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THE ETHICS AND ANTI-CORRUPTION COMMISSION

THE FIRST QUARTERLY REPORT COVERING THE PERIOD FROM 1ST JANUARY 2020 TO
31ST MARCH 2020

 THE NATIONAL ASSEMBLY PAPERS LAID	
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MARCH 2020

PREAMBLE

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

Section 36 of ACECA provides that:

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

This report is therefore made pursuant to section 36 of ACECA. The report covers the First Quarter and is for the period commencing 1st January, 2020 to 31st March, 2020.

INVESTIGATION REPORT COVERING THE PERIOD 1ST JANUARY 2020 TO 31ST MARCH 2020

1. EACC/KSI/FI/INQ/07/2017

INVESTIGATIONS INTO ALLEGATIONS OF WILFUL FAILURE TO COMPLY WITH PROCUREMENT LAW AND ABUSE OF OFFICE REGARDING THE PROCUREMENT OF TELEMEDICINE EQUIPMENT FOR KENDU ADVENTIST HOSPITAL AGAINST OFFICIALS OF CONSTITUENCY DEVELOPMENT FUND COMMITTEE.

The Commission learnt of this investigation from the Directorate of Criminal Investigation {DCI}, Homabay County. The complaints in question ranged from mismanagement of the Constituency Development Fund {CDF} kitty, fictitious projects, unprocedural awarding of contracts to fraudulent payments for either uncompleted or non-existing projects.

Investigations established that a teleconferencing idea was introduced to the concerned Member of Parliament {MP} by a certain Company. The idea was meant to ease communication between the MP from his office in Nairobi and his Constituents back at home without him travelling all the way to his constituency. The teleconferencing equipment was installed and operationalized. A year later however the equipment was stolen and the matter reported to the police. The concerned Company was never paid for the said equipment.

Around the same time, an idea of telemedicine was shared with the MP. He promised to assist Kendu Adventist Hospital in the procurement of the said equipment. In September 2014, CDF officials delivered the equipment to the Hospital. The Hospital treated it as a donation from the MP. The proposal for procurement of the equipment was passed by the Constituency Development Fund Committee {CDFC} and money set aside for the purchase of the same.

Requests for quotations were allegedly done and three firms responded. One Company won the tender and was tasked with the supply, delivery and

installation of the equipment. The CDFC officials approved payment to the Company. Nonetheless, it emerged that the Company did not supply, deliver nor install the equipment at the Hospital.

On 21st January, 2020, a report was compiled and forwarded to the DPP with recommendations that the MP, MP's Personal Assistant, CDFC officials, and the Director of the Company that won the subject tender be charged with the following offences; conspiracy to commit an economic crime contrary to section 47A, abuse of office contrary to section 46, willful failure to comply with the applicable procedures and guidelines relating to procurement and tendering of contracts contrary to section 45 {2} {b}, fraudulent payment for goods not supplied contrary to section 45 {2} {a} {ii}, fraudulent acquisition of public property contrary to section 45 {1} {a}, all as read with section 48 of ACECA. Collusion contrary to section 42 {1} {c} of the Public Procurement and Disposal Act, 2005 and forgery contrary to section 345 as read with section 349 of the Penal Code.

On 4th June, 2020 the DPP returned the inquiry file accepting the Commission's recommendation for prosecution.

2. EACC/FI/INQ/23/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF RIG MOVE SERVICES AT GEOTHERMAL DEVELOPMENT COMPANY IN THE FINANCIAL YEAR 2012/2013.

The Commission commenced investigations following a complaint of irregular procurement of rig move services at the Geothermal Development Company {GDC}. The nature of the allegations were that in the FY 2010/2011, GDC entered into a contract with a certain Company to rig move services at a cost of Kshs. 19, 550,000/- per rig move. In the FY 2012/2013, GDC procured the same service from the same Company at Kshs. 42, 476,000/- per rig move. In the FY 2013/2014, the Kenya Generating Company Limited {Kengen} contracted the same Company for a similar service at Kshs. 20, 253, 660/- per rig move.

It emerged that the amount paid for this service in the FY 2012/2013 was 100% more than what was paid in the FY 2010/2011. Further, that the said price was not guided by market rates therefore the Government did not get value for money. The Commission upon conclusion of investigations forwarded a statutory report to the Director of Public Prosecutions {DPP} on 28/10/2015. On 12/11/2015, the DPP concurred with the recommendations and the suspects were accordingly arraigned in court. The matter however came to a cropper following the decision in Eng. Michael Sistu Mwaura Kamau v EACC and 4 others.

The DPP based on this decision withdrew the case under section 87 {a} of the Criminal Procedure Code {CPC} on 18/10/2017 and returned the file to the Commission. Later an official of GDC filed a judicial review challenging the charges facing her. The High Court granted the official prohibitory orders but the same was overturned on appeal. On the strength of this decision and given that no stay orders were granted the Commission proceeded to investigate this matter afresh.

