption Perception Survey (NCPS) to measure the nature and interpretation of corrupt practices which the public encounter. The Commission continued to implement its programmes under the National Anti-Corruption Plan (NACP), and supported the operations of the Kenya Integrity Forum (KIF).

Apart from participating in the development and finalization of the East African Community Protocol on Preventing and Combating Corruption, the Commission engaged with the Conference of African Ministers for Public Service and hosted a delegation from the South Sudan Anti-Corruption Commission (SSACC) to share experiences in the fight against corruption.

## Challenges

The Commission as established on 5th September 2011, had the offices of the Director and Assistant Directors of KACC abolished paving way for the recruitment of three Commissioners of EACC. This process was slowed down by the slow Parliamentary adjudication and court orders stopping the Parliamentary approved Chairperson from assuming office. This adversely affected the operations of the Commission.

Secondly, the absence of a National Anti-Corruption Policy to guide the fight against corruption, has hampered the effectiveness of EACC and other relevant institutions in the fight. This has affected investigation and asset recovery by EACC particularly in areas that require an integrated approach among all partner institutions.

Despite profound reforms taking place in the Judiciary, the judicial process and the adjudication of cases is still slow. In any case, EACC was grossly affected by adverse judicial decisions, which stopped investigations or prosecution of cases.

## Going Forward

The future is bright with the constitutional dispensation in Kenya that has seen EACC entrenched in the Constitution. High as the expectation of Kenyans be with requisite political goodwill and support from citizens, the Commission can become the premier anti-graft agency in the country.

The creation of Constitutional Offices, Commissions and Independent Offices with mandates to monitor and report on the efficient, effective and prudent management of public resources, the fight against corruption in Kenya has been greatly boosted as corruption flourishes where available public resources are wasted, abused or and used selfishly for private gain. EACC recognizes the critical role played by these oversight institutions and will seek to deepen the collaboration and networks with them.

Finally, I would like to salute all staff of the Commission for their determination, dedication, commitment, patience and resilience to whether the transition storms that beset them.

Let us all remain on the Frontline against Corruption.



**Jane W. Muthaura (Mrs.)**  
Acting Secretary/Chief Executive Officer



# CHAPTER 1

## BACKGROUND

### 1.1 Introduction

The Ethics and Anti-Corruption Commission (EACC) is a statutory body established under the Ethics and Anti-Corruption Act, 2011. Its mandate is combat corruption and economic crime through education, prevention, law enforcement, and conducting of mediation, conciliation and negotiation, as stipulated in Section 13 of the Ethics & Anti-Corruption Act No. 22 of 2011.

The Annual Report is prepared pursuant to the provisions of Section 27 of the Ethics and Anti-Corruption Act No. 22 of 2011. The Report contains the financial statements of the Commission; details of the activities undertaken and the achievements made; other statistical information the Commission considers appropriate; recommendations made to State departments; impact of its mandate or function; any impediments to the achievements of the objectives and functions under the Constitution and any other information relating to its functions.

### 1.2 Functions and Structure of EACC

#### 1.2.1 Functions

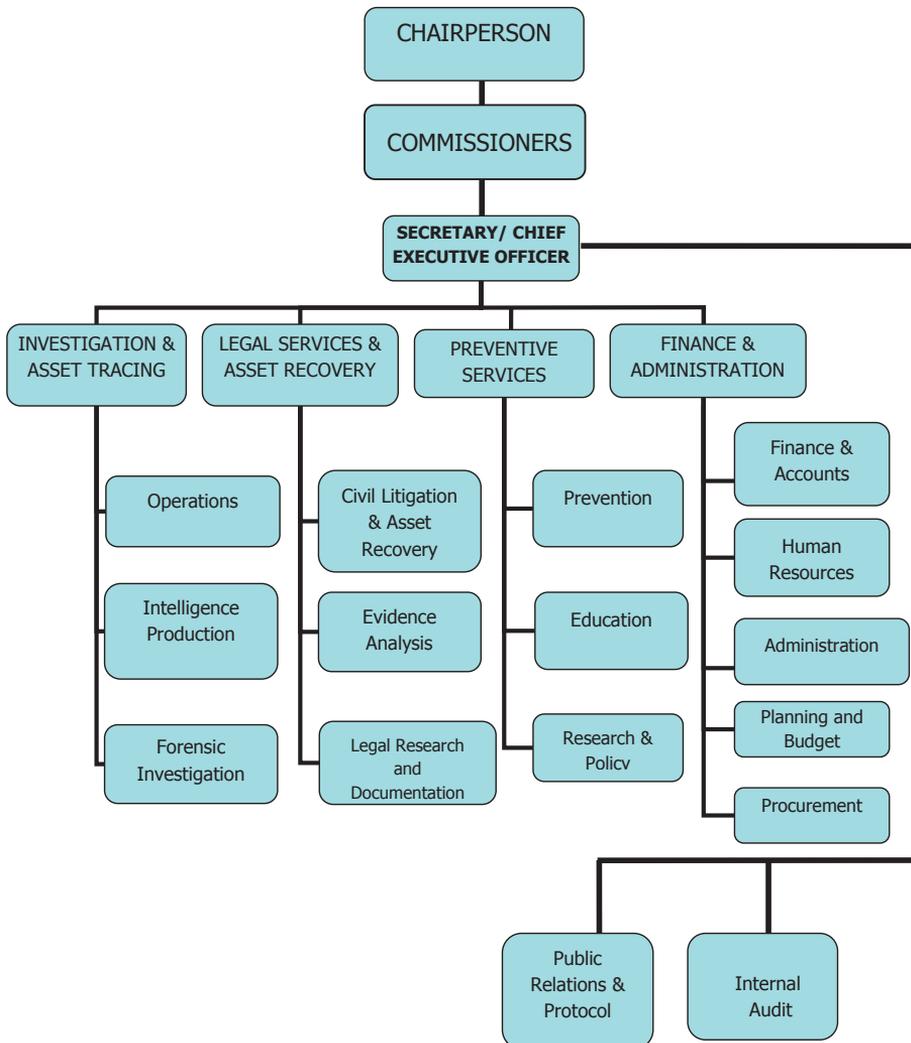
The Commission draws its mandate from: The Constitution of Kenya - Chapter Six provisions and Article 252 of the Constitution; The Ethics and Anti-Corruption Act, 2011; and The Anti-Corruption and Economic Crimes Act, 2003. The functions of the Commission are:

- a) Investigation into corruption offences; and recommending prosecutions to the Director of Public Prosecutions
- b) Tracing of public assets and instituting court action towards recovery and/or protection of such assets
- c) Court proceedings towards freezing or confiscation of proceeds of corruption or related to corruption, payment of compensation, or other punitive or disciplinary measures, and for forfeiture of unexplained assets
- d) Prevention, public education and public awareness

- e) Conciliation, mediation and negotiation
- f) Advisory services to other institutions on matters within its mandate
- g) Enforcement of ethics and integrity laws under chapter six of the Constitution
- h) Partnerships with state and public officers to promote ethics and integrity
- i) Developing and promoting standards and best practices in integrity
- j) Developing codes of conduct
- k) Overseeing enforcement of codes of ethics for public officers
- l) Investigating and recommending prosecution for violation of codes of ethics
- m) Monitoring the practices and procedures of public bodies to detect corruption and secure revision of methods of work

### 1.2.2 Structure

**Figure 1: Organization Structure of EACC.**



## CHAPTER 2

### INVESTIGATION AND ASSET TRACING

#### 2.1 Introduction

The Commission investigates and recommends to the Director of Public Prosecutions (DPP) for prosecution of any acts of corruption or violation of codes of ethics or other matter prescribed under this Act or any other law enacted pursuant to Chapter Six (6) of the Constitution.

In the reporting period, the Commission intensified investigations into corruption by conducting (financial) forensic investigations, tracing of assets and disruption of corruption networks.

#### 2.2 Corruption Reporting

##### 2.2.1 Corruption Reports

The Commission received and analyzed a total of 5,230 reports as indicated in Table 1.

**Table 1: Corruption Reports Received and analyzed**

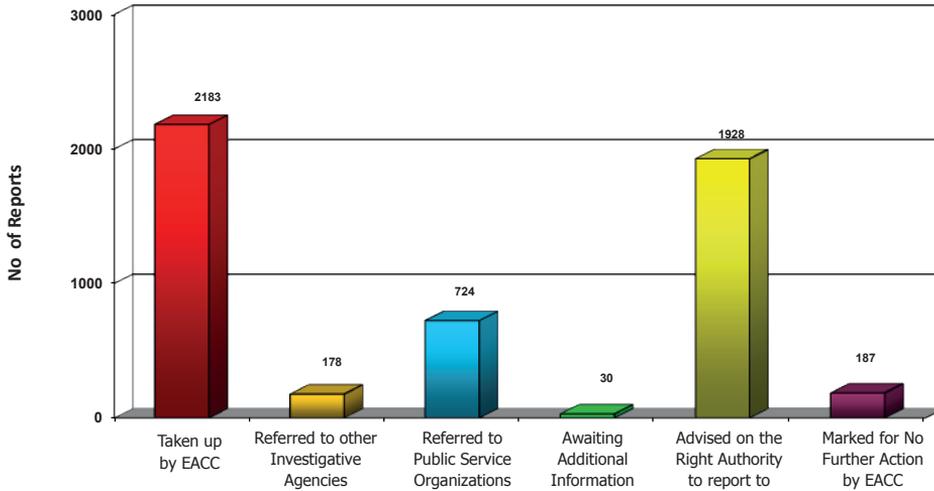
	Office	No. of Reports
1.	Nairobi (Headquarters)	3951
2.	Kisumu	785
3.	Mombasa	394
4.	Eldoret	73
5.	Nyeri	23
6.	Garissa	4
	<b>TOTAL</b>	<b>5,230</b>

The number of reports received dropped by 26.4 per cent, from 7,109 in the previous year to 5,230 in 2011/2012.

## 2.2.2 Classification of Reports

The reports received were classified as shown in Figure 2. Out of the reports received 2,183 were within the Commission’s mandate, while 173 were referred to other investigative agencies.

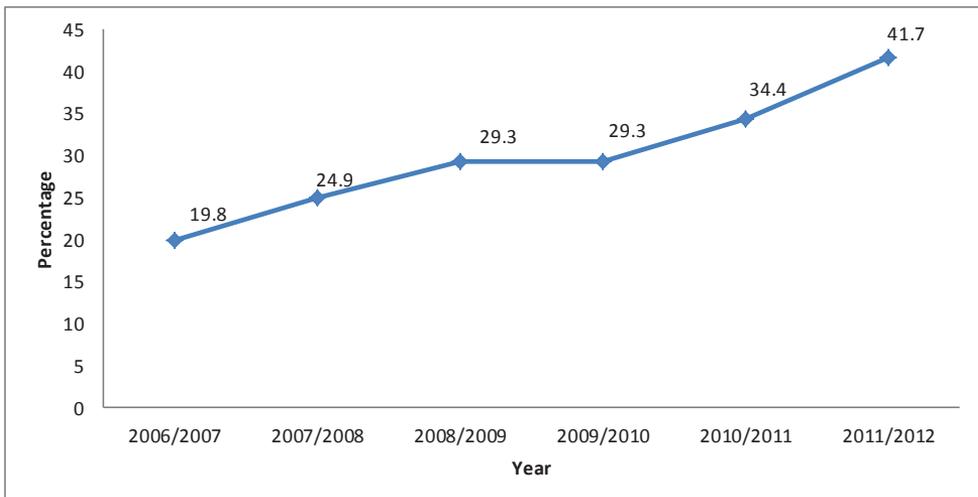
**Figure 2: Classification of Reports Received**



## 2.2.3 Reports within EACC’s Mandate

In the reporting period, 42 per cent of the total reports received were within the Commission’s mandate, a significant increase from 34 per cent in 2010/2011. Figure 3 below shows the trend of relevant reports received over the last six years.

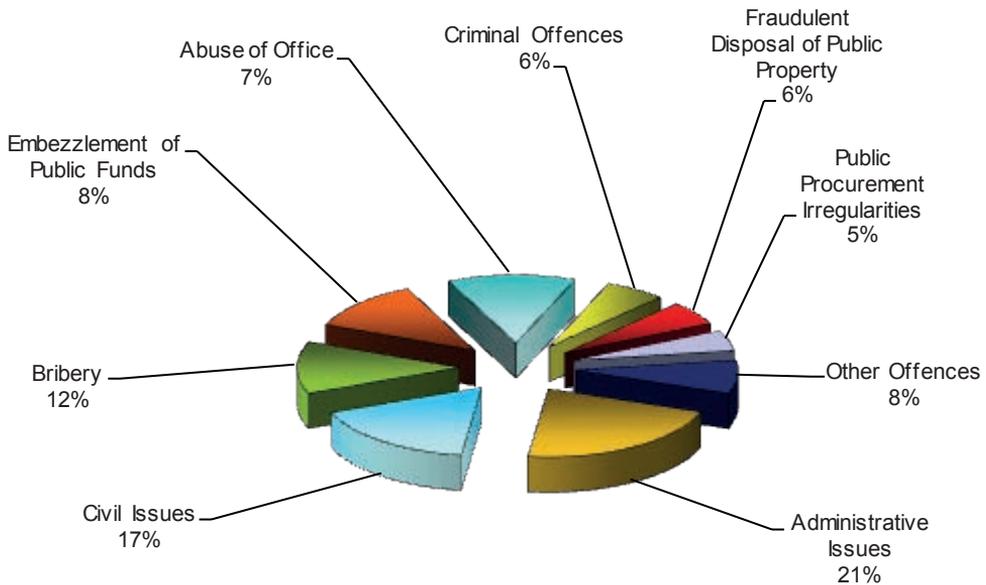
**Figure 3: Relevance of Reports**



### 2.2.4 Reports by Nature of Allegation

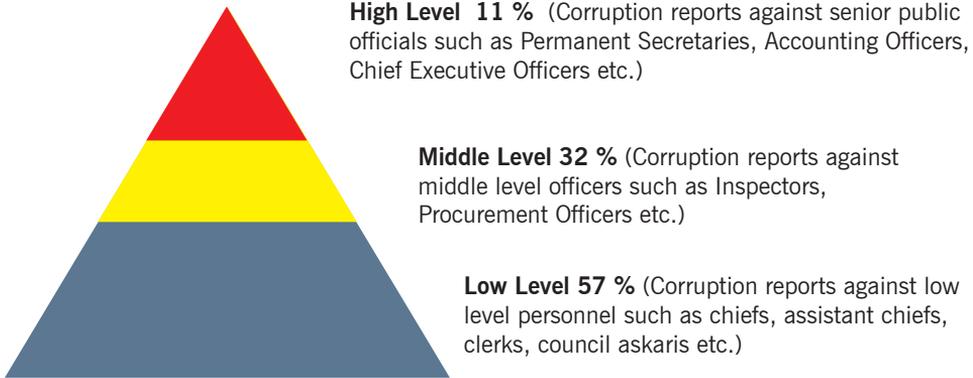
Majority of complaints received were administrative in nature accounting for 21% of the total. Other reports comprised: Bribery Cases 12%, Civil Issues 17%, Embezzlement of public funds 8%, Abuse of office 7%, Fraudulent acquisition and disposal of public property 6%, Criminal Offences 6%, Procurement Irregularities 5% and other Offences 8%. This is demonstrated in Figure 4.

**Figure 4: Nature of Allegation**



### 2.2.5 Breakdown of Reports based on the Rank of Individuals Involved

Figure 5 illustrates how the 5, 230 reports received are categorized based on the rank of individuals involved. Majority of the cases received involved low cadre public officers.

**Figure 5: Corruption reports based on the rank of individuals involved**

## 2.3 Investigations

### 2.3.1 Reports Taken up for Investigations

Table 2 gives a summary of how cases that were under investigations were disposed off.

**Table 2: Summary on Disposal of Cases**

	Status of investigations	No. of Cases
1.	Cases completed & investigation files forwarded to DPP	236
2.	Cases referred to other agencies for investigations after preliminary investigations	26
3.	Cases recommended for no further action after preliminary investigations	182
4.	Reports under intelligence development	410
5.	Cases pending under investigations	1,809
<b>Total</b>		<b>2,663</b>

### 2.3.2 Highlights of Investigations Conducted

During the reporting period, 236 investigation files were completed. Table 3 highlights some of the investigations that were completed.

**Table 3: Highlights of Completed Investigations**

No.	Public Institution	Nature of Inquiry	Amounts Involved (Kshs)
1.	Pension Department	KACC/FI/ INQ/20/2011: Allegations that officers at the Department of Pensions facilitated the processing of fraudulent pension payments.	8,000,000
2.	Communication Commission of Kenya (CCK)	KACC/FI/INQ/96/2010: Allegations of bid rigging, abuse of office and procurement irregularities against the Ministry of Information and Communication officials emanating from the purchase of Malili ICT Park.	1,000,000,000
3.	Tana & Athi River Development authority (TARDA)	KACC/FI/INQ/ 25/2011: Allegations of abuse of office against TARDA and the Ministry of Regional Development officials in the procurement of heavy equipment for the rehabilitation of TANA Delta Irrigation Project.	500,000,000
4.	Kenya National Bureau of Statistics	Allegation that the Director General of Kenya National Bureau of Statistics fraudulently awarded a storage contract and authorized payment to BM Logistics EA Co. Ltd, a non existent company.	20,000,000
5.	Eldoret South Constituency Development Fund (CDF)	EACC/ELD/INQ/FI/1/2011: Inquiry into allegations that Bethuel Kipruto Metto, Hellen Chepkosgei and Nancy Chepkoskei misappropriated funds meant for the heavy grading of Mariri-Cheptabach road.	800,000
6.	Rongo Constituency Development Fund	Allegations of embezzlement of Rongo CDF funds meant for design and consultancy of Rongo District Hospital in the year 2009.	5,500,000
7.	Kisii Municipal Council	Allegation of irregular procurement of a Contractor by Town Clerk, Kisii Municipal Council.	17,000,000

No.	Public Institution	Nature of Inquiry	Amounts Involved (Kshs)
8.	Kenya Police	Inquiry into allegations that the Malindi Traffic Base Commander Mr. Gabriel Mulei submitted a false declaration of income, assets and liabilities for the period of November 2008 - 2010.	50,000,000
9.	Ganze Constituency Development Fund	Allegation that Ganze CDF Manager Ms. Tima Ahmed, embezzled funds meant for a Baseline Survey of projects undertaken in the constituency since 2003.	150,000
10.	Ministry of Lands	Inquiry into allegation of irregular allocation of Diani Block 151 belonging to the County Council of Kwale to private developers.	300,000,000

**Table 4: Highlights of On-going Investigations**

No.	Public Institution	Nature of inquiry/Allegation	Amounts involved (Kshs)
1.	National Housing Corporation (NHC)	Allegations of irregular allocation of houses constructed by NHC, to Board members and management.	N/A
2.	Youth Enterprise Development Fund (YEDF).	Alleged embezzlement of imprest and procurement irregularities involving officials of the Youth Enterprise Development Fund (YEDF).	10,000,000
3.	Agro-Chemical & Food Company Ltd	Investigation into alleged diversion of neutral spirit meant for export to Rwanda.	5,300,000
4.	Ministry of State for Special Programmes	Allegations of irregular payments during renovation and partitioning of headquarters offices for the Ministry of State for Special Programmes	15,000,000
5.	National Health Insurance Fund (NHIF)	Allegations of irregular payments to Clinix Health Care Ltd, Meridian Medical Centre and Thika Road Health Services Ltd for Medical cover services for Civil Servants before any services were rendered.	500,000,000

No.	Public Institution	Nature of inquiry/Allegation	Amounts involved (Kshs)
6.	National Social Security Fund (NSSF)	Investigation into alleged irregular payment by NSSF to Pan African Builders and Contractors Ltd (PABCO), Speedwing Ltd, Liteline Ltd and Kipokorir & Kiptoo Advocates in out-of-court settlements with contractors.	590,000,000
7.	National Social Security Fund (NSSF)	Allegation that the NSSF Board of Trustees leased car park LR No. 209/114122 and 12287 - Kenyatta Avenue, Nairobi to M/s Sauti Africa without competitive bidding.	36,000,000. pa
8.	Ministry of Higher Education Science & Technology	Allegations of irregular withdrawal and subsequent embezzlement of funds for KESSP programmes by the cashier in conspiracy with other senior officials of Ministry of Higher Education Science & Technology.	64,000,000
9.	Truth, Justice and Reconciliation Commission	Alleged falsification of fuel receipts by the Director of Legal Services while on an official tour to Garissa.	75,000
10.	Ministry of Water & Irrigation Water Services Trust Fund	Allegation of misappropriation of funds disbursed by Water Services Trust Fund for Manguva Community Water and Sanitation Project in Mwingi District for construction of a dam.	19,580,000
11.	Ministry of Education	Allegations of misappropriation and embezzlement of World Bank funds meant for Kenya Education Sector Support Project (KESSP) by senior Officials of Ministry of Education.	103,000,000
12.	Ministry of Local Government - Maua Municipal Council Department of Urban Development	Allegation that Councilors and Chief Officers at Maua Municipal Council allocated 70 stalls to themselves, friends and relatives and none of the 870 applicants were allocated.	42,000,000
13.	National Oil Corporation of Kenya (NOCK)	Investigation into alleged irregularities in the procurement of fuel.	140,000,000

No.	Public Institution	Nature of inquiry/Allegation	Amounts involved (Kshs)
14.	Tanathi Water Services Board (TAWSB)	Allegation of irregular award of contracts to KICEDA and Katulani Building Contractors by Tanathi Water Services Board.	14,000,000
15.	Ministry of Finance	Investigation into alleged irregular award of 18 security-related projects with an estimated value of Kshs 60 billion to shadowy suppliers and financiers by the government between 1998 and 2004.  Investigations into these contracts were recently reactivated following receipt of new evidence from the United Kingdom (UK). The new evidence is as a result of assistance the Commission has sought from the Serious Fraud Office of UK among other countries through the Mutual Legal Assistance Framework. Other evidence has been received from the Swiss with a balance of evidence to be transmitted once certain legal impediments from the Swiss are surmounted.	60,000,000,000
16.	Ministry of State for Special Programmes Western Kenya Flood Mitigation Programme	Allegations of misappropriation of public funds by project staff of Western Kenya Community Driven Development and Flood Mitigation World Bank Project.	50,400,000
17.	City Council of Nairobi	Alleged rampant misappropriation of public funds at the City Council of Nairobi through IOUs.	300,000,000
18.	National Housing Corporation	Alleged fraudulent purchase of land by the Managing Director of National Housing Corporation Mr. James Ruiitha in collusion with Mr. James Mburu where the Corporation entered into direct purchase of 150 acres of land Ref No.10426/80 at Kitengela at an exaggerated cost.	870,000,000
19.	Kenyatta University	Allegations of impropriety, abuse of office and fraud in expansion and construction work at Kenyatta University.	1,000,000,000

No.	Public Institution	Nature of inquiry/Allegation	Amounts involved (Kshs)
20.	Bamburi Beach Hotel	Allegations of tax evasion by Bamburi Beach Hotel through understated income from group tours.	5,000,000
21.	Malava CDF	Allegations that the public funds meant for construction of Fuvale Bridge were embezzled from Malava CDF.	10,000,000

The following cases were before court as at 30th June 2012. Some of the cases have been pending before court for a number of years.

