



THE ETHICS AND ANTI-CORRUPTION COMMISSION

**THE FIRST QUARTERLY REPORT FOR THE YEAR 2012
COVERING THE PERIOD
3RD JANUARY, 2012 TO 31ST MARCH, 2012**

PREAMBLE

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

Section 36 of the Anti-Corruption and Economic Crimes Act, 2003 provides that:

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

This report is therefore made pursuant to section 36 of the Anti-Corruption and Economic Crimes Act, 2003. The report covers the first quarter of the year 2012 and is for the period commencing 3rd January, 2012 to 31st March, 2012.

INVESTIGATIONS COVERING THE PERIOD 3RD JANUARY TO 31ST MARCH, 2012

1. KACC/FI/INQ/20/2011

Inquiry into allegations that officers at the Department of Pensions facilitated the processing of fraudulent pension payments amounting to Kshs. **8 million**. Investigations established that the Pensions Department received from the Teachers Service Commission documents that captured the personal details of several retirees. The Claims Section of the Pensions Department was required to feed the data received into their system known as the PMIS. Investigations established that the system automatically computes the benefits of the pensioners; and after the computation and the necessary approvals, the system generates a voucher from the data. Investigations also established that it was the role of accountants to prepare, examine, authorize and approve the voucher by counterchecking the details as they appear in the vouchers. Further evidence revealed that the amount of money payable to the retirees appearing in the payment vouchers was inflated by Kshs.1 million. It was established that the officers in the IT Section colluded with the accountants to generate the exaggerated figures. They took advantage of the new system that did not have audit trails to doctor the figures. The accountants who prepared, authorized and examined the vouchers deliberately facilitated the fraud by failing to counter check the figures appearing in the vouchers against those in the personal details submitted by the TSC.

The file was forwarded to the Director of Public Prosecutions on 20th March, 2012 with the recommendation that the suspects who are employees of the Pensions Department be charged with the offence of abuse of office contrary to Section 46 as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. It was further recommended that administrative action be taken against one of the Pensions Officers; and that civil proceedings be instituted to recover the overpaid sums of money from the pensioners.

On 4th April, 2012 the Director of Public Prosecutions accepted the recommendation for prosecution of the suspects, administrative action against one of the Pensions Officers and recovery of the overpaid sums of money from the pensioners.

2. KACC/INQ/AT/30/2011-F

Inquiry into allegations of embezzlement of funds belonging to the Ministry of Medical Services by officials of the said Ministry. Investigations established that senior officials in the Ministry of

Medical Services made irregular payments to staff working in the accounts section in the form of unauthorized allowances and to service providers for services either rendered but not at the rates that were being alleged or not rendered at all. Investigations further revealed that the irregular payments were made in a bid to clear the Ministry's appropriations before the end of the financial year 2010/2011. It was further alleged that a substantial amount of money had been transferred into the personal account of an officer in the accounts department of the said Ministry to facilitate the irregular payments even after the closure of the financial year. Investigations further revealed that the Permanent Secretary and the Deputy Secretary in the Ministry of Medical Services failed to execute their duties diligently and approved expenditure contrary to Government Financial Regulations and signed payment vouchers which were not supported by any claim documents as a consequence of which public funds amounting to Kshs.5,755,555/= were misappropriated.

The file was forwarded to the Director of Public Prosecutions on 12th January, 2012 with the recommendation that the Permanent Secretary, Medical Services, be charged with the offence of abuse of office contrary to section 101(1) as read with section 102A of the Penal Code, and the Deputy Secretary, Principal Accounts Controller and Accountant 1 be charged with the offences of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (b) and Abuse of office contrary to section 46 of the Anti- Corruption and Economic Crimes Act, 2003; In addition the Principal Accounts Controller and Accountant 1 be charged with; fraud by persons employed in the Public Service contrary to Section 127 (1) as read with section 127 (2) of the Penal Code and the offence of knowingly using a false document to one's principal contrary to section 41(2) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003. It was further recommended that civil proceedings be instituted against the Principal Accounts Controller and the Accountant 1 to recover the huge sums of public funds deposited in their bank accounts.