On 21st January 2020, a report was compiled and forwarded to the DPP with recommendations that various officials of GDC be charged with willful failure to comply with the law relating to procurement contrary to section 45 {2} {b}, and abuse of office contrary to section 46 both as read with section 48 of ACECA. Inappropriate influence on evaluation contrary to section 38 {1} {b} as read with section 38 {2} of the Public Procurement and Disposal Act.

On 19th May 2020, the DPP returned the inquiry file for further investigations.

3. EACC/NYR/FI/INQ/15/2017

INQUIRY INTO ALLEGATIONS OF IMPROPRIETIES AT KENYA FOREST RESEARCH INSTITUTE {KEFRI} ON MATTERS OF TENDER FOR CONSULTANCY SERVICES FOR THE STRATEGIC PLAN DEVELOPMENT, BALANCED SCORE CARD, JOB ANALYSIS, JOB EVALUATION AND WORKLOAD ANALYSIS IN THE FINANCIAL YEAR 2012/2013

The Commission commenced investigations following allegations of improprieties at KEFRI touching on matters of tender consultancy services for the strategic plan development, balanced core card, job analysis, job evaluation, and workload analysis in the FY 2012/2013.

On 1/03/2012, the Head of Procurement at KEFRI paid for advertisement of the subject tender. The same was re-advertised on 24/05/2012 and closed on 14/06/2012 attracting two bids. On 3/08/2012, KEFRI executed the contract between itself and the winning bidder for provision of the said consultancy services.

On 21st January, 2020, a report was compiled and forwarded to the DPP with recommendations that the Commission gives an advisory to KEFRI to keep records for each procurement for at least six years. Further, that all the procurement for goods and services be inspected by the Inspection and Acceptance Committee before any payments are done.

On 5th June 2020, the DPP returned the inquiry file accepting that an advisory be issued to KEFRI.

4. EACC/NYR/FI/INQ/24/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR EXPENDITURE OF KSHS. 6,428,541/- BY OFFICERS OF THE COUNTY ASSEMBLY OF MURANG'A ON A FOREIGN TRIP TO UGANDA BETWEEN 30/09/2013 AND 6/10/2013.

The Commission commenced investigations following a report of misappropriation of public funds from the said County regarding various foreign trips. Among the trips mentioned in the report is a trip to Uganda whose total cost was Kshs. 6,428,541/- made by 31 members of the County Assembly and 7 members of staff. The report of the Auditor General faulted the Assembly for

incurring expenses of foreign trips in excess of the amount approved by the Controller of Budget.

Investigations established that public funds amounting to Kshs. 1,150,214.50/-was lost. This was as a result of excess payment above the job grades of some of the members, payment of per diem to all members for one day not spent in Uganda, failure to refund per diem by members who returned earlier than the scheduled time, double payments through imprest issued to a certain official.

On 21st January, 2020, a report was compiled and forwarded to the DPP with recommendations that the amount paid in excess to each of the suspects be recovered from their salary as provided under the Public Finance Management Act {PFMA}. Further, that considering that some of the MCA's were not re-elected in 2013 general elections and have as such ceased being public officers, the amounts by such MCAs should be recovered from the Principal Finance Officer {PFO}. Also that administrative action should be taken against the PFO for his failure to be vigilant in ensuring that the subject imprest was refunded.

On 18th May 2020, the DPP returned the inquiry file for further investigations.

5. EACC/GSA/FI/INQ/37/2018

INQUIRY INTO ALLEGATIONS OF ACQUISITION OF SUB-STANDARD GENERATORS BY THE NATIONAL IRRIGATION BOARD

The Commission received an anonymous report that the Funani Construction Company {FCC} which had been contracted to supply generators to the National Irrigation Board, Bura Irrigation Scheme had supplied poor quality generators at a cost of Kshs. 100m.

Investigations established that the tender was advertised on 15/09/2010 and submitted tenders opened on 13/10/2010 by the Tender Opening Committee. The Tender Committee then recommended an award of the tender to FCC. A procurement contract was entered into on 11/02/2011. The generators were

delivered and inspected by the Inspection and Acceptance Committee and a report on the same was prepared. The generators were found to be fit.

On 21st January, 2020, a report was compiled and forwarded to the DPP with recommendations that the file be closed since no offences in law have been established.

On 26th May 2020, the DPP returned the inquiry file accepting the Commission's recommendation for closure.

6. EACC//FI/INQ/101/2016

AN INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES AND CONFLICT OF INTEREST IN THE SUPPLY AND DELIVERY OF EQUIPMENT TO THE NATIONAL YOUTH SERVICE BY M/S ZEIGHAM ENTERPRISES LIMITED

The Commission commenced investigations following a report that there were irregularities in respect of the subject tender awarded to a certain company by the National Youth Service {NYS} for the supply of machines/equipment at a cost of Kshs. 21,800,000/=.

Investigations established that the Technical Evaluation Committee recommended the award of the tender to the said company despite it not meeting the technical specifications set out in the tender document. Investigations also revealed that the Senior Director of Administration {SDA} at NYS chaired the Ministerial Tender Committee which awarded the tender to the company whose Director was/is the SDA's brother-in-law. Similarly, that the SDA through his company received Kshs. 21,670,000/= from the company that won the subject tender. Notably, the SDA did not disclose his interests in the two companies.