**Table 5: Highlights of Cases before Court**

No.	Case file Number	Particulars of Offence	Persons charged	Amounts (Kshs)
1.	CR. NO. 141/27/2010 ACC 2/2010	Ministry of Education (SEPU) Willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of Anti-Corruption and Economic Crimes Act (ACECA) No.3 of 2003.	1. Benson Anyona Ombaki 2. Patrick Mwavala Mwalwala 3. Wilson Shivachi Mmaitisi 4. Bernard Moses Ongige 5. Kochhar Vishal 6. Suresh Kanotra 7. Vulcan Lab Equipment Limited	75,000,000
2.	CR. NO. 141/316/2010 ACC/19/2010	City Council of Nairobi: Cemetery Case  Conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.	1. Sammy Kipngetich Kirui 2. Mary Ngechi Ngethe 3. Alexander Musanga Musee 4. Maina Chege 5. Naen Rech Limited 6. Newton Omondi Osiemo 7. Alphonse Mutinda 8. Paul Chapia Onduso 9. Davies Odero Osiemo 10. Nelson Waswa Otido 11. Joseph Owino Kojwando 12. Daniel Mulwa Nguku 13. Herman Stevens Chavera 14. William Peter Mayaka	283,000,000

No.	Case file Number	Particulars of Offence	Persons charged	Amounts (Kshs)
3.	ACC 17/2009 NRB	<p>Kenya Tourism Board</p> <p>Abuse of office contrary to Section 46 of ACECA as read with Section 48 of the Anti-Corruption and Economic Crimes Act No.3 of 2003.</p> <p>The matter is awaiting judgment in Court.</p>	<p>Mrs. Rebecca Nabutola Mr. Ong'ong'a Ochieng</p>	8,900,000
4.	ACC 10/2010 NRB	<p>Ministry of Education (under Free Primary Education)</p> <p>Fraudulent Acquisition of Public Property Contrary Section 45 (1) (a) of the ACECA</p> <p>False accounting Contrary to Section 331 of the Penal Code.</p>	<p>Concilia Ondiek - former Director of Secondary and Tertiary Education</p> <p>Christine Chacha-former acting Assistant Director of Education</p>	14,000,000
5.	ACC 03/2011 NRB	<p>Ministry of Education (under Free Primary Education)</p> <p>Fraudulent acquisition of public property contrary to Section 45(1)(a) of ACECA.</p>	Samuel Michira	4,500,000

No.	Case file Number	Particulars of Offence	Persons charged	Amounts (Kshs)
6.	ACC 14/2011 NRB	Ministry of Education (under Free Primary Education)  Fraudulent Acquisition of Public Property Contrary Section 45 (1) (a) of the ACECA.	Robert Maina	4,569,000
7.	ACC 13/2010 NRB	Ministry of Education (under Free Primary Education)  Fraudulent Acquisition of Public Property Contrary Section 45 (1) (a) of the ACECA.	Francis Kimosop	7,200,000
8.	ACC 19/2011 NRB	Ministry of Education (under Free Primary Education)  Abuse of office contrary to Section 46 of ACECA.	Elizabeth Kaloki	4,942,000
9.	ACC 7/2012 NRB	Ministry of Education: irregular recruitment of staff.  Abuse of office contrary to Section 46 of ACECA.	Grace Aoko Omolo - Former Director Human Resources	2,200 members of staff were irregularly recruited

No.	Case file Number	Particulars of Offence	Persons charged	Amounts (Kshs)
10.	ACC 06/09 NRB	Kenya Reinsurance  Abuse of Office contrary to Section 46 of ACECA.	Jackson Githaka	7,260,000
11.	CF.60/2012 Kisumu ACC	World Bank - Flood Mitigation Project  Fraudulent acquisition of public property contrary to Section 45(1) as read with Section 48 of the Anti-Corruption and Economic Crimes Act No.3 of 2003.	Kizito Baraza	3,000,000
12.	CF.561/2011 Kisumu ACC	Chemelil Sugar Co.  Irregular sale of sugar worth Kshs 220 million at below prevailing market prices by Chemelil Sugar Co. management.  Conspiracy to defraud contrary to Section 317 of the Penal Code.	Eng. Edward A. Musebe, MD, Chemelil Sugar Co. , Samow Osman and SEO & Sons Ltd	220,000,000

No.	Case file Number	Particulars of Offence	Persons charged	Amounts (Kshs)
13.	ACC 39/2011	<p>Internally Displaced Persons (IDP)-Irregular purchase of materials</p> <p>Fraudulent payment for services not adequately rendered contrary to Section 45(2) (a)(iii) as read with Section 48 of the Anti-Corruption and Economic Crimes Act No.3 of 2003.</p>	<p>Moses Gitari</p> <p>Benjamin Isindu</p> <p>Michael Muchemi Nduguya</p>	22,000,000
14.	CR. 811/ 471/12 CF. 1035/012	<p>Saboti CDF - Nabunga Borehole</p> <p>Fraudulent acquisition of public property Contrary to Section 45(1)(a) of ACECA</p>	<p>Ignatius Katasi Maina Charles Maina Wafula</p> <p>Thaddeus Wekesa Makokha</p> <p>Isaac Masengeli</p>	700,000

No.	Case file Number	Particulars of Offence	Persons charged	Amounts (Kshs)
15.	CR.141/ 737/11 CF. ACC 37/011	<p>Broad Vision Utilities Ltd (BVUL) Equipping of Boreholes in Machakos &amp; Makueni Districts</p> <p>Conspiracy to commit an economic crime contrary to Section 47 a (3) as read with Section 48 of the Anti- Corruption and Economic Crimes Act, no.3 of 2003.</p> <p>Abuse of Office Contrary to Section 46 of ACECA .</p> <p>Fraudulently making payment from public property contrary to section 45(2) (a) (iii) as read with section 48 of ACECA.</p> <p>Fraudulent acquisition of public property Contrary to Section 45(1)(a) of ACECA.</p>	<ol style="list-style-type: none"> <li>1. Lawrence Nguniko Simitu</li> <li>2. Isaiah Amwanzo</li> <li>3. Samuel Aluoch Alima</li> <li>4. Robert Mati Musyimi</li> <li>5. Joseph Mutuku Nzesya</li> <li>6. Mwagambo Mwangome</li> <li>7. Billy Indeché</li> <li>8. Dennis Apaa</li> <li>9. Broad Vision Utilities Ltd</li> </ol>	26,000,000

No.	Case file Number	Particulars of Offence	Persons charged	Amounts (Kshs)
16.	CR.141/135/2012 CF. ACC. 4/2012	National Water Conservation & Pipeline Corporation- Quotation 146  Forgery Contrary to Section 345 as read with Section 349 of Penal Code	Reuben Itiko  Godfrey Kabue	33,000,000
17.	CR.141/495/2010 CF.ACC 28/2010	Hellman Worldwide Logistics Ltd.  Tax Evasion Case  Fraudulent failure to pay taxes (import duty) Contrary to Section 45(1)(d) of ACECA	1. Stephen Otieno Onyango-Cargo Rollers 2. Anthony Jordan Hudson, 3. Leonard Karanja, 4. Susan Wanjiru Lee 5. Cargo Rollers Ltd 6. Hellman Worldwide Logistics Ltd.	2,700,000
18.	CR. 141/514/2011 CF ACC. 28/ 2011	Kenya Wine Agency Ltd (KWAL)  Abuse of Office Contrary to Section 46 of ACECA.  Fraudulent acquisition of public property Contrary to section 45(1)(a) of ACECA	Francis Oyugi-Former Managing Director (MD), KWAL  Yobesh Amoro-Former Finance Director (FD), KWAL	2,500,000

No.	Case file Number	Particulars of Offence	Persons charged	Amounts (Kshs)
19.	ACC 15/2010	National Social Security Fund (NSSF)/ Discount Securities  Conspiracy to defraud contrary to Section 317 of the Penal Code- Stealing by agent.	<ol style="list-style-type: none"> <li>1. Francis Moturi Zuriels- Former NSSF Investment Manager</li> <li>2. James Akoya- Former NSSF General Manager (Finance and Investments</li> <li>3. Mary Ndirangu – Former Internal Audit Manager, NSSF</li> <li>4. William Githaiga- Chairman Discount Securities (DSL)</li> <li>5. David Githaiga- Managing Director DSL</li> <li>6. Wilfred Weru- Former Finance Director, DSL</li> <li>7. Isaac Nyamongo- Former Investment Manager, DSL</li> <li>8. Discount Securities Ltd</li> <li>9. Orchard Estates Ltd.</li> </ol>	1,600,000,000
20.	ACC 8/2005	Anglo Leasing Contracts  Abuse of Office Contrary to Section 46 of ACECA.	<ol style="list-style-type: none"> <li>1. Former PS Mwaliko- Awaiting Judgment</li> <li>2. Former PS Magari- Acquitted</li> <li>3. Former Head Of Debt Management Mr. Onyonka- Acquitted</li> <li>4. Former Director Of Government Information Technology Mr. Sitonik-acquitted</li> </ol>	90,900,000

No.	Case file Number	Particulars of Offence	Persons charged	Amounts (Kshs)
21.	CR. No. ACC. 02/2012	Kenya Railways Corporation  Fraudulent acquisition of public property Contrary to Section 45(1)(a) of ACECA.	1. Beryl Odinga 2. Mr. Mathews Tuikong, 3. Mrs. Caroline Nyororo 4. Mr. Ephantus Githui	1,512,653
22.	CR. No. 141/661/2011 ACC 35/2011	Binlaw Case  Making a false document C/s 347 of the Penal Code.	1. John Moguche Zachariah 2. Thomas Moturi Oyunge 3. Binlaw Construction limited	N/A
23.	CR. No. 627/330/2011 CF. No. 354/2011	Ministry of Planning National Development and Vision 2030.  Willful failure to comply with the law relating to the tendering of contracts contrary to Section 45 (2) (b) as read with Section 48 of Anti-Corruption and Economic Crimes Act, 2003.	James Ondicho Gesami Shellmith Wangui Mugo	2, 479,000
24.	Kisumu Court File No 3/2012	Willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of Anti-Corruption and Economic Crimes Act (ACECA) No.3 of 2003.	Mr. Maina Chiira Former Town Clerk  Mr. Nicholas Samani Procurement Manager	16,000,000

No.	Case file Number	Particulars of Offence	Persons charged	Amounts (Kshs)
25.	Kisumu Court File No. 01/2012	Rongo CDF  Fraudulent acquisition of public property contrary to sec 45(1) of ACECA	CDF Treasurer Julia Anyango	3,784,700
26.	ACC 10/2011 MSA	Willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of Anticorruptiopl and Economic Crimes Acts (ACECA) 2003	1. Wilberforce Malanga Wambulwa 2. Hadija Mlao Mlingo 3. Mwinyi Nassoro Mapendeleo 4. Festus Nyiro Nguma 5. Kahindi Kingi Edward 6. Abdu Mohamed Bege 7. Amani Ali Makasi	17,500,000
27.	CF 1177/2012 MSA	Fraudulent appropriation of company property	Ahmed Ali Hasham Lalji  Diamond Hasham Lalji	40,000,000
28.	ACC 2/2012 MSA	Willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of Anti-Corruption and Economic Crimes Act (ACECA) No.3 of 2003.	1. Patrick Joseph Mrisha 2. Mbiu Sharia 3. Sebastian Marko Mkavirondo 4. Cornelly Juma Lesabulu 5. Juliana Wambugha Musongari 6. Frank Jumapili Mmare 7. Khadija Nakio Juma	7,500,000
29.	CF ACC 5/2012 MSA	Abuse of office Contrary to Section 101(a) of the Penal Code.	1. Omar Zonga 2. Jotham Kilimo Chea 3. Mary Ndale Kai 4. Raia Mkungu 5. Said Kabangi 6. Said Ndege 7. Rama Mwaurinda 8. Hilmi Ahmed 9. Haji Fumo Farouk 10. Ali Ali Mwakulonda	300,000,000

No.	Case file Number	Particulars of Offence	Persons charged	Amounts (Kshs)
30.	CR NO. 141/248/2012 ACC 8 /2012	Willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of Anti-Corruption and Economic Crimes Act (ACECA) No.3 of 2003.	1. Ruth Reyner Muganda 2. Rose Wangechi Rukwaro 3. Peter Mwangi Kamwere	25,000,000
31.	CR. NO. 141/868/2012 ACC 465/2012	Uttering false documents contrary to Section 353 of the Penal Code	David Kamunya Runo	N/A

## 2.4 Illegally Acquired and Unexplained Assets Traced

The Commission traced four (4) illegally acquired assets with an estimated value of Kshs 126.5 million during the reporting period, as highlighted in Table 6.

**Table 6: Completed Asset Tracing Investigations**

No	Type of Asset	Brief Description	Approximate Value (Kshs)
1.	Cash	Cash frozen in bank accounts in respect of investigations at the Ministry of Medical Services with regard to alleged misappropriation of funds in the Ministry. Three accused persons are already before courts charged with the offence of fraudulent acquisition of public property.	87,000,000
2.	Cash	The Commission established that Ms Lillian Beryl Okumu Odinga the Chairperson of Kenya Railways Staff retirement Benefits Scheme and the Executive Management irregularly used the pensioners funds to pay for air tickets and hotel accommodations for the chairpersons dependent all totaling kshs 1.5 million .The Cash was recovered from Ms Lillian Beryl Okumu Odinga.	1,500,000

No	Type of Asset	Brief Description	Approximate Value (Kshs)
3.	Land	The Commission established that L. R. No. 209/12489 in Akiba Estate measuring 0.8234 acres was irregularly curved from LR No 209/8425/164 land reserved for an open space and public roads within Akiba Estate and allocated to Gaflos Limited. Recommended institution of Civil recovery proceedings.	35,000,000
4.	Land	The Commission established that a piece of land number Kwale/ Kinondo Chale/120 measuring 0.24 Ha or 0.59 acres (Approx.) was irregularly alienated from Diani Chale Marine National Reserve and national monument by the Ministry of land officers to a private developer Ms Teresia Muthoni Ndirangu.	3,000,000
		<b>Total</b>	<b>126,500,000</b>

**Table 7: On-going Asset Tracing Investigations**

No	Type of Asset	Brief Description	Approximate Value (Kshs)
1.	Cash	Kenya Power & Lighting Co. Ltd (KPLC) Inquiries into allegations that a Jersey based company, Windward Trading limited associated with Samuel Gichuru former Managing Director, KPLC, was acquired purposefully for money laundering of funds embezzled through award of contracts by KPLC.	500,000,000
2.	Land	Kenyan Embassy in Tokyo Inquiries into allegations of embezzlement and irregular acquisition of land for a Kenyan Embassy in Tokyo, Japan. The key suspects are senior officials of Ministry of Foreign Affairs.	1,500,000,000
3.	Cash	An allegation the former Clerk to Samburu County Council James Lenaiyarra and a former acting Treasurer Joseph Lemarkat cannot account for over Ksh 20 million which they had invested in the Cooperative Bank of Kenya in Nyahururu.	20,000,000

No	Type of Asset	Brief Description	Approximate Value (Kshs)
4.	Land	An allegation that the Director of Lands and Adjudication, Mrs L. W. Njenga, irregularly excised 25 acres of land out of LR. No. Nyandarua/ Njabini/530 which was set aside for Njabini Farmers Training Centre under the Ministry of Agriculture and illegally allocated the same to M/s Midlands Ltd; a private company for purposes of setting up a potato processing factory.	60,000,000
5.	Cash	Inquiry into allegations of embezzlement of Government Funds at the Ministry of Medical Services during the closure of Financial year, 2010-2011.	60,000,000
6.	Cash	Pending Bills Inquiry into allegations that Capital Construction Ltd, with intent to defraud, presented a claim totaling Kshs 13 billion to the Ministry of Finance. The claims relates to construction contract for Vihiga District Hospital and Vihiga District Headquarters. Investigations have established that the two contracts were duly settled by the governments and the claims are fraudulent.	13,000,000,000
7.	Land	Inquiry into allegations of irregular acquisition of land belonging to Kenya Airport Authority on which Moi International Airport is situated by former Managing Director of KAA, Mr. Peter Kipyegon Lagat and one Prakash Bhundia. In total, twelve plots measuring a total of 37.6 acres were grabbed and later transferred to East African GAS Company Ltd which has installed several gas tanks on the properties.	1,070,000,000
8.	Land	Inquiry into allegations that land earmarked for the expansion of the Pumwani Maternity Hospital measuring about 9 acres was illegally allocated to private developers.	Awaiting Valuation
9.	Land	Kenya Tourist Development Corporation (KTDC)– Sunset Hotel. Inquiry into illegal subdivision and alienation of a prime land forming part of L.R No. Kisumu Municipality/Block 11/87; (formerly Kisumu Municipality/Block 11/78) belonging to Kenya Tourist Development Corporation (KTDC) on which stands Sunset Hotel.	75,000,000

No	Type of Asset	Brief Description	Approximate Value (Kshs)
10.	Land	Ngong Forest land next to Police Dog Section Inquiry into allegations that the Former Commissioner of Lands Hon. Sammy Mwaita irregularly allocated 5.3 ha (LR 25421 to 25445) part of Ngong Forest initially reserved as LR 14748 for Police Horse stables.	280,000,000
11.	Land	Administration Police Land Inquiry into allegations that Hon William Ruto and Hon Cyrus Jirongo, through Rosestar Properties, acquired land parcel LR. NO. 209/13332 at Community area in Nairobi earmarked for Administration Police Lines.	Awaiting Valuation
12.	Cash	Pending Bills Cases Inquiries into 154 Pending Bills Cases recommended by the Pending Bills Closing Committee, accumulated over the period 6 <sup>th</sup> December 2006 to 21 <sup>st</sup> April 2010, with a view to recover illegally paid bills.	Kshs. 3,076,896,386.81 and an additional amount of USD 2,231,931.24
13.	Cash	Inquiry into allegations that Kirinyaga Construction Ltd was overpaid for construction of 31.5Km Emali-Upendo Market Road. The contract amount was Kshs 54,367,055 but its alleged the contractor was irregularly awarded Kshs 116,000,000 by the ministry officials.	116,000,000

## 2.5 Proactive Investigation

### 2.5.1 Disruption of Corruption

The Commission averted loss of **Kshs 1,208,200,000** as shown in Table 8.

