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ON 30TH MAY, 2018

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EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY

REPORT OF THE ASSEMBLY ON ACCOUNTS ON THE AUDITED ACCOUNTS OF THE EAST AFRICAN COMMUNITY

FOR THE YEAR ENDED 30TH JUNE, 2016

(APRIL 29TH - MAY 13TH 2018, NAIROBI - KENYA)

Clerk's Chambers
3rd Floor, EALA Wing
EAC Headquarters' Building
Arusha, TANZANIA

May, 2018

EXECUTIVE SUMMARY

Mr. Speaker Sir,

During the review and consideration of the Audit Commission report on the Financial Statements of the East African Community Organs and Institutions for the year ended 30th June 2015, issues presented were examined and recommendations have been proposed.

The Community had a budget of USD **112,233,039** and the actual expenditure totalled to USD **59,664,208** hence an overall budget performance of 65%. Overall, the financial position of the Community remained reasonably healthy, with sufficient liquid assets to meet its maturing liabilities as they fell due.

Largely across the EAC Institutions, projects and programmes have a big issue of budget absorption requiring proper budgetary planning and coherence and consistency in the budgeting process. An EAC single projects unit is required to harness Projects Coordination of growing EAC projects.

EAC Organs and Institutions did not recover from Revenue Authorities of Partner States accumulated VAT refund, leading to forfeiture of activities that could have been undertaken using the un-refunded VAT refunds.

Finally, gross irregularities were noted in recruitment and award of short term contracts, a process that contravenes Staff Rules and Regulations and the Treaty. Similarly, many procurement processes in the EAC Organs and Institutions contravene procurement procedures.

Nevertheless, the Accounts presented fairly, in all material aspects, the financial position of EAC Organs and Institutions for the year ended 30th June 2016; their financial performance and cash flows for the period were in accordance with International Public-Sector Accounting Standards (IPSAS).

ABRREVIATIONS AND ACRONYMS

APSA	-	African Peace and Security Architecture
BMS	-	Budget Management System
BOQ	-	Bills of Quantity
CAAT	-	Computer Assisted Auditing Techniques
CASSOA	-	Civil Aviation Safety and Security Oversight Agency
EAC	-	East African Community
EACJ	-	East African Court of Justice
EALA	-	East African Legislative Assembly
IPSAS	-	International Public-Sector Accounting Standards
IUCEA	-	Inter University Council of East Africa
KNCPC	-	Kenya National Cleaner production Centre
KRA	-	Kenya Revenue Authority
LVBC	-	Lake Victoria Basin Commission
LVFO	-	Lake Victoria Fisheries Organizations
LVWATSAN	-	Lake Victoria Water Supply and Sanitation
MERECP	-	Mountain Elgon Regional Eco-System Conservation Project
MoU	-	Memorandum of Understanding
MTEF	-	Medium Term Expenditure Framework
NSSF	-	National Social Security Fund
OSNP	-	Operations Save Nile Perch
PHE	-	Population Health and Environment
PMU	-	Project Monitoring Unit
RPSC	-	Regional Policy Steering Committee
SMEs	-	Small and Medium Scale Enterprises
SRR	-	**Staff Rules and Regulations**
TMEA	-	Trademark East Africa
TRA	-	Tanzania Revenue Authority
TWG	-	Technical Working Group
URBRA	-	Uganda Retirement Benefits Regulatory Authority
VAT	-	Value Added Tax
VRMIS	-	VicRes Research Management Information System
WHT	-	Withholding Tax

TABLE OF CONTENTS

PART I

1.0 INTRODUCTION

In accordance with the provisions of Article 134 (3) of the Treaty for the establishment of the East African Community (EAC), the Chairperson of the EAC Council of Ministers on 18th April, 2018 in Dodoma, the United Republic of Tanzania laid before the Assembly the following reports of the Audit Commission:

i) **The Audited Financial Statements of the EAC organs, projects and programmes for the year ended 30th June, 2016;**

ii) **The Audited Financial Statements of the Lake Victoria Basin Commission (LVBC) for the year ended 30th June, 2016;**

iii) **The Audited Financial Statements of the Lake Victoria Environmental Management Project II (LVEMP II) for the ended 30th June, 2016;**

iv) **The Audited Financial Statements of the Lake Victoria Basin-Partnership Fund for the year ended 30th June, 2016;**

v) **Audited Financial Statements of the Inter University Council for East Africa (IUCEA) for the year ended 30th June, 2016;**

vi) **The Audited Financial Statements for the Lake Victoria Fisheries Organization (LVFO) for the year ended 30th June, 2016; and**

vii) **The Audited Financial Statements of the Civil Aviation Safety and Security Oversight Agency (CASSOA) for the year ended 30th June, 2016.**

In accordance with *Rule 74(1), Rule 81 (c)* and *Annex 5 (A)* of the Rules of Procedure of the Assembly, the Rt. Hon. Speaker referred the reports to the Committee on Accounts for review. The Committee met for this purpose and produced a report.

The report covers the Committee's findings and recommendations on the main issues raised. This report is sub-divided into eight (8) parts.

Part I: **Introduction**

Part II: **Audit Findings on the Financial Statements of the EAC Organs, Projects and Programmes for the year ended 30th June, 2016;**

Part III: **Audit Findings on the Financial Statements of the Lake Victoria Basin Commission (LVBC) for the year ended 30th June, 2016;**

The Audited Financial Statements of the Lake Victoria Environmental Management Project II (LVEMP II) for the year ended 30th June, 2016;

The Audited Financial Statements of the Lake Victoria Basin-Partnership Fund for the year ended 30th June, 2016;

Part IV: **Audit Findings on the Financial Statements of the Inter – University Council for East Africa (IUCEA) for the year ended 30th June, 2016;**

Part V: **Audit Findings on the Financial Statements of the Lake Victoria Fisheries Organization (LVFO) for the year ended 30th June, 2016;**

Part VI: **Audit Findings on the Financial Statements of the Civil Aviation Safety and Security Oversight Agency (CASSOA) for the year ended 30th June, 2016;**

Part VII: **Audit Findings on the Financial Statements of East African Kiswahili Commission (EAKC) for the year ended 30th June, 2016;**

Part VIII: **Audit Findings on the Financial Statements of the East African Science and Technology Commission (EASTCO) for the year ended 30th June, 2016;**

Part IX: **Audit Findings on the Financial Statements of the East African Health Research Commission (EAHRC) for the year ended 30th June, 2016;**

Part X: **General Observations/Recommendations and Acknowledgements.**

PART II

AUDIT FINDINGS ON THE CONSOLIDATED FINANCIAL STATEMENTS OF THE EAC ORGANS, PROJECTS AND PROGRAMMES

2.0 CURRENT YEAR AUDIT FINDINGS AND RECOMMENDATIONS

2.1 *EAC SECRETARIAT*

2.1.1 *Follow up of the previous year's audit recommendations at EAC*

The Audit Commission reported that the assessment of the status on the implementation of the previous audit recommendations of the last two years (2013/2014 and 2014/2015), revealed that 41% of the audit recommendations made in the 2013/2014 audit were not implemented while 57% of the audit recommendations made in the 2014/2015 were not implemented.

The Committee noted that lack non-implementation of some of the previous audit recommendations leads to persistent weakness in the internal control system of the Community.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to: -

i. ***Ensure that Audit recommendations are fully and promptly implemented by the different Organs, Institutions and projects across the East African Community in order to ensure that the Community resources are prudently, meaningfully put to good use.***

ii. ***Develop a mechanism of tracking the implementation status of the audit recommendations.***

iii. ***Subject approval of funds to various Organs, Institutions and projects to the implementation of the audit recommendations for audit issues which are within one year's financial audit exercise. A certificate of implementation of previous audit recommendation must be issued before funds are disbursed to the respective Organs, Institutions and projects.***

2.1.2 Fully depreciated assets still in use

A review of the EAC Secretariat Fixed Assets Register revealed that assets totalled to 1,701 items worth USD 3,153,792.53 were fully depreciated yet they were still in use as at the time of the audit. When the EAC Management interacted with the Committee, they concurred with the Audit finding and informed the Committee that management has subsequently undertaken an asset evaluation exercise in order to update the asset inventory of the East African Community.

Committee Observations:

i. The Committee observed that having to maintain a Fixed Assets Register totaling to 1,701 depreciated items leads to the Community to incurring high maintenance costs loss of space.

ii. There is no policy in place to guide asset management in the East African Community. According to the Director of Finance and Administration the Community is guided by International Assets Management Standards and the Financial Rules and Regulations of the East African Community.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to:-

i. To ensure that fully depreciated assets are disposed of immediately in order to avoid the Community incurring deprecation storage charges.

ii. To immediately initiate and commission an asset evaluation and inventory exercise with a view of assessing the assets that are still of economic value to the Community.

iii. As a matter of urgency, the Council should put in place an East African Community policy on management of assets.

2.1.3 Delay in payment to Creditors

The Audit Commission report pointed out that as at 30th June 2016, an amount of USD 667,763 representing 18.60% of total creditors had not been paid contrary to regulation 83 (6) of the EAC Rules and Regulations.

While interacting the Committee, the EAC Management concurred with the audit findings but reported that liquidity challenges made them unable to honour their obligations on time.

Committee Observations:

i. Whereas the Committee appreciates the current financial challenges facing the Community, delayed payments not only reflect negatively on the image of the Community but can have a negative effect on the businesses of the creditors and threaten their survival.

ii. None payments of creditors can lead to arbitration and litigation costs.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to:-

1. ***Ensure timely and prompt payments to creditors of EAC Institutions and Organs.***

2. ***To put in place prudent public financial Commitment and expenditure mechanisms whereby before any specific vote controller commits the Community, the funds for that specific line item budgeted for must be in place.***

2.1.4 Outstanding VAT Claimable –USD1, 579,538

During the year under review, it was noted that the Community did not recover from the relevant revenue collection bodies outstanding VAT claimable amounting to –USD1, 579,538 contrary to Article 4 Section 1 Sub-Section (d) of the EAC Headquarters Agreement

The EAC Management acknowledged the audit query and reported that it is a serious problem affecting most EAC Institutions and Organs. Management is therefore preparing a background paper seeking Councils' intervention on the VAT refunds.

The Committee observed that non-recovery of the funds from the Revenue Collection Bodies in Partner States accumulated VAT balance amounting to USD 1,579,538, is depriving the Community of the scare resources to implement its programs and activities.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to liaise with their respective Ministers responsible for Finance to ensure that the issue is brought to their attention such that the VAT refunds are promptly remitted to the Community.

2.2 REVIEW OF EXPENDITURE

2.2.1 Avoidable Expenditure

During the audit, some avoidable expenditure amounting to **USD 29,630** was noted. A number of meetings involving EAC staff were held in Nairobi and *Machame* in Moshi respectively, which could have been held at the EAC complex in Arusha. The expenses were mainly made up of the daily subsistence allowances and conference facilities for meetings.