On 13th February, 2020, a report was compiled and forwarded to DPP with recommendations that members of the Technical Evaluation Committee and the

Senior Director of Administration be charged with the following offences; wilful failure to comply with the law relating to procurement contrary to section 45(2) (b), conflict of interest contrary to section 42(1) and abuse of office contrary to Section 46 all as read with section 48 (1) of the ACECA.

On 24th June 2020 the DPP returned the inquiry file recommending consolidation of the file with EACC/FI/INQ/99/2015 and conduct further investigations.

7. EACC/BGM/FI/INQ/7/2019

INQUIRY INTO ALLEGATIONS OF IRREGULARITIES IN THE PROCUREMENT AND AWARD OF CONTRACT FOR CONSTRUCTION OF MALABA WATER AND SANITATION PROJECT-WATER SUPPLY WORKS LOT 1 TO MACTEBAC CONTRACTORS LIMITED BY RIFT VALLEY WATER SERVICES BOARD AT A TENDER SUM KSHS. 600,000,000/= IN 2018/2019 FINANCIAL YEAR

The Commission commenced investigations following an anonymous report that Rift Valley Water Services Board (RVWSB) had irregularly awarded the tender for construction works for Malaba Water and Sanitation Project-Water Supply Works Lot1 to some company at a tender sum of Kshs. 600,000,000/=. It was further alleged that the said company had no capacity to undertake a project of such magnitude.

Investigations established that the Tender Evaluation Committee members failed to carry out due diligence as required by section 83 of the Public Procurement and Disposal Act (PPADA). The acting Head of Procurement, neglected to ensure that due diligence had been done before providing a professional opinion to the accounting officer recommending the award of this tender to the company. The tender evaluation committee members corrected the initial bid price contrary to section 82 of the PPADA, 2015. Further, that the company attached fake documents to its bid from various public and private institutions purporting them to be genuine.

On 13th February, 2020, a report was compiled and forwarded to DPP with recommendations that the Technical Committee Members, the Procurement Assistant and the Managing Director of the company be charged with the following offences; wilful failure to comply with applicable law relating to procurement contrary to Section 45 (2) (b) as read with Section 48 of the ACECA, neglect of official duty by a public officer contrary to Section 128 of the Penal Code, fraudulent practice in procurement contrary to Section 66 (1) as read with Section 177 (a) Of the PPADA.

On 9th June 2020, the DPP returned the inquiry file recommending further investigations.

8. EACC/ISL/FI/INQ/NO/64/2015

INQUIRY INTO AN ALLEGATION OF IRREGULAR TRANSFER OF MONEY ALLOCATED FOR KAMWELINE BOREHOLE DRILLING PROJECT BY NTONYIRI NOW CALLED ISEMBE NORTH CDF AMOUNTING TO KSH. 1, 850, 000/-

The Commission commenced following complaints of misappropriation of Constituency Development Funds (CDF) in Isembe North Constituency, Meru County. Among the complaints received is the allegation of irregular transfer of money allocated for Kamweline Borehole Drilling Project by Ntonyiri CDF now called Isembe North CDF amounting to Ksh. 1, 850, 000/-.

Investigations established that Kamweline Borehole Drilling Project was allocated Kshs. 1, 850, 000/- by Isembe North CDF for the sole purpose of drilling water at Kamweline Primary School. A Project Management Committee (PMC) was in place. The role of the PMC was to oversee the implementation of the project. Kamweline Borehole Drilling Project held an account at Co-operative Bank, Maua Branch. PMC officials were signatories of the bank account. Further, that the stated money was not utilized until 30th January, 2014 when Kshs. 1, 300, 000/- was transferred to the account of one contractor under unclear circumstances.

On 13th February, 2020, a report was compiled and forwarded to DPP with recommendations that members of the PMC be charged jointly with the Contractor with the offences of; conspiracy to commit an offence of corruption contrary to Section 47A (3), unlawful disposal of public property contrary to Section 45(1) (b), fraudulent acquisition of public property contrary to Section 45(1) (a) and abuse of office contrary to Section 46 all as read with Section 48(1) of ACECA, fraudulent practice in procurement proceeding contrary to Section 41(4) as read with Section 137 of the Public Procurement and Disposal Act No. 3 of 2005, forgery contrary to section 345, three counts of making a false document contrary to Section 347(a) both as read with Section 349 and uttering a false document contrary to Section 353 all under the Penal Code.

On 4th June, 2020 the DPP returned the inquiry file accepting the Commission's recommendation for prosecution subject to further investigations.

9. EACC/EL/INQ/71/2018

INQUIRY INTO ALLEGATIONS OF FORGERY OF ACADEMIC CERTIFICATES BY A MEMBER OF STAFF TO GAIN EMPLOYMENT AT RURAL ELECTRIFICATION AUTHORITY {REA}

The Commission commenced this investigations following an internal audit conducted by REA that revealed that 10 members of staff had forged academic certificates so as to be employed in the said institution. Amongst the 10 officers was a Supplies Assistant the subject of this investigation.