**Table 8: Proactive Disruptions Undertaken**

No.	Institution	Brief description of the corrupt activity	Averted Loss (Kshs)
1.	Kilindini Port, Mombasa	July 2011: Seizure of two containers (MRKU 2034852 and TCKU 9741704) from Singapore, containing counterfeit HACO ballpoint pens at Kilindini Port. Same handed over to Anti-Counterfeit Agency for appropriate action.	10,000,000

No.	Institution	Brief description of the corrupt activity	Averted Loss (Kshs)
2.	Mumias Sugar Company	September 2011: Intervention on intended sale of the parcel of land Bukhayo/Nasewa/1500-341.2 hectares set aside for the Busia Sugar Factory by Mumias Sugar Company through a private treaty to a private company. The sale was stopped and matter taken to court.	126,000,000
3.	City Council of Nairobi	September 2011: Intervention by the Commission on irregular payment of insurance premium by the City Council in favor of Alexander Forbes without approval and due process. Payment stopped and full investigations launched.	321,000,000
4.	City Council of Nairobi	October 2011: Stoppage of payment of Kshs 155 Million to a private company as charges for garbage collection. The Council had agreed to give a down payment of Kshs 70 million that was by council auditors. Full investigations launched.	155,000,000
5.	City Council of Nairobi	October 2011: Stoppage of alleged purchase of a piece of land in Lang'ata to which individuals in the Council had committed the council to an initial payment of Kshs 60 million for a purchase deal of Kshs 220 million entered into ten years ago. The council had never passed any resolution for the purchase of the said land. Commission intervened and payments stopped.	60,000,000
6.	City Council of Nairobi	October 2011: Payment of Kshs 63 million to a company by the Council for the establishment of a multimedia contact centre at City Hall. Claims that the Council might have exaggerated its budget by millions. The Commission intervened and payments stopped and full investigations launched.	63,000,000
7.	District Education Board Kakamega South District	January 2012: Disruption of scheme involving the recruitment panel in Kakamega South District to irregularly recruit undeserving candidates for primary school teachers' recruitment by sidelining some qualified candidates. Commission intervened through the Ministry of Education and Teachers Service Commission for corrective measures.	N/A

No.	Institution	Brief description of the corrupt activity	Averted Loss (Kshs)
8.	Kenya Revenue Authority Embu	March 2012: Commission undercover officers infiltrated an Embu Town based syndicate involved in printing of fake currency notes, government documents including Driving Licenses, PSV licenses, National Examination Certificates, Birth Certificates, and Certificate of Good Conduct, main culprit arrested and documents recovered. Case referred to CID Embu for appropriate action.	50,000,000
9.	National Social Security Fund	March 2012: Stoppage of lease of car park license LR No. 209/114122 & 12287 Kenyatta Avenue by Board of Trustees of NSSF to a private firm without competitive bidding as required for public assets. Forensics investigation process is ongoing.	36,000,000 p.a
10.	Kilindini Port, Mombasa	December 2011 and May 2012: Seizure of ten (10) containers containing textile and electronic imported from China on tax evasion in a racket that includes importers, clearing agents and KRA officials.	9,400,000
11.	Kilindini Port, Mombasa	December 2011: Seizure of expired food extracts (vegetable and Hop extracts) which were imported by the East Africa Breweries Limited vide entry No. 2011/MSA/3131157. The matter was investigated and handed over to Kenya Bureau of Standards for appropriate action.	25,000,000
12.	Kilindini Port, Mombasa	May 2012: Intelligence probe into reports of irregular release of imports at Kilindini using forged documents without payment of requisite inspection fees to Kenya Bureau of Standards. Two people arrested and arraigned in court. Over 227 imports which were released this year uncovered.	68,000,000
13.	Mariakani Weighbridge	December 2011: Interception and seizure at Mariakani Weigh Bridge of an overloaded foreign registered truck, which was ferrying goods to a neighboring country. The truck No. B8149A/ T0154A was reweighed and found to be carrying a Gross Vehicle Weight of 101,070 Kg which was 53,070 Kg more than the stipulated 48000 kg. The truck was fined Kshs 400,000.	400,000

No.	Institution	Brief description of the corrupt activity	Averted Loss (Kshs)
14.	Ministry of Lands	November 2011: intervention by the Commission that stopped the fraudulent acquisition of a 25 acre beach plot in Kwale- Kwale/Diani/Beach/Block/151 through collusion of lands officers and other parties. DPP concurred with investigation findings and ten suspects were charged with various offences.	300,000,000
<b>TOTAL</b>			<b>1,208,200,000</b>

## 2.5.2 Integrity Testing Programme

Under the Integrity Testing Programme (ITP), 201 Programme Officers and Analysts from 115 public institutions were trained on how to initiate and run the programme in their respective institutions. In addition, 177 tests were executed in twenty two government ministries, departments and agencies as illustrated in Table 9.

**Table 9: Summary of Integrity Tests Executed**

Type of Results	No. of Tests	Action taken				
		Administrative	Referred to other agencies/ depths	Court action	Further Tests	NFA
Pass	59	0	0	0	0	59
Fail	73	50	8	0	15	0
Inconclusive	42	12	0	0	25	5
Attempt	3	0	0	0	2	1
<b>Total</b>	<b>177</b>	<b>70</b>	<b>8</b>	<b>0</b>	<b>42</b>	<b>65</b>

### Key

**Pass:** The target responds to the planned scenario and takes proper action.

**Fail:** The target responds to the planned scenario and commits criminal act, or other administration violation.

**Inconclusive:** The target responds, but does not engage in testing scenario.

**Attempt:** targeted test is in place in a test scenario but nobody responds to it.

NB: Pass (no action taken).....59  
 Results that required action.....118  
 Total.....177

From the tests conducted various corrective measures were recommended that included administrative action by the responsible institutions where tests were executed, referral for action to other government agencies with mandate to deal on identified breaches and recommendation for further tests as circumstances observed by various integrity testing oversight committees dictated.

## CHAPTER 3

### STATUTORY REPORTS TO THE DIRECTOR OF PUBLIC PROSECUTIONS

#### 3.1 Introduction

This part presents the report of the results of investigations on corruption and violations of codes of conduct undertaken by EACC to the Director of Public Prosecutions (DPP) pursuant to Section 11(1) (d) of the Ethics and Anti-Corruption Act, 2011, Sections 35 and 36 of the Anti-Corruption and Economic Crimes Act, 2003.

#### 3.2 Reports to the Director of Public Prosecutions

The Commission prepared and published in the Kenya Gazette four Quarterly Reports as required. A total of **89** files with reports were forwarded to the DPP, representing a decrease from the previous year's total of **134** files. Out of these reports, the Commission recommended **73** for prosecution, **3** for administrative action and **13** for closure, as shown in Tables 10 and 11. The DPP also acted and returned **41** files, which had been submitted in the previous year.

**Table 10: Files Forwarded to the Director of Public Prosecutions**

Recommendations to the DPP	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter	Total
No. of files recommended for prosecution	25	18	19	11	<b>73</b>
No of files recommended for administrative action	0	0	2	1	<b>3</b>
No of files recommended for closure	4	3	5	1	<b>13</b>
<b>Total</b>	<b>29</b>	<b>21</b>	<b>26</b>	<b>13</b>	<b>89</b>

**Table 11: Action taken by the Director of Public Prosecutions**

Action by DPP	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter	Total
Recommendation to prosecute accepted	24	16	15	9	<b>54</b>
Recommendation to prosecute not accepted	0	1	2	0	<b>3</b>

Action by DPP	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter	Total
Recommendation for administrative or other action accepted	0	0	2	1	<b>3</b>
Recommendation for administrative or other action not accepted	0	0	0	0	<b>0</b>
Recommendation for closure accepted	1	1	5	1	<b>8</b>
Recommendation for closure not accepted	0	2	0	0	<b>2</b>
Files returned for further investigations	0	0	1	1	<b>2</b>
Files awaiting DPP's action	1	1	1	1	<b>4</b>

### 3.3 Criminal Cases Presented Before Court

A total of **43** criminal cases were presented before court as shown in Table 12.

**Table 12: Criminal Cases Presented Before Court**

Particulars of charge	No. of cases
Soliciting & receiving of benefit	14
Offering & giving of benefit	0
Impersonating an investigator	0
Abuse of office	4
Misappropriation of public funds	3
Unlawful /fraudulent acquisition of public property	10
Willful/careless failure to comply with procurement procedures	8
Dealing with suspect property	1
Conspiracy to defraud/commit an offence of corruption	2
False accounting by a public officer/ Deceiving principal	1
Conflict of interest	0
<b>Total</b>	<b>43</b>

### 3.4 Applications for Search Warrants

The Commission filed applications and obtained warrants to investigate 61 bank accounts in respect of persons or associates of persons suspected of engaging in corruption, economic crime or related offences. The warrants were executed and the information used for investigations.

## CHAPTER 4

### LITIGATION AND RECOVERY OF ILLEGALLY ACQUIRED PUBLIC AND UNEXPLAINED ASSETS

#### 4.1 Introduction

This section covers particulars of civil proceedings instituted by the Commission for preservation and recovery of illegally acquired assets, recovered assets, restored assets, and cases filed against EACC during the year.

#### 4.2 Recovery of Public Assets

##### 4.2.1 Recovered Public Assets

The properties in Tables 13 and 14 were recovered by the Commission, through court proceedings and Out-of-Court settlements. The recovered properties comprise cash and land and were of a total value of Kshs 526,641,044. One of the properties recovered is Mombasa's Uhuru Gardens, a public leisure and resting place.

**Table 13: Recovered Public Land**

No.	Particulars of property	Recovered from	Institution for which recovered	Value (Kshs. Million)
1.	L. R. No.22008/5	Geoffrey Kuria Muriuki & Elias Mwangi Kabutu	KARI	20
2.	Uhuru Gardens, Mombasa Msa/Block XIX/299	Comen Ltd	Municipal Council of Mombasa	500
<b>Total Land Value</b>				<b>520</b>

**Table 14: Recovered Cash**

No.	Person Recovered from	Institution for which recovered	Value in Kshs
1.	Johnson Githaka	Kenya Re	4,000,000
2.	Hamisi Mboga	CCN	405,371
3.	Agnes Wandii Kisunga	Ministry of Medical Services	396,200
4.	John Kinyua	CCN	1,839,473
<b>Total Cash Recovered</b>			<b>6,641,044</b>

## 4.2.2 Suits Filed and Preservation Orders

EACC filed three (3) civil suits for recovery of public property. The Commission also filed three (3) applications for preservation of property and obtained preservation orders to secure the properties. A summary of the suits and applications filed is presented in Table 15.

**Table 15: Recovery Suits and Preservation Applications Filed**

No.	Case Number	Parties	Nature of Claim	Current Status
1.	Mombasa HCCC No. 60 of 2012	EACC Vs Safeway Ltd	Recovery of Cold Storage Facility on MI/Block 1 /258 belonging to Kenya Meat Commission now registered in the name of Safeways Limited.	Defendants entered appearance
2.	Mombasa Misc Civil Application No. 71 of 2012	EACC Vs General Tyre Sales Limited & Ali Shekue	Recovery of portion of Haile Selassie Road, registered as Mombasa Island/Block XX/349 in favour of General Tyre Sales Limited.	Obtained preservation orders for six months on 20 <sup>th</sup> April 2012, pending full investigation and filing of recovery suit
3.	Voi Chief Magistrate's Court Civil Suit No. 40 of 2012	EACC Vs Irene Mwikamba, Elijah Mambea & 2 Others	Recovery of misappropriated CDF Funds.	Defendants entered appearance
4.	Mombasa HCCC NO. 130 of 2012	EACC Vs Africa Safari Limited, ZumZum Limited and Commissioner of Lands	Recovery of public access road between MN/1/5905 & 1067.	Awaiting Defendants to enter appearance

### 4.2.3 Constitutional References, Judicial Review Applications and other Cases against the Commission

EACC defended Constitutional References, Judicial Review Applications and other civil cases which were filed against it. Some of the major cases are highlighted in Table 16.

**Table 16: Constitutional References, Judicial Review Applications and Other Cases**

No.	Case No.	Parties	Relief sought	Status
1.	Mombasa HC Misc App No 2 of 2011	Amina Shekhe Mohammed.	Application for orders to release title deed seized by the Commission.	Court ordered Investigations to be completed within 6 months after which title to be released
2.	Mombasa HC Misc Application No 16 OF 2011	Alladina Properties Limited.	Challenging the revocation of title by Registrar.	Pending before court
3.	Mombasa HC Petition 10 of 2011	Yuasa Motors & Others.	Petition seeking order to bar the crushing of illegally imported second-hand vehicles.	Judgment will be delivered on 4 <sup>th</sup> September 2012
4.	Mombasa HC Misc Application 78 of 2011	Queenie Ltd.	Application for leave to institute Judicial Review proceedings against the Registrar of Lands for cancelling title to MI/XXVI/729.	Application dismissed
5.	Malindi HC Misc 8 of 2011	Francis Paul Tarsia.	Judicial Review application challenging allocation of plot 10815 Malindi.	The case will be mentioned on 1 <sup>st</sup> October 2012 to highlight submissions
6.	Malindi HC Petition 15 of 2011	Gabriel Mbiti Mulei.	Petition seeking to have Section 56 of ACECA declared unconstitutional.	The petition was dismissed with costs. Ruling on taxation of Bill of Costs will be done on 7 <sup>th</sup> August 2012

No.	Case No.	Parties	Relief sought	Status
7.	Mombasa Judicial Review Application No. 30/2012	Republic vs. Land Registrar Mombasa, the Commissioner of Lands and Minister of Lands Ex Parte Samu Limited.	Seeking orders to: <ul style="list-style-type: none"> <li>• Quash the decision of Land Registrar Mombasa, Commissioner of Lands and Minister of Lands contained in Gazette Notice 15572 of 26<sup>th</sup> November 2012 revoking the applicant's title to Mombasa Block XVII/1469</li> <li>• Prohibit any further alienation or allocation</li> <li>• Compel respondents to restore the applicant's Title.</li> </ul>	The case is listed for hearing on 20th August 2012
8.	Mombasa HC Constitutional Petition 54/2012	Jotham Kilimo Chea vs EACC.	Application seeking orders to prohibit the Senior Principal Magistrate (SPM) from either taking plea or hearing the case or determining the charges leveled against the applicant in Anti-Corruption Case Number 5 of 2012.	The petition was dismissed on 13th June 2012

No.	Case No.	Parties	Relief sought	Status
9.	Court of Appeal No. 171/2012 Arising from Mombasa High Court Misc No. 54/2012	Jotham Kilimo Chea vs EACC.	Applicant is appealing against refusal by the High Court from granting leave to file Judicial review to act as stay of proceedings in Mombasa Chief Magistrate's Court Anti-corruption Case No 5 of 2012,R VS Omar Zonga and others.	Application pending hearing.
10.	Mombasa High Court Petition No 72 of 2012(JR)	Raia A Mkungu,Said H Kabangi,Ali H Mwakulondavs EACC, DPP and Chief Magistrate.	Petitioners are seeking an order to prohibit their prosecution for corruption until the National Land Commission is established.	The case is listed for directions of the court on 17 <sup>th</sup> July 2012 as there are several related matters, viz Misc Applications 54/2012, 46/2012 and Petition No 72/2012.
11.	Mombasa HC Petition 72 of 2012	Raia A. Mkungu & Others.	Petition challenging prosecution in Msa ACC 5 of 2012 for suspected fraud over Kwale/ Diani Beach Block/151 as unconstitutional.	The case will be heard on 23 <sup>rd</sup> October 2012 together with Msa HC Misc 46 of 2012
12.	Mombasa HCCC 130 of 2012	African Safari Club Ltd. & Zumzum Investments Ltd.	Recovery of public road running from MI/I/5905, 1066 & 1067 KMC plant, Mombasa	Pre-trial process

No.	Case No.	Parties	Relief sought	Status
13.	Nairobi HC. Pet No. 18/2011,	Zipporah Adhiambo Owiti vs. KACC.	Seeking court orders to direct the Commission to withdraw directives to KPLC stopping them from awarding her a Wayleave Acquisition Services Contract.	A new hearing date to be taken.
14.	Mombasa Constitutional Petition No. 61 of 2012	Jackson Maina Ngamau Vs EACC, PLO Lumumba and Erick Okong'o Omogeni.	Petition seeking among others declarations on disclosure of information touching on operations of EACC and suspension of appointments of staff under Section 34 of EACC Act 2011.	Notice of Preliminary Objection Filed Hearing of the same on 29 <sup>th</sup> August 2012
15.	Mombasa Misc. Civil Application No. 134 of 2010	Sajun Limited.	Challenging revocation of title number Mombasa Island/Block XVII/288 by the Minister of Lands.	Hearing on 6 <sup>th</sup> September 2012.
16.	Mombasa Petition 63 of 2012	Frann Investments.	Challenging revocation of title number MN/III/293 by the Registrar of Titles, Mombasa.	Mention on 3 <sup>rd</sup> September 2012
17.	Malindi HC Petition 17 of 2011	Chacha vs DPP & Others.	Petition seeking declarations and Judicial Review orders barring the Petitioner's prosecution.	On 11th May 2012 the court rejected the interlocutory prayers
18.	Nairobi HC Misc. App No. 218 of 2012	Rose Wagechi Rukwaro & Ruth Muganda.	Applicants seeking orders to prohibit their prosecution for corruption.	Hearing on 2.10.2012

No.	Case No.	Parties	Relief sought	Status
19.	Mombasa HC. Petition No. 37/2011	Raia A. Mkungu, Said H. Kabangi, Omari Zonga & Hiimi M. Ahmed vs. KACC & The Land Registrar, Kwale.	Petitioner seeking orders to stop the Commission from investigating suspected fraud on acquisition of Kwale/ Diani Beach Block / 151.	On 31 <sup>st</sup> July 2012 the court rejected his application.
20.	Nairobi HC. Pet. No. 376/2011	Hon. James Ondicho Gesami vs. KACC, The Hon Attorney General & Commissioner of Police.	Applicant sought Court Orders to restrain the Commission from arresting and prosecuting him.	Application dismissed
21.	Nairobi Hc. Misc. No. 408/011	Republic vs. DPP, KACC & Chief Magistrate, Milimani Law Courts ( Ex parte- Yabesh Amoro).	Applicant seeking court orders to quash the charge sheet in ACC No. 28 of 2011, and to stop the Commission from prosecuting him.	Application dismissed
22.	Nairobi Hc. Cr. Misc. App. No. 453 of 2011	John Danson Kibinda & 2 others vs. P.L.O. Lumumba & Others.	Applicants seeking court orders to be bonded by the Commission or the Police, and to be allowed back to their place of work, the University of Nairobi without hindrance.	Application dismissed
23.	Nairobi HCC. No. 356/2011	Douglas Rutto vs. KACC & Others.	Plaintiff claiming damages for malicious prosecution and wrongful arrest.	Hearing on 10.10.2012
24.	NAIROBI Hc. Pet No. 148 of 2011	Binlaw Construction Company Limited & 2 Others vs. KACC & 4 Others.	Petitioners seeking for declarations and Judicial Review orders to bar their prosecution in ACC No. 35 of 2011.	Mention on 23.10.2012

No.	Case No.	Parties	Relief sought	Status
25.	Nairobi HC Judicial Review Misc No. 201/2012	Binlaw Construction Ltd & 2 Others vs Eacc & 2 Others	Application seeking to prevent EACC & DPP from prosecuting the applicants on the basis that the charges they face are Penal Code offences and not offences under ACECA 2003.	Mention on 23-10-2012 to confirm parties have filed and exchanged submissions.
26.	Nairobi HCC. No. 355/2011	Cecily Mbarire vs. P.L.O. Lumumba & KACC	Plaintiff suing the Commission and its then Director for damages for defamation, based on statements issued by the Director on their character.	No hearing date taken yet.
27.	Nairobi HCC. No. 362/2011	Dennis Apaa vs. P.L.O. Lumumba & KACC	Plaintiff suing the Commission and its then Director for damages for defamation, based on statements issued by the Director on their character.	No hearing date taken yet.
28.	Malindi HCC. Pet. No. 17 of 2011	Sophia Abdillahi Chacha vs. DPP, Commissioner of Police & KACC	Petitioner seeking for declarations and Judicial Review Orders to bar prosecution of Petitioner.	The application was dismissed on 11.5.2012
29.	Embu HCC. Pet. No.8 of 2011	Michael Gituto vs. KACC	Application seeking orders to prohibit his prosecution before an anti-corruption court.	The application was struck out with costs to the Respondent on 1st February 2012
30.	Nairobi Milimani Commercial Courts JR No. 275 of 2011	Republic vs. The DPP & EACC Ex-parte Emmanuel Francis Oyugi.	Application seeking for declarations and Judicial Review orders seeking to bar prosecution of applicant in ACC No. 28 of 2011.	Hearing on 26.11.2012