The advice of the DPP is awaited.

3. EACC/ELD/FI/INQ/02/2011

Inquiry into allegations of irregular award of a road works tender worth Kshs.5,200,000 by the Kenya Rural Roads Authority (KeRRA) to a company owned by the Member of Parliament for Eldoret South Constituency. Investigations established that Bayete-Chuiyat-Bargeiywa (RAR3) Road in Eldoret South Constituency was one of the roads earmarked for improvement during the Financial Year 2009/10. The improvement entailed culvert installation, heavy grading and spot gravelling estimated at a cost of Kshs.5,371,000/=. The project was approved and budgeted for

in the Annual Work Programme of the Kenya Roads Board. It was further established that the procurement process was initiated in January 2010 by the KeRRA officials in Uasin Gishu District, in conjunction with the Eldoret South Constituency Roads Committee as was the procedure and the award was made in April, 2010 to a private contractor in the sum of Kshs.5,010,040/=. Investigations further established that the works were undertaken and payment made to the contractor. Investigations further confirmed that the contracting company is a limited liability company whose directors are the current Member of Parliament for Eldoret South and her husband. The evidence obtained also revealed various infractions of the law in the procurement process, project implementation and payment.

The file was forwarded to the Director of Public Prosecutions on 7th February, 2012 with the recommendation that the Member of Parliament for Eldoret South, her husband and five others be charged with the offence of conspiracy to commit an offence of Economic Crime contrary to section 47A (3) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003 and the Regional Manager of Kenya Rural Roads Authority and another be charged with the offence of wilful failure to comply with the law relating to the tendering of contracts contrary to section 45 (2) (b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003 and the offence of abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

On 4th April, 2012 the Director of Public Prosecutions accepted the recommendation for prosecution.

4. KACC/INQ/FI/183/2010

Inquiry into allegations that a construction company was irregularly awarded a Kshs.3.4 million contract to construct the Mau Drift in Mbooni Constituency. Investigations revealed that the Mau Drift project was not one of the CDF projects in Mbooni Constituency approved by the CDF Board. Therefore no CDF funds were allocated for the said project. Notwithstanding the fact that the Mau Drift project was not approved by the CDF Board, nor any funding provided the area Chief went ahead and engaged a contractor purporting that the award had been made by the Project Management Committee of the said project. He made documents awarding the contract to the contractor purporting that the members of the Project Management Committee had approved and signed the document. Investigations further revealed that on the belief that the project was funded by the CDF, the contractor demanded for payment, which demand was not honoured since the project was not in the code list of approved CDF projects.

The file was forwarded to the Director of Public Prosecutions on 14th February, 2012 with the recommendation that the area Chief be charged with the offences of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003 and making a document without authority contrary to section 357 of the Penal Code.

On 4th April 2012 the Director of Public Prosecutions accepted the recommendation for prosecution.

5. KACC/FI/INQ/76 (G)/08

Inquiry into allegations of misappropriation of public funds amounting to Kshs.700,000/= meant for Nabunga Borehole Project by the Constituency Development Committee of Saboti Constituency. Investigations revealed that the aforesaid amount was disbursed to Saboti Constituency by the CDF National Management Board and it was received by the office of the District Development Officer (DDO), Trans Nzoia West District, who is the AIE Holder for the said Constituency's CDF. Investigations further revealed that the payment of Kshs.700,000/= was made to the aforesaid purported officials of Nabunga Borehole Project Management Committee through the Saboti Constituency Development Fund Committee. Investigations further established that the purported officials of Nabunga Borehole withdrew the CDF funds and shared it among themselves for their private use. The Nabunga Borehole was consequently never drilled leading to the loss of the aforesaid public funds. Investigations further revealed that in reality a Project Management Committee for Nabunga Borehole never existed and that the said project was purposefully given to the purported officials of Nabunga Borehole Committee by the former Secretary to repay them for debts allegedly owed to them by the Saboti CDFC and the then Saboti Member of Parliament.