While interacting with the Committee, the EAC Management informed the Committee that in order to institute controls over meetings held outside the EAC Headquarters, EAC management institutionalized financial management reforms by issuing the "Expenditure

Rationalization Reforms in EAC Organs and Institutions" which gave guidelines for such meetings. However, for this particular meeting, the circumstances were extraordinary and management wanted the staff involved to have maximum and undivided attention on the matter at hand in view of the importance of the exercise being carried out. This activity resulted in the EAC passing the 7-pillar assessment by the European Union and has provided the Community with a key pillar to access funding from the EU.

The Committee concurred with the response the Management provided and recommends to the Assembly to urge the EAC Council of Ministers to endeavour to hold meetings in the Community premises in Arusha Tanzania in order to save Community resources.

2.2.2 Unauthorized Expenditure

The audit revealed that a sum of **USD 29,360** was paid to police officers guarding the EAC headquarters without the appropriate authorization.

The Commission further noted that there is no legal or administrative provision stipulating that an acting Principal Administrative Officer can represent the Secretary General. In addition, the minutes on the negotiation of the agreement for the deployment of the police officers was not conclusive on the amount of so called token the Police was going to receive. The minutes only mentioned that the Arusha Regional Police Commander and EAC Secretariat would determine the amount of the token. However, the Audit Commission was not provided with the management decision allowing the payment of USD 10 per day for each police officer deployed to EAC headquarters.

The EAC Management informed the Committee of the importance of provision of security to the EAC Headquarters complex. They further explained that the duty of providing security to a foreign/international mission like EAC is the mandate of the host country. In this case the United Republic of Tanzania, specifically the Tanzanian Police force provides armed security personnel whereas KK Security provides non-armed security personnel and the security vetting machines and equipment. A token of USD 10 per shift per officer is given to the Tanzanian Police for the service rendered.

The Committee Observations:

Whereas the Committee appreciates the necessity and importance of maintaining security at EAC premises to protect the assets, facilities, and safety of the Community, authorizing payments which are not formally approved and authorized is against regulation 7(1) and 12(2) of the EAC Financial Rules and Regulations (2012). The Committee considers this payment irregular.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to: -

i. ***To establish a formal and structured engagement with the Government of the United Republic of Tanzanian on how security can be maintained at the East African Community premises.***

ii. ***Establish a formalized payment system for the security personnel providing security at EAC premises including electronic transfer of funds to their respective bank accounts.***

2.2.3 Short term employment contracts without sufficient funds

The Audit Commission reported that the EAC Management signed two short term contracts with Mr. Lubili Macro Gambamala and Ms. Nadine Bizimana in October 2014, for monthly salary of USD 4,000 and 1,000 respectively. Both contracts were for one year ending by 26th.November 2015. The officers were not paid until the end of the contract (November 2015) when they were paid a lump sum of USD 48,000 and 12,000 for the whole contract period respectively. Available documents indicate that the officers were given contracts expecting that they would be paid funds from Development Partners, but later the donor withdrew funding, and ended up being paid using EAC Secretariat Budget.

When the EAC Management interacted with the Committee they reported that that the contracts were issued because the Development Partners had committed to fund the remuneration of the two staff, however, disbursement of the funds under Partnership Fund delayed. The officers however provided the contracted services which were very much needed throughout the year. The 2 staff were therefore paid having executed a number of activities on a continuous basis throughout the contract period.

The Management further informed the Committee that at the moment there is no policy governing the short-term contract. The existing set up empowers the Secretary General to fill the gaps as and when the need arises upon getting the recommendations from the Human Resources Management Committee. (HRMC).

Committee observations:

i) The Committee observed that lack of formalized structure and policy for short term contracts was susceptible to abuse and corruption.
ii) The Committee further doubted the explanation given by the management of the EAC in regard to the rationale of keeping staff for one year without pay.

The Committee recommends to the Assembly to urge the EAC Council of Ministers: -

i) ***To put in place a formal and structured policy to govern short term contracts***

ii) ***To put advertisements for the short term contracts in all the major newspapers including use of electronic media across the Partner States as directed in regulation 23 (2) Staff Rules and Regulations. This will ensure that the principles of equity and fairness are adhered to in sourcing for personnel to carry out short term contracts.***

iii) ***To borrow the best practices from the African Union and the United Nations regarding the management of short contracts.***

iv) ***Before any vacancies and contracts for short term are filled or renewed the above recommendations or any other pertinent recommendations which Council deems necessary should first be filled.***

2.2.4 Short term Employees still engaged by EAC Secretariat

A review of documents regarding short term employees as of 30.06.2016 revealed that some employees at EAC were appointed on short term contracts for a period of more than 6 months and that there were no rules and regulations in place to govern short term contract employment. Furthermore, there was no evidence that interviews were done on for the initial contracts, contrary to principles of competition and transparency in process of recruitments and regulation 23 (14) of the staff rules and regulations (Appointment Authority and Procedures). It was further noted that the organization incurred costs amounting to USD 736,250 as salaries paid to staff who were appointed on short term contracts.

While appearing before the Committee the EAC Management reported that the EAC currently operates under a structure and establishment which was approved in 2006. The mandate and activities of the Community have since grown but the expansion of the structure and establishment has not been changed and are awaiting the completion of the institutional review exercise which has taken nine years. Subsequently, the Management resorted to using short term staff to fill in the gap emanating from the expansion with anticipation that the review would be completed soon.

Management further noted that recruitment of the short-term staff is being handled systematically through the Human Resource Advisory Committee which is an advisory body established under Regulation 37 of the Staff Rules and Regulations (2006) to advise the Secretary General on all staff matters. Management further observed that that it would have been impossible for the EAC to register any milestones in the implementation of its' Development Strategies using the number of staff as per the EAC establishment of 2006 and that the achievements registered so far have been contributed by the presence of the few established staff and short term staff.

Committee Observations:

i. The Committee observed that having staff accessing employment at the EAC without following the internationally competitive recruitment procedures portrays the Community in bad image and yet it's supposed to be the beacon of established good governance practices.

ii. The Committee further observed that this issue has been recurrent. The Committee could not comprehend how personnel can access employment in any of the EAC, Organs, Institutions without undergoing a formal interview process. This is susceptible to abuse and corruption and contravenes Regulation 23 (14) of the staff rules and regulations (Appointment Authority and Procedures) which directs that all appointments at the Community shall be subject to interviews.

iii. The Committee was not in agreement with the response of the Management that the short-term staff is a temporary measure as the Community awaits the completion of the institutional review and the job evaluation and analysis by the ad-hoc Service Commission. The regulation which the Management based on to recruit Short term employees does not mandate them to undertake recruitment. It calls for the Human Resource Advisory Committee to provide advisory services on human resources matters but not to undertake recruitment of staff in the Community. For instance, the HRA Committee can advise the Management on welfare, medical, staffing levels and any other issues affecting staff but does not empower the Management to recruit staff for the Community. The Management upon receipt of advice from the Human Resource Advisory Committee (HRAC) transmits it to the appropriate sectorial Council which then undertakes the recruitment. The Committee regards this as abuse of the staff rules and regulations by the Management.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to: -

i. ***Direct the Secretariat to comply with staff rules and regulations and stop recruitment and renewals of short term contracts in all departments, Organs, Institutions of the East African Community and***

ii. ***Convene the Service EAC Ad hoc Commission to phase out short term contracts and draw a road map to fill all positions that were previously held by short term contract holders with substantive staff.***

2.3 REVIEW OF PROCUREMENT & CONTRACT MANAGEMENT

2.3.1 Award of contract for EAC Staff Medical Insurance to M/s AAR Insurance at USD 545,628.5

The Audit Commission reported that the Procurement policies and procedures Manual (2011) clause 6.2.2, states that a contract shall be awarded to the qualified bidder whose bid substantially conforms to the requirements set forth in the solicitation documents.

Furthermore, Financial Rules and Regulations 77(1) of 2012, states that evaluation of tenders shall be conducted in accordance with the methodology and criteria stated in the bidding documents and shall not be altered during the evaluation process. Besides chapter 7 of the Procurement policies and procedures Manual (2011) clause 7.5.2.1(2) states that if a bidder fails to meet any one of the mandatory criteria, its proposal is deemed to be non-compliant and shall receive no further consideration.

The Committee was informed that during the year under review, EAC undertook a procurement process to engage a service provider for staff Medical Insurance. Only two bidders submitted their bids and the Procurement Committee recommended and awarded the contract to M/s AAR Insurance on the 27th June 2016. Documents relating to the procurement process of this contract were reviewed and the following anomalies were noted

- The tender was advertised for 30 days (i.e. from 17th April 2016 to 16th May 2016). This was contrary to the procurement manual 6.2.1 which states that bidders shall have a minimum of 45 calendar days from the date of initial publication to respond to an open call for bids.

- Under preliminary evaluation; on the criteria of audited financial statements for the last three years, (i.e.2013 to 2015) audit noted that M/s AAR Insurance in their bid document did not submit audited financial statements for 2015. The evaluation Committee proceeded to state that the two bidders passed the preliminary examination yet M/s AAR Insurance had not submitted all the required mandatory document (2015 audited financial statement) as per the TOR and thus should not have proceeded to the technical evaluation stage.

- Under technical evaluation stage; on the criteria of evidence of 5 clients with premiums of USD 500,000 and above and Prompt claims settlement, the evaluation team evaluated Jubilee Insurance (bidder No.1) as having failed yet a review of the firms' bid document revealed that the firm had indeed attached the required evidence. On the other hand, AAR Insurance was evaluated as having passed based on the two noted criteria's yet a review of their bid document found no proof that AAR Insurance did provide evidence of 5 clients with premiums of USD 500,000 and above. This unfair evaluation noted, put Jubilee Insurance at a disadvantage contrary to the provision of section 2.4.3.1 in the procurement manual which requires that procurement processes be carried out with fairness.

- Since M/s AAR Insurance did not submit their previous years (2015) audited financial statements, gross premiums in the previous year of at least USD 5million in medical insurance could not be confirmed. The firm did not provide evidence for accommodation for parent/guardian accompanying a child below 7 years and AAR members would not be allowed to access out- patient services from in patient hospitals yet these were technical features in the TOR that were to be met by the winning bidder. Furthermore, the bidder provided a paid-up capital of USD 416,285 which was way less than the required paid up capital of at least USD 5 million. Despite this material deviation from the requirements in the TOR for this tender, AAR was recommended to have passed the technical evaluation and even recommended for award of the contract.

- **Grid of evaluation:** It was also noted from the evaluation report that the evaluation team did not consider the technical criteria given in the bidding document.

- **Lack of quorum in the Procurement Committee that awarded the tender to M/s AAR Insurance.**

  A review of the 20th Ordinary Procurement Committee meeting held on 9th June 2016, revealed that the procurement team that awarded the tender to M/s AAR Insurance comprised of 3 members contrary to requirements of section 3.4.1.4 of the procurement manual which states that the quorum for procurement meeting shall be 5 out of 7.

At its meeting with the Committee, the EAC Management reported that the tender Committee was advertised for 30 days instead of statutory 45 days because the request was forwarded late to the Procurement Office. The Director of Human Resources Department at the East African Community M/S Ruth Simba admitted that there was a short-coming on the part of the Human Resources department for initiating the procurement late.