No.	Case No.	Parties	Relief sought	Status
31.	Nairobi Hc. Misc. App. No. 43 of 2012	Beryl Akinyi Muganda vs. EACC, DPP & Barclays Bank of Kenya Ltd.	Applicant seeking orders to lift orders restraining her from accessing her account at Barclays Bank.	Application dismissed.
32.	Nairobi Hc. Misc. App. No. 288 of 2012	Ruth Muganda vs. EACC & DPP.	Applicant seeking orders to prevent being charged before the anti-corruption court.	Hearing of the application on 2 <sup>nd</sup> October 2012.
33.	Nairobi Hcc. 49/012	Peter Njuguna Mwangi vs. The EACC & 11 others.	Applicant seeking for Witness Protection Order.	Application dismissed
34.	Nairobi Hc. Cr. Misc. App. No. 18/2012	Beryl Akinyi Muganda vs. EACC & Barclays Bank of Kenya.	Applicant seeking orders to lift orders restraining her from accessing her account at Barclays Bank.	Hearing on 27 <sup>th</sup> September 2012
35.	Msa Hcc. Pet. No. 22 of 2012	Omar Tahir Shiekh Said vs. The Registrar of Titles & Commissioner for Lands.	Petitioner seeking orders to quash the decision by the Minister for lands to cancel the suit property.	EACC has applied to be enjoined in the suit
36.	Nairobi Hc. Misc. App. No. 153 of 2012	Diamond Hasham Lalji & Ahmed Hasham Lalji vs. The AG, DPP, Commissioner of Police & EACC. & Behadurali Hasham Lalji.	Applicants seeking orders to restrain the Commission from taking any action in relation to investigations relative to our file ref. No. KACC/AT/1/07.	Mention on 26.7.2012

No.	Case No.	Parties	Relief sought	Status
37.	Nairobi Hcc. Misc. App. No. 174 of 2012	EACC vs. Ministry of Medical Services & Co-op Bank of Kenya.	Application seeking for preservation orders to restrain Ministry of Medical Services from accessing funds held in their account. No. 01240000023705 until investigations are finalized.	Ruling on 26.7.2012
38.	Court of Appeal Civil Application No. NAI 157 of 2012	Mary Ng'ethe vs. KACC & AG.	Application seeking for stay of Nairobi Chief Magistrate Criminal cases No 19 and 20 of 2010 against the Applicant, pending appeal against judgment of the High Court in NBI HCC. Pet. No. 156 of 2010.	A date to be given by the Court
39.	Nairobi Hc. Misc. App. No. 317 of 2012	Dennis Apaa & Others.	Applicants seeking for declarations and Judicial Review orders to bar their prosecution in ACC No. 37 of 2012.	Hearing on 28.9.2012
40.	Nairobi Hc. PET No. 299 of 2012	Isaac Gathanju & Others.	Petitioners seeking orders to quash or lift caveat registered on LR. No. 209/674-IR No. 84529, which is under our investigation.	Mention on 24.9.2012
41.	Nairobi Hc. Elc. No. 396 of 2008,	Martha Karong'e vs. Salome Karong'e & 9 Others.	Applicants seeking court orders to enjoin the Commission in the suit.	No date given.

#### **4.2.4 Restoration of Recovered Properties**

The EACC surrendered the official Nairobi Mayoral Residence to the Permanent Secretary, Treasury on 17th April 2012 in a public function. The public restoration of property is in accordance with Section 56C of ACECA. The Commission conducts such functions with a view to creating public awareness and preventing any illegal re-alienation of the same or other property.

### **4.3 Legislative Recommendations**

As part of its contribution towards legislative reforms in Kenya, the Commission participated, in conjunction with other stakeholders, in formulating the following legislations aimed at reinforcing good governance and the fight against corruption:

#### **4.3.1 The Ethics and Anti-Corruption Act, 2011**

The Commission made proposals on the Ethics and Anti-Corruption Bill, which culminated into enactment of the Ethics and Anti-Corruption Act, No 22 of 2011. The Act established EACC in accordance with Article 79 of the Constitution.

#### **4.3.2 The Leadership & Integrity Bill, 2012**

In order to provide procedures and mechanisms for the effective administration of Chapter 6 of the Constitution, the Commission made proposals on the Leadership and Integrity Bill, 2012. The Bill, once enacted into law, will give effect to Article 80 of the Constitution as well as assist the Commission to carry out its mandate.

#### **4.3.3 Amendments to the Anti-Corruption Laws**

As the lead agency in the fight against corruption, EACC was involved in proposing amendments to the various anti-corruption laws. The amendments were effected through the Statute Law (Miscellaneous Amendments) Act, 2012.

## CHAPTER 5

### CORRUPTION PREVENTION

#### 5.1 Introduction

The Commission continued with the implementation of corruption prevention programmes by offering advisory services; building partnerships and coalitions against corruption; enhancing integrity in the public service; providing public education and awareness creation; promoting standards and best practices; and undertaking research on corruption and governance related issues. This section of the report presents the Commission's achievements on corruption prevention in the reporting year.

#### 5.2 Advisory Services

##### 5.2.1 Assessment of implementation status of recommendations from system reviews

The Commission assessed the implementation status of recommendations contained in three Examination Reports and one Corruption Risk Assessment undertaken between 2005 and 2010 as summarized in Tables 18 to 21 below.

**Table 17: Implementation Status of Recommendations on the Examination Report into the Systems, Policies, Procedures and Practices of the Civil Registration Department**

No.	Finding (2007)	Recommendation	Status (March 2012)
1.	Lack of comprehensive government policy on the registration of births and deaths.	Fast-track the development and implementation of the Civil Registration Policy.	A draft policy developed in 2010 and submitted to the Committee on the Implementation of the Constitution on in 2011 for consideration.

No.	Finding (2007)	Recommendation	Status (March 2012)
2.	Scattered statutes and institutions for administering civil events (births and deaths, marriages, identification and registration of persons and adoption).	Review and harmonize the statutes and operations of various departments administering civil events with a view to restructure the registration of civil events and bring them under one department.	<p>The Kenya Citizens and Foreign Nationals Management Service Act, 2011 establishes a Semi-Autonomous Government Agency (Kenya Citizens and Foreign Nationals Management Service) to handle: civil events; citizenship and immigration; creation and maintenance of a comprehensive national population register.</p> <p>Registration of civil marriages, previously under the Registrar General (AG) has been brought under civil registration administration.</p>
3.	The Civil Registration Department (CRD) not pro-active in registering civil events occurring at home. This opens up loopholes for corruption when birth or death certificates are required.	CRD to be proactive and ensure the formation of functional sub-location Civil Registration Committees.	Sub-location civil registration Committees have not been formed in many districts and where they have been formed, some are not functional.

No.	Finding (2007)	Recommendation	Status (March 2012)
4.	<p>Most members of the public do not place much importance on registration of births and deaths at point of occurrence. As a result, most people seek registration when a certificate is required, such as to enroll in schools, thereby exerting pressure on the Department during such periods. This presents an opportunity for unscrupulous staff to solicit for bribes.</p>	<p>Sensitize the public on the importance, process and requirements of civil registration.</p> <p>Develop and disseminate IEC materials.</p> <p>Liaise with the Ministry of Education to:</p> <ul style="list-style-type: none"> <li>• Make it a requirement that every child should have a birth certificate on admission to school.</li> <li>• Incorporate civil registration education in pre-primary, primary and secondary school curriculum.</li> </ul>	<p>Public sensitization has been undertaken through the media and barazas. Some Civil Registrars also hold briefs with the public (applicants) every morning before serving them.</p> <p>IEC materials have been developed and availed to registration assistants.</p> <p>All KCPE and KCSE candidates are now required to present birth certificates before they are registered.</p>
5.	<p>Some applicants for late registration apply in more than one district when there are delays thereby leading to double registration. This is due to the fact that District Registries have not been computerized and networked for ease of cross referencing.</p>	<p>Fast track the computerization programme to ensure that all districts are networked for ease of cross referencing.</p>	<p>A Civil Registration and Vital Statistics Computer System has been installed to facilitate automation of records. By June 2011 thirty eight (38) districts had been interlinked. Another twenty four (24) districts were to be interlinked in 2011/12 financial year. Training of staff on the system was on-going.</p>

No.	Finding (2007)	Recommendation	Status (March 2012)
6.	The revenue collection has not been computerized and linked with the generation of birth and death certificates. In some instances, payments for several unrelated items are lumped together and one receipt issued.	Computerize the revenue collection and link the generation of birth and death certificates.  Issue a separate receipt for each application made.	Revenue collection is still done manually.  Issuing of a single receipt for multiple items is still being practiced.
7.	Birth and death certificates are easy to forge due to inadequate security features.	Design birth and death certificates with adequate security features.	The Department is working with the Government Printer to design and print certificates with enhanced security features.
8.	Staff working in high risk areas are not regularly rotated and supervised adequately, thereby presenting opportunities for corruption.	Regularly rotate and closely supervise staff working in high risk areas such as the cash office.	Staff rotation in high risk areas has been implemented partially.

**Table 18: Implementation Status of Recommendations on the Examination Report into the Systems, Policies, Procedures and Practices in Procurement and Financial Management by Provincial General and District Hospitals**

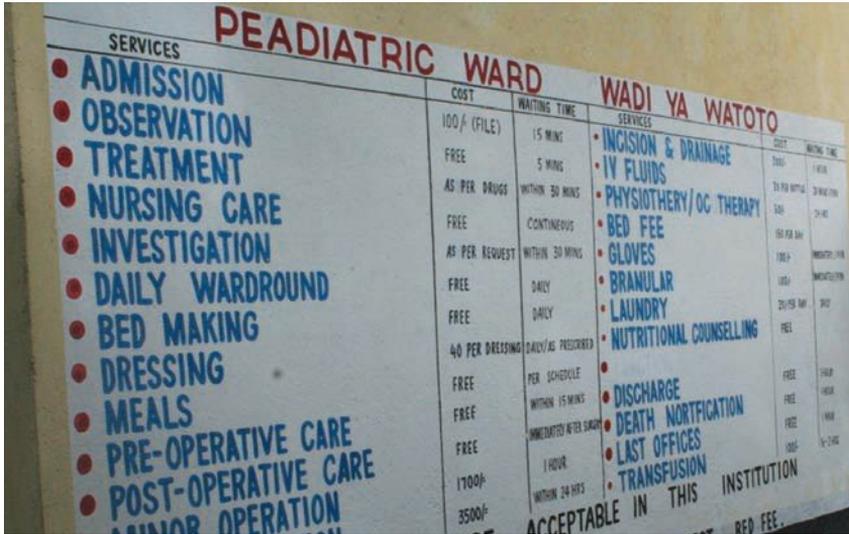
No.	Finding (2009)	Recommendation	Status (May 2012)
1.	Insufficient allocation of funds to each hospital for procuring drugs and non-pharmaceuticals from KEMSA (Drawing Rights) by the Ministry. The Drawing Rights were last revised in 2005.	Review the drawing rights, taking into account population size, disease patterns and other related dynamics of the areas being served by hospitals.	The Ministry reviewed the Drawing Rights in 2010
2.	Lack of independent Procurement Committees, qualified procurement personnel and consolidated Annual Procurement Plans in some public hospitals.	Set up independent Procurement Committees and employ qualified procurement personnel and prepare and implement Annual Procurement Plans in accordance with PPDA and PPDR.	Most hospitals have set up Procurement Committees, some have engaged qualified procurement personnel but a large number have not prepared consolidated Annual Procurement Plans.

No.	Finding (2009)	Recommendation	Status (May 2012)
3.	Skewed allocation of development funds and failure to take into consideration District Annual Operation Plans in the budgeting process. In addition, an inventory of stalled projects is not maintained.	Develop a written criterion for allocation of development funds to the public hospitals.  Prepare an inventory of stalled projects detailing the status and estimated amounts required to complete them.	Criterion for allocation of development funds to hospitals not developed.  An inventory of stalled projects has been prepared.
4.	Manual billing of patients coupled with poor supervision of the process leading to loss of revenue.	Computerize and improve supervision of the billing process.	Most hospitals have installed computer systems for purposes of generating bills. However, billing in some of service areas is largely manual.  There is no improvement in the supervision of the billing process.
5.	Lack of qualified permanent accounts staff in most public hospitals.	Hire and deploy qualified accounts staff in all hospitals.	The Ministry has hired and deployed accountants on 2 years contracts in most hospitals.
6.	Failure to bank all the revenue collected.  Utilization of revenue before banking and issuance of IOUs.	Bank all revenue collected within the specified time period.  Enforce the regulation on the utilization of revenue before banking and issuance of IOUs.	A few hospitals have adhered to the regulations while others still utilize revenue before banking, issue IOUs and do not bank all revenue collected within specified time.
7.	Accumulation of pending bills by most hospitals whose details were not well documented.	Compile a list of all pending bills and prepare an appropriate settlement plan.	Most hospitals which had pending bills have compiled lists and are settling them on a quarterly basis.

**Table 19: Implementation status of the recommendations of the examinations into the service delivery systems, policies procedures and practices of Provincial General and District Hospitals**

No.	Findings (2009)	Recommendation	Status May 2012
1.	Enforcement of disciplinary measures by the various professional associations in the health sector is not effective. This is a loophole that could lead to corrupt practices.	Creation of an oversight body to regulate the various health related professional associations and to deal with matters of discipline. The Professional Associations may continue with registration and welfare of their members.	The Ministry is in the process of reviewing health laws to harmonize them with the Constitution. The proposed health law creates a health services authority whose functions include discipline and code of regulation for health workers.
2.	Severe shortage of staff such as consultants, Clinical Officers, nurses, accountants and procurement staff. This leads to heavy workloads, delays in delivery of services and corrupt conduct.	Recruit additional staff in all facilities and ensure that they are assigned duties appropriately.	Some Hospitals have recently recruited qualified accountants and procurement officers were posted from the Ministry.  There is still a major problem on staffing as it relates to clinical, nursing, pharmacy and medical staff.
3.	Some medical officers use Government facilities to perform certain procedures for private gain. These procedures include completing medical certificates, circumcision, dental services, stitching, Manual Vacular Aspiration (MVA) X-ray and laboratory services.	Ensuring that the procedures for attending to private patients in Government hospitals are strictly adhered to.	This practice has been stopped due to increased supervision and sensitization of staff on the Public Officer Ethics Act 2003.

No.	Findings (2009)	Recommendation	Status May 2012
4.	Some members of staff refer patients to their private facilities and those run by themselves, colleagues, relatives, friends or associates even where the hospital can provide the service cheaply or for free.	Empowering the public through sensitization and other informative methods to enable them to demand services provided by the Hospitals and to report any complaints.	Sensitization (micro-teaching) done only at the outpatient clinics in the morning hours.  Most hospitals have displayed service charters in service areas.
5.	Interference by some politicians and other persons in the management of waivers. This creates pressure on the hospital staff to grant waivers to undeserving patients. This is a loophole that may lead to abuse by members of staff and outsiders.	Ensure that waivers committees are operational and all waiver applications are considered for approval by the Committee and not individual officers.	Most hospitals have now operational Waiver Committee. The Committees use waiver guidelines as spelt out in the FIF guidelines. Interferences have greatly reduced as all cases are subjected to the said guidelines.
6.	Poor records management leading to difficulty in retrieval of patients' records and delays in service delivery. The delays provide a fertile ground for corruption.	The Ministry to ensure that hospitals are provided with adequate and appropriate filing materials.	Some Hospitals have initiated the use of booklets for patient records which are easier to maintain.
7.	Absenteeism of staff in public hospitals is a major problem which causes delay in provision of services. The delays create opportunities for corrupt practices where desperate patients offer bribes to fast track provision of services.	Ensuring effective supervision and that appropriate disciplinary measures are instituted against staff who do not observe official working hours.	Supervision has been enhanced and extended to the holidays and weekends to ensure that working hours are observed. Absenteeism has reduced significantly.



Sample departmental service charter in a hospital

**Table 20: Implementation status and advisory on recommendations of the Corruption Risk Assessment and other preventive interventions in the Municipal Council of Mombasa**

No.	Finding (2005)	Recommendation	Status (March, 2012)
1.	The Council entered into Private Public Partnerships (PPP) without clear guidelines or policy to manage such partnerships.	Prepare a public private partnership policy to guide the Council in the management of PPP	The Council has developed a draft policy on PPP that is being harmonized in line with the draft government policy.
2.	The Public Health Inspectorate carries out inspection without a documented checklist of standards and guidelines. This gives Public Health Technicians (inspectors) the discretion which can be used as a tool for extortion.	Develop a comprehensive checklist for carrying out public health inspections in accordance with the requirements of the Public Health Act.	A checklist was developed and was being tested to ensure its usability in the inspection process.

No.	Finding (2005)	Recommendation	Status (March, 2012)
3.	Stores personnel do not promptly and accurately post BIN cards upon receipt or issue of goods. The BIN cards are not appropriately arranged. This makes it possible for losses to occur.	The Town clerk should ensure that BIN cards are promptly and accurately updated and that they are arranged appropriately for ease of retrieval and supervision.	BIN cards are updated promptly but require to be appropriately arranged.
4.	Sometimes Local Purchase Orders (LPOs) are executed in parts and the stores personnel do not reconcile goods received to the LPO's. In certain instances, copies of LPOs meant for reference by stores personnel are received long after goods have been delivered to the stores. This makes it possible for payments to be made for goods not supplied in full and also for excess deliveries to be received.	Institute a system for immediate forwarding of copies of all LPOs to the stores personnel upon issuance to suppliers. The Stores personnel will use them for reconciliation purposes when goods are delivered. In addition, the Town Clerk should only authorize payments for goods that have been delivered as per the LPOs instructions	<p>Duplicate copies of LPOs duly signed by the suppliers are submitted to the stores.</p> <p>An inspection and acceptance committee was formed to ensure that LPOs are fully executed.</p> <p>Payments are being made on the strength of deliveries by the suppliers.</p> <p>Stores records are regularly updated.</p>
5.	The Council does not maintain data on the number of traders operating in the markets making it difficult to track the expected revenue. This creates an opening for revenue collectors to falsify returns.	The Town Clerk should create a database for traders within the market areas and ensure that it is regularly updated to capture any changes.	The Council has come up with a Market Stalls Register which is updated regularly.
6.	The Council sometimes makes payments on proforma invoices. However, in certain instances it takes too long for the goods to be delivered and occasionally they are delivered partially or not at all.	Payments on proforma invoices should be made only when absolutely necessary and the periods within which the goods should be delivered clearly stipulated.	Advance payments to suppliers have been stopped.

### 5.2.2 On-going Review of Systems, Policies and Procedures

- a) Examination into the systems, policies, procedures and practices of the National Cereals and Produce Board (NCPB) was launched in April 2011. The examination was initiated by the Management of the Board due to many allegations, complaints and investigations on its operations. Notably NCPB is responsible for managing Strategic Grain Reserve, Famine Relief Supplies and agricultural inputs on behalf of the Government.
- b) The examination into systems, policies, procedures and practices of Kenya Institute of Education (KIE) was launched in June 2012. The examination focuses on three functional areas namely; financial management, supply chain management and human resource management. The examination was triggered by complaints received by the Commission which indicated that there are systemic weaknesses in the operations of the Institute

### 5.2.3 Partnerships and Coalitions

#### a) Public Sector

The Commission continued to forge collaboration with public institutions to implement anti-corruption initiatives. Table 21 outlines the status of public sector partnership programmes.