The file was forwarded to the Director of Public Prosecutions on 8th February, 2012 with the recommendation that the former secretary of the Saboti Constituency Development Fund Committee and three others be charged with the offences of fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003, misappropriation of Constituency Development Funds contrary to section 51 of the Constituency Development Fund Act, 2003 and uttering a false document contrary to section 353 of the Penal Code. It was further recommended that the embezzled CDF funds be recovered from the suspects.

On 29th March, 2012 the Director of Public Prosecutions accepted the recommendation for prosecution; and in addition that recovery proceedings be instituted against the suspects for the

embezzled funds.

6. KACC/FI/INQ/NO.161/2009

Inquiry into allegations that a Cashier in the Ministry of State for Special Programmes misappropriated a sum of Kshs.2,796,000 intended for Western Kenya Community Driven Development and Flood Mitigation Project (WKCDD/FMP). Investigations established that an imprest of Kshs.2,796,000/= was approved and paid to one of the employees of the Project. The said imprest was partially utilized in carrying out trainings in technology options in the non-core districts of the WKCDD/FMP. The workshops were carried out simultaneously in five venues. Investigations further revealed that all legitimate payments were made through payment schedules. The employee who received the imprest surrendered the imprest allocated to her including unspent sum of Kshs.485,000/=. Investigations however revealed that the cashier in turn inserted his name in the official payment schedules, and made the surrender as one of the participants in the workshops and paid himself night out allowance. He further prepared false schedules listing names of individuals as having attended the workshops, who did not in fact attend the workshops as purported.

The file was forwarded to the Director of Public Prosecutions on 5th March, 2012 with the recommendation that the suspect be charged with the following offences; fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003 and forgery contrary to section 349 of the Penal Code. It was further recommended that the embezzled funds be recovered from the suspects.

On 4th April, 2012 the Director of Public Prosecutions accepted the recommendation for prosecution and the recovery of the embezzled funds.

7. KACC/FI/INQ/22/2011

Inquiry into allegations of irregular payment of Kshs.4 million by the KEMRI Management to a Law Firm on behalf of 35 former KEMRI staff who had sued KEMRI for wrongful dismissal, as settlement in a case before the Industrial Court. Investigations revealed that following the termination of employment of 35 employees of KEMRI by the KEMRI Board, the affected employees through their Advocates filed a case challenging the termination. Investigations revealed that the Industrial Court found in favour of the employees, and ordered for their reinstatement with no loss of pay. Investigations further revealed that pursuant to a Consent entered between the employees Advocates and KEMRI'S Advocates, the latter was paid

Kshs.4,000,000/= as compensation to the employees' in lieu of their being reinstated. However, the consent was later expunged after it was established that the employees had withdrawn the services of their Advocate as at the time that he entered into the consent with KEMRI's Lawyers. Investigations further revealed that the Advocate is still holding on to the money despite the Consent having been expunged from the court record. The investigations also revealed that KEMRI engaged the services of a lawyer to represent it without following the laid down procurement procedures and regulations.

The file was forwarded to the Director of Public Prosecutions on 1st March, 2012 with the recommendation that Director of Kenya Medical Research Institute (KEMRI) be charged with the offence of careless failure to comply with the law relating to procurement contrary to Section 45 (2) (b) as read with Section 48 (1) (a) of the Anti-Corruption and Economic Crimes Act, 2003. The Commission further recommended that the KEMRI Board Management institute a civil suit against the law firm to recover the sum of Kshs.4,000,000/= it paid it since the Consent which formed the basis for the said payment was set aside by the court.

On 4th April 2012 the Director of Public Prosecutions advised that the inquiry file be closed, in lieu of prosecution.