Investigations established that REA advertised for various jobs on 6/11/2017 for among other posts that of a Supplies Assistant. The job required academic qualifications in Procurement and Supplies Chain Management, Purchasing and Supplies Management, Supplies Chain Management; Procurement and Contract; Logistics and Supplies Chain Management; Business Management among others.

The suspect applied for the said job and attached an academic certificate allegedly from Mount Kenya University. She was called for an interview which she passed and was offered employment. REA subsequently conducted an internal audit in the FY 2017/2018 on its members of staff. The audit revealed that some of them had submitted fake academic amongst them the suspect.

On 21st January, 2020 a report was compiled and forwarded to the DPP with recommendations that the suspect be charged with providing false information contrary to section 46 {1} {d} and deceiving a public entity contrary to section 46 {1} {d} both as read with section 46 {2} of the Leadership and Integrity Act. Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 24th April 2020, the DPP accepted the Commission's recommendation for prosecution.

10.EACC/MSA/EL/INQ/13/2018

INQUIRY INTO ALLEGATIONS THAT MEMBERS OF TAITA TAVETA COUNTY PUBLIC SERVICE BOARD WITHOUT DECLARING INTEREST, SHORTLISTED THEMSELVES FOR INTERVIEW AND THEREAFTER APPOINTED THEMSELVES TO THE POSITION OF COUNTY CHIEF OFFICERS OF TAITA TAVETA COUNTY GOVERNMENT

The Commission received an anonymous complaint to the effect that the Taita Taveta County Public Service Board advertised for various vacancies in the County's website for among other positions the positions of County Chief Officers. Further, that certain officials of the County Public Service Board applied for the said positions, shortlisted themselves for interviews, interviewed themselves and recommended themselves for appointment to the said positions without declaring their interest.

Investigations established that the Chairman of the said Committee appointed an ad hoc committee to look through the applications and shortlist qualified candidates. This was meant to avoid the issue of conflict of interest since some of

the applicants were also members of the Board. Further, the Chairman appointed an independent committee to conduct the interviews. He sat in the said interviews but his participation was limited to ensuring that the exercise was properly carried out. He even stepped out when some candidates were being interviewed.

On 21st January, 2020 a report was compiled and forwarded to DPP with recommendations for closure of the inquiry file.

On 15th April 2020, the DPP returned the inquiry file accepting the Commission's recommendation for closure.

11.EACC/EL/INQ/70/2018

AN INQUIRY INTO ALLEGATIONS THAT AN EMPLOYEE FALSIFIED ACADEMIC CERTIFICATES TO SECURE EMPLOYMENT AT THE RURAL ELECTRIFICATION AUTHORITY {REA}

The Commission received allegations that an employee of Rural Electrification Authority (REA) had used fake certificates to secure employment. The employee it was alleged used a fake Diploma in Purchasing and Supplies Management from the Kenya Institute of Management {KIM} to secure a job as a Supplies Assistant.

Investigations established that the suspect was employed at REA after passing her interview. Later in the FY 2017/2018 REA conducted an internal audit which revealed that the suspect among others had submitted fake certificates at the time of applying for jobs.

On 21st January, 2020 a report was compiled and forwarded to DPP recommending that an advisory be issued to REA on the need to verify academic certificates prior to employment of staff. Further that the suspect be charged with the following offences; providing false information to a public entity contrary to section 46 {1} {d} and knowingly misleading a public entity contrary to section 46 {1} {b} both as read with section 46 {2} of the Leadership and Integrity Act.

Fraudulent acquisition of public property contrary to section 45 {1} as read with section 48 of the ACECA. Forgery and uttering a false document contrary to sections 349 and 353 of the Penal Code.

On 30th April 2020, the DPP accepted the Commission's recommendation for prosecution.

12.EACC/NKR/INQ/EL/30/2016

AN INQUIRY INTO ALLEGATIONS OF FORGERY BY AN EMPLOYEE OF BOMET COUNTY.

The Commission commenced investigation following a complaint alleging that an employee of the County had forged academic papers to wit the Degree and Diploma Certificate in Community Development from various academic institutions.

Investigations established that the said employee obtained employment from the County Public Service Board of Bomet using forged academic papers. The employee had been employed on 30/04/2013 by the Office of the Governor on a temporary basis.

A report was compiled and forwarded to the DPP on 21st January, 2020 recommending that an advisory be issued to the Bomet County Public Service Board for the need to verify academic certificates prior to employment of staff. Further that the employee be charged with the following offences; deceiving a public entity contrary to section 46 {1} {b} and providing false information to a public entity contrary to section 46 {1} {d} both as read with section 46 {2} of the Leadership and Integrity Act. Forgery and uttering a false document contrary to sections 349 and 353 of the Penal Code. Giving false document to Principal contrary to section 41 {2} as read with section 48 of ACECA.