**Table 21: Public Sector Partnership Programmes**

Nature of Partnership	Stakeholders	Implementation Status	Outcome/ Output
Implementation of anti-corruption component in performance contracting	Performance Contracting Department & public institutions	<ol style="list-style-type: none"> <li>1. Four hundred and seventy one (471) Public institutions at various stages of implementing the anti-corruption provisions in the Performance Contracting framework.</li> <li>2. Advisories to 380 Ministries, Departments and Agencies (MDAs) on corruption prevention.</li> <li>3. Assessment of eighty (80) institutions to monitor the implementation of anti-corruption programmes and provision of technical support on corruption prevention strategies and the development of governance documents.</li> </ol>	<p>Development of governance documents. These include Anti-Corruption Policies and Codes of Conduct.</p> <p>Expanded network against corruption through the performance contracting framework.</p>

Nature of Partnership	Stakeholders	Implementation Status	Outcome/ Output
Streamlining records management and enhancing records management principles.	Kenya Bureau of Standards & stakeholders	Electronic Records Management System (ERMS) and implementation guide developed.  A standard guide for the Electronic Records Management Systems developed.	Electronic Records Management System (ERMS) and implementation guide.  A standard guide for the Electronic Records Management Systems.
Promoting and enhancing integrity in records management	Public institutions	Development of a Records Management integrity checklist guide, which provides the key governance and integrity principles that underpin records management.	Records management integrity checklist guide.

**b) Professional/Private Sector**

The Commission partnered with professional associations and private sector in promoting good governance and ethical conduct among their members, as presented in Table 22.

**Table 22: Professional/Private Sector Partnership Programmes**

Nature of Partnership	Stakeholders	Implementation Status	Outcome/Output
Promoting integrity and ethical business practices.	Kenya Private Sector Alliance (KEPSA), Kenya Association of Manufacturers (KAM) and the business community	Code of Ethics for Business in Kenya developed and officially launched.  At the end of 2011/12 FY a total of 52 firms had signed up to the Code.	Code of Ethics for Business in Kenya

Nature of Partnership	Stakeholders	Implementation Status	Outcome/Output
Promoting and enhancing professional ethics and integrity	Association of Professional Societies in East Africa (APSEA) and affiliate professional associations	<p>Four Codes of Ethics and Conduct for professional Associations developed.</p> <ol style="list-style-type: none"> <li>1. Institute of Clerks of Works</li> <li>2. The Society of Radiography in Kenya</li> <li>3. Associations of consulting Engineers of Kenya</li> <li>4. Kenya Institute of Bankers</li> </ol> <p>The Commission provided technical support and offered advisories.</p> <p>The Commission supported the Official Launch of Codes of Conduct and Ethics for five (5) professional Associations including the Kenya Dental Association Code which was developed in the previous year.</p>	Four Codes of Conduct and Ethics for professional Associations and launch of six Codes of Conduct.
Enhancing transparency and integrity in public contracts.	Public Procurement Oversight Authority (PPOA), Transparency International (TI)-Kenya KEPSA and stakeholders	<p>Contract Monitoring Network established.</p> <p>Baseline survey on the state of social monitoring of contracts in the health sector undertaken.</p> <p>Social monitoring tool of service delivery in health sector developed.</p>	<p>Contract monitoring network.</p> <p>Baseline survey report.</p> <p>Social monitoring tool.</p>

## **c) Ongoing Partnership Activities**

### **i) Development of the Lands Information Management Metadata Specification**

Land in Kenya is a key resource and central to the country's economic development. However, information on land is fragmented in different departments; poorly organized, leading to delays in retrieval of information and in some cases provision of inaccurate information. This disharmony has created loopholes that are exploited for corrupt practices such as double allocation; issuance of fake title deeds and fraudulent sale of land among others.

Through the partnership with Kenya Bureau of Standards (KEBS) and stakeholders, an initiative which aims at developing a standard to guide land information management systems data capture has commenced. The *Land information management – Technical specification - metadata standard* once developed will provide effective management of land information and complement EACC's efforts in combating corruption in land management.

### **ii) Development of an MOU between EACC and Public Procurement Oversight Authority**

Procurement is one of the key areas where the Ethics and Anti-Corruption Commission in fulfillment of its mandate seeks to collaborate with stakeholders to address the malpractices in the sector. The importance of addressing public procurement stems from its central role in the Kenyan economy, as the avenue through which a large percentage of public funds are utilized. Besides most of the corruption cases reported to the EACC relate to public procurement.

To this end the two agencies developed a draft Memorandum of Understanding. The scope of the collaboration extends to jointly fostering the prevention of and the fight against corruption "in public procurement and disposal" to complement the respective mandates.

### **iii) Kenya Leather Development Council (KLDC)**

The Commission through the KLDC and stakeholders in the leather industry embarked on development of a collaborative framework to address the challenges and unethical practices in the leather sub-sector. The Commission in collaboration with the Council mapped out the areas of concern and proposed intervention measures.

### **iv) Formulation of Codes of Conduct and Ethics for the Professional Sector**

The Commission is facilitating and providing technical support to four (4) professional associations in developing Codes of Conduct and Ethics, through the collaboration efforts with Association of Professional Societies in East Africa (APSEA). The Codes are at various stages of development.

**v) KEPSA/KAM Programmes - Training on Ethics and Integrity for the Private Sector**

Implementation of training programmes on integrity and ethics for the private sector pursuant to the private sector partnership programmes.

**vi) Contract Monitoring in Kenya**

Pilot exercise on social monitoring of service delivery in the health sector in selected hospitals is underway. This is part of broader initiatives to enhance transparency and accountability in public contracts under the contract Monitoring network.

## 5.3 Public Education, Training and Awareness Creation

In order to raise awareness and educate the public on dangers of corruption, ethical issues and foster public support in combating corruption, the Commission develops and promotes standards and best practices in integrity, anti-corruption and good governance, conducts public education aimed at educating the public on the dangers of corruption, promoting ethics, integrity and good governance and enlisting the public in the fight against corruption.

### 5.3.1 Capacity Building

**a) Public Service Integrity Programme**

Integrity Assurance Officers training (IAOs) programme focuses on developing a pool of skilled officers in the public sector to support management on corruption risk mapping and management. The target group is middle level managers. Table 23 provides details on IAO training undertaken in 2011/2012.

**Table 23: Integrity Assurance Officers (IAOs) Trained 2011-2012**

Type of public institution	No. of institutions	No. of staff trained
Ministries	8	59
State corporations	93	301
Local authorities	23	48
Tertiary institutions	33	86
<b>Total</b>	<b>157</b>	<b>494</b>

**b) Corruption Prevention Committees (CPC)**

Following the adoption of enhanced 'corruption eradication indicator' in public service performance contracting by the Department of Performance Contracting (Office of the Prime Minister), it was agreed that EACC undertakes capacity building workshops

on corruption prevention and integrity targeting all senior managers in Ministries, Departments and Agencies (MDAs). Table 24 provides detail on CPC training.

**Table 24: Corruption Prevention Committees (CPC) Trained**

Type of public institution	No. of institutions	No. of staff trained
Ministries	9	99
State corporations	64	777
Local authorities	39	50
Tertiary institutions	32	108
<b>Total</b>	<b>144</b>	<b>1034</b>

### **c) Corruption Prevention/ Integrity Committee Capacity Building Programme**

Corruption prevention committee/ integrity committee members capacity building entails training all members of the committee that includes Permanent Secretaries, Chief Executive Officers of state corporations, Clerks of local authorities' and Principals of tertiary college and their respective Heads of departments.

The training focuses on corruption risk assessment and management with a view to developing a risk mapping profile of their respective institutions and formulation of Corruption Prevention Plan (CPP) to inform the strategies and other anti-corruption activities to be initiated.

## **5.3.2 Public Education and Awareness**

### **a) Regional Anti-Corruption Outreach Clinics**

The Commission conducted regional Anti-Corruption Outreach Clinics in Meru, Tharaka-Nithi and Embu counties reaching an estimated audience of 1.3 million Kenyans in those counties. The clinics involved general sensitization, awareness creation, advisory services, corruption reporting and dissemination of over 30,000 IEC materials.

### **b) Anti-Corruption Partnership with Civil Society**

The Commission partnered with the National Council of NGOs in organizing a national conference in August 2011 whose theme was 'Inspiring Good Governance in the New Constitutional Dispensation.' A total of 164 participants drawn from Governance and Anti-Corruption Practitioners, Civil Society, Community and Faith Based Organizations attended the conference to share experiences and develop capacities for monitoring corruption within their communities.



*Regional Outreach Clinic in Meru County*

### 5.3.3 Dissemination of Information, Education and Communication Materials (IEC)

In order to intensify anti-corruption, public education and awareness, the Commission continued to disseminate IEC materials throughout the country. As a result of the declined stock levels, a total of 167,266 assorted IEC materials were disseminated this year compared to 264,041 in the previous year. These included simplified anti-corruption laws (ACECA, POEA, PPDA and Case Studies); brochures such as Frequently Asked Questions and On the Frontline against Corruption; faiths based Anti-Corruption Bible Study Guide; Posters and school curriculum support booklets such as Character Counts, Kenya: My Country among others. In addition, the Commission's website remains a vibrant platform for the dissemination of IEC materials.

**Table 25: Dissemination of IEC materials**

<b>Title of the IEC Material</b>	<b>English</b>	<b>Kiswahili</b>	<b>Total</b>
On the Frontline against Corruption	10,219	10,142	<b>20,361</b>
Frequently Asked Questions	10,265	14,178	<b>24,443</b>
Anti-Corruption and Economic Crimes Act	128	10,678	<b>10,806</b>
Public Officer Ethics Act	196	11,219	<b>11,415</b>
Public Procurement and Disposal Act	5,113	5,225	<b>10,338</b>
Anti-Corruption Case Studies	1,809	4,400	<b>6,209</b>
Anti-Corruption, Ethics and Integrity Posters	1,450	11,753	<b>13,203</b>
My Character Counts	1,811	-	<b>1,811</b>
Anti-Corruption Bible Study Guide	6,076	-	<b>6,076</b>
Kenya: My country	1,811	-	<b>1,811</b>
Others	60,793		<b>60,793</b>
<b>Total</b>	<b>99,671</b>	<b>67,595</b>	<b>167,266</b>

### 5.3.4 Mainstreaming Anti-corruption, Ethics and Integrity in public, private and civil society sectors

The Commission continues to invest in training as one way of the mainstreaming anti-corruption programmes in all spheres of public life in Kenya. The Commission implemented anti-corruption, ethics, integrity and good governance training for the Institute of Chartered Public Secretaries of Kenya (ICPSK) with a total of 85 members in attendance in two day forums. The Commission further trained 534 members of staff from National Irrigation Board (NIB) in Bura, Hola, Mwea, Perkerra and Ahero branches and Kenya Prisons Department on the same.

Overall, a total of 3,244 individuals from various institutions throughout Kenya were sensitized and trained on matters of corruption intolerance, ethics, integrity and good governance shown in Table 26.

**Table 26: Sensitization in public, private and civil society**

Type of institution	No. of institutions	No. trained
Public	30	2557
Private	4	664
Civil society	Various	23
<b>Total</b>		<b>3244</b>

### 5.3.5 Development of Leadership and Integrity Curriculum

The Commission in conjunction with National Intelligence Service (NIS), Office of the Audit General and the Kenya School of Government (KSG) developed a curriculum on Leadership and Integrity which will be offered at the Kenya School of Government as a compulsory course for all senior state and public officers in the public service.

### 5.3.6 Faiths Sector Anti-Corruption Programmes

Over the years, the Commission has continued to partner with faith based organizations in Kenya to mainstream anti-corruption, ethics, integrity and good governance. These are:

- The National Council of Churches of Kenya (NCCK);
- The Episcopal Conference of Kenya;
- Evangelical Alliance of Kenya (EAK);
- The Hindu Council of Kenya;
- The Supreme Council of Kenyan Muslims(SUPKEM);
- Kenya Council of Imams and Ulamaa;
- The Fellowship of Christian Unions (FOCUS).

The Commission completed scripting of the first six (6) episodes of a radio programme focusing on the Commission's Anti-Corruption Bible Study Guide developed in 2010. This series of radio programmes is aimed at equipping Kenyans with the necessary knowledge, skills and attitudes in combating and reporting corruption.

### 5.3.7 Mainstreaming Anti-corruption, Ethics and Integrity in learning institutions

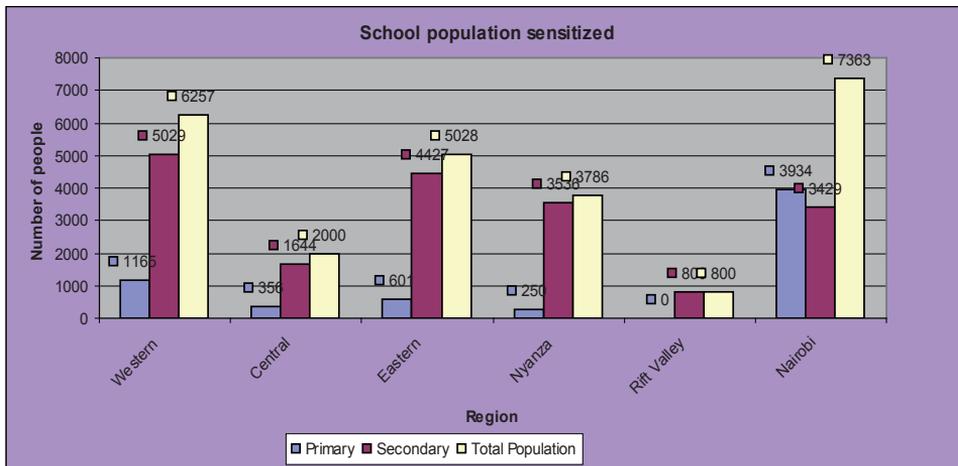
#### a) Adili/Integrity Clubs in Learning Institutions

One of the Commission’s key strategies in the fight against corruption is the values and ethics based strategy. During the year under review, the Commission engaged in school outreach and training of school managers programmes.

##### i). School Outreach Programme

The Commission conducted outreach to 47 schools to follow up and review progress on the establishment of Integrity Clubs and sensitized over 25,234 students and teachers drawn from six regions as illustrated in Figure 6.

**Figure 6: Sensitization of Students in Various Regions**



##### ii). Training of School Managers

The Commission held two workshops for school managers on the theme ‘Leadership and Integrity’ in Kisumu and Nakuru counties where a total of 500 primary and secondary school head teachers were trained on leadership and integrity, corruption prevention and mainstreaming of values. The workshops also enlisted support of the school managers in the establishment of Integrity Clubs.

#### b) University and College Programme

The Commission conducted training and sensitization programme for public and private universities and colleges on ethics, integrity and good governance and the establishment of Integrity Clubs/Forums. A total of 3,787 students and staff were trained as shown in the table 27.

**Table 27: Anti-Corruption Sensitization in Universities and Colleges**

<b>University/College</b>	<b>No. of individuals sensitized</b>
Maseno University	88
African Nazarene University	85
Narok University	10
Moi University	20
Muranga Teachers College	800
Egoji Teachers College	1528
Meru Teachers College	82
Shanzu Teachers College	100
Kenya Technical Training College	880
Gusii Institute of Technology	194
<b>Total</b>	<b>3,787</b>

### **c) Partnership with other Stakeholders**

The Commission trained a total of 240 participants comprising Board of Governors, School Management Committees and PTA members on anti-corruption and good governance strategies. The trainings were conducted in Kitale, Eldoret, Kakamega, Nakuru and Kisii in workshops organized by the Commission in partnership with Kenya National Association of Parents (KNAP).

The Commission also trained a total of 194 Clerks, Treasurers and Senior Officers of the Local Government from all local authorities on anti-corruption, ethics, integrity and anti-corruption legal instruments, in a series of training sessions that took three months in Embu.

Leadership and Integrity workshops were held at Kisumu and Nakuru Counties where a total of 323 Managers of learning institutions were trained. The training aimed at preventing corruption and engendering moral values in schools. In addition, a total of 90 members of the Kenya Secondary Schools Heads Association were sensitized on anti-corruption during their 2012 Annual Regional Conference in Mombasa.

### **d) Participation in Schools and Colleges National Music Festivals**

The Commission sponsored a special anti-corruption category during the 2011 National Music Festival by donating nine (9) trophies to the winning teams. The Festival, whose theme was 'Fostering National Pride and Patriotism' attracted an audience of about 80,000 people.

### **e) Participation in Kenya National Drama Festival**

The Commission took part in the preparations of the Nairobi Zonal Colleges and Universities Drama Festivals Workshop by training students and teachers on scripting and directing of verses, narratives, plays and dances. A total of 150 participants were trained.



Photo: Learners who won in the anti-corruption category held in Kakamega

### 5.3.8 Wealth Declaration Project

The Commission was implementing a wealth declaration project whose overall goal is to promote accountability and transparency in the public sector in Kenya. Its objective is to enhance the capacity of Ethics and Anti-Corruption Commission to reduce corruption risks in the public sector through an efficient and effective wealth declaration and audits system.

Towards this end, a total of 66 Officers were trained for specialized skills with respect to investigatory capacity for asset tracing and recovery. In addition, sensitization on the role of the public in wealth declaration was carried out in four (4) Counties.

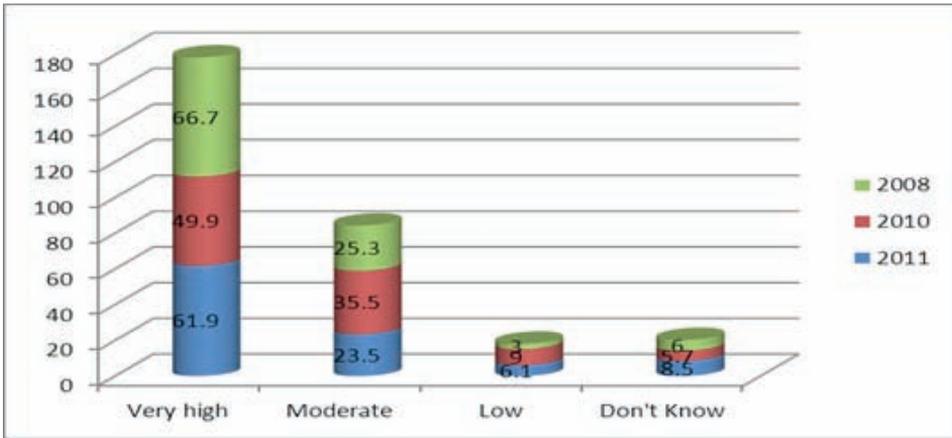
## 5.4 Research into Corruption and Governance Issues

### 5.4.1 National Corruption Perception Survey, 2011

The Commission conducted the 2011 National Corruption Perception Survey (NCPS) to document and measure corruption by analyzing the nature and interpretation of corrupt practices which the public encounter. The Survey sampled about 6,000 households and established that:

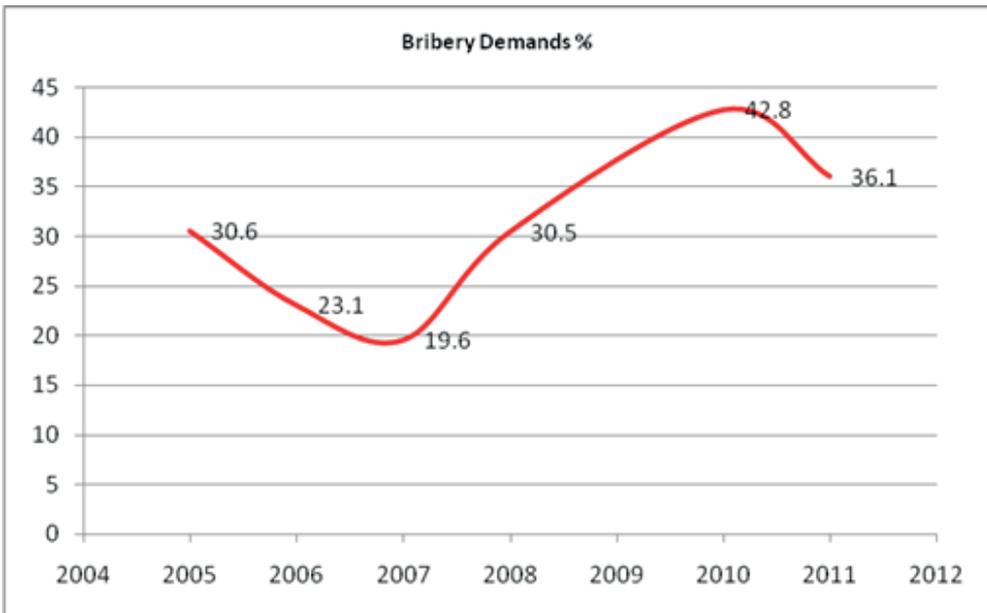
- a) The level of corruption was higher in 2011 than in 2010, where 61.8 per cent of the respondents rated the level of corruption to be high in 2011, compared to 49.9 per cent in 2010. Figure 7 presents comparative levels of corruption in the last four years.