8. KACC/FI/INQ/20/2010

Inquiry into allegations of misappropriation of public funds meant for the facilitation of a workshop in the Coast Province by Ministry of Education officials. Investigations established that the acting Director of Secondary and Tertiary Education at the Ministry of Education, obtained the approval of a budget of Kshs.37,466,350/= from the Permanent Secretary (PS) of the Ministry for the purposes of carrying out workshops on instructional materials in Secondary Schools. Investigations further revealed that the Senior Education Officer applied for and received an imprest of Kshs.2,936,000/= for the said workshop that was held in Mombasa and surrendered the same after the workshop. The investigations established that at the time of the surrender of the imprest, the suspect used false documents in an attempt to account for the imprest that she had received.

The file was forwarded to the Director of Public Prosecutions on 20th March, 2012 with the recommendation that the Senior Education Officer and Acting Director Secondary and Tertiary Education be charged with the following offences; fraudulent acquisition of public property contrary to Section 45(1) (a) and knowingly making a false statement to one's principal contrary to Section 41(1) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, No.

3 of 2003, fraud by persons employed in the Public Service contrary to Section 127(1) as read with Section 127 (2) and false accounting by a public officer contrary to section 331(1) as read with Section 331(2) of the Penal Code. It was further recommended that the embezzled funds be recovered from the suspects.

On 3rd April, 2012 the Director of Public Prosecutions accepted the recommendation for prosecution of the suspects; and the recovery of the embezzled funds.

9. KACC MSA/FI/INQ/14/2011

Inquiry into allegations of breach of Public Procurement Laws and Regulations by the Taveta CDF Tender Committee in the procurement of two tractors, trailer with tipping mechanism, harrows and disc plough. Investigations established that one of the projects that the Taveta CDFC discussed and approved was the Tractor Project under the Agricultural projects category. The said Tractor project proposal was submitted to the CDF National Management Board as one of the proposed CDF projects for the 2008/2009 Financial Year. The Board approved the project and allocated a sum of Kshs.7,537,362 for the same. Investigations revealed that the allocated funds were sent to Taveta CDF account for the implementation of the project. Investigations revealed that whereas the tender for the supply of the equipment was awarded to a company, there were no tender committee minutes approving the list of firms invited to bid. There was also no record of the evaluation committee and the evaluation report. There were also no minutes showing that the Tender Committee had met and awarded the contract to the company that supplied the equipment. These irregularities were in contravention of the Public Procurement and Disposal Act, 2005 and the Regulations there under.

The file was forwarded to the Director of Public Prosecutions on 9th March, 2012 with the recommendation that the members of the Taveta Constituency Development Fund, Tender Committee be charged with the offence of wilful failure to comply with the law relating to the procurement of goods contrary to section 45(2) (b) read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 4th April 2012 the Director of Public Prosecutions accepted the recommendation for prosecution.

10. KACC FI/INQ/01/2011

Inquiry into allegations of malpractices in the recruitment of lower cadre officers for the Ministry of Education. The investigation established that the recruitment and selection process at the Ministry of Education commenced following the issuance of a Circular by the Permanent Secretary, approving the filling of vacant positions. In response to the aforementioned circular, the Ministry of Education identified its Human Resource needs and thereafter requested the Treasury for funding and it was granted. The process started by notifying the Public Service Commission of Kenya, PSC (K) of the vacancies which gave the Ministry the go ahead to recruit. Investigations established that out of a total of 204,620 applications received, candidates were short listed for various posts which were advertised in Daily Nation Newspaper. Investigations revealed that the interviewing exercise was conducted by panels under the direction of the Deputy Director, Human Resource Management and the Deputy Secretary at selected venues on diverse dates. Investigations revealed that following numerous complaints raised by the public and Members of Parliament over the recruitment process, the Permanent Secretary, Ministry of Education requested the Ministry of State for Public Service to audit the recruitment exercise since there were allegations and questions from both the Parliamentarians and the general public on the recruitment process. The Internal Audit and Vetting reports established that persons who had not been short listed were interviewed and employed on the strength of requests through letters signed by the Deputy Director, Human Resource Management.

The file was forwarded to the Director of Public Prosecutions on 16th January, 2012 with the recommendation that the Deputy Director Human Resource Management Ministry of Education be charged with the offence of abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 8th January, 2012 the Director of Public Prosecutions accepted the recommendation for prosecution.