On 24th April 2020, the DPP accepted the Commission's recommendation for prosecution.

13.EACC/GSA/EL/INQ/61/2016

INQUIRY INTO ALLEGATIONS THAT AN ADMINISTRATIVE OFFICER IN WAJIR COUNTY GOVERNMENT EARNED DOUBLE SALARY FROM JANUARY 2016 TO OCTOBER 2017

Investigations commenced following an email request to investigate by the Executive Director, Transparency International (TI). It was alleged that a TI employee was also employed by Wajir County Government earning double salaries for nine months from 1st January, 2016.

To ascertain the veracity of allegations, EACC Officers recorded statements and obtained relevant documents. Upon analysis of the evidence it was affirmed that he was an employee of TI on contract basis. The record confirmed that he was irregularly hired as an Administrative Officer vide appointment letter was dated 1st January, 2016 but entered into the payroll of Wajir County Government on 10th May, 2016. The recruitment documents purportedly used in his recruitment process bear the wrong ID Number and degree qualification. The ID from investigations belonged to an employee in the office of the Governor who has similar degree qualification.

On 21st January, 2020, a report was compiled and forwarded to DPP with recommendations that Kshs. 12,704/- be recovered from the suspect being the balance of the double salary earned by the suspect. Further, administrative action be taken against the Secretary County Public Service Board for having taken part in the irregular recruitment exercises and the County Public Service Board for its role in the irregular regularization of staff in the Governor's office. Finally, that an advisory be issued to the County Government on recruitment processes for all County employees envisaged by law.

On 15th April 2020, the DPP returned the inquiry file accepting the Commission's recommendation for administrative action.

14.EACC/KIS/EL/INQ/03/2018

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND UNETHICAL CONDUCT AGAINST OFFICIALS OF NYAMIRA COUNTY GOVERNMENT

The Commission commenced investigations following a report of allegations of abuse of office and unethical conduct against officials of Nyamira County Government. The said officials allegedly authorized the provision of legal services to the Governor's wife in relation to Petition No. 1 of 2015 (Employment & Labour Relations Court, Kericho) and Miscellaneous Taxation Cause No. 7 of 2016 yet the Governor's wife was not an employee of Nyamira County Government.

Investigations established that the Governor's wife enjoyed similar privileges as the Governor (who is her husband) hence it was difficult to separate the Governor's wife from the Governor. This is because the stated instructions in some cases would come from either of them. As it stands, there is no legislation or policy document that covers first ladies' in the County Government in respect of their powers, privileges and functions within the county.

On 21st January, 2020, a report was compiled and forwarded to DPP with recommendations that that the file be closed and a caution be issued against the Legal Advisor to the Governor in line with Section 11(a) of the Leadership and Integrity Act to always uphold the integrity of a public office in all undertakings.

On 8th April 2020, the DPP returned the inquiry file recommending further investigations.

15. EACC/KSI/EL/INQ/2/2017

AN INQUIRY INTO ALLEGATIONS OF IRREGULAR RECRUITMENT AND UNETHICAL CONDUCT BY THE CLERK AND THE SPEAKER NYAMIRA COUNTY ASSEMBLY

The Commission commenced investigations following receipt of a complaint alleging that there was irregular recruitment of employees in the County Assembly of Nyamira by the former Clerk and Speaker of the Assembly.

Investigation established that on the 20th June 2017, the Nyamira County Assembly Service Board held a meeting at the Speaker's Office chaired by the Speaker. Part of the agenda included a discussion about recruitment of staff in the County Assembly. Specifically, the Board deliberated on the recruitment of cleaners and the deployment of IFMIS/ICT officer from the executive and some names were listed down. However, the Speaker and the Clerk later on without the approval of the board, altered the names on the list by adding some handwritten names and crossing out those that had been approved and then countersigned the said minutes purporting them to be a true reflection of the deliberation of the board on 20th June, 2017.

On 13th February, 2020, a report was compiled and forwarded to DPP with recommendations that the Clerk and the Speaker be charged jointly with forgery contrary to Section 345 as read together with Section 349 of the Penal Code. Abuse of office contrary to Section 46 as read with Section 48[1] of the ACECA.

On 30th April 2020, the DPP returned the inquiry file recommending further investigations.

16.EACC/EL/INQ/72/2018

INQUIRY INTO ALLEGATIONS THAT A FORMER EMPLOYEE FORGED ACADEMIC CERTIFICATES TO GAIN EMPLOYMENT AT RURAL ELECTRIFICATION AUTHORITY {REA}

The Commission commenced investigations on receipt of an anonymous complaint that one of the former employees of REA had forged his academic Certificates to gain employment.

Investigations revealed that sometimes in the year 2010, the former employee was contracted by REA to work as a construction supervisor whose main area of operation was Kilifi County.