**Figure 7: Comparative levels of corruption in Kenya (%)**

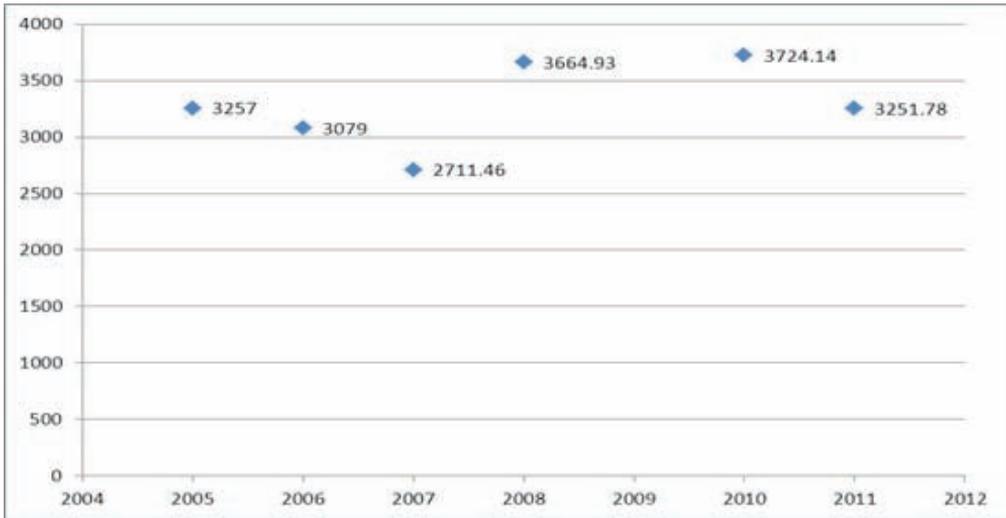


b) Bribery demands declined from 42.8 per cent in 2010 to 36.1 per cent in 2011, as shown in Figure 8 below.

**Figure 8: Trend of bribe demands in the country from 2004 to 2012**



c) Average bribe paid by an individual decreased from Kshs 3,724.14 in 2010 to Kshs 3,251.78 in 2011 as shown in Figure 9 on page 62.

**Figure 9: Average amount of a bribe paid by household income**

- d) An analysis by County shows that Meru Central had the highest incidence of bribery demands (64.1%) followed by Nithi (64%), Nyamira (62.1%) and Thika (52.1%). Further analysis revealed that all the bribery demands in Turkana and Makueni were met.
- e) Of the households visited, only 5.4 per cent had reported a corrupt act in the past one year. However, over 60 per cent of the respondents would report a corrupt act if they witnessed it happening compared to 39.4 per cent who would not. Among those who would not report corruption, 49 percent of the respondents cited proximity/accessibility to the report center would deter them, 42.2 percent indicated that they do not know where to report while 3.8 percent fear victimization.
- f) The most effective measures of combating corruption were prevention of corruption (45.6%), administrative sanctions on public officials (44.2%), mobile clinics (43.1%) and Partnerships and coalition of stakeholders in the fight against corruption (40%).

The key recommendations arising from the Survey include:

1. Speed up efforts to adopt a comprehensive Anti-Corruption Policy aiming at strengthening the implementation of anti-corruption measures.
2. Enhance involvement and participation of the general public, religious organizations as well as representatives of the private sector/business community and the media in the fight against corruption.
3. Conduct awareness campaigns and organize training for the general public on where to report incidences of corruption.

## 5.4.2 Sectoral Perspectives on Corruption: The Case of Land in Kenya

The Commission conducted a study whose objective was to assess the extent and nature of corruption in the Lands Sector and its consequences on service delivery in the Ministry of Lands (MOL). The main findings of the study are:

- a) Thirty four (34) per cent of respondents indicated that corruption was still rampant in the Sector while 24% indicated that the vice is still common. Respondents identified abuse of office (42%), intentional delays in service provision (37%), bribery and extortions (12%), and tribalism (9%) as the most common forms of malpractices.
- b) The major processes prone to corruption were identified as issuance of title deeds (35%), survey services (33%), approval of physical planning (15%), conducting a search (10%) and subdivision/succession (7%).
- ci) Majority of the respondents (70%) were not satisfied with the services offered to them. The situation was attributed to demands for bribes.

The key recommendations emanating from the study are:

1. The need to develop guidelines so as to ensure transparency and fairness in repossessioning public land and conversion of communal land to private land. Similarly, there is need to formulate sound guidelines for determining resettlement of persons and purchase of land for the land banks.
2. The need to automate land records management systems to enhance information management for transparency and accountability in service delivery.
3. EACC in collaboration with Ministry of Lands should institute corruption prevention and investigative measures to deal with malpractices and suspected cases of corruption and mismanagement in the Sector and specifically the Ministry and its departments.
4. An independent and effective monitoring system to guard against malpractices, corruption and abuse of office need to be established.

## 5.4.3 Evaluation of the Integrity Assurance Officers (IAO) Programme

An IAO is an officer selected and trained by the Ethics and Anti-Corruption Commission and assigned duties to offer technical expertise in the implementation of corruption prevention strategies in his/her respective institution. Currently, the Commission has trained 3,500 from 350 public institutions. The objective of this evaluation was to measure the impact of the IAO activities. Specifically, the evaluation sought to assess the extent of implementation, relevance, effectiveness and suitability of the IAO

activities. In addition, the evaluation sought to assess the successes of the activities, assess the challenges experienced and propose best practices in the implementation of the activities. The main findings of the evaluation are:

- a) The evaluation revealed that 89 per cent of the Integrity Assurance Officers interviewed had conducted staff sensitization in their respective institutions after undergoing the IAO training as opposed to 11 per cent who were yet to conduct staff sensitization. Lack of management support and few Integrity Assurance Officers were the main reasons some officers had not conducted staff sensitization.
- b) One of the key mandates of an IAO is the setting up of the Corruption Prevention Committee (CPC). Over 93 percent of the respondents indicated that they have a Corruption Prevention Committee in place as opposed to five per cent who indicated that they had not formed the Committee.
- c) In terms of implementing the recommendations of the CPC deliberations, 84 per cent of the target respondents indicated that they implement their recommendations as opposed to 16 per cent who indicated that the recommendations of their CPC meetings were not being implemented. Among the reasons cited for failure to implement CPC resolutions are lack of support by top management and lack of sensitization of staff.
- d) About 60 per cent of the target respondents indicated that a corruption risk assessment had been conducted in their institution. The IAO respondents identified the following as the main issues raised in corruption risk assessment: irregularities in the system (30%), procurement malpractices (22%), Cash handling (20%), recruitment of staff (18%) and unclear promotion criteria (5%).
- e) Close to 80 per cent of the target respondents indicated that their organization has developed a Corruption Prevention Plan (CPP). Further, 57 per cent of the target respondents indicated that the CPP is being implemented in some operational areas followed by 29 per cent who indicated that all the operational areas are implementing the CPP while 13 per cent indicated that the CPP is not being implemented at all. Among the reasons extended by the target respondents for not implementing the CPP are; CPP at planning stage (36%), lack of policy on fighting corruption (27%), recently formulated CPP (18%) and lack of commitment from the management (18%).
- f) Over 75 percent of the respondents indicated that the implementation of IAO activities had produced observable results in their institutions. Among the observable results were; reduced corruption (31%), increased sensitization (27%), reporting of corruption incidences (16%), customer/employee

satisfaction (15%), improved performance (10%), obtained ISO- Certification (6%), open space policy (5%) and increased revenue collection (5%).

- g) When further asked to state the kind of challenges they encounter while implementing IAO activities, 33 per cent mentioned hostile reception from staff members, 29 per cent indicated few IAOs, 18 per cent said they inadequate financial support, while 15.9 percent cited victimization by staff.

The key recommendations of the evaluation include:

1. Establishment of a clear monitoring and evaluation framework that will oversee the implementation of IAO activities at the institutional level in collaboration with the institutions targeted.
2. There seems to be lack of coordinated feedback mechanism from the CPC to EACC and vice versa. Whereas, some CPC forward their deliberations to the Commission, they seem not to get feedback.
3. Conduct regular IAO forums to address emerging issues and provide a platform for IAOs to share experiences and ideas.

#### **5.4.4 Evaluation of National Penetration of Information Education Communication (IEC) Materials**

The Commission conducted an evaluation on the extent of penetration of its IEC materials in public institutions. The main findings of the evaluation are:

- a) Majority of the respondents (86%) acknowledged availability of IEC materials in their institutions. Of all the types of IEC materials published and disseminated, 89 per cent of respondents were familiar with posters, while 62 per cent with books and 35 per cent with media.
- b) More than half of the respondents (55%) indicated that the Commission's IEC materials were relevant. Most respondents (69%) noted that the IEC materials had created an understanding of corruption.
- c) The IEC materials were found to be effective in fighting corruption as indicated by 32 per cent of the respondents who noted that the materials had created public awareness and enhanced sensitization in the fight against corruption. Another 12 per cent of the respondents acknowledged that the materials had improved public relations in their institutions.

The following are the recommendations arising from the evaluation:

1. The need to put in place mechanisms to avail IEC materials to schools and institutions (public and private) of higher learning across the country;
2. The need to review dissemination strategies for IEC materials so as to improve penetration and coverage.

#### 5.4.5 Ongoing Research Activities

- a) **Ethics and Corruption Baseline Survey, 2012:-** The study sought to establish the status of corruption in the country and ethics within the public service. This will provide benchmarks for monitoring and evaluating effectiveness of interventions by the EACC programmes. Data for the study was collected, analyzed and study report done. The report awaits printing.
- b) **Sectoral Perspectives on Corruption in Kenya: The Case of Judicial Sector:-** The study sought to assess the nature of corruption and its effects on service delivery in the Kenyan Courts. Data was collected and captured in computer system. Data analysis and writing of the draft report is ongoing.

#### 5.4.6 Implementation of the National Anti-Corruption Plan

Implementation of the National Anti-Corruption Plan (NACP), which was launched in 2006, involves 14 sectors. The sectors implement sectoral anti-corruption and governance initiatives identified in the Plan in order to achieve good governance and zero tolerance to corruption in all spheres of life in Kenya. Kenya Integrity Forum (KIF) Secretariat coordinates the implementation of the National Anti-Corruption Plan. The Secretariat provides the necessary support to the participating organizations to ensure timely implementation of their anti-corruption initiatives.

During the reporting period, the Commission continued to implement its programmes under the National Anti-Corruption Plan (NACP), and provided support to the operations of the Kenya Integrity Forum (KIF). The Commission also sponsored the development and publication of the NACP Monitoring and Evaluation Framework whose objective was to provide a structured system for the NACP Coordinating Committee to be more effective in measuring and assessing implementation of the Plan. The M&E Framework was published and disseminated to the stakeholders.

## CHAPTER 6

### INSTITUTIONAL CAPACITY BUILDING

#### 6.1 Introduction

The Commission continued to efficiently utilize its financial, human and physical resources in order to execute its mandate. This section outlines activities undertaken in the reporting period.

#### 6.2 Financial Resources

The Commission was allocated Kshs 1.617 billion in its Recurrent Vote and Kshs 232 million in the Development Vote as printed Estimates for the FY 2011/12. The Recurrent and Development votes were revised to Kshs 1.408 billion and Kshs 44 million during Supplementary Estimates respectively.

The Commission, in its endeavor to ensure enhanced efficiency and prudence in the utilization of the available budget resources, maintained proper books of Accounts, enforced tight financial controls and ensured timely reporting on the budget.

##### a) GOK Recurrent Funds

From a total recurrent budget of Kshs 1.4 billion, the Commission received from Treasury Kshs 1,292,148,522 in exchequer releases which enabled the Commission to run its core mandate functions as well as meet its staff obligations and administrative expenses. A total of Kshs 1,262,982,219 was spent, translating into 89.7% fund absorption rate for the year.

##### b) GOK Development Funds

During the reporting period, the Commission had a balance of Kshs 49,684,964.45 from the previous financial year.

##### c) Donor Funds

The Commission and the United Nations Development Programme (UNDP), entered into a three year partnership to undertake a Wealth Declaration Project. UNDP contributed Kshs 17,887,996 while the GOK (EACC) contributed Kshs 5,000,000 as counterpart funds towards the Project.

## 6.3 Human Resource Management and Development

### 6.3.1 Staff Complement

In the beginning of the reporting period, the Commission had a complement of 273. In the course of the year, 31 new staff were recruited while 22 exited. At the end of the reporting period, the complement was at 282.

### 6.3.2 Skills and Competency Development

The Commission trained its staff as shown in Table 28 with the support from the Government, World Bank, UNDP and local institutions.

**Table 28: Summary of staff training**

No	Broad Areas	No. of Participants per Course
1	Anti-Money Laundering	50
2	Basic Criminal Investigations	2
3	Conduct of Meetings and Minutes Writing	10
4	Corruption Prevention	20
5	Crime Prevention	2
6	Financial Management	1
7	Forensic Investigation	47
8	Good Governance	3
9	Information Communication Technology	21
10	Integrity Testing	3
11	Transport Logistics	1
12	Management & Leadership	7
13	Procurement	53
14	Project Planning	5
15	Public Policy Analysis	15
16	Records Management	2
17	Report Writing and Presentation	11
18	Supervisory Skills	14
19	Other Trainings for Continuous Professional Development (CPD)	126
	<b>Total</b>	<b>393</b>

## 6.4 Communications

### 6.4.1 Information Communication Technology

The Commission continued to enhance its ICT infrastructure and systems in line with its technological needs and global rapid technological advancements. In this regard the Wide Area Network was extended to the Nyeri and Garissa Regional Offices to cater for resource sharing and communication.

The operational workstation environment was enhanced through acquisition of new communication equipment.

The Commission collaborated with various partners and government agencies in development of unified technology platforms to enhance sharing of information and data. In this regard, implementation of the following platforms was initiated:

- a) Wealth Declaration System – A platform to facilitate electronic capture and manage State and Public Officers wealth declaration records. This is an ongoing development in partnership with the United Nations Development Program (UNDP).
  
- b) Integrated Complaints Reporting Mechanism (IPCRM) – A platform to facilitate unified complaints reporting centres for five investigative agencies i.e the Ethics and Anti-Corruption Commission, the Kenya National Commission on Human Rights, the National Cohesion Integration Commission and the Commission on Administrative Justice. This is an ongoing development in partnership with the German International Cooperation (GIZ).

### 6.4.2 Media Relations

The Commission worked with the mass media by availing the necessary information for public consumption through press releases, supplements and press briefings. EACC participated in a workshop organized by InterNews Agency and sensitized journalists on the Ethics and Anti-Corruption Commission Act, 2011.

### 6.4.3 Website

The Commission's website received a total of 111,223 hits at an average of 304 hits daily. The majority of the hits originated from the United States of America (USA) at 55.11 per cent followed by Kenya at 17.93 per cent among others. Most Commission advertisements, publications, Statutes and other IEC materials can be accessed through the website.

## CHAPTER 7

### NATIONAL AND INTERNATIONAL ENGAGEMENTS

#### 7.1 Introduction

**A**s a lead agency in matters of ethics, leadership and anti-corruption, the Commission continued to organize and participate in national and international anti-corruption initiatives and engagements.

#### 7.2 National Engagements

##### 7.2.1 Kenya Integrity Forum Engagements

###### a) Regional Integrity Review Forums

The Commission in partnership with the NACP Sectors organized Regional Integrity Review Forums in Kisii, Kakamega, Nakuru and Kitale. Sectors presented their NACP implementation progress reports and engaged the public and stakeholders in anti-corruption and governance issues. A total of 1, 317 participants attended the forums.

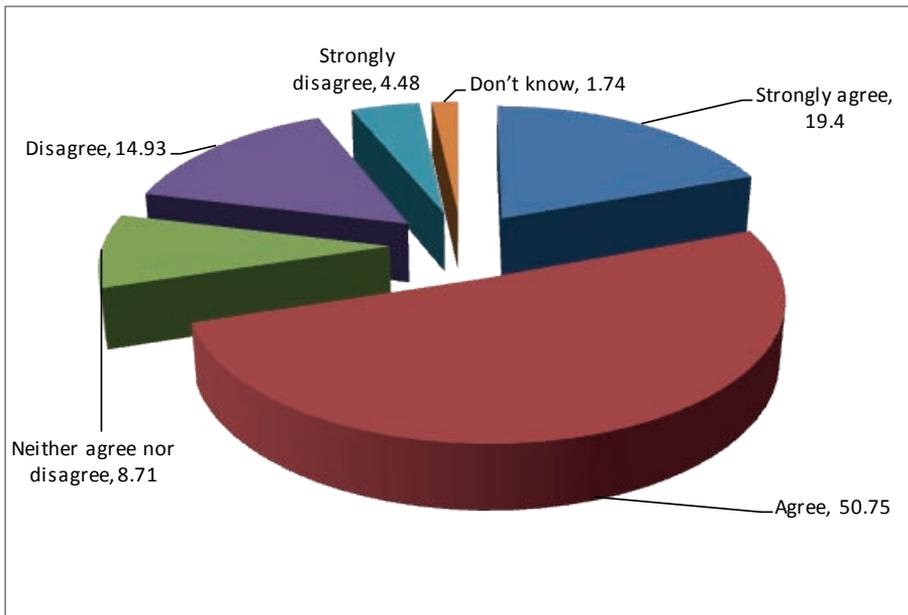


*Mrs. Jane Muthaura, Chairperson, NACP Coordinating Committee addressing the forum in Kisii*

An evaluation of the forums showed that the public have confidence in the initiative. When asked to what extent they agreed that the multi-sectoral initiative of fighting corruption in the country was succeeding, 19.4 per cent of the participants strongly agreed the initiative is succeeding while 50.75 per cent agreed.

The participants indicated reduced levels of corruption and increased revenue generation as some of the gains of fighting corruption which have been witnessed.

**Figure 10: Extent to which participants agreed the multi-sectoral initiative is succeeding**



### **b) Integrity Review Workshop**

An Integrity Review Workshop was held in Mombasa to consolidate the NACP Progress Implementation Report 2010/2011 and to review the organization and performance of the Regional Integrity Forums.

#### **7.2.2 International Anti-Corruption Day**

The Commission sponsored the International Anti-Corruption Day commemoration that was held at the Kenyatta Grounds in Kisumu on December 9, 2011 under the theme "Blowing the Whistle against Corruption: Leadership and Integrity for Good Governance."



*(L-R) Hon. Musikari Kombo, Hon. William Cheptumo (Chief Guest speaker), Assistant Minister, Ministry of Justice, National Cohesion and Constitutional Affairs, Mr. Joseph Kinyua, PS Ministry of Finance and Arch-Bishop Eliud Wabukala in Kisumu during the Commemoration of the International Anti Corruption day*

### **7.2.3 Kenya National Integrated Civic Education (K-NICE)**

The Commission participated in K-NICE interactive Radio Talk Show (Ghetto FM 89.5) featuring discussion on Chapter six and seven of the Constitution of Kenya. The K-NICE programme is an initiative of the Government of Kenya implemented through the Ministry of Justice National Cohesion and Constitutional Affairs in partnership with non-state actors for purpose of conducting comprehensive civic education on the Constitution.

## **7.3 International Engagements**

### **7.3.1 East Africa Protocol on Preventing and Combating Corruption**

The Commission participated in the development and finalization of the East African Community Protocol on Preventing and Combating Corruption. The Protocol, which is presently awaiting adoption by the Summit, seeks to harmonize anti-corruption legislation and initiatives across the region, whilst providing a platform to cooperation among the Partner States.

### 7.3.2 Conference of African Ministers for Public Service

The Commission participated in the 7<sup>th</sup> Conference of African Ministers of Public Service (CAMPS) initiatives at KICC, Nairobi in May 2011 and presented a paper on how to develop leaders for the African public service through learning and training institutions. The paper forms part of the CAMPS Guide on Leadership and Management Development in Public Service.