11. KACC/FI/INQ/19/2011

Inquiry into allegations of abuse of office against Tana and Athi River Development Authority (TARDA) and the Ministry of Regional Development officials in the procurement of heavy equipment machinery from three firms for the purposes of the rehabilitation of the Tana Delta Irrigation Project (TDIP). The investigation established that TARDA came up with a budget which was approved by the Project Steering Committee and Technical Coordinating Committee of the National Stimulus Programme. The TARDA Procurement Department then undertook the

process of procurement by placing an advertisement in the media inviting prospective contractors to supply various machineries for the project. However, before the conclusion of the tendering process, the TARDA Tender Committee resolved to change the procurement method and adopted the Direct Procurement method. Several firms responded to the advertisement and the Tender Committee decided to harmonize the rates quoted by all the firms which had tendered for the contract. The Tender Committee resolved to award the tender contracts to firms which would accept the harmonized rates. Further investigations however revealed that before the Tender Committee could make the award, the contracts were eventually awarded to various firms albeit irregularly, by the Managing Director of TARDA and the Director of Regional Development Ministry of Regional Development without the involvement of the Tender Committee. Investigations further revealed that the machines procured were never inspected before being delivered to site as earlier directed by the Tender Committee.

The file was forwarded to the Director of Public Prosecutions on 18th January, 2012 with the recommendation that the Managing Director of TARDA be charged with the offence of wilful failure to comply with the law relating to Procurement of services contrary to section 45 (2) (b) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003. Secondly both the Managing Director of TARDA and the Director of Regional Development Ministry of Regional Development be charged with the offence of abuse of office contrary to Section 46 as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 4th April 2012 the Director of Public Prosecutions returned the file for further investigations.

12. KACC/MSA/FI/NO.18/2010

Inquiry into allegations that a group of people colluded with Ministry of Lands officials to fraudulently make documents in respect of a parcel of land in Diani purporting to be genuine owners of the said parcel of land. Investigations established that in 1968 the ownership of the parcel of land changed. A road reserve was also excised from the said parcel of land giving rise to registration of two separate titles. Investigations revealed that whereas the buyer of the land ought to have surrendered the original title in order to be issued with another title, this was not done.

The file was forwarded to the Director of Public Prosecutions on 31st January, 2012 with the recommendation that the Principal Lands Officer be charged with the offences of abuse of office contrary to section 101(1) as read with section 102(A) of the Penal Code and uttering false

documents contrary to section 353 as read with section 357 of the Penal Code; the employees at the Lands Office in Kwale District be charged with the offence of abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003; the Principal Lands Officer and 8 other officers at Ardhi House, Ministry of Lands, Nairobi be charged with the offence of conspiracy to defraud contrary to section 317 of the Penal Code; And lastly 8 officers at Ardhi House, Ministry of Lands in Nairobi be charged with the offence of obtaining registration by false pretence contrary to section 320 of the Penal Code.

On 4th April, 2012 the Director of Public Prosecutions accepted the recommendation for prosecution.

13. KACC/MSA/FI/INQ.09/2011

Inquiry into allegations that a Clearing and Forwarding Company colluded with Kenya Revenue Authority (KRA) officers to release five forty feet containers without due regard to the laid down Customs procedures. Investigations established that Verification Officers at Kenya Revenue Authority offices made false entries and reports in respect of several import containers by the clearing agent. Investigations established that the officers purported that they had carried out verification of the goods whereas no such verification had been done and the containers were still at sea.

The file was forwarded to the Director of Public Prosecutions on 15th February, 2012 with the recommendation that the Assistant Revenue Officer be charged with the following offences; knowingly giving a false document to one's principal contrary to section 41(2) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act No.3 of 2003 and making a false declaration contrary to section 203 (b) of the East African Community Customs Management Act; the Senior Clerical Officer at Kenya Revenue Authority be charged with making a false declaration contrary to section 203 (b) of the East African Community Customs Management Act.