Further, that on 6th November 2017, REA through an internal advert advertised various positions among them the position of Technician REA 8, Construction Department which had 27 slots. Among the requirements for the position was that the applicants were required to have obtained a diploma in Electrical Engineering or a related field from a recognized institution. The former employee applied for the position and enclosed copies of his CV and other academic qualifications including a diploma in Electrical Engineering (power option) from Nairobi Technical Training Institute (NTTI). In addition to his application, the suspect also completed a Bio Data Form and indicated that his highest academic qualification is a Diploma in Electrical Engineering. REA conducted an audit which revealed that the suspect's Diploma Certificate was fake.

On 13th February, 2020, a report was compiled and forwarded to DPP with recommendations that the suspect be charged with the following offences; providing false information to a public entity contrary to Section 46 (1) (d), deceiving a public entity contrary to Section 46 (1) (b) both as read with Section 46 (2), of the Leadership and Integrity Act. In the alternative Uttering False Document Contrary to Section 353 as read with Section 349 of Penal Code. Making of false document Contrary to Sections 345(a) and 347 read together with Sections 348 and 349 of the Penal Code. 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.

On 14th April 2020, the DPP accepted the Commission's recommendation for prosecution.

17.EACC/ELD/OPS/22/2018

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST THE CHIEF MILIMANI LOCATION,
TRANS-NZOIA COUNTY**

The Commission commenced investigations following bribery allegations against the Chief. The allegation was brought by a widow who had approached the Chief for an introductory letter to enable her commence succession proceedings in respect of her late husband's estate. In order to draft the said letter, the Chief requested for Kshs. 300,000/= as facilitation fees. This amount was later negotiated down to Kshs. 80,000/=.

Investigations established that part of this amount was paid to the Chief on 26/7/2013, pursuant to a trap operation which had been set up by the Commission. The Chief was arrested by the Commission's officers upon receiving the said trap money.

On 21st January, 2020, a report was compiled and forwarded to DPP with recommendations that the suspect be charged with requesting for a bribe contrary to section 6 {1} {a} and receiving a bribe contrary to section 6 {1} {a} both as read with section 18 {1} and {2} of the Bribery Act.

On 9th April 2020, the DPP accepted the Commission's recommendation for prosecution.

18. EACC/KIS/OPS/INQ/1/2019

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A CLERICAL OFFICER 1 BASED AT MBITA LAND ADJUDICATION AND SETTLEMENT OFFICE

The Commission commenced investigations following a report alleging that the clerk demanded Kshs. 10,000/= from a member of the public so as to facilitate a transfer of land. The client later learnt that he was not required to pay any money to have the land transferred in his name.

Investigations established that the Clerk had demanded the said money. A trap operation was set up whereupon the Clerk was arrested by the Commission's Officers while receiving the said amount.

On 21st January 2020, a report was compiled and forwarded to DPP with recommendations that the suspect be charged with receiving a bribe contrary to section 6 {1} {a} as read with section 18 {1} and {2} of the Bribery Act.

On 23rd June 2020 the DPP accepted the Commission's recommendation for prosecution.

19.EACC/OPS/INQ/179/2018

INQUIRY INTO ALLEGATIONS THAT A PREVENTION OFFICER WITH THE ETHICS AND ANTI-CORRUPTION COMMISSION BASED AT THE CENTRAL REGIONAL OFFICE, NYERI, REPRESENTED HIMSELF TO OFFICIALS OF CENTRE FOR HUMANITARIAN DIALOGUE {HD} AS AN INVESTIGATOR OF THE ETHICS AND ANTI-CORRUPTION COMMISSION PURPORTEDLY INVESTIGATING TAX EVASION RELATED OFFENCES

The Commission received a complaint to the effect that the suspect represented himself at HD as an Investigations Officer with the Commission tasked with investigating tax evasion offences facing Humanitarian Dialogue (HD). While at it the suspect demanded an unspecified amount of bribe as protection fees for shielding the organization against investigation.

Investigations established that the suspect was employed by the Commission as a Prevention Officer and was never appointed as an investigator as per the provisions of Section 23 and 24 of ACECA.

On 21st January, 2020, a report was compiled and forwarded to the DPP with recommendations that the suspect be charged with impersonating an Investigator contrary to section 34 {1} as read with section 34 {2} of the ACECA or in the alternative acting as an investigator contrary to section 34 {1} as read with section 34 {2} of ACECA.

On 25th May 2020, the DPP accepted the Commission's recommendation for prosecution.

20. EACC/NYR/OPS/02/2019

INQUIRY INTO AN INVESTIGATION OF CORRUPTION ALLEGATIONS AGAINST A DAPC AND AN OCPD RESPECTIVELY ATTACHED TO KINANGOP SUB-COUNTY, NYANDARUA COUNTY

The Commission commenced investigations following a complaint that the OCPD and DAPC Kinangop Sub-County were requesting for a bribe of Kshs 500,000 from individuals in order to execute an Eviction Order.

Investigations established that the OCPD and DAPC requested for a benefit of Kshs 500,000 which was negotiated to Kshs 300,000 from the individuals in order to execute the eviction order

On 21st January, 2020, a report was compiled and forwarded to DPP with recommendations that the suspects be charged with the following offences; requesting for a benefit contrary to Section 6(1)(b) as read with Section 18(1) (a) of the Bribery Act. Conspiracy to commit an offence of corruption Contrary to section 47A (3) (c) as read with Section 48(1) of the ACECA.