The Committee observed that the above situation could not have arose if EAC was following a procurement plan. The Committee further noted that this was deliberate and it was designed to flout the procurement guidelines so as to facilitate the fraudulent process through with AAR was awarded the tender.

Committee Observations:

i) Non-compliance with procurement procedures in force may have denied EAC the benefit of purchasing services of high quality at prices that are competitive. This undermined the fundamental principles of transparency, efficiency, economy and fairness in the management of Community funds. The Committee further notes that by handling of procurements in such a haphazard and unprofessional manner, the Community risks paying for substandard and poor-quality services with no value for money being attained.

ii) The Committee further observed that despite material/substantial deviation from requirements in the Terms of Reference for this tender; AAR was still recommended to have passed the technical evaluation and was even recommended for award of the tender.

iii) There was violation of regulation 43 of the financial rules and regulations of the Community which prohibits fraudulent practices, corruption and other unprofessional tendencies.

iv) The evaluation team did not consider the technical criteria given in the bidding document.

v) There was lack of quorum in the procurement Committee that awarded the tender to M/S AAR on 9th June 2016 only 3 members out of 7 were present instead of 5 out of 7.

vi) Non-compliance with procurement procedures undermined the fundamental principles of transparency, value for money and fairness in management of the Community funds and this further undermined the quality of service.

COMMITTEE RECOMMENDATIONS:

i) The Council of Ministers should institute a forensic audit into this procurement with a view of taking punitive action against those who were involved into this procurement exercise. During this special audit the following Officers of the East African Community should be investigated and held accountable for presiding over what appears to be a fraudulent procurement process;

- ***Mr. Ochwada Joseph former Director of Human Resource for initiating the procurement process request in 30 days when the regulations stipulated 45 days.***
- ***Mr. Anjimbi Ponventra, Senior Procurement Officer and Head of procurement at the East African Community for presiding over a botched procurement process.***
- ***The procurement Committee members that awarded AAR the tender.***

ii) The Council of Ministers should ensure that Contract Managers are put in place to manage and follow up on the procurement processes.

iii) AAR should be investigated for colluding into this procurement contract;

iv) ***The EAC Management should strictly adhere to the Procurement plan to ensure that the stipulated dates and guidelines spelt out in the procurement guidelines are followed.***

v) ***There is need to review the legal framework to streamline all procurement procedures and processes in the EAC.***

vi) ***The Secretary General should present quarterly reports on the implementation of the Assembly directives and recommendations.***

2.3.1 Award of tender for EAC group Life insurance and personal accident cover to M/s BRITAM insurance at USD 480,008

The Audit Commission observed the following in the of award of tender for EAC group Life insurance and personal accident cover to M/s BRITAM insurance at USD 480,008;

- The tender was advertised for 30 days (i.e. from 17th April 2016 to 16th May 2016). This was contrary to section 6.2.1 the procurement manual which states that bidders shall have a minimum of 45 calendar days from the date of initial publication to respond to an open call for bids.

- Under preliminary evaluation; the evaluation report recommended that all the seven bidders met the preliminary requirements. However, review of the bid documents especially for the four firms recommended for further evaluation noted that; on the criteria of audited financial statements for the last three years, (i.e.2013 to 2015), Liberty Life Assurance (K) Ltd submitted incomplete financial statements for the last three years whereas Jubilee Insurance did not submit audited financial statements for the year 2015. As such the two firms should not have proceeded to the technical evaluation stage as they failed to meet this mandatory requirement of submitting audited financial statements for the last three years (i.e.2013 to 2015) as per the TOR document.

- Under technical evaluation stage, four firms namely Britam Life Assurance, Liberty Life Assurance (K) Ltd, ICEA Lion Assurance and Jubilee Insurance were evaluated to have met the technical requirements and were recommended for further evaluation. Review of their bid documents revealed the following anomalies:

  1. For Britam Life Assurance, with regard to the criteria of evidence of 5 clients with premiums of USD 500,000 and above, the bidder submitted only 3 clients

with premiums of USD 500,000 and above as opposed to the required 5 as stated in the TOR document.

2. For Jubilee insurance, the criteria of annual gross premiums in previous year (2015) of at least USD 5million in group Life insurance business could not be confirmed since they did not submit their 2015 audited financial statements yet the evaluation team ranked this bidder as having passed this criterion.

3. For liberty Life Assurance (K) Ltd, on the criteria of evidence of 5 clients with premiums of USD 500,000 and above, the bidder submitted only 4 clients with premiums of USD 500,000 and above as opposed to the required 5 as stated in the TOR document. Further, the criteria on annual gross premiums in previous year (2015) of at least USD 5 million in group life insurance business and paid up capital of at least USD 5 million could not be confirmed in the absence of complete audited financial statements. It was not clear why the evaluation team ranked this bidder as having passed these criteria yet the firm failed to submit complete audited financial statements.

4. For ICEA Lion Assurance, on the criteria of paid up capital of at least USD 5 million, it instead had a paid-up capital of USD 4.5 million as opposed to the required USD 5 million as stated in the TOR document yet the evaluation team ranked this bidder as having passed this criterion.

In light of the above noted anomalies in the bidders failing to meet the necessary criteria as stated in the TOR document on technical evaluation, the four firms should not have proceeded to the financial evaluation stage.

- **Grid of evaluation:** It was also noted from the evaluation report that the evaluation team did not consider the technical criteria given in the bidding document.

- Approval of the evaluation report by the Procurement Committee: The Procurement Committee on the 27th of June 2016, approved the negotiation report and contract award for the provision of staff Group Life and Personal Accident cover to M/s Britam Insurance at a cost of USD 480,008 despite the fact that the firm did not meet all the specifications as required in the bidding document and the evaluation team did not consider the criteria given in the bidding document. It was further noted that the TOR document required bidders to submit evidence of 10 clients with premiums of over USD 500,000 however during the evaluation stage, this criterion was changed to 5 clients with premiums of over USD 500,000. This is contrary to the financial rules and regulation (FRR) 77(1) which requires that evaluation shall be conducted in accordance with the methodology and criteria stated in the bidding documents and shall not be altered during the evaluation process.

Due to the failure by all bidders to meet the tender specifications as provided in the Terms of Reference (TOR) document, the procurement for EAC group life Insurance was non-responsive.

When the Committee interacted with the Management of the East African Community, they confirmed that tender was advertised for 30 days, however a waiver was sought and approved by the Procurement Committee at its 19th Meeting Ordinary Meeting of 7th April, 2016. The waiver was in the best interest of EAC and the procurement was carried out effectively in order to have a commitment with the Best Evaluated bidder by 1st July, 2016.

Management further informed the Committee that the bidding document provided the previous year Financial Statements as 2014. This was because the tender had been prepared in March, 2016 at a time when Accounts for the previous 2016 would have been available for most Companies. The evaluation Committee used audited Accounts for the period in the bidding document all the bidders met this requirement.

Management further emphasized that this particular tender was a technical compliance tender and in determining its responsiveness a pass-fail criteria was adopted as provided in the bidding document to determine the lowest evaluated bid. They informed the meeting that the Committee evaluated compliance to the specifications and determined the bidder that met the minimum specifications on a pass/fail basis. The Grid provided in the bidding document was based on a pass/fail criterion.

Management further reported that a technical competence of the Bidder had been established through a structured process and the approval of the negotiation report and contract award was based on the results of the negotiations which covered all the areas necessary for the implementation of the contract.

The bidding document provided for two items;

i) Evidence of experience of 10 years and at least 10 reputable clients and;

ii) The premium requirement which with five clients with premiums of USD 500,000 for each client. While the former required evidence of experience with the number of firms, it did not provide the premium requirement. The latter provided the premium requirement which formed the basis for evaluation. There was no alteration on the criteria for evaluation.

Management thus concluded that the award of tender was to the lowest responsive bidder as provided in the regulations and a notification of award issued on 28th June, 2016 and accepted on 4th July, 2016 placing the Cover with Effect From 1st July, 2016

The Committee made the following observations: -

i) In light of the above noted anomalies, the bidders failed to meet the necessary criteria as stated in the TOR document on technical evaluation, the four firms should not have proceeded to the financial evaluation stage.

ii) The contract for provision of group life insurance and personal accident cover expired on 30th June 2016. EAC commenced a procurement process to engage a service provider for the group life insurance and personal accident cover of EAC staff for the financial year 2016/2017.

COMMITTEE RECOMMENDATIONS:

i) ***The Council of Ministers should institute a forensic Audit into this procurement with a view of taking punitive action against the officers who were involved in this procurement exercise.***

ii) ***The EAC should adhere to the procurement process and should strictly observe the guidelines as stipulated in the bidding document and the EAC procurement policies and procedures manual 2011.***

iii) ***The evaluation team should ensure that they consider the technical criteria given in the bidding document for easy ranking of bidders.***

2.3.3. Irregular revocation of Notice of award of contract to M/s Britam Insurance and extension of six months contract to M/s Liberty Life Assurance Co. (K) Ltd

The EAC staff rules and regulations No.61 stipulates that EAC shall arrange an appropriate group insurance cover for members of staff with a reputable insurer for group personal accident and total permanent disability.

According to chapter 2 of EAC procurement policies and procedures manual 2011 clause 2.14 (4), a procurement process shall not be cancelled prior to obtaining the approval of the Procurement Committee. Further according to Regulation 84(2) of the EAC financial rules and regulations (2012), a contract shall only be terminated on the recommendation of the Procurement Committee.

The audit of the procurement process of the staff group life insurance and personal accident cover further revealed that:

- Negotiations with the best evaluated bidder M/s Britam Insurance were held on 23rd June 2016 and the outcome was approved by the 53rd extra ordinary procurement meeting on 27th June 2016.

- On the 28th June 2016 a notification of award of the contract for the provision of EAC group life and personal accident Insurance was sent to M/s Britam Life Assurance Company (K) Ltd, and in their letter dated 4th July 2016, they acknowledged the award and informed EAC that they had opened an account with effect from 1st July, 2016.

- On the 8th of July 2016, EAC secretariat revoked and rescinded the letter of notification of award of contract to M/s Britam Life Assurance dated 28th July 2016 and no justification was given for the cancellation. There was no evidence of the Procurement Committee recommending the cancellation of the contract with M/s Britam Insurance contrary to the provisions in the FRR, regulation 84 which states that, a contract shall only be terminated on the recommendation of the Procurement Committee and besides, Section 2.14 of the procurement policies and procedures manual requires detailed reasons why cancelation is recommended to be provided by the Procurement Unit.

  On the same day, 8th of July 2016, EAC extended the contract for group life and personal accident Insurance to Liberty life Assurance (K) who was the 3rd best evaluated bidder and who did not meet the preliminary and technical specifications as contained in the TOR bidding document on unclear circumstances, as there were no procurement minutes to justify the decision for extension of the contract nor the terms of engagement with Liberty life Assurance (K) for a period of six months.