On 22nd March, 2012 the Director of Public Prosecutions advised that administrative action be taken against the Kenya Revenue Authority officers and the Clearing Agent in lieu of prosecution.

14. KACC/FI/INQ/60/2007

Inquiry into allegations that between 1999 and 2006, Pyrethrin stock weighing 180,859.71 kg

and valued at Kshs.1,357,922,000/= was not accounted for at the Pyrethrum Board of Kenya (PBK), and was later written off as a process loss. Investigations established that the pyrethrin loss was as a result of a myriad of factors which included theft, faulty weighing scales and false weighing of flowers delivered at the factory thus the quantity of flowers delivered differed with what was processed, inefficient plant operations during extraction and refinery stages leading to some loss of pyrethrin, old age of machines and lack of spares for plant maintenance leading to leakages and spillages during extraction process and damage caused to the extraction plant by fire amongst other causes. Investigations further revealed that with regard to the theft of pyrethrin, the culprits were already dealt with. With regard to the other causes of the loss of pyrethrin, the investigations did not establish any culpability on the part of the officials of the Pyrethrum Board of Kenya to warrant any criminal charges being preferred against them.

The file was forwarded to the Director of Public Prosecutions on 20th January, 2012 with the recommendation that the inquiry file be closed. It was further recommended that the Pyrethrum Board of Kenya be advised to source for funds to cater for the modernization of their factory to avert future losses.

On 4th April 2012 the Director of Public Prosecutions accepted the recommendation for closure.

15. KACC/FI/INQ/149/2010

Inquiry into allegations that Members of the Central Management Committee of Harambee Sacco Society Limited obtained loans using their allowances as security which was contrary to the Sacco's policy. Investigations established that indeed the Central Management Committee members received loans against the allowances due to them. These were FOSA loans that were processed through FOSA accounts held by members. Investigations revealed that according to the Sacco FOSA loan policy, the allowances paid to the members of the Central Management Committee could be used as security in extending loan facilities to the members thus the loans were extended to the members of the CMC in keeping with the Sacco's guidelines, procedures and policy. No culpability was established to warrant any action being taken against the officials.

The file was forwarded to the Director of Public Prosecutions on 23rd January, 2012 with the recommendation that the inquiry file be closed.

On 12th January, 2012 the Director of Public Prosecutions accepted the recommendation for closure.

16. KACC/FI/INQ/60B/2007

Inquiry into allegations that a fixed deposit investment of Kshs.150 million by Pyrethrum Board of Kenya (PBK) with the National Bank of Kenya (NBK) had not been accounted for by the PBK. Investigations revealed that the said sum of money was lawfully deposited in a fixed deposit account by Pyrethrum Board of Kenya. Upon maturity of the transaction, the principal sum, together with the interest earned was transferred to the account of the PBK with the Barclays Bank of Kenya, Nakuru Branch and the funds were properly accounted for, hence no evidence of embezzlement established.

The file was forwarded to the Director of Public Prosecutions on 26th January, 2012 with the recommendation that the inquiry file be closed.

On 27th February, 2012 the Director of Public Prosecutions accepted the recommendation for closure.

17. KACC/FI/INQ/152/2010

Inquiry into allegations of fraudulent transfer of Kshs.8.8 million to an account held by an ICT Manager, Harambee Cooperative Sacco by the General Manager and FOSA Manager of the Harambee Cooperative Sacco. Investigations established that the ICT Manager as an employee and member of the SACCO applied to open a personal savings account in the Front Office Services Activity (FOSA). An Account was opened for him. Back office and FOSA loan files of the suspect from the SACCO and account statements maintained by the SACCO were scrutinized and analysed. The investigations carried out did not reveal any evidence to show that a sum of Kshs. 8.8 million belonging to the Sacco was transferred to any of the accounts maintained by the ICT Manager as alleged. Investigations further revealed that all loans given to the ICT Manager were processed in accordance with the Sacco Loan Regulations.

The file was forwarded to the Director of Public Prosecutions on 29th February, 2012 recommending the closure of the inquiry file.