On 15th May 2020, the DPP returned the inquiry file recommending further investigations.

21. EACC/NKR/OPS/INQ/19/2018

INQUIRY INTO ALLEGATIONS OF RECEIVING A BENEFIT AGAINST SOME LAND OFFICIALS AT THE BARINGO LANDS REGISTRY SO AS TO FACILITATE IMPLEMENTATION OF A FAMILY LAND DISPUTE OF PARCEL OF LAND WITHIN SAGASAK LOCATION

The Commission received a complaint through Huduma Centre, Baringo that some land officials at the Baringo Lands Registry had solicited for Kshs 2,000/= from a member of the public so as facilitate implementation of a family land dispute within Sagasak Location in Kapropita Sub-Location.

Investigations established that the officials did request for a bribe of Kshs. 2,000/-. The Commission's officials set up a trap operation resulting in their arrest while receiving treated money of a similar amount.

On 21st January, 2020, a report was compiled and forwarded to DPP with recommendations that the suspects be charged with the following offences; receiving a bribe contrary to section 6 {1} {b} as read with section 18 {1} {a} of the Bribery Act. Conspiracy to commit an offence of corruption contrary to section 47 A {3} as read with section 48 {1} of ACECA.

On 31st March 2020, the DPP accepted the Commission's recommendation for prosecution.

22. EACC/OPS/INQ/159/2019

INQUIRY INTO ALLEGATIONS AGAINST AN OFFICER OF THE PENSIONS DEPARTMENT, NATIONAL TREASURY

The Commission commenced investigations following a complainant that husband to an officer at the Pensions Department had demanded for a bribe of Kshs. 70,000/= from a member of the public so as to fast track processing of pension dues in respect of their deceased husband.

Investigations revealed that there is sufficient evidence to support a charge of receiving a bribe contrary to Section 6 (1) as read with Section 18 (1)(2) of the Bribery Act against the officer. However, there is no sufficient to link the officer with the husband's actions.

On 21st January, 2020, a report was compiled and forwarded to DPP with recommendations that the suspect be charged with the offence of receiving a bribe contrary to Sections 6(1) as read with Section 18 (1)(2) of the Bribery Act.

On 8th April 2020, the DPP returned the inquiry file recommending further investigations.

23. EACC/ISL/OPS/INQ. 27/2017

INQUIRY INTO ALLEGATIONS THAT A POLICE OFFICER AT MUTHARA POLICE STATION RECEIVED A BRIBE OF KSHS. 2,100/- AS AN ADVANTAGE FROM A COMPLAINANT TO FACILITATE THE ESCORT OF A PRISONER FROM KARATINA POLICE STATION TO MUTHARA POLICE STATION.

The Commission received an allegation to the effect that the Police Officer requested for a bribe of Kshs. 4,000/- and received Kshs. 2,100/- from the complainant so as to facilitate the escort of a prisoner from Karatina Police Station to Muthara Police Station.

Investigations established that there was an accused remanded at Karatina Police Station. The said remandee needed to be moved to Muthara Police Station. The Police Officer demanded that the complainant facilitates the transportation cost. To this end, the complainant sent the Police Officer Kshs. 2,100/= via mpesa.

On 21st January, 2020, a report was compiled and forwarded to DPP with recommendations that the suspect be charged with two counts of receiving a bribe contrary to Section 6(1)(b) of the Bribery Act, 2016, as read together with Section 18(1) of the Bribery Act.

On 30th June 2020 the DPP returned the inquiry file directing closure.

24. EACC/OPS/INQ/19/2019

INQUIRY INTO ALLEGATIONS THAT A MEMBER OF THE PUBLIC CORRUPTLY OFFERED AND GAVE \$500 TO AN OFFICER OF THE DIRECTORATE OF CRIMINAL INVESTIGATION {DCI}, IN CONSEQUENCE OF WHICH SHE WOULD FORBEAR CHARGING INDIVIDUALS ACCUSED OF ELECTRONIC FRAUD BY HACKING INTO BANK SYSTEMS

The Commission received a complaint from the DCI Officer regarding bribery allegations against the suspect. The nature of the allegations was that the suspect contacted the DCI Officer for a meeting with a view to enlisting her help in

dropping the charges facing the individuals. In return the suspect was to reward her with \$500.

Investigations established that the suspect met with the DCI Officer. However, there was no evidence to show that the suspect did indeed make the monetary offer to the Officer. Further, even if the Officer was in possession of \$500 dollars allegedly given to her by the suspect, it was not clear how she came into possession of the same.

On 21st January, 2020, a report was compiled and forwarded to DPP with a recommendation that the file be closed with no further action.

On 9th April 2020, the DPP returned the inquiry file recommending further investigations.