**Table 29: Participation in International workshops and seminars**

	<b>Host Organization, Theme</b>	<b>Objectives</b>	<b>Venue</b>	<b>No. of Participants</b>
1.	World Bank Capacity Building  Training of Trainers Program on Asset Recovery	Asset Recovery	Uganda	5
2.	Konrad Adenauer Stiftung  Stakeholders Conference on Corruption and Human Rights	Share experiences, challenges and good practices on the work of the African Human Rights Institutions and various Anti-Corruption Agencies in fighting corruption	Lusaka, Zambia	2
3.	Old Challenge, New Approach: Fighting Corruption in a changing World  5 <sup>th</sup> Independence Commission Against Corruption (ICAC) Symposium	Shed light on new perspectives/ strategies by which the problem of corruption can be more effectively addressed in a fast changing world.	Hong Kong	1
4.	Corruption and Good Governance 2 <sup>nd</sup> Commonwealth Regional Conference for Heads of Anti-Corruption Agencies in Africa	Provide a unique platform for sharing emerging practices and country innovations in the fight against corruption and the promotion of good governance.	Livingstone, Zambia	3

	<b>Host Organization, Theme</b>	<b>Objectives</b>	<b>Venue</b>	<b>No. of Participants</b>
5.	Strengthening Accountability and Transparency in REDD+ In Africa Training, Regional Awareness Raising and Training Workshop	Sensitize participants on the rationale, as well as approaches to address corruption risks in REDD+	Lusaka, Zambia	1
6.	4 <sup>th</sup> IAACA Conference	Promote and support the implementation of the United Nations Convention Against Corruption (UNCAC), fostering constructive collaboration among its members in prevention, asset recovery and international cooperation.	Dalian China	2
7.	3 <sup>rd</sup> Session of the Implementation Review Group of the Convention Against Corruption (UNCAC)		Vienna Austria	1
8.	Meeting of Experts, East African Community Protocol on Good Governance	Corruption and Good Governance	Tanzania Arusha	1
9.	UNODC Initiative Promoting the United Nations Convention Against Corruption as a Framework to Mainstream Anti-Corruption Safeguards Related to the Organization of Major Public Events.	Identify good practices, based on the United Nations Convention Against Corruption, (UNCAC) for preventing corruption in conjunction with such events to be disseminated among various stakeholders.	Vienna, Austria	2

	<b>Host Organization, Theme</b>	<b>Objectives</b>	<b>Venue</b>	<b>No. of Participants</b>
10.	USA – StAR	The StAR initiative is focusing on lowering the barriers to asset recovery; building national capacity for asset recovery; and providing preparatory assistance in the recovery of assets	USA	1
11.	Regional Training Programme for Investigation Officers of Anti-Corruption Institutions	Investigation Skills for Commonwealth African Countries	Gaborone Botswana	1
12.	19 <sup>th</sup> – 29 <sup>th</sup> April, 2012.	Research for effective progress in audit and enquiries.	Luanda, Angola	3
13.	Public Financial Management, Planning and Control	Increase competence, knowledge and, enable public administrators to act as change makers – for the sustained benefit of their region, their nation, their community”	London, United Kingdom	1
14.	Resumed 2 <sup>nd</sup> Session of the Implementation Review Group (IRG) of the United Nations Convention Against Corruption (UNCAC)	Review of the implementation of the United Nations Convention Against Corruption.	Vienna Austria	1
15.	Marquette University Les Aspin Centre	Training	Washing DC, USA	1
16.	Request made by the Office of the Ombudsman	Investigations into allegations that Maweu K. Peter secured a job fraudulently	Kigali, Rwanda	1
17.	Second StAR-INTERPOL Asset Recovery Focal Points Meeting	Enhancing police tools in asset recovery	Jordan	1

	<b>Host Organization, Theme</b>	<b>Objectives</b>	<b>Venue</b>	<b>No. of Participants</b>
18.	15 <sup>th</sup> UNAFEI UNCAC Training Program: Effective Legal and Practical Measures against Corruption.  Criminal Justice Response to Corruption	Strengthen the capacity and ability of Criminal Justice Organizations and their personnel to take more proactive and effective measures in the fight against corruption.	Japan	2
19.	Law Enforcement Executive Development Program	Corruption and Rule of Law	International Law Enforcement Academy (ILEA)	1
20.	Crown Prosecution Service Counsels (UK)	Meeting on the extradition of Mr. Yagnesh Mohanlal Devani	London, United Kingdom	1
21.	Managing People Through Change – Attitudes and Behaviour		United Kingdom	1
22.	4 <sup>th</sup> Session of the Conference of State Parties to the UN Convention Against Corruption (UNCAC)	Reporting and follow up on the implementation of UN Convention Against Corruption.	Marrakech, Morocco	1
23.	4 <sup>th</sup> Executive Committee Meeting and 5 <sup>th</sup> Annual General Meeting of the East African Association of Anti-Corruption Authorities (EAAACA)	To exchange and share experiences on combating, preventing corruption and asset recovery from different Anti-Corruption Agencies in East Africa.	Entebbe, Uganda	6
24.	5 <sup>th</sup> Annual Conference and General Meeting of the International Association of Anti-Corruption Authorities (IAACA).	Strengthen the fight against corruption and cooperation and assistance of recovery of assets acquired through crimes established under UNCAC	Marrakech, Morocco	3

	Host Organization, Theme	Objectives	Venue	No. of Participants
25.	Effective Legal and Practical Measures Against Corruption		Tokyo, Japan	2
26.	Inspectorate of Government of Uganda  5 <sup>th</sup> Annual General Meeting and Executive Committee meeting of EAAACA		Entebbe, Uganda	1
<b>Total</b>				46

## 7.4 Corporate Guests

During the reporting period, the Commission hosted a delegation from the South Sudan Anti-Corruption Commission (SSACC) on 24 February 2012. Their visit was aimed at learning and sharing of experiences in the fight against corruption.



*Delegation from the South Sudan Anti-Corruption Commission (SSACC) meeting with Commission officers*

## CHAPTER 8

### CHALLENGES AND WAY FORWARD

#### 8.1 Challenges

The Commission was faced with numerous challenges. Some were transitional and others emanated from the legal, policy and judicial realms. The following are the major ones;

##### 8.1.1 Transitional Challenges

When the Commission was established on 5th September 2011, the offices of the Director and Assistant Directors of KACC were abolished. In spite of this, the Commissioners who were appointed to steer the Commission have been stopped from assuming office by an order of the court. Although the Commission is still running under the stewardship of the acting Secretary and three other coordinators who were appointed by the Advisory Board of KACC, the absence of commissioners has affected the operations of the commission. This has exposed the Commission to the legal challenges being raised in court about its constitution and the authority of the acting Chief Executive.

##### 8.1.2 Policy and Legal Framework

In the absence of a national anti-corruption policy to guide the fight against corruption, the efforts in the fight against corruption by EACC and other relevant institutions remain uncoordinated and varied. This has affected investigation and asset recovery by EACC particularly in areas which require an integrated approach among all institutions which may be involved in the matter. Thereby, EACC's capacity to deliver on its mandate is affected.

##### 8.1.3 Slow Judicial Process and Adverse Court Decisions

Despite the on-going reforms taking place in the Judiciary, the judicial process and the adjudication of cases is still slow. EACC was affected by adverse judicial decisions which stopped investigations or prosecution of cases.

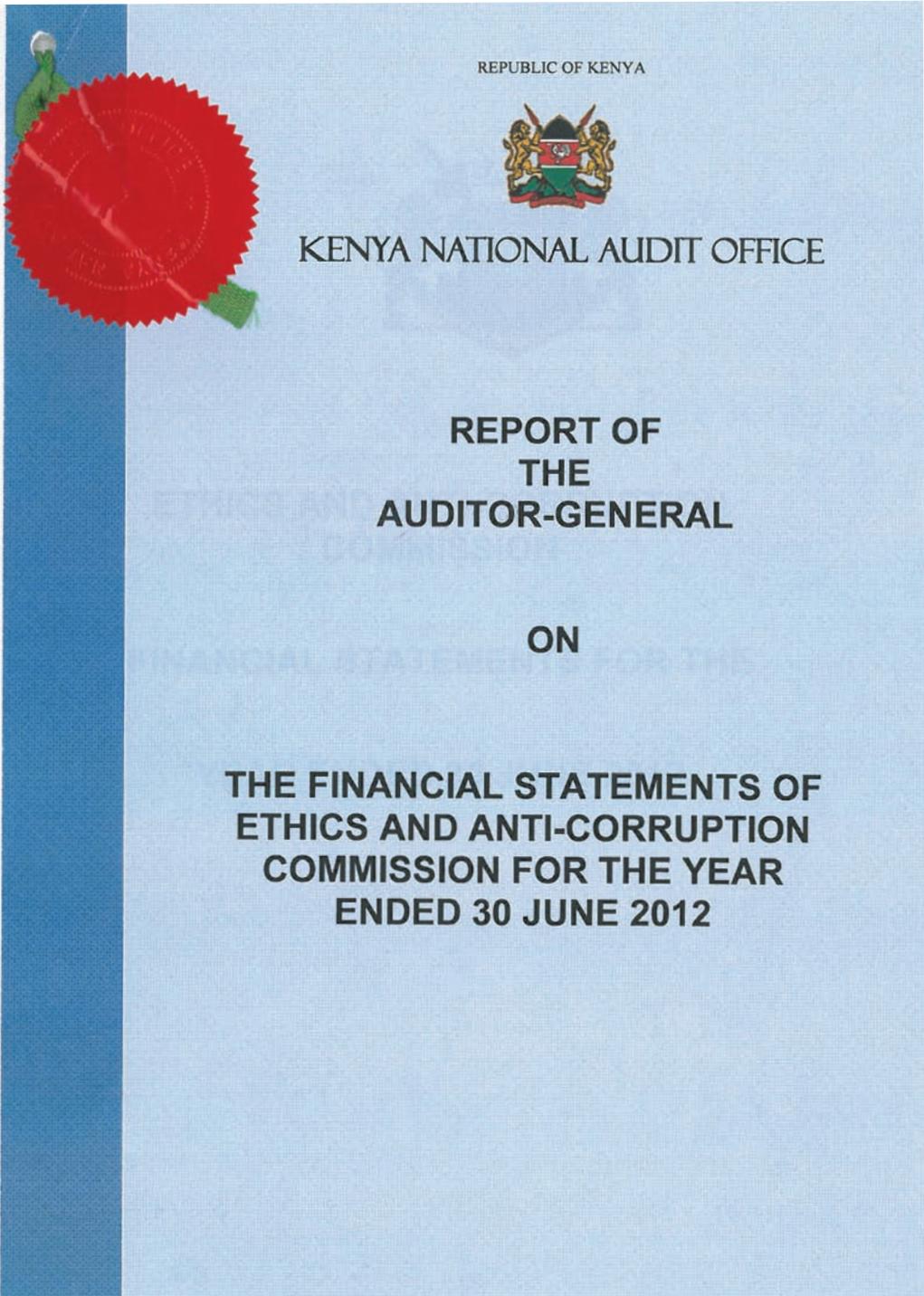
##### 8.1.4 Inadequate Capacity

As EACC started to expand its services country wide, it faced acute shortage of human resource. To enable it expand its services and have countrywide presence in tandem with the devolved system of governance, EACC will require appropriate human resource capacity.

## 8.2 Way Forward

For the Ethics and Anti-Corruption Commission to function optimally and effectively implement Chapter Six of the Constitution and other enabling laws, it will need; appropriate human and non-human resource; and robust legal procedures and mechanism. The proposed Leadership and Integrity Bill, 2012 and a re-engineered Strategic Plan will offer this solution.

## CHAPTER 9



**ETHICS AND ANTI-CORRUPTION COMMISSION  
CORPORATE INFORMATION  
FOR THE YEAR ENDED 30 JUNE 2012**

**Anti-Corruption Advisory Board Members**

The members of the Commission who served part of the reporting year are shown below:-

Mr. Eric Okong'o Mogeni	Chairman to 5th December 2011
Ms. Irene Keino	Vice-Chairman to 5th December 2011
Mr. Charles Kariuki Wambugu	Member to 5th December 2011
Ms Naomi N. Wagereka	Member to 5th December 2011
Mr. John Khameme Wanyela	Member to 5th December 2011
Mrs. Jacqueline A. Mugo	Member to 5th December 2011
Eng. Reuben K. Kosgei	Member to 5th December 2011
Dr. Abdallah A. Kibwana	Member to 5th December 2011
Mr. Suru Tanna (Deceased)	Member to 5th December 2011
Mrs. Grace Kaome Injenga	Member to 5th December 2011
Mr. Francis Wangara	Member to 5th December 2011
Mr. Billow Adan Kerrow	Member to 5th December 2011

Following the enactment of the Ethics and Anti-Corruption Commission Act No.22 of 2011 on 5 September 2011, the Ethics and Anti-Corruption Commission was established as the successor of the then Kenya Anti-Corruption Commission. This effectively changed the structure of the Commission to consist of a chairperson, two other members, a Commission Secretary and the secretariat of the Commission. For transition purposes, the policy making body, namely the Kenya Anti-Corruption Advisory Board was transitioned for ninety days or until the Commission comes into place, whichever comes earlier, whereof ninety days ended on 5 December 2011. Thereafter, the Ministry of Justice National Cohesion and Constitutional Affairs being the parent ministry undertook to provide policy direction and leadership oversight over the operations of the Commission. As at the end of the financial year, the appointment process of the chairperson and the two other members was still in progress.

**Commission Secretary**

P.O. Box 61130-00200  
Nairobi

**Principal Place of Business**

Integrity Centre  
Valley Road/Milimani Junction  
P.O. Box 61130-00200  
Nairobi, Kenya

**Auditors**

Auditor General  
Office of the Auditor General  
P.O. Box 30084-00100  
Nairobi

**Principal Bankers**

Kenya Commercial Bank  
Milimani Branch  
P.O. Box 69695-00400  
Nairobi

**Advocates**

Various  
A list is available at the Commission

## **ETHICS AND ANTI-CORRUPTION COMMISSION REPORT OF THE SECRETARY For the year ended 30 June 2012**

The Secretary presents the report together with the audited financial statements for the year ended 30 June 2012

### **Activities**

The principal activities of the Commission are to investigate corruption and economic crimes, recover lost public property and obtain compensation for damaged public property, prevent corruption and conduct public education on the dangers of corruption.

### **Results**

The results for the year are set out on page 86.

### **Members of the Commission**

The members of the KACC Advisory Board who served part of the year are listed on page 81.

### **Auditor**

The auditor of the Commission for the year ended was the Auditor General in line with the Public Audit Act, 2003 and Ethics and Anti-Corruption Commission Act, 2011. The auditor for the Commission will continue to be the Auditor General.

### **On behalf of the Commission**



**Ag. Secretary/Chief Executive Officer**  
26<sup>th</sup>  
October, 2012

## STATEMENT OF THE COMMISSION'S RESPONSIBILITIES

The Ethics and Anti-Corruption Commission Act, 2011 requires the Commission to cause to be prepared financial statements for each financial year which give a true and fair view of the financial affairs of the Commission as at the end of the financial year and of the operating results for the year.

The Commission is also responsible for keeping proper accounting records which disclose with reasonable accuracy the financial position of the Commission in addition to ensuring that the assets are safeguarded.

The Commission accepts responsibility for the annual report together with the financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgments and estimates, in conformity with the International Financial Reporting Standards and with the requirements of the Public Audit Act, 2003. The Commission is of the opinion that the annual report together with the financial statements give a true and fair view of the state of the financial affairs of the Commission and of its operating results. The Commission further accepts responsibility for the maintenance of accounting records which may be relied upon in the preparation of financial statements, as well as adequate systems of internal financial control.

Nothing has come to the attention of the Commission to indicate that the Commission will not remain a going concern for at least twelve months from the date of this statement.

**Signed on behalf of the Commission by:**



**Ag. Secretary/Chief Executive Officer**

26<sup>th</sup>

**October, 2012**

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REPUBLIC OF KENYA



P.O Box 30084-00100  
NAIROBI

## KENYA NATIONAL AUDIT OFFICE

### REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF THE ETHICS AND ANTI-CORRUPTION COMMISSION FOR THE YEAR ENDED 30 JUNE 2012

#### REPORT ON THE FINANCIAL STATEMENTS

I have audited the accompanying financial statements of Ethics and Anti-corruption Commission set out on pages 6 to 17 which comprise the statement of financial position as at 30 June 2012, and the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 14 of the Public Audit Act, 2003. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

#### **Management's Responsibility for the Financial Statements.**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatements, whether due to fraud or error.

The management is also responsible for the submission of its financial statements to the Auditor-General in accordance with the provisions of Section 13 of the Public Audit Act, 2003.

#### **Auditor- General's Responsibility**

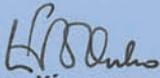
My responsibility is to express an opinion on these financial statements based on the audit and report in accordance with the provisions of Section 15 of the Public Audit Act, 2003. The audit was conducted in accordance with International Standards on Auditing. Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my unqualified audit opinion.

#### **Unqualified Opinion**

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Commission as at 30 June, 2012 and of its financial performance and its cash flows for the year then ended, in accordance with International Financial Reporting Standards and comply with the Ethics and Anti-Corruption Act, 2011.



**Edward R.O. Ouko**  
**AUDITOR-GENERAL**

**Nairobi**

**26 October, 2012**

**ETHICS AND ANTI-CORRUPTION COMMISSION**  
**STATEMENT OF FINANCIAL POSITION**  
**As at 30 June 2012**

		2012	2011
ASSETS	Note	Kshs	Kshs
<b>Non-Current Assets</b>			
Property, Plant and Equipment	2	256,038,862	287,098,975
Intangible Assets	3	14,063,769	20,596,831
Gratuity Fund Account	4	177,779,913	164,068,629
Asset Recovery Account	5	87,813,831	75,390,687
		<b>535,696,374</b>	<b>547,155,122</b>
<b>Current Assets</b>			
Inventories	6	13,168,013	15,420,875
Trade & other receivables	7	5,462,462	8,122,162
Cash and Cash Equivalents	8	169,136,061	170,370,317
		<b>187,766,536</b>	<b>193,913,353</b>
<b>Total Assets</b>		<b>723,462,911</b>	<b>741,068,476</b>
<b>EQUITY AND LIABILITIES</b>			
Accumulated Fund	15	192,330,372	192,330,372
Revenue Reserves	16	264,585,766	306,704,615
		<b>456,916,138</b>	<b>499,034,987</b>
<b>Non Current Liabilities</b>			
Gratuity Fund	4	177,779,913	164,068,629
Asset Recovery Account	5	87,813,831	75,390,687
		<b>265,593,743</b>	<b>239,459,316</b>
<b>Current Liabilities</b>			
Trade and Other Payables	9	253,030	1,874,173
Accrued Liabilities and Charges	10	700,000	700,000
		<b>953,030</b>	<b>2,574,173</b>
<b>Total Equity and Liabilities</b>		<b>723,462,911</b>	<b>741,068,476</b>

The financial statements on pages 86 to 98 were approved on October 2012 and signed on behalf of the Commission by:



Ag. Secretary/ Chief Executive Officer

26-10-2012



Coordinator, Legal Services

26/10/2012

**ETHICS AND ANTI-CORRUPTION COMMISSION**  
**STATEMENT OF COMPREHENSIVE INCOME**  
**For the year ended 30 June 2012**

<b>REVENUE</b>	<b>Note</b>	<b>2012 Kshs</b>	<b>2011 Kshs</b>
Government Grants (GOK)	11	1,292,148,522	1,370,000,000
Development Funds (GOK)/ Donor Support	12	13,873,437	191,430,363
Other Income	13	478,015	913,005
<b>Total Revenue</b>		<b>1,306,499,974</b>	<b>1,562,343,368</b>
<b>EXPENDITURE</b>			
Administration Expenses	19	965,040,882	947,110,854
Operating and Maintenance	25	342,067,668	500,761,595
<b>Total Expenditure</b>		<b>1,307,108,550</b>	<b>1,447,872,450</b>
<b>Operation Surplus for the Year</b>		<b>(608,576)</b>	<b>114,470,919</b>
Profit on disposal of assets	14	1,406,536	-
<b>Surplus for the Year</b>		<b>797,960</b>	<b>114,470,919</b>

**ETHICS AND ANTI-CORRUPTION COMMISSION**  
**STATEMENT OF CASH FLOW**  
**For the year ended 30 June 2012**

	2012 Kshs	2011 Kshs
<b>From Operating Activities</b>		
<b>Net income from operations</b>	<b>797,960</b>	<b>114,470,919</b>
Add back non cash payment (Depreciation)	37,772,147	48,922,394
Add back non cash payment (Amortization)	7,030,830	10,296,871
Profit on disposal of property, plant and equipment	(1,406,536)	-
<b>Income from operations</b>	<b>44,194,400</b>	<b>173,690,184</b>
Increase/(Decrease) in inventories	2,252,861	461,484
Increase/(Decrease) in receivables & prepayments	2,659,699	(3,046,695)
Increase/(Decrease) in payables	(1,621,143)	1,503,036
<b>Net cash utilized from operating activities</b>	<b>47,485,818</b>	<b>172,608,009</b>
<b>From Investing Activities</b>		
Purchase of property, plant and equipment	(7,802,998)	(104,813,988)
Purchase of intangible assets	(497,768)	(4,603,053)
Proceeds from disposal of property, plant and equipment	2,497,500	-
<b>Net cash utilized from investing activities</b>	<b>(5,803,265)</b>	<b>(109,417,041)</b>
<b>From Financing Activities</b>		
Funds held in Gratuity Funds - Main Account	0	-
Refund of surplus funds to the Treasury	(42,916,809)	(103,739,439)
<b>Net cash used from financing activities</b>	<b>(42,916,809)</b>	<b>(103,739,439)</b>
<b>Net increase in cash and cash equivalents</b>	<b>(1,234,256)</b>	<b>(40,548,471)</b>
Bank and cash equivalents at beginning of the year	170,370,317	210,918,788
<b>Bank and cash equivalents at end of the year</b>	<b>169,136,061</b>	<b>170,370,317</b>

**ETHICS AND ANTI-CORRUPTION COMMISSION**  
**STATEMENT OF CHANGES IN EQUITY**  
**For the year ended 30 June 2012**

Particulars	Accumulated Fund Kshs	Revenue Reserves Kshs	TOTAL Kshs
As at 1 July 2010	192,330,372	300,266,688	492,597,060
Retrospective restatement on motor vehicle	-	(4,293,553)	(4,293,553)
Refund of surplus funds (FY2008/9) to the Treasury	-	(103,739,439)	(103,739,439)
Surplus for the Year	-	114,470,919	114,470,919
<b>Balance as at 30 June 2011</b>	<b>192,330,372</b>	<b>306,704,615</b>	<b>499,034,987</b>
As at 1 July 2011	192,330,372	306,704,615	499,034,987
Refund of surplus funds (FY2009/10) to the Treasury	-	(42,916,809)	(42,916,809)
Surplus for the Year	-	797,960	797,960
<b>Balance as at 30 June 2012</b>	<b>192,330,372</b>	<b>264,585,766</b>	<b>456,916,138</b>

The Accumulated Fund represents surplus for the year and capital transfer of inventory, plant and equipment inherited from the defunct Anti-Corruption Police Unit (ACPU); Investigation Software and Motor Vehicles received as grants.