- Further, on the 14th of July 2016, EAC rescinded their letter of revocation to MS Britam Life Assurance dated 8th July 2016, meaning that EAC validated their notification of award to M/s Britam Life Assurance. In their response on 19th July 2016, MS Britam

Life Assurance proposed to have a meeting with EAC management in a bid to renew the contractual relationship with regard to the EAC group life and personal accident Insurance. There was no evidence of any response from EAC management to this proposal by M/s Britam Life Assurance and as such the procurement process was yet to be completed. On the same day still, 14th of July 2016, EAC notified M/s Liberty Life Assurance that they could not proceed with the proposed extension of the contract for six months. Given the incomplete procurement process that awarded the best bidder M/s Britam the contract for provision of group life insurance and personal accident cover, and the subsequent notification by EAC management to M/s Liberty Life Assurance Co. that EAC would not proceed with the extension proposal technically left the EAC staff not covered which was in contravention of EAC staff rules and regulations no.61 and 62 that requires EAC staff to be insured.

Appearing before the Committee on Accounts, the EAC Management conceded to the comments by the Audit Commission and undertook to ensure that the Community procures an appropriate group insurance cover for members of staff with a reputable insurer for the Group Life Insurance, Group Personal accident and total permanent disability. The Committee was further informed that Dr Enos Bukuku took a unilateral decision to revoke the contract.

Committee Observations:

i) The decision to revoke the award of contract to M/s Britam with no detailed reasons nor recommendation from the Procurement Committee contravened provisions of the EAC rules and regulations. The executive decision to extend the contract of provision of group life to Liberty life Assurance without following due procurement procedures was a serious contravention to the provisions of the EAC and is an indicator of lack of a transparent management system and a procurement unit that is operating outside its mandate.

ii) The failure by the Management of the Community to officially communicate to M/s Britam informing them of EAC's position of extending the contract to M/s Liberty life Assurance (K) who was party to the tender process and emerged 3rd best exposed the EAC at a risk of facing litigation by the firms that participated in the tender.

iii) The Committee further observed that the implication of this non-compliance with procurement procedures in force meant that, the EAC was denied the benefit of purchasing goods and services of high quality at prices that were competitive.

This undermined the fundamental principles of transparency, efficiency, economy and fairness in the management of community funds. By handling of procurements in such a haphazard manner, the Community risks paying for substandard and poor-quality services with no value for money attained. EAC Management is likely to face reputation risk due to lack of transparency and compliance in awarding of tenders.

The Committee recommends to the Assembly to urge the Council of Ministers to;

i) ***Institute a Forensic Audit against the officers who were involved in this procurement exercise.***

ii) ***Ensure that a proper planning and structured procurement calendar should be put in place to ensure that procurement process are initiated way before the expiry of the existing procurement contracts in order to avoid a vacuum.***

iii) ***Direct the EAC Management to adhere to existing rules and regulations to avoid unnecessary loss of Community resources.***

2.3.4 Supply and installation of the Assets management Software- $102,924

The Audit Commission revealed that the EAC contracted M/s Impax Business Solutions on 02/06/2015 to supply and install an asset management software at a contract price of **USD 102,924**. The following observations arose:

- Restricted, instead of open bidding method was used contrary to regulation 68(6) of the financial rules and regulations 2012 which requires open bidding to all payments above USD.50,000;

- The contract lacked a contract management file, contrary to the Finance Rules and Regulations 42(7)b;

- There was no report to verify that the contracting authority fulfilled its obligations to review final report of contractor and really interested itself with the performance of the contract;

Appearing before the Committee, the EAC Management reported that the procurement was guided by the procedures and practical guide (PRAG)-European Commission, not the EAC Procurement Regulations. It was further revealed that the procedure used was a competitive restricted tender procedure which was carried out in close consultation with the EU delegation who gave no objection at every stage of the procurement.

The Committee observed that non-compliance with the procurement procedures may have denied the Community the benefit of high quality services at prices that are competitive. This undermined the fundamental principles of transparency, efficiency, economy and fairness in the procurement process and in the management of Community funds.

The Committee recommends the Assembly to urge the Council of Minsters *direct the EAC Management to always ensure compliance with procurement procedures in dealing with all procurements of goods and services in order to enhance compliance and transparency and also obtain high quality services at reasonable prices.*

2.3.5 Supply of 10 Del laptops and printers by M/s. JR Electronics Limited at USD 14,509

During the year under review, the following anomalies were noted in procurement of 10 laptops and printers by M/s JR Electronics Ltd at **USD 14,509**:

- Instead of restricted tendering (from USD.10,000 to 49,999); request for quotation (from 1,000 to 9,999) was used;

- Supporting documents had mismatching dates which brings doubts to the genuineness of the documents contrary to regulation 66(3) of the Financial Rules and Regulations.
- There was no proof that all the bidders were requested to submit their quotations.

The EAC Management concurred with the audit findings and informed the Committee that this was a result of the closing instructions given by the Management which had a deadline of submission of requisitions.

The Committee observed: -

a) none adherence to procurement and Financial Rules and Regulations.
b) unfair award of the contract due to lack of competition.

As in all procurement transactions, the Committee recommended that Management should at all times ensure that procurement and financial regulations are strictly adhered to.

2.3.6 Supply of office furniture for Kiswahili Commission in Zanzibar–$ 29,845

The audit finding revealed that M/s. Mbasha Holdings supplied furniture to the Swahili Commission at a cost of **USD 29,845, under** restricted tendering method of procurement. The following anomalies were noted:

- Lack of evidence that the request for quotation was sent to three firms.
- The bids were opened by two staff (procurement assistant and a hardware technician), contrary to regulation 3.4.2(3&4).
- Non-use of the evaluation grid despite having been provided, contrary to Regulation 8.5.2(1).
- Lack of contract management file, no proof of contract manager to monitor and certify the performance of the contract.

Appearing before the Committee, the EAC Management clarified that this was an open Tender, which had been advertised and opened in Public where two bidders responded. Management also confirmed the presence of Bid Opening Panel appointed on 28/5/2015, comprising three Technical Staff and two Procurement Staff. The opening was done in public with all the participants signing the opening register which enhanced transparency of the opening process.

Management further clarified that the tender was a technical Compliance Tender as provided in para. 8.3.5 of the procurement manual. A pass-fail criterion was adopted in to determine responsiveness, compliance to specifications.

The Committee observed: -

i) Non-compliance with the procurement procedures may have denied the Secretariat the benefit of purchasing goods of high quality at prices that are competitive.

ii) The Directorate of Finance approved the procurement payments despite the obvious anomalies in the procurement process.

   a) There was lack of evidence that requests for quotation were sent to 3 firms and that two tenders from M/S Sherry Furniture and Mbasha were received and evaluated.

   b) The Procurement regulation provides that a bid panel as appointed by the Secretary General shall have at least 3 staff members who shall not be members of the staff of the Procurement Department or originating unit. To the contrary, the bids were opened by only two staff in the procurement department.

c) There was lack of Management File.

The Committee was not convinced with the response of the EAC Management and recommended that the Council of Ministers: -

i) ***Institute disciplinary proceedings on the Director of finance for processing payments which did not meet the procurement guidelines.***

ii) ***Management should comply with the procurement procedures and guidelines while dealing with all procurements of goods and services in order to enhance compliance and transparency and also to obtain high quality goods and services at reasonable prices.***

2.3.7 Consultancy services for the preparation of regulations for the EAC One Stop Border Post

During the year under review, the audit noted that the **EAC** management signed a contract with *M/s Corridor development Consultants (Namibia)* of **USD 222,952.8** for the preparation of regulations for the EAC one stop border posts for duration of twelve (12) months from 25 July 2014 to 24 August 2015. There was however, no proof that consultancy services had been completed by the time of the audit in November 2016.

The EAC Management reported that M/s Corridor Development Consultants completed their work in August 2015 and the Regulations prepared were approved by the Council in February 2016.

Further, the contract suffered delayed payments caused by roll-over expenditure to the next financial year and a freeze on disbursements by donors. The EAC Management informed the Committee that most of the staff who were involved in this procurement have since left the Community and money was refunded.

The Committee observed that:

i) EAC did not obtain value for money of the consultancies undertaken. Delays of deliverables denied the Community timely implementation of one stop border post for all EAC Partner States, leading to underperformance of the planned activities.

ii) Paying the consultant using EAC Secretariat funds instead of the Partnership Fund indicated lack of proper budgetary control.

iii) The Committee further observed that the regulation which the management of the East African Community used to pay the money to M/S consultants was fraudulent and the level of impunity and the casual manner in which the staff of the Community contravene the procurement regulations is an indicator of lack of a seriousness and commitment.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the EAC Management to: -

i) ***make appropriate follow ups to ensure that execution of the required services is completed without further delay;***

ii) ***institute disciplinary proceedings against the staff who were involved in this procurement.***

2.3.8 Irregular Procurement for meeting expenses – USD.118, 433

The Audit Commission observed that several tenders amounting to **USD 118,433** were awarded by direct procurement contrary to Section 6.6.5.i of procurement policies.

Besides, most suppliers did not appear on the prequalified list of suppliers and service providers for the period. Some of the tenders were awarded without involvement of Procurement Committee Members.

While appearing before the Committee, the EAC Management concurred with the audit finding and noted that user departments had specific needs in different facilities which required an assessment exercise before choice of facility was determined. This necessitated the conference facilities to be used to assess and verify that the facilities required, met EAC requirements and the rates for the various packages negotiated and the hotels pre-qualified for the services. Management further reported that the exercise was last conducted in 2012 but due to budgetary concerns, the exercise has not been repeated. Apparently the EAC is using the 2012 results for the pre-qualification and negotiation exercise which were not updated and yet new facilities have come up. Management reported that the EAC is currently compiling a list of facilities across the region to conclude a pre-qualification and negotiation exercise.

The Committee observed non-compliance with procurement procedures in force denied EAC the benefit of purchasing goods and services of high quality at prices that are competitive.

The Committee recommends to the Council of Ministers that the EAC Management should streamline the operations of the procurement unit such that all procurements are handled as per the procurement manual in order to enhance compliance and transparency.

2.3.9 Supply and installation of CCTV cameras and Biometric finger print access control systems

The Audit Commission reported that the contract for the supply and installation of CCTV cameras and Biometric finger print access control systems for Secretary General's Office and EAC server room was given to *M/s. Sentinel Alarms*. Consequently, a payment of **USD 13,490** was made to the supplier.

The Audit Commission noted the following;

- Quotations were received from three service providers but audit was not provided with evidence that requests were sent to these suppliers at the same time. The quotation from M/s. Scantronic Technical Systems was made twelve months before the other quotations were made as shown in the table below, and the LPO was raised on 02/06/2015 after the last and lowest quotation was made on 19/05/2015. It was irregular to compare the quotations that were not received at the same time.

Company	Date on quotation	Amount
Scantronic Technical Systems	02/04/2014	18,223.60
Security World Technicaology (K) Ltd	07/04/2015	18,142.00
Sentinel alarms	19/05/2015	13,490.00

- The procurement requisition was made on 31/3/2015, five weeks (5) before the last quotation was received, with the actual amount on the quotation that had not been received. The genuineness of the quotation was therefore doubtful.

- Direct procurement method was approved with the amount on the quotation yet to be received.