On 4th April 2012 the Director of Public Prosecutions accepted the recommendation for closure.

18. KACC.FI/INQ/150/2010

Inquiry into allegations of fraudulent purchase of shares worth Kshs.19,950,000/= from Gina

Din Corporate Communications SACCO by the Central Management Committee (CMC) of Harambee SACCO. Investigations established that the Central Management Committee of Harambee Sacco purchased shares from Gina Din Corporate Communications Sacco for the aforementioned sum. Investigations further revealed that the purchase of shares by the Harambee Sacco was not irregular since the necessary procedures laid down by the Sacco's by-laws and the Cooperative Societies Act were complied with. Investigations also established that the CMC disclosed the purchase of the shares in their audited accounts of 2009, which were then tabled in the Annual Delegates Meeting of 2010 and adopted. Harambee SACCO did not suffer any loss from the purchase of shares nor did the investigation establish that there was any personal interest amongst the Central Management Committee members in the transaction. Further, there was no evidence that the Central Management Committee members received any benefit, financial or otherwise from the transaction.

The file was forwarded to the Director of Public Prosecutions on 28th March, 2012 recommending the closure of the inquiry file.

On 4th April 2012 the Director of Public Prosecutions accepted the recommendation for closure.

19. KACC CR. 141/903/2011

Inquiry into allegations that Traffic Police officers stationed at Kikuyu Police Station corruptly solicited for a benefit from the matatu operators while carrying out their traffic duties. After a trap operation was carried out, investigations established that the traffic police officers solicited for and received bribes from the matatu operators. Whereas the solicitation and receipt of a benefit was established, the matatu crew from whom the suspects received the benefit did not record their respective statements for fear of reprisals supposedly from the police. In the circumstances it would not be possible to prove beyond reasonable doubt the offences of corruption against the suspects.

The file was forwarded to the Director of Public Prosecutions on 8th March, 2012 with the recommendation that administrative action be taken against the Police Officers by their Principal.

On 4th April, 2012 the Director of Public Prosecutions accepted the recommendation for administrative action.

20. EACC (KSM) CR.662/136/2011 CF. ACC. KISUMU.563/2011

Inquiry into allegations that an Executive Officer at the Rongo Law Courts corruptly solicited for a benefit from the complainant as an inducement to facilitate the hearing of a case before the Senior Resident Magistrate Court at Rongo. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Kisumu Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Director of Public Prosecutions on 18th January, 2012 with the recommendation that the case be prosecuted to its logical conclusion.

On 8th March, 2012 the Director of Public Prosecutions accepted the recommendation for prosecution.

21. KACC (KSM)/CR.623/213/2011 CF. ACC. KISUMU NO.592/2011

Inquiry into allegations that a Police Officer based at Maseno Police Station corruptly solicited for a benefit from the complainant as an inducement to facilitate the return of a power saw that had been confiscated. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Kisumu Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Director of Public Prosecutions on 20th January, 2012 with the recommendation that the case be prosecuted to its logical conclusion.

On 8th March, 2012 the Director of Public Prosecutions accepted the recommendation for prosecution.

22. KACC. CR 440/53B/2010 CF. EMBU ACC.7/2010

Inquiry into allegations that two Newspaper Reporters based in Machakos corruptly solicited for a benefit from the complainant as an inducement so as to forebear the publication of an alleged damaging report concerning financial mismanagement of funds in a school in which she was the Principal. The investigation established that the suspect received the benefit. The suspect was arrested and charged before the Embu Anti-Corruption Court with the offences of soliciting and

receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Upon re-evaluation of the evidence, it was however established that the matter did not fall within the purview of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Director of Public Prosecutions on 22nd February, 2012 with the recommendation that the case be withdrawn under Section 87(a) of the Criminal Procedure Code, and the matter be forwarded to the CID for appropriate action.

On 22nd March, 2012, the Director of Public Prosecutions accepted the recommendation to forward the file to the CID for appropriate action.