## **ETHICS AND ANTI-CORRUPTION COMMISSION**

### **NOTES TO THE FINANCIAL STATEMENTS**

#### **For the year ended 30 June 2012**

#### **1. Summary of Significant Accounting Policies**

The principal accounting policies adopted in the preparation of these financial statements are set out below. These policies have been consistently applied to all the years presented.

##### **(i) Basis of preparation and form of presentation**

The financial statements are prepared in compliance with International Financial Reporting Standards (IFRSs). The financial statements are presented in functional currency, Kenya shillings (Kshs), which is the prevailing currency within the primary economic environment, and prepared in accordance with the measurement bases prescribed by IFRSs.

The preparation of financial statements in conformity with IFRS requires the use of estimates and assumptions. It also requires management to exercise its judgment in the process of applying the Commission's policies.

The financial statements are prepared in accordance with and comply with International Financial Reporting Standards (IFRS).

##### **(ii) Revenue Recognition**

Income is recognized in the period in which it is received. Government and donor funding is only recognized on receipt. Income is not accrued if its recoverability is considered doubtful.

Interest income is recognized on a time proportion basis using the effective interest rate method.

##### **(iii) Revenue**

The revenue consists all funds accruing to the Commission in the form of exchequer allocations, funds from development partners and other income arising from investment and sale of tenders including proceeds from disposal of assets

##### **(iv) Grants**

Grants related to assets, including non monetary grants at fair value, are recognized when there is reasonable assurance that the grant will be received and the Commission will comply with the conditions attaching to them.

**ETHICS AND ANTI-CORRUPTION COMMISSION**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2012**

**(v) Property, Plant and Equipment**

All categories of property, plant and equipment are initially recorded at cost or valuation.

Subsequent costs are included in the asset's carrying amount or recognized as a separate asset, as appropriate, only when it is probable that future economic benefits associated with the item will flow to the Commission and the cost can be measured reliably. All other repairs and maintenance costs are charged to the Statement of Comprehensive Income during the financial period in which they are incurred.

Increases in the carrying amount arising from revaluation are credited to a revaluation surplus in accumulated funds. Decreases that offset previous increases of the same asset are charged against the revaluation surplus; all other decreases are charged to the Statement of Comprehensive Income. Each year the difference between depreciation charged based on the revalued carrying amount of the asset (the depreciation charged to the Statement of Comprehensive Income) and depreciation based on the asset's original cost is transferred from the revaluation surplus to retained earnings. Leasehold land is not depreciated.

Depreciation is calculated on a reducing balance basis at rates designed to write down the assets to their estimated residual values over their estimated useful lives using the following annual rates:-

	<b>Rate per annum (%)</b>
Computers & Software	33.33
Motor Vehicles	25.00
Plant & Equipment	12.50
Surveillance Equipment	12.50
Furniture, Fixtures & Fittings	12.50

Property, plant and equipment are periodically reviewed for impairment. Where the carrying amount of an asset is greater than its estimated recoverable amount, it is written down immediately to its recoverable amount. An impairment loss is recognized in the Statement of Comprehensive Income whenever the carrying amount of an asset exceeds its recoverable amount. Gains and losses on disposal of property, plant and equipment are determined by comparing the proceeds with the carrying amount and taken into account when determining the surplus for the year.

**(vi) Inventories**

Inventories are valued at the lower of cost and net realizable value. Cost is determined on a first-in first-out basis.

**(vii) Trade and other receivables**

Trade and other receivables are recognized and carried at original invoice amount less an allowance for any uncollectible amounts. An estimate for doubtful debts is made when collection for the full amount is no longer probable. Bad debts are written off as incurred.

## **ETHICS AND ANTI-CORRUPTION COMMISSION**

### **NOTES TO THE FINANCIAL STATEMENTS**

#### **For the year ended 30 June 2012**

##### **viii) Cash and cash equivalents**

Cash and cash equivalents comprise cash on hand; bank balances; demand deposits and short term, highly liquid investments readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash and cash equivalents that are not readily accessible are classified under deferred assets. For the purposes of the statement of cash flow, cash and cash equivalents consist of cash in hand and deposits in bank, and short term highly liquid investments.

##### **(ix) Trade and other payables**

Liabilities for trade and other amounts payable are carried at cost which is the fair value of the consideration to be paid in the future for goods and services received, whether or not billed to the Commission.

##### **(x) Provisions and accruals**

Provisions are recognized when the Commission has a present obligation (legal or constructive) as a result of a past event, and it is probable that there will be an outflow of resources embodying economic benefits.

##### **(xi) Employee benefits**

The Commission sets aside on a monthly basis the gratuity for its employees in accordance with Section 24(2)(b) of the Ethics and Anti-Corruption Commission Act, 2011.

The Commission also contributes to a statutory defined contribution pension scheme, the National Social Security Fund (NSSF). Contributions are determined by local statute. Any contributions made to the NSSF in respect of current service are charged against income in the year of contribution.

##### **(xii) Income taxes**

The Commission being a non- trading entity is not subject to taxation. No tax is therefore provided in these accounts.

**ETHICS AND ANTI-CORRUPTION COMMISSION**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2012**

**2. Property, Plant and equipment**

	Land	Plant and Equipment	Security Equipment	Furniture, Fixtures & Fittings	Motor Vehicles	Computer Equipment	TOTAL
	Kshs.						
<b>COST/VALUATION</b>							
At 01.07.2011	119,995,346	36,600,355	42,624,735	17,492,983	199,435,411	76,856,757	493,005,587
Additions	421,151	1,670,602	783,725	2,623,504	-	2,304,015	7,802,998
Disposals	-	-	-	-	(8,173,000)	-	(8,173,000)
<b>Closing Balance</b>	<b>120,416,497</b>	<b>38,270,957</b>	<b>43,408,460</b>	<b>20,116,487</b>	<b>191,262,411</b>	<b>79,160,772</b>	<b>492,635,584.42</b>
<b>DEPRECIATION</b>							
At 01.07.2011	-	14,671,271	16,247,052	7,188,625	117,266,000	50,533,663	205,906,612
Charge for the year	-	2,949,961	3,395,176	1,615,983	20,269,612	9,541,416	37,772,147
Disposals	-	-	-	-	(7,082,036)	-	(7,082,036)
<b>Closing Balance</b>	<b>-</b>	<b>17,621,232</b>	<b>19,642,228</b>	<b>8,804,608</b>	<b>130,453,575</b>	<b>60,075,079</b>	<b>236,596,722</b>
<b>NET BOOK VALUE</b>							
At 30.06.2012	120,416,497	20,649,725	23,766,232	11,311,879	60,808,836	19,085,694	256,038,862
At 30.06.2011	119,995,346	21,929,084	26,377,683	10,304,358	82,169,411	26,323,094	287,098,975

**ETHICS AND ANTI-CORRUPTION COMMISSION**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2012**

3. Intangible Assets	2012	2011
Cost/Valuation	Kshs.	Kshs.
At start of the year	97,151,647	92,548,594
Additions	497,768	4,603,053
<b>Total</b>	<b>97,649,415</b>	<b>97,151,647</b>
<b>Amortization</b>		
At start of the year	76,554,816	66,257,945
Charge for the year	7,030,830	10,296,871
At end of year	<b>83,585,646</b>	<b>76,554,816</b>
<b>Net Book Value</b>	<b>14,063,769</b>	<b>20,596,831</b>

Intangible assets consist of computer software development costs and licenses. These are amortized on reducing balance basis to write them down to their estimated residual value over their estimated useful lives at the rate of 33.33% per annum.

**4. Gratuity Fund Investment**

The gratuity fund constitutes a proportion of basic salary set aside on a monthly basis to cater for benefits payable to employees when due.

	Kshs.	Kshs.
Balance brought forward	164,068,629	161,755,762
Additions	161,500,784	155,626,896
Payments	(147,789,501)	(153,314,029)
<b>Total</b>	<b>177,779,913</b>	<b>164,068,629</b>

**5. Asset Recovery Account**

The asset recovery account comprises of funds received from recovery of corruptly acquired assets on behalf of public organizations.

	Kshs.	Kshs.
Balance brought forward	75,390,687	19,101,119
Funds recovered in the year	12,431,674	69,944,118
Less: Disbursements for the year	(8,530)	(13,654,550)
<b>Total</b>	<b>87,813,831</b>	<b>75,390,687</b>

**6. Inventories**

	Kshs.	Kshs.
Consumables	6,966,427	9,589,505
Less: Provision for Loss of Inventories	(2,914,931)	(2,914,931)
Library books	9,116,517	8,746,301
<b>Total</b>	<b>13,168,013</b>	<b>15,420,875</b>

**ETHICS AND ANTI-CORRUPTION COMMISSION**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2012**

	2012	2011
	Kshs.	Kshs.
<b>7. Deposits and staff receivables</b>		
Imprest debtors	873,954	3,849,373
Staff advances	149,984	243,989
Deposits	4,438,124	4,026,700
Other Receivables	400	2,100
<b>Total</b>	<b>5,462,462</b>	<b>8,122,162</b>

	Kshs.	Kshs.
<b>8. Cash and cash equivalents</b>		
Recurrent bank account	107,722,948	118,719,977
Development bank account	49,492,924	49,761,540
Kenya Commercial Bank - UNDP Project	7,151,340	-
Kenya Commercial Bank - MSA Office	1,000,000	1,000,000
Kenya Commercial Bank- Kisumu Office	500,000	500,000
Kenya Commercial Bank- Garissa Office	500,000	-
Kenya Commercial Bank- Nyeri Office	500,000	-
Kenya Commercial Bank- Eldoret Office	500,000	-
Cash on hand	1,768,848	388,800
<b>Total</b>	<b>169,136,061</b>	<b>170,370,317</b>

	Kshs.	Kshs.
<b>9. Trade and other payables</b>		
Other payables	253,030	1,874,173
<b>Total</b>	<b>253,030</b>	<b>1,874,173</b>

	Kshs.	Kshs.
<b>10. Accrued liabilities and charges</b>		
Audit fees	700,000	700,000
<b>Total</b>	<b>700,000</b>	<b>700,000</b>

**11. Government grants (GOK)**

Government grants represent exchequer issues received during the year.

	Kshs.	Kshs.
<b>12. Development partners/Donor Support</b>		
UNDP/ADB Grants	13,105,150	126,430,363
Government Grants (GOK)	768,287	65,000,000
<b>Total</b>	<b>13,873,437</b>	<b>191,430,363</b>

**ETHICS AND ANTI-CORRUPTION COMMISSION**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2012**

	2012 Kshs.	2011 Kshs.
<b>13. Other Income</b>		
Sale of tender documents	478,015	913,005
<b>Total</b>	<b>478,015</b>	<b>913,005</b>

**14. Profit on disposal of assets**

The Commission disposed off eight (8) motor vehicles whose total cost or valuation was Kshs.8,173,000/= with an accumulated depreciation of Kshs.7,082,036.15. A total of Kshs.2,497,500/= was collected as sales proceeds that realized a profit on disposal of assets of Kshs.1,406,536.15

	Kshs.	Kshs.
<b>15. Accumulated Fund</b>		
Balance brought forward	192,330,372	192,330,372
<b>Total</b>	<b>192,330,372</b>	<b>192,330,372</b>

	Kshs.	Kshs.
<b>16. Revenue Reserve</b>		
Balance brought forward	306,704,615	300,266,688
Retrospective restatement of motor vehicles	-	(4,293,553)
Refund of surplus	(42,916,809)	(103,739,439)
Surplus for the year	797,960	114,470,919
<b>Total</b>	<b>264,585,766</b>	<b>306,704,615</b>

**17. Contingent Liabilities**

The Commission has given no guarantees to third parties. In the ordinary course of business, the Commission has been sued with the potential exposure estimated at Kshs.277 million.

The Commission is a defendant or co-defendant in various litigations and claims. The outcomes of these litigations and claims is yet to be determined, hence the Commission has not made any provisions in these accounts towards contingent liabilities.

**18. Operating and maintenance**

Included in the operating and maintenance expenditure is an amount of Kshs.22,839,000/= described as security expenses.

	Kshs.	Kshs.
<b>19. Administration expenses</b>		
Basic Salaries	523,171,192	494,751,702
Basic Wages - Temporary Employees	860,000	765,113
Personal Allowance Paid as Part of Salary	201,711,363	198,996,102
Employer Contribution to Compulsory Health Insurance NSSF	686,600	623,600
Government Pension & Retirement Benefits	154,399,160	152,850,017
Insurance Costs	54,926,387	45,619,750
Hospitality Supplies and Services	29,286,181	53,504,571
<b>Total</b>	<b>965,040,882</b>	<b>947,110,854</b>

**ETHICS AND ANTI-CORRUPTION COMMISSION**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2012**

**20. Key management personnel costs**

Included in the administration expenses of Kshs.965 million is an amount of Kshs.15.6 million paid to key management personnel comprising the Director, Deputy Director and Assistant Directors.

	2012 Kshs.	2011 Kshs.
Basic salaries and benefits for the Director, Deputy Director and Assistant Directors	15,632,500	69,434,677
<b>Total</b>	<b>15,632,500</b>	<b>69,434,677</b>

**21. Capital commitments**

The Commission had no capital commitment at the year end for which provision has been made in the financial statements.

**22. Comparative**

Where necessary, comparative figures have been adjusted to conform with changes in presentation in the current year.

**23. Reporting currency**

These financial statements are presented in Kenya Shillings (Kshs).

**24. Retrospective restatement**

A retrospective restatement was made correcting the recognition, measurement and disclosure of comparative amounts on motor vehicle costs, accumulated depreciation and revenue reserves. An error of commission occurred where the amounts used in computing the cost and accumulated depreciation on motor vehicles disposed off in FY2009/10 were the original cost values while the carrying costs and accumulated depreciation on record were the valuation figures from an independent motor vehicle valuation report, effectively understating both the cost and accumulated depreciation and overstating the net book value (NBV) for that year. Concurrently an error of omission occurred while computing the depreciation charge for FY2009/10 on motor vehicles whereby the accumulated depreciation amount eliminated on disposal was not taken into account, effectively understating the charge for that year. The cumulative effects of these errors are reflected in the comparative figures under retrospective restatement of motor vehicles.

**ETHICS AND ANTI-CORRUPTION COMMISSION**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2012**

	2012	2011
	Kshs.	Kshs.
<b>25. Operating and maintenance</b>		
Utilities, Supplies & Services	10,475,083	7,250,380
Communication Supplies and Services	12,416,820	19,476,488
Domestic Travel & Subsistence & Other Transportation Costs	46,169,766	48,141,029
Foreign Travel & Subsistence & Other Transportation Costs	14,259,914	14,198,854
Printing, Advertising & Information Supplies and Services	21,416,579	128,030,086
Rentals of Produced Assets	69,863,833	54,111,617
Training Expenses (including Capacity Building)	24,588,078	69,223,395
Specialised Materials and Supplies	3,149,347	766,170
Office and General Supplies & Services	8,784,161	8,501,019
Fuel Oil and Lubricants	18,087,318	18,504,753
Other Operating Expenses (Note 26)	30,992,052	40,077,106
Routine Maintenance - Vehicle and Other Transport Eqpt	12,687,702	13,003,744
Routine Maintenance -Other Assets	6,134,369	3,817,240
Other Miscellaneous, Current Transfers, Grants & Subsidies	1,153,173	1,332,913
Acquisition of Wealth Declaration System	5,953,810	-
Refurbishment of Residential Buildings	705,108	2,000,197
Research, Feasibility Studies, Project Preparation and Design	10,427,579	10,192,409
Loss on Inventories	-	2,914,931
Depreciation Expenses	37,772,147	48,922,394
Amortization Expenses	7,030,830	10,296,871
<b>Total</b>	<b>342,067,668</b>	<b>500,761,595</b>
<b>26. Other operating expenses</b>		
Bank charges	794,852	510,082
Contracted guards and cleaning materials	1,713,670	3,001,972
Membership fees, dues and subscriptions	2,602,933	1,350,408
Legal dues, arbitration and compensation	946,176	835,912
Security expenses	22,839,000	27,549,000
Contracted professional services	418,500	4,789,877
Witness allowances	-	20,300
Witness expenses	976,921	1,319,556
Audit fees	700,000	700,000
<b>Total</b>	<b>30,992,052</b>	<b>40,077,106</b>

## Acknowledgement

The Commission takes this opportunity to thank all members of staff who contributed to the preparation of this Annual Report. Further, the Commission wishes to acknowledge the financial support from the Government, which enabled the Commission to undertake various anti-corruption activities as presented in this Report. Appreciation for financial support is also extended to the various Development Partners notably United Nations Development Programme (UNDP) for their support on wealth declaration project. The Commission wishes to extend its gratitude to the numerous partners for their support and joint programmes undertaken together without whom our successes would not have been achieved.

The Commission also acknowledges with gratitude the timely auditing of its annual accounts by the Kenya National Audit Office (KENAO) and issuance of the Report of the Auditor General on the Financial Statements of EACC for the period under review.

Further, the Commission appreciates the work of the Annual Report Preparation Committee members comprising:

Mr. Nicholas Simani, S.S	-	<b>Chairman</b>
Mrs. Miriam Kapkei	-	<b>Vice Chairperson</b>
Mr. Paul Kimalu	-	<b>Joint Secretary</b>
Mr. Gilbert Lukhoba	-	<b>Joint Secretary</b>
Mr. Francis Gikonyo	-	Member
Mr. Abdi Mohamed	-	Member
Mr. Patrick Ashiruma	-	Member
Mrs. Anastasia W. Ngarama	-	Member
Mr. Willis Wasala	-	Member
Mr. Emily Chege	-	Member
Mrs. Petronilla Kyengo	-	Member
Mr. Jason Akoyo	-	Member
Mr. Sam Wanjere	-	Member
Engineer Njeri Gatabaki	-	Member
Mr. Michael Babu	-	Member

## Appreciation Letters

A number of institutions acknowledge the tremendous work being undertaken by the Commission. Some of the feedback received is highlighted below.

"I wish to express my gratitude to you and your representatives for taking time out of your busy schedule to attend and fruitfully participate in the deliberations of this important Workshop (Stakeholders' Validation Workshop on the Strategic Plan 2011-2015)."

**Keriako Tobiko, CBS**

Director of Public Prosecutions

"I, the Principal, Dagoretti Special School wish to thank you and your staff most sincerely for thinking about our school and paying us a visit. It had great impact in the lives of the entire school community."

**Jane Kaimenyi (Mrs.)**

"The Independent Electoral and Boundaries Commission Selection Panel appreciates your input in the selection process through provision of information that led to the successful constitution of the Independent Electoral and Boundaries Commission.

**Ekuru Aukot**

Chairperson, IEBC Selection Panel

"We wish to express our gratitude to the Kenya Anti Corruption Commission for sending an officer to participate in the retreat. The input was very useful, interesting and relevant to our work."

**Hassan S. Mohamed, OGW**

Commission Secretary, National Cohesion and Integration Commission (NCIC)





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