- The financial year 2013/14, it was observed that EAC had a major contract with *M/s. AVTECH Systems Ltd* for the supply and installation of security equipment's worth **USD 582,485.93**. Amongst the equipment's to supply and install were CCTV cameras. Additional procurement of the same equipment under a separate arrangement amounted to double funding of the same activity.

When the Committee interacted with the EAC Management, they informed the Committee that the procurement requisition was raised on 31/03/2015 after receiving the approval memo from DGS F&A. The Direct Procurement method was used and was approved by the Procurement Committee on 15/05/2016.

The Management further clarified that the quotations given by M/s Scantronic Technical Systems and M/s Security World Technology on diverse dates were not part of the bidding process but request for Information (RFI) therefore the discrepancy in dates did not apply to this bidding process which was a direct procurement procedure.

Management concurred with the Audit finding that EAC had a contract with M/s AVTECH Systems Ltd for supply and installation of Security equipment to secure the Secretary General's Office and the server room which are very crucial offices in the Community necessitated the action management had to take.

The Committee made the following observations;

i) The presence of irregularities noted makes the supporting documents for this procurement doubtful and implied that the procurement was not subjected to competition to benefit from competitive prices and better quality services.
ii) The EAC Management is in the perpetual habit of flouting procurement regulations while hiding under the defence of "emergencies".
iii) EAC Management failed to justify the threats that existed in order for it to flout the procurement processes.
iv) The non-participation and involvement of (CTC) in the procurement processes of the Community denies EAC an opportunity of ensuring that the tenders and contracts are legally scrutinized.

COMMITTEE RECOMMENDATIONS:

i) Management is advised to always ensure adherence to all procurement procedures.

ii) ***The Committee recommends that for any contracts and procurement of the Community, the Counsel to the Community should issue a certificate of compliance in order to ensure that procurement guidelines and regulations are adhere to.***

2.3.10 Consultancy services of a due diligence on staff within the employment of the EAC

The Audit Commission reported that EAC signed contract with *M/s Ernest and Young* (Uganda) amounting to **USD 55,225** for consultancy services to undertake a due diligence on staff within the employment of the East African Community (EAC). The completion of each contract was supposed to be sanctioned by submission of final report for approval. The duration of the agreement was twelve (12) weeks starting from 25 August 2014 to 22 November 2014.However, the Audit noted that the consultancy services were not completed within the contract period as specified in the contracts. Furthermore, it was noted that a second instalment of the payment was made on 24 February 2016 amounting to USD 22,090. The desired out puts may not have been be achieved with such delay of services delivery. Additional to that, like most of the contracts signed with service providers, this contract did not have a provision of liquidated damages which was contrary to section 11.13.2 of the EAC procurement policies and procedures manual (2011). There was no proof that the final reports were submitted and approved at the time of Audit.

When the Committee met the Management of EAC, it was informed that there was a delay in completion of the due diligence exercise due to late responses from the various training Institutions and others were reluctant to divulge any information without the consent of the staff whose information was being requested. The timeline initially set did not anticipate those challenges. However, the final due diligence report was finally submitted to the Secretary General.

The Committee observed that EAC might not have obtained value for money on the consultancies undertaken. The delays of deliverables required under the contract signed with the consultants imply that the EAC was denied the opportunity to enjoy the benefits accruing from the consultancy at the appropriate time.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that:

i. ***EAC Management make appropriate follow ups to ensure that execution of the required services is completed without delay.***

ii. ***All contracts should have a provision of liquidated damages in case of delay by services delivery.***

2.3.11 Signing of the contracts after bid validity period

The Audit Commission reported that payments amounting to USD 109,225 were made to suppliers/service providers without signed contracts between EAC management and suppliers. The services were therefore rendered without duly signed contracts and as such, they could not ascertain the terms under which the services were provided contrary to Section10.2.1 of the EAC Procurement Policies and Procedures Manual 2011.

When the Committee interacted with management of EAC, it concurred with the Audit finding and clarified that the contracts were for essential services provided to the Community which could not delay. They noted that the letter of notification had been issued to the bidders following the award decision but the contracts awaited signatures by the relevant signatory.

The Committee made the following observations:

i. Lack of adequate supporting documentation.

ii. Non-involvement of the Office of the CTC in the procurement processes at the East African Community makes the procurement processes vulnerable to possible litigation in cases where the procurements are contested by the both parties.

iii. Absence of a Contract Manager makes it difficult to follow and implement the procurements decisions; and

iv. Limited presence of the internal Auditor in the procurement processes at the EAC.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that

i. ***For better management of Community funds, all expenses incurred by EAC should be adequately supported by the necessary documents.***

ii. ***The Management of the Community should endeavour to ensure that the contracts are signed within bid validity period.***

iii. ***The Management should ensure that all procurements at EAC have a Contract Manager to ensure their implementation and follow up.***

2.3.12 Expenditure on the study on developing the framework for monitoring the EAC convergence criteria by Central Banks

The Audit Commission reported that a payment of USD.20,000 was made to Mr. Audace Niyonzima on 15th Dec.2015 for the study on the developing a framework for monitoring the EAC convergence criteria by Central Banks. Audit noted that two similar payments of the same amounts were made but the payment vouchers were not reviewed as they were reported taken by Alex Kamukara. The payment was supported by an engagement letter signed by both the DSG (P&SS) and Mr. Niyonzima on 18th.March, 2015, an LPO and an invoice dated 24/06/2015 and 29/05/2015 respectively.

Audit was however not provided with to the documents in regard to competition and the performance report by the Contract Manager to verify that the consultancy was competed for and properly performed and value for money was achieved.

When the Committee interacted with the management of EAC, it was informed that the contract was as a result of a recommendation of the MAC Committee which sat at the 18th meeting held on 2nd to 6th February, 2015, the meeting recommended a study to appraise the current practices on exchange rate policy and develop an action plan for implementation of a managed float exchange rate regime in Burundi as a move towards a common exchange rate regime for the EAC region.

Management further clarified that the MAC studies were specific to experts from Central Banks in Partner States who deal with Monetary Policy in the respective Partner States. Since the assignment was specific to Burundi, the Bank of Burundi was requested to nominate a lead expert to undertake the study and nominated Mr. Audace Niyonzima as the lead expert to undertake the study. This was treated as procurement for approval process and it was a nomination by the Bank of Burundi as directed by the MAC Committee.

The EAC Management informed the meeting, that the remuneration for the lead expert which was fixed by EAC at USD 20,000 for each consultant and not determined by the market forces. It was reached based on the expected time for undertaking the study of forty (40) man-days @ USD 500 and this is the Daily rate that Consultants in EAC are paid.

Committee Observations:

The fact that the procurement process was not opened to other competition to allow in other players, flouted the procurement procedures. More experienced consultants may have been procured for a cheaper price.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the Management of the EAC should adhere to procurement guidelines for consultancy services.

2.2.13 Tenders awarded to Non-prequalified Suppliers – USD 218,364

Audit reported that that the Secretariat procured goods and services worth USD.218,364 from suppliers that were not pre-qualified to provide the services to the Community, contrary to regulation 67, the Financial Rules and Regulations and the EAC Procurement Manual 20111 Section 2 (1), (3).

When the management of the EAC interacted with the Committee, they acknowledged the Audit finding and informed the Committee that Mt Meru Petroleum. Management further informed the meeting that most of the petrol dealers in Arusha require up scale down payments unlike Mt. Meru which is flexible and can sustain the Community even if they don't have money on their account.

Committee observation:

The Community exposes itself to risks associated with non-prequalified suppliers as they are not committed to offer the best quality goods and services at competitive prices.

The Committee urges the Assembly to advise the Council of Ministers to ensure that;

i) ***Management should ensure that the procurement unit adheres to the procurement regulations and engages only prequalified suppliers as per the procurement guidelines and procedures to avoid uncommitted suppliers.***
ii) ***In the circumstances that some suppliers were found with competitive prices, committed, and with quality goods and services, management is advised to update the pre-qualified list to include them on board.***

2.3.14 Status of Supply, Delivery and installation of security equipment-USD 582,485.93

The Audit Commission reported that the management of the Community entered into a contract agreement for supply, delivery and installation of security equipment with M/s. AVTECH Systems Ltd on 10th October 2012 at a contract price of **USD.582,485.93**. The contract was for a period of four (4) to eight (8) weeks. By the time of audit, the contractor had been paid 80% of the contract value amounting to USD.465,987.78. Audit Commission however, noted the following deficiencies:

a) Underperformance of the contract.

According to the meetings between EAC and AVTECH officials held on 31/08/2016 and 01/9/2016, various equipment items had not been delivered while others had been delivered but not installed. This amounted to a fundamental breach of contract as the project that was meant to be completed by November 2012, had not been completed five years after agreed completion date; and yet 80% of the contract value had been paid.

In addition, due to failure by the contractor to supply and install the required security equipment, the Community incurred an additional cost of USD.13,490 to buy cameras to mitigate the security situation at the SG's office and the main server room. This cost would have been avoided if the contracted security equipment were supplied in time. Besides, this puts the security and safety matters at the EAC complex at stake given the terror threat within the region.

b) Failure to refer the matter to EACJ for settlement.

Clause 1.2 of the agreement states that "any dispute between the parties as a result of the operation of this contract shall be resolved amicably between the parties; failure of which, the matter shall be referred to the East African Courts of Justice for settlement". After five (5) years of failure to fully perform the contract, take the matter to EACJ for settlement. This amounts to breach of duty and due care on part of EAC management. Contrary to clause 1.3 of the agreement.

c) Irregular payment of 30% contract price of USD 174,745.78.

According to Clause 1.7(d) of the contract, payment of 30% of the contract value would be made after the inspection of goods delivered to the project site in Arusha; or a pre-shipment inspection report from a shipping Agent (SGS or equivalent) has been furnished.

Besides, Regulations 62-63 of the Financial Rules and Regulations 2012, provide that there shall be an Inspection and Receiving Committee appointed by the Secretary General composed of staff from the originating unit, technical department of the goods being received, and officer from finance department. The functions of the Inspection Committee among others would include: to receive and inspect all items in conformity with quality and quantity, prepare and sign the report of the received goods, sign the goods received note, and submit the report to the head of Finance Unit. However, the following were noted:

- **Lack of Goods Received Notes, Inspection and Receiving Committee report, or a pre-shipment inspection report from a shipping Agency (SGS or equivalent)**

  Scrutiny of the payment documents did not find any evidence that all the items in the contract were delivered to the project site in Arusha, inspected and acknowledged by issuing a goods delivery note before the payment was effected. In the circumstance, the payment was not based on the contractual terms and audit could not confirm that all the items were delivered and inspected. Absence of documentations for the receipts and inspection of supplies signified weak management control over the contract management aspect as well as procurement processes.

- **Non-delivery of some of the security equipment before payment of 30% contract value:**

  A review of the inspection audit report by EAC security carried out on 10th.August, 2013 revealed that some security equipment as shown in the table below had not been delivered although the contract period had ended almost a year ago.