23. EACC CR.141/742/2011-CF MILIMANI ACC. NO.40/2011

Inquiry into allegations that a Labour Officer in the Ministry of Labour and Human Resources Development corruptly solicited for a benefit from the complainant as an inducement to facilitate settlement of a labour dispute between the complainant and his former employee, whom the accused had dismissed for alleged theft. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Nairobi Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Director of Public Prosecutions on 22nd February, 2012 with the recommendation that the case be prosecuted to its logical conclusion.

On 22nd March, 2012, the Director of Public Prosecutions accepted the recommendation for prosecution.

24. KACC (NYERI) CR. 255/435/2011 CF. NYERI ACC. NO.7/2011

Inquiry into allegations that the Deputy OCS, Nairutia Police Station corruptly solicited for a benefit from the complainant as an inducement to release the complainants motorcycles which had been impounded. The investigation established the solicitation and receipt of the benefit by the suspect. Investigations also revealed that the accused received the benefit in the presence of the OCS.

The file was forwarded to the Director of Public Prosecutions on 23rd January, 2012 with the

recommendation that the accused be charged with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; and concealing evidence contrary to Section 66 (1) (c) as read with Section 66 (2) of the ACECA. It was further recommended that administrative action be taken against the OCS, Nairutia Police Station.

On 22nd March, 2012, the Director of Public Prosecutions accepted the recommendation for prosecution of the accused; and in addition that administrative action be taken against the OCS, Nairutia Police Station.

25. KACC (ELD) CR.831/881/2011 CF. ACC. NO. ELDORET 6/2011

Inquiry into allegations that a Senior Charge Hand Mechanic of Ministry of Roads, Eldoret corruptly solicited for a benefit from the complainant as an inducement to facilitate the issuance of a Suitability Test Certificate without subjecting him to the relevant test. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Director of Public Prosecutions on 27th February, 2012 with the recommendation that the case be prosecuted to its logical conclusion.

On 3rd April 2012 the Director of Public Prosecutions accepted the recommendation for prosecution

26. KACC. CR.151/464/2011 CF. NAIROBI ACC.34/2011

Inquiry into allegations of impersonating of an investigator by two accused persons who purported to be employees of the Kenya Anti-Corruption Commission. Investigations established that the accused persons visited the premises of a private company on the 17th August, 2011, and indicated that they wanted to see the Company Director. Investigations established that the two suspects introduced themselves as officers from the KACC, and had a Kenya Anti-Corruption Commission (KACC) identification badge. The two suspects alleged that the company had employed foreigners without work permits and that the company supplied substandard goods to the market and mistreated its employees. Investigations further revealed that after the suspects failed to produce copies of any written complaints, the Administrative

Manager became suspicious and reported to the Commission. Investigations further established that the two suspects were not employees of EACC. The suspects were arrested and charged before the Nairobi Anti- Corruption Court with the offence of impersonating an Investigator. One of the suspects pleaded guilty, was convicted; and sentenced to serve one year imprisonment.

The file was forwarded to the Director of Public Prosecutions on 29th February, 2012 with the recommendation that the case against the other suspect be prosecuted to its logical conclusion. On 23rd March, 2012, the Director of Public Prosecutions accepted the recommendation for prosecution.

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

Total No. of files forwarded to the Director of Public Prosecutions	26
No. of files recommended for prosecution	19
No. of files recommended for administrative or other action	2
No. of files recommended for closure	5
No. of files recommended for prosecution and the cases are already lodged before Court	6
No. of files where recommendation to prosecute accepted	15
No. of files where recommendation for administrative or other action accepted	2
No. of files where recommendation for closure accepted	5
No. of files returned for further investigations	1
No. of files where recommendation to prosecute not accepted	2
No. of files where recommendation for administrative or other action not accepted	0
No. of files where closure not accepted	0
No. of files forwarded in previous quarters and received during this quarter	1
No. of files awaiting Director of Public Prosecution's action	1

DATED AT NAIROBI THIS

DAY OF

2012

**JANE W. MUTHAURA (MRS)
AG. SECRETARY/CHIEF EXECUTIVE OFFICER**