25. EACC/OPS/INQ/75/2018

AN INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A DCI OFFICER ATTACHED TO DCI ONGATA RONGAI IN KAJIADO COUNTY, THAT HE DEMANDED A BENEFIT OF KSHS. 50,000 FROM A COMPLAINANT AS AN INDUCEMENT TO RELEASE A FOREIGN MOTOR VEHICLE REGISTRATION NO. SSD 663J

The Commission commenced investigations following a complaint that Directorate of Criminal Investigations (DCI) Officers at Ongata Rongai Police Station were demanding a financial benefit of Kshs. 50,000 as an inducement for releasing the complainant's motor vehicle, foreign registration number SSD 663J.

Investigations established that the DCI Officer requested for a bribe of Kshs. 2,000/= as well as a benefit of 'lunch' from the complainant before he could process the release of the said motor vehicle from police custody. No formal complaint was made to this effect.

On 21st January, 2020, a report was compiled and forwarded to DPP with a recommendation that in the absence of a complainant the inquiry file be closed with no further action.

On 31st March 2020, the DPP returned the inquiry file recommending administrative action against the suspect.

26.EACC/MLD/OPS/INQ/13/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION LEVELLED AGAINST THE ASSISTANT COUNTY COMMISSIONER SERVING IN MALINDI SUB-COUNTY IN KILIFI COUNTY

The Commission received a complaint wherein the County Official was accused of demanding initially a bribe of Kshs. 10,000/=. This amount was reduced to Kshs. 3,000/= and was meant to facilitate the release of one of the complainants herein from custody and to solve an alleged marital dispute between the complainants.

Investigations established criminal culpability namely receiving of bribe, on the part of the official on the basis of which the Commission recommended his prosecution.

On 21st January, 2020, a report was compiled and forwarded to DPP with recommendations that the suspect be charged with receiving a bribe contrary to Section 6(1)(b) of the Bribery Act, 2016, as read together with Section 18(1) of the Bribery Act.

On 4th May 2020, the DPP returned the inquiry file recommending further investigations.

27.EACC/KSM/OPS/INQ/9/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A CLERK AT BONDO LAW COURTS

The Commission commenced investigations following a complaint from the complainant that the clerk was requesting a financial advantage of Kshs. 10,000 from him so as to withdraw an assault case in which he was the complainant.

Investigations established that the complainant had been assaulted and sustained injuries. He sued the persons involved. Later, he approached the prosecution seeking an out of court settlement which he was advised was not possible at the time. He then approached the Clerk who demanded for Kshs. 1,000/= in order for him to approach the Magistrate with the Complainant's request. After allegedly discussing with the Magistrate the Clerk demanded for Kshs. 10,000/= which he received in form of treated money.

On 13th February, 2020, a report was compiled and forwarded to DPP with recommendations that the Clerk be charged with soliciting and receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 (1) (2) of the Bribery Act.

On 15th May 2020, the DPP returned the inquiry file recommending further investigations.

28.EACC/OPS/INQ/47/2018

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST EIGHT TRAFFIC POLICE OFFICERS ATTACHED TO JUJA POLICE STATION

The Commission commenced this investigation following intelligence report that Traffic Police Officers from Juja Traffic Base request and receive bribes from motorists along the Nairobi-Thika Super Highway. To ascertain the veracity of the said allegations an undercover surveillance was carried out between 1st March, 2018 to 4th May, 2018 along the said Nairobi- Thika Super Highway at Juja.

Investigations could not reveal the identity of the officers involved from the surveillance videos. In fact, even their boss refused to identify them and could not produce a duty roaster claiming that the same had been destroyed. Further, the

fact that no sting operation was conducted after the said surveillance harmed the investigation. Also the investigation officer claimed not to have observed any corrupt conduct. According to him the officers conduct only displeased him.

On 13th February, 2020, a report was compiled and forwarded to DPP recommending that the inquiry file be closed with no further action owing to lack of sufficient evidence.

On 15th April 2020, the DPP returned the inquiry file accepting the Commission's recommendation for closure.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

1.	Total No. of files forwarded to the Director of Public Prosecutions	28
2.	No. of files recommended for prosecution	19
3.	No. of files recommended for administrative or other action	3
4.	No. of files recommended for closure	6
5.	No. of files recommended for prosecution and the cases are already lodged before Court	0
6.	No. of files where recommendation to prosecute accepted	10
7.	No. of files where recommendation for administrative or other action accepted	2
8.	No. of files where recommendation for closure accepted	3
9.	No. of files returned for further investigations	11
10.	No. of files where recommendation to prosecute not accepted	1
11.	No. of files where recommendation for administrative or other action not accepted	0
12.	No. of files where closure not accepted	0
13.	No. of files where closure declined but administrative action recommended	1
14.	No. of files awaiting the DPP's advice	0

DATED AT NAIROBI THIS

14th

DAY OF

July

2020

[Signature]
ARCHBISHOP (RTD) ELIUD WABUKALA, EBS
CHAIRPERSON

/emn

[Signature]
TWALIB MBARAK, CBS
SECRETARY/CHIEF EXECUTIVE OFFICER