Item	Description	Qty required	Qty delivered	Qty not delivered
CCTVSystem	D)LCD Monitors	8	4	4
	G) Internal Corridors above the Ground			
	• First Floor	4	0	4
	• Second Floor	4	0	4
	• Third Floor	4	0	4
	M)Covert IP-P.O.E Cameras; Secured IP Covert Hidden Cameras (Smoke detectors, or thermostat Covert-Indoor and Outdoor cameras	16	0	16
Inspection Equipment	A) Upgraded Mail Snanner	1	0	1
	C) Concrete type drum barriers or concrete Highway	4	0	4
	D) Steel Reinforced Concrete Planter/Retaining Wall (reinforced concrete flowerports)	55	0	55
RCF: FDC 9900 Dome Camera Set	A) Court room	2	1	1
	B) Plenary Hall	2	1	1
	C)Main Conference	2	1	1

- **Double standards on payment of 30%.**

Audit noted that despite management having received a detailed analysis on the status of implementation of the agreement before the payment of 30% was made, the Principal Administrative Officer acknowledged the excellent analysis made by the security team and Avtech Technician but instead asked the Procurement Officer to attach the analysis to the Avtech payment claim and proceed with the payment process. This portrayed double standards and contravened the agreement clause 1.7(d) which required that 30% of the contract value to only be paid after delivery and inspection of the equipment. Besides, the officer acknowledged the analysis which pointed out that the items that had not been delivered were excellent, but the same officer went ahead to recommend the payment instead of advising management to halt the payment until all items were delivered.

Relatedly, the Senior Estates Management Officer on 03/09/2013 informed Management that all the items had been delivered and recommended for payment of 30% as per clause 1.7(d), whereas all items had not been delivered. The integrity of the above officers is questionable as their interests seem to have been bent on the payment of the provider's claim of 30% and not on the performance of the agreement (full delivery of the equipment) as stipulated in the agreement.

d) Absence of a clause on the delayed performance on the contract.

The contract did not have a specific clause relating to penalties for non-execution, delay in execution of the contract (liquidated damages) and supply of poor/substandard quality materials. As a result, the Community did not have any basis to penalize the provider for the delayed supply and installation of the security equipment.

e) Failure to submit the requested documents.

The Audit Commission requested for particular documents for review to ascertain the current status of implementation and whether particular areas of contract implementation were properly managed. However, some of the information requested was not provided including the following:

- Bills of Quantities
- Appointment of the contract manager (evidence of appointment),
- Contract manager's implementation plan,
- Goods received notes/documents, and the
- Report on the current status of performance of the procured security equipment from end users/Security.

When the Committee interacted with the management of the Community, they acknowledged the audit finding and revealed that it was worst procurement incidence in the history of the Community. They informed the meeting that the Contract Management of the EAC Headquarters Construction Projects together with all other related projects, including the Security and ICT Projects was supervised by the Senior Estates Management Officer under the management of the Project Management Unit - which was composed of EAC management, technical representative from the EAC Partner States and Project Manager from the German GBC Consulting firm.

In relation to the AVTECH contract, the 30% payment was made on delivery of Advance payment guarantee. Contract management of the project as mentioned above was conducted by the former Senior Estates Management Officer under the direct supervision of the EAC Project management Team (PMT).

A status of receipt of the items to be delivered under the contract was given by the Senior Estates Management Officer and verified by the Principal Administrative Officer.

For all delivered and undelivered items, EAC and the suppliers held negotiations and developed and an action plan to salvage the procurement.

The Committee was informed that the management of EAC has engaged AVTECH to install and supply the equipment. In September 2017, AVTECH dispatched technicians and installed some cables but have since abandoned the project. Despite several other remainders and meetings with its directors, the Company has not installed the security equipment and the Community has started the process of initiating legal action through the Office of the Council to the Community against AVETECH.

The Committee was further informed that the payments were cleared through the normal EAC payment process M/S Kadu the Principal Accountant approved and effected the payment.

The Committee made the following observations:

- The contractor – M/s.Avtech Systems Limited breached the fundamental clause of the contract to supply, deliver and install the security equipment within a period of eight (8) months, and the management of EAC failed, ignored to revoke clause 1.2 of the contract and take the matter to EACJ for settlement, thereby putting at risk the security of the Community.

- As a stop-gap measure, implementation delays resulted into the EAC incurring cost of procuring CCTV cameras at USD.13,390 for the office of the Secretary General and the server room.

- There was also a risk that the security equipment specified might become obsolete due to technological advancements and changes before they are fully installed due to the time gaps.

- The EAC complex is not adequately secured despite payment of 80% of the contractual value yet the Complex is hosting very important dignitaries and diplomatic and staff, is.

accessed by heads of states and other very important dignitaries. This poses a great risk to the Community given the regional terror threats.

- Just like other procurements at EAC this procurement lacked a procurement manager who should have ensured that the implementation and management of the procurement was in line with the EAC procurement procedures and guidelines.

- The following officers of the Community facilitated the irregular payment of 30% to the contractor

  Mr. Phil Klerru Makini . The Senior Estates Management Officer for his role in confirming on 03/09/2013 that all the items had been delivered and for recommending for payment of 30% as per clause 1.7(d), whereas indeed all items had not been delivered.

  Mr. Abdul Katabaro. Principal Administrative Officer for his role in acknowledging the excellent analysis made by the security team and Avtech Technician and sanctioning the procurement officer to attach the payment claim and proceed with the payment process.

  The Counsel to the Community (CTC) who is charged with the Community's legal protection has not taken instantaneous action to claim back this very large amount of East Africans' Tax payers' money bearing in mind that this issue is 6 years old to date.

The Committee recommends the Assembly to urge the Council of Ministers;

i. ***Liaise with the Attorney General of the United Republic of Tanzania and bring this matter to their attention, for discussing the modalities of instituting criminal charges against Mr. Phil Klerru Makini and Mr. Abdul Katabaro who have since left the service of the Community and for their role in facilitating the fraudulent supply of the security equipment which resulted into the EAC incurring a loss of 582,485 USD.***

ii. ***The CTC should expedite the legal process for recovery of 582,485 USD and AVTEC should be black-listed.***

iii. ***Ensure that future procurements of this magnitude are properly insulated against possible breach and fraud by involving contract managers and legal representation from the office of the CTC to oversee the procurement processes and implementation thereof;***

iv. *To adequately staff the department of Internal Audit.*

2.4 REVIEW OF INTERNAL AUDIT FUNCTION

2.4.1 Inadequate staffing of the EAC Internal Audit Unit

A review of the Internal Audit Department revealed that the department is being run by Principal Internal Auditor who is assisted by 2 other auditors; one (1) internal auditor with fixed term contract and another Internal Auditor who is serving on short term contract that has been renewed several times since his initial engagement in 2010.

When the Committee interacted with the management of the Community, it acknowledged the audit finding and informed the meeting that the EAC is continuously expanding its mandate to ensure the Audit **function is given the same mandate and ranking like the human resource department since it overseas a very** important mandate of ensuring that the good governance, risk management and internal controls and practices are upheld in EAC.

Committee Observation:

The EAC should prioritize the internal audit function to improve the efficiency and effectiveness of the Community.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Management of EAC should continue engaging Council to ensure that the department is properly and substantively staffed.

2.5 AUDIT OF PROJECTS

2.5.1 Delay in implementation of the automated clearing house (ACH/Cheque truncation system for the National Bank of Rwanda

The Audit Commission reported that the Contract for supply, implementation and support of the Automated Clearing House (ACH)/Cheque Truncation System was awarded to *M/s Small systems AB.* Clause 28.1 of the contract stated that the supplier guaranteed to complete the supply, install and commission the system within the time periods specified in the implementation schedule.

However, Audit noted that a review of the project implementation timeline revealed that the project was initiated on 14th August 2014 and was scheduled to be completed by 26th February 2015 and at the time of audit in November 2016 the project was 25% complete and a total of USD 423,755 of the contract cost had been paid during the financial year 2014/2015.

The EAC Management of reported that the project delayed due to the exogenous factors that were occasioned by some commercial banks who had not finalized the implementation of their own systems to connect to the clearing house of the National Bank of Rwanda.

Committee Observations:

I. Delay in the implementation of the above-mentioned contract as per the projects' implementation timeline hindered the realization of the project objective of developing a robust environment for payment settlement systems and to facilitate market integration.

II. There was lack of adequate prior preparation before the project was launched which affected its timely implementation.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that i*n future the EAC should undertake adequate preparations to ascertain that the systems the Commercial Banks are going to use are ready and fit for purpose to avoid unnecessary wastage and expenditures.*

2.5.2 Long Outstanding Payables-USD *83,479*

The Audit Commission reported that during the year under review, PSSIP reported payables amounting to USD 92,705. Out of these payables, some USD 83,479 payable to *M/s Computer Centre (Tz) Ltd* had been outstanding since September 2015. Contrary to regulation 83(6) of the EAC rules and regulations.

When the Committee interacted with the management of EAC, it acknowledged the audit observation and informed the Committee that the VAT refund claim were submitted to the Tanzania Revenue Authority in Feb 2016 with all the relevant supporting documents to effect refunds.

Management noted that the project has also sought interventions from the Bank of Tanzania (Beneficially of the procured Infrastructure) to help out with this refund. All the efforts did not yield any positive response save for a promise that funds are being processed. Management noted that it is upon the receipt of this refunds that the Project can pay off the vendor, as per the Financing agreement.

The Committee observed that delay in payment of the amount owed to Computer Centre (Tz) Ltd, may lead to litigation charges against EAC.

The Committee recommends that the EAC *Management should endeavour to pay the amount due to Computer Centre (Tz) Ltd to avoid the possibility of facing litigations.*

2.6 AUDIT OF MARITIME SECURITY PROJECT

2.6.1 Under Utilization of Budgeted Project Funds

The Audit Commission reported that the upon review of the 2015-2016 MASE budget performance report showed that the budget was grossly under-utilized, with some of the planned activities not implemented, while others were poorly implemented. It noted instance, that there was no capacity building for prosecutors in prosecution of pirates, and for the judiciary in the application of laws; and retaining staff under COMESA Climate Change. It also noted that the project utilized only 7% of the overall budgeted funds leaving 93% underutilized.

The EAC Management concurred with the Audit finding and reported that the lengthy and rigorous nature of the approval process for the funding from the Australian National University needed time to adapt to the Indian Ocean Region.

The Committee observed Management's failure to fully absorb the budgeted funds is an indication of inadequate planning and monitoring.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the EAC Management is advised to ensure that implementation of outstanding activities is carried out within the remaining project time to avoid project extension costs.

2.6.2 Irregularities in Procurement

Audit Commission reported procurement anomalies under the Consultancy services for development of a service contract for the ESA-10 MASE and Branded bags for the Maritime Security project contrary to regulation 78(1) and 67 of EAC Financial Rules and Regulations.

The EAC Management reported that they used the European Union procurement method because they were using donor funds.

The Committee observed non-compliance with the procurement procedures may have denied the MASE Project the benefit of procuring the services and goods of high quality at prices that are competitive.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Management of MASE Project should comply with the EAC procurement procedures in dealing with all procurements of goods and services in order to enhance compliance and transparency and also to obtain high quality goods and services at a reasonable price.

2.7 AUDIT OF IBAR PROJECT

2.7.1 Under Utilisation of Budgeted Funds

The Audit Commission reported that upon review of the 2015-2016 IBAR budget, the performance report showed instances of under-utilization of the budget with some of the planned activities being implemented at 25%. It was also noted that project utilized only 56% of the overall budgeted funds .

The EAC Management concurred with the Audit finding and reported that the AU-IBAR funds for the planned activities were disbursed to the EAC-IBAR account in March 2016. They stated that only few activities could be implemented from April to June 2016.

The Committee observed that the unspent balances in respect of unimplemented activities indicated non-achievement of the projects' objectives for the year. The under-utilization also implied unrealistic project budget.

The Committee recommends that the Assembly to urge the Council of Ministers to ensure that the EAC Management should at all times ensure that Project Managers devise strategies to ensure implementation of all outstanding activities as planned.

2.7.2 Implementation of project activities in two Partner States only

The Audit Commission reported that IBAR project activities were implemented only in two EAC Partner States (Tanzania and Kenya) and the Audit Commission was not provided with the explanation about the reasons hindering the implementation of the activities of IBAR project in other Partner States.

The EAC Management informed the meeting that the project design was designed to be implemented in two Partner States however, it has rolled to other Countries in order to ensure that it is benefiting other East African Countries.

The Committee observed that the objectives of the project will not be achieved if the implementation is not extended to all Partner States.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Project Management devises strategies to ensure that activities are implemented in all EAC Partner States.

2.7.3 Partially supported expenses on workshops organized by IBAR Project

The Audit Commission reported that expenses on workshops organized by IBAR project were not properly supported with reports to show that the expected outputs of the workshops were achieved.

In Addition, it noted that the positions and job descriptions of some of the delegates did not make them suitable to make meaningful contributions during these technical meetings. In some instances, the meetings were being attended by drivers. And in some workshops the audit exercise did not find evidence of invitation letters from the respective Permanent Secretaries detailing the purpose for the meetings as well as the calibre of delegates expected.

Appearing before the Committee, the EAC Management reported that meetings were organised according to the procedures and guidelines of the project requirements. Some of delegates who attended the meeting travelled with their official vehicles and therefore the project had to provide per diem to the drivers.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that for better management of Project funds, all expenses incurred should be adequately supported with necessary documents. These documents should be chronologically referenced and properly filed for future reference.

2.8 AUDIT OF APSA PROJECT

The Audit Commission reported that APSA Project was supposed to contribute to Continental Peace and Stability through strengthening the EAC capacity to prevent, manage and resolve conflicts in the Region. The project was designed to incorporate various aspects to mitigate and prevent conflicts however Audit noted the following issues;

2.8.1 Unsupported Expenditure

Expenses amounting to **USD32, 932** were not supported by any verifiable documents contrary to regulation 4.3.2 of EAC Financial Rules and Regulations.

The EAC Management informed the Committee that the accountant was not doing the returns as he was supposed to do and he eventually abandoned his job leaving behind expenditures which were not supported with documents. Management has summoned the accountant to hand over officially and hopes to trace the missing documents when he appears.

Committee observations:

i) Authenticity of the expenses incurred by APSA project is in doubt. Besides the reluctance to handover raises suspicion that fraud and other irregularities may have happened.

ii) Resignation without handover is a sign of poor management of the human resource department and weaknesses in internal controls.

The Committee recommends the Assembly to urge the Council of Ministers to direct t*he EAC Management to engage the authorities of Tanzania to ensure that the handover is done urgently by Frederic Sangawe. All missing documents and assets should be reviewed before signing the handover.*

2.8.2 Unretired imprest

The Audit Commission reported that daily subsistence allowance and imprest paid to various staff within financial year 2015/16 amounting to **USD 10,491** were not retired contrary to regulation 40(3&4) of the EAC Rules and regulations.

In the same way, the APSA financial statements included salary advance totalling to **USD 2,100** as at 30 June 2016, which was long outstanding for more than one year.

When the Committee interacted with the management of the EAC, it concurred with the audit finding and reported that, an e-mail was sent to all staff reminding them about the retirements and further measures have been undertaken to ensure compliance with retirement regulations.

The Committee observed inadequate control over imprest payments and retirements may lead to misuse of Community funds.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the management of the Community ensures that the unretired amount of USD

10,491 and unpaid salary advance of USD 2,100 should be recovered from the salaries of all staff who fail to retire their imprest.

2.8.3 Delay in payment of creditors

Audit Commission noted that the review of the creditors ledger as at 30th June, 2016 revealed long outstanding payables totalling **USD 51,271** that were not paid for more than one 17 months contrary to Section 4.4.4 of the EAC Financial Procedures Manual.

When the Committee interacted with Management of EAC, it reported that the delays to pay the creditors was a result of limited disbursements from AU.

The Committee noted delay in payment of creditors may lead to litigation and disruption of APSA project activities. The presence of long outstanding cast doubt in genuineness of the liability.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the EAC Management to adhere to Financial Rules and Regulations governing the advances and should endeavour to pay creditors on time. All long outstanding creditors should be identified and analysed and paid.

2.9 AUDIT OF HIV PROJECT – MIXED FUNDING FROM HIV/AIDS GROUP

2.9.1 *Wasteful Expenditure*

The Audit Commission reported that a total of USD 38,868 was spent on Daily Substance Allowance, air tickets, conference facilities by 8 EAC Secretariat Staff under the HIV Project who travelled to Uganda to undertake activities for finalization of Integrated Sexual Reproductive Health and the 11th Joint Steering Committee Meeting.

The Committee observed that the above expenditures were considered wasteful as they could have been avoided and funds expended on more critical purposes, had propriety been exercised while spending public resources.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the EAC Management exercises prudence and avoid such unnecessary expenditure in future.

2.10 AUDIT OF AUDIT OF UNFPA SUPPORT FOR SEXUAL REPRODUCTIVE HEALTH PROJECT

2.10.1 Expenditure not properly supported

The Audit Commission reported that a workshop on the regulation of HIV Test Systems was organized by FDA (U.S. Food and Drugs Administration) on December 13-16, 2015 at Mount Meru Hotel in Arusha, where EAC was assigned the daily cash disbursal of per diem funds. Audit noted that supporting documents for **USD 22,090** relating to payment of some workshop's participants were missing and for USD **8,795** was not supported. Contrary to regulation 4.3.2 of EAC Financial Procedure Manual 2013.

The EAC Management acknowledged the audit the *observations* and recommendations and informed the Committee that the funding amounting to USD 28,000 was received from Capital Consulting Corporation (CCC) of USA, the firm that was contracted by US Food and Drug Administration (FDA) to facilitate the "workshop on the Regulation of the HIV test system: during 13 – 16 December 2015 at Mt Meru Arusha. Documents were submitted to the Committee and verified.

The Management of EAC needs to ensure that strong and rigours financial procedures are in place to avoid pilferage of Community funds.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the management of EAC adheres to the financial rules and regulations governing the Community and ensure that all payments are properly supported.

2.11 AUDIT OF DANIDA PROJECT

2.11.1 Delays in Finalizing the Report on Equitable Sharing of Benefits and cost of EAC integration

The Audit Commission reported that on 13th December 2013 EAC entered into agreement with MA Consulting Group to undertake the study on Equitable Sharing of Benefits and cost of EAC integration for the contract sum of USD 90,950 plus reimbursable USD 30,317.

It further reported that the available funds for this project was USD 24,403.71 and the consultant needed to be paid USD 27,285 being 30% of the contract as final instalment.

Hence, a deficit of **USD 2,881.29** excluding other associated meeting cost and reimbursable that could have been required.

The EAC Management acknowledged the Audit finding and informed the Committee that by the time the EAC Council of Ministers gave a directive to the Secretariat to undertake a study the budget process was already underway and requests for resources could not be secured. The study took inordinately longer than expected due to funding hitches which had been formally solved by the Secretariat that received grant from Republic of Denmark through its development agency, DANIDA.

A supplementary request was made to EALA which approved the usage of funds in February 2015, and that was when EAC could pay the fees to the consultants, which delayed the execution of the contract.

Due to the above reasons, the two parties (M.A Consulting Ltd and EAC Secretariat) agreed on a no cost extension in July 2015 for a period of 3 months up to October 2015.

Management further reported that the delay in the submission of comments and in receiving the revised draft final report delayed the execution of contract and conclusion of the study.

The Committee made the following observation:

i. EAC delayed to implement the Council decision for more than 7 years. Delay to implement Council of Ministers decisions/directives indicated a weakness on the part of the Council to implement their own decisions and directives.

ii. Delays in execution of the study jeopardized the EAC in meeting it's the objectives. EAC did not gain value for money by contracting for 7 months and then letting 37 months pass without a final study report.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that in future the management of EAC should undertake proper planning and ensure that the necessary resources are in place such that the contracts are executed in a timely manner.

2.12 AUDIT OF USAID ASSISTANCE FOR COMPREHENSIVE REGIONAL DEVELOPMENT

2.12.1 AUDIT FINDINGS

2.12.2 Low Budget Absorption

The Audit Commission observed that the USAID Comprehensive Regional Development project had a budget of USD6,862, 896.43. The project had spent USD2,866,517.52 resulting into unutilized fund of USD3,996,378.9 equivalent to 58% of the budgeted funds.

When the Committee interacted with the Management of the EAC, It reported that the general challenge during FYI 2015/16 was caused by the delayed disbursement of funds by the donor occasioned by delayed signing of Implementation letters.

The Committee noted Low absorption capacity in implementing planned activities recorded during the year under review could have led to the project failing to utilize available donor funds as planned which affected the achievements of its strategic objectives.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Management of EAC should strive to absorb the budget as planned and implement the planned activities within the agreed time frame and avoid further delays in the implementation of the project.

2.13 AUDIT OF PROGRAMME ON CLIMATE CHANGE ADAPTATION AND MITIGATION IN THE COMESA-EAC-SADC REGION (TRIPARTITE CLIMATE CHANGE PROJECT)

2.13.1 Low budget absorption

Audit noted that during the financial year 2015 the project had budgeted to spend $ 1,671,850. However, the funds received were $ 49,990 leading to a variation of $ 1,621,860 equivalent to 97 per cent of the budgeted activities suggesting that those activities were not implemented due to funds constraints as only 3 per cent on the budgeted fund were received.

Of the major bottleneck identified was that the budget had been reduced to $10.2m from initial $ 13.4m agreed with donors. This was due to low absorption of funds by the program in 2010-2013 which in turn was caused by delays in recruiting Project Management Unit staff in EAC.

The EAC Management concurred with the Audit finding and informed the Committee that there was lack of defined roles and a clear agreement of sharing of funds among Regional

Economic Communities (RECS) and no independent oversight body that could solve disputes and enforce decisions.

The Norwegian funding was cut midway during the program. The unpredictable funding and weak communication about what was happening was damaging to the collaboration between the RECs as well as between the RECs and its Partner.

The Committee made the following observations: -

i) The project could not achieve the targeted objectives since only 3% of activities were implemented. Subsequently, the going concern of the project had been at jeopardy resulting into non-continuity of the projects activities since January 2016.

ii) Poor project design and formulation affected its implementation.

iii) Various players and regional economic groups with divergent interests and objectives affected the implementation of the project.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that: -

i) The project management is advised to establish sustainable funding sources to secure against unforeseen contingencies from donors' agreements.

iii) In future the management should ensure that proper planning is undertaken to address the issues of project design and formulation before the projects are implemented to avoid wastage of resources.

2.13.2 Non-submission of audited financial statements

The Audit Commission reported that EAC as one of the three Implementing Partners in the climate change project had not appointed an independent external auditor to audit its accounts contrary to the Climate change tripartite agreement. Although Audit was informed that COMESA as a Leading Partner had appointed an Independent external auditor to audit its accounts for the whole project although this was not in line with the Implementation agreement governing this project.

The EAC Management acknowledged the Audit finding and informed the Committee that the Audit function was supposed to be carried by COMESA since it was a leading implementing partner and had signed the contribution agreement with the three development Partners (EU, DFiD and Norwegian Government).

The management further informed the Committee, that COMESA had proposed to contract one auditor to audit the all RECs and this had been so since the beginning of the project, to ensure that there was cost effectiveness and harmonization of the report.

The Committee noted that EAC has not complied with the requirement of the agreement.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the EAC Management engages the project team to ensure compliance with the requirement of the agreement and further ensure timely conclusion of audit as stipulated in the agreement.

2.13.3 Non-preparation of annual work plans and Performance Review Reports

The Audit Commission reported that according to Article 7 (3) of the tripartite agreement for implementation of the Programme on Climate Change Adaptation and Mitigation in the COMESA-EAC-SADC Region required that, Annual Work Plans and Budgets shall be prepared. During the Audit exercise, the Commission observed that, the project had not prepared annual work plans on EAC side that delineate the planned activities to achieve the expected outputs and results, timeframe, baseline, key performance indicators and targets. There was no narrative work plan expanding on the items of the intervention framework for the year and the project had no performance review report to measure the planned results against the actual output/results derived.

The EAC Management acknowledged the audit finding and revealed that the Management was supposed to have put in place a framework and wok plan to ensure that the project was monitorable and measurable. They further revealed that at the time of the Audit there was no project management team and this made it difficult to have in place the work plans since there were no staff to develop them.

Committee noted that the absence of an annual work plan and performance review report limits the monitoring and evaluation of the planned results.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that;

i) ***The Management of EAC ensures that the annual work plans are prepared as per the requirement of the tripartite agreement of the COMESA-EAC and SADC.***

ii) ***The management should also prepare the performance review reports which should show the actual results to enable benchmarking with the planned output.***

2.14 AUDIT OF REGIONAL ELECTORAL SUPPORT PROGRAMME (RESP)

2.14.1 Low Budget absorption

The Audit Commission reported that out of the received fund, only Euro 962,868 was spent resulting into unutilized fund of Euro 218,976.72 equivalent to 19% of the fund received. This affected implementation of the planned activities. When the Committee interacted with the management of EAC, it reported the Project Financing agreement was signed in August 2015, and the initial disbursement was received in October 2015. This was after the elections for the Republic of Burundi had taken place where the budget was supposed to be utilized.

The Committee noted low absorption capacity in implementing planned activities recorded during the year under review led to the project failing to utilize available donor funds as planned which could have affected the achievement of its strategic objectives.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the Management of EAC strives to absorb the budget as provided and implement the planned activities within the agreed time frame and avoid further delays in the implementation of the project.

2.14.2 Late approval of the bank reconciliation statements

The Audit Commission reported that according to Section 16.2.1 of the EAC Financial Procedures Manual require that, the Director of Finance must prepare and submit to the Deputy Secretary General (Finance and Administration) the Bank reconciliation statements not later than the second week of the following months. However, Audit noted that late approval of the Regional Electoral Support Program (RESP) bank reconciliations statements of the projects by the competent authority where most of the reconciliation statements were approved in one month more than the required period of approval. For instance, the December 2015, reconciliation for dollar accounts was approved in February 2016 while the February 2016 reconciliation was approved in April 2016.

When the management of the EAC interacted with the Committee it concurred with the Audit finding and undertook to have the anomaly addressed.

The Committee noted that non-approval of reconciliations is contrary to the EAC Financial Procedures Manual and this indicates failure in the EAC controls which may subject transactions to the risk of errors.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the EAC Management abides to the project management requirements of the Financial Procedures Manual on the approval of the bank reconciliation statements.

2.14.3 Absence of meeting for Steering Committee

The Audit Commission reported that section 5.1 of the Rider 1 to the agreement required the program to be supervised and guided by the Project Steering Committee. The Steering Committee was supposed to meet every six months i.e. twice a year and more often if necessary. The Audit Commission observed that the project Steering Committee had not met to discuss the implementation of the programme activities.

When the Committee interacted with the Management of the EAC, it concurred with the audit observation and informed the meeting that the funds were meant for the convening meetings and facilitating the Burundi electoral process. However, the funding was received after the elections had taken place. The Management further informed the meeting that the steering Committee was part of the conditions which were dictated by the donor. They noted that the donors wanted to be involved in the processes of the steering Committee and participate in the monitoring of the presidential elections in Burundi.

The Committee noted that without the Steering Committee meetings to discuss the overall strategic direction of the program, the monitoring of project implementation could have been impaired.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the EAC Management to institute vigorous controls to ensure that project Steering Committees meet to discuss the strategic direction of the programs.

2.15 AUDIT OF THE PARTNERSHIP (PF) FUND

2.15.1 Renewal of contracts for experts

The Audit Commission reported that when it reviewed the payment vouchers for 20115/16 they revealed that a total of USD24,000 was paid to Samuel Njuru through transaction Description. The Audit observed the following;

- There was no clear indication that the services of the expert were obtained competitively; rather, it noted the progressive renewal of the contract for the same person since 2010.

- The contract was signed between the expert and the Community on 14th January 2015 for a period of twenty-four months with effect from 26th August 2014 and the approval was on 9th July 2014. The signing of the contract six months before approval appeared to be abnormal.

Another contract was also signed between the EAC and another expert (Mr. Michael Gitau) on 30th March 2015 for the contract period of twelve months. The effective date for the expert to assume the office was 25th February 2015 to 24th February 2016. Audit noted that the expert had worked for 38 days by the time the contract was signed (i.e. between 25th February 2015 to 30th March 2015). Which deemed irregular.

The EAC Management reported that in order to fill the capacity gaps at the Secretariat, EAC made a request to the relevant institutions in the Partner States for interested parties to submit applications for attachment to the Statistics department. Following the report of evaluation of applications Mr. Samuel Njuru was selected as the best candidate and has been renewed continuously till EAC recruits someone else.

Management further informed the meeting that despite the secondment, the contracts were processed through the Human Resources advisory Committee despite the secondments of the various candidates unlike in the previous cases. They noted that unlike in the past, EAC did not have a policy and guidelines on hiring the consultants. They have since been developed and are now incorporated in the Staff Rules and Regulations.

The Committee made the following observations:

i) There is a risk that the experts engaged were not properly recruited through a transparent process and that the renewals were not based on an assessment of whether the past performance was satisfactory.

ii) This is likely to lead to ineligible expenses as the services provided before contract signature were not legally bound by a contract.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the EAC Management to ensure that the services provided by the experts are routinely evaluated and that valid contracts are always in place to guide on their expected deliverables.

2.15.2 Accountability for funds for election observation mission in Dar es Salaam

The Audit Commission reported that upon review of the accountability file on imprest the election observation in Dar es Salaam and it noted that actual expenditure for the activity was only USD.16,018.69 out of the total funds disbursed to the officer, leaving a balance of USD.31,131.31. Audit further reported that the unspent balance was banked at the different dates on 2nd and 3rd of November 2015.The above were attributed to weaknesses in scrutinizing estimates for such activities and also following up the concerned staff to ensure prompt accountability is filled and any balances banked as required by the regulations.

The EAC Management informed the meeting that the expenditure was far less compared to what remained due to the less number of delegates who attended the election observation process. They said that the amount of imprest was prepared according to the number of delegates invited but few showed up hence making the expenditure too low.

The Committee observed that there was unrealistic budgeting for activity and poor planning by the management of the PAF project.

The Committee recommends to the Assembly to urge the Council of Ministers to urge the EAC Management to strengthen the internal scrutiny of budgets compiled by staff for activities to be undertaken so as to mitigate the risk of making payments for unrealistic estimates.

2.15.3 Unplanned Expenditure on training - USD.20, 800

The Audit Commission reported that according to the EAC staff training and development policy, chapter 5(xiv), the human resource department shall prepare annual staff training and development plans based on the identified needs.

It was noted that USD.20,800 was paid for a 10-day training on IT support in France (from 16th to 25th March 2016) to the current Secretary General of the East African Community. The funds were paid from Partnership Fund account and yet the training was not planned and budgeted for under the project. Audit further noted that the amount was not charged to staff training account in the Partnership Fund financial statements.

The EAC Management while appearing before the Committee acknowledged the Audit finding and reported that following his appointment as Secretary General of the Community, which was a new position, there was need for him to undertake this training prior to assuming the office. The training would empower and equip him to develop the necessary IT skill and help him to deliver his mandate. On 11th March 2016, the SG originated an internal memo himself and forwarded it to the acting Secretary General Mr. Charles Njoronge and approved it on behalf of the SG.

The Committee called for the payment voucher and the documents relating to retirement of this disbursement and questioned the current Director of Finance on the same. It was observed and would appear that the member of staff in question did travel and partake in the training.

The Committee observed that the Council of Ministers (upon the direction of the 19th Meeting of the Summit) in their 37th Meeting on the 2nd of May, 2017 had referred this matter to the Audit Commission for a special audit. The Committee with respect, nonetheless, observed that the Parliament had tasked them to investigate all the matters in the Audit Report ending June 2016 and further observed that as an independent Organ, had the right to advise Council on the issue.

The Committee further observed that the Audit Commission was correct, the disbursement was not made following the correct procedure and was thus an illegible payment since it was not budgeted for under the project and was not subsequently ratified by the Council. Furthermore, the EAC Rules and regulations require that all training needs must be considered and approved by the Human Resources Advisory Committee. This particular training was not approved by the Human resources advisory Committee.

The Committee recommends that where the special Audit, commissioned by the Council Ministers finds that the Monies were improperly used for training in a manner unbecoming as detailed in regulation 12 of the Financial Regulations, the money should be refunded as under regulation 8(1) of the same regulations.

2.16 AUDIT OF THE EAC FINANCIAL SECTOR DEVELOPMENT AND REGIONALIZITION PROJECT (FSDRP)

2.16.1 Review of contract agreements with consultants

The Audit Commission reported that that the contract was for a period of seven months and was expected to end on 21st January 2016 but was later extended to 14th May 2016. The terms of the contract provided that the consultant was to be paid advance of 20% upon an approved Bank guarantee for the same amount, and thereafter, be paid monthly. Audit analysis noted the contract was signed on 28th June 2016, three months after the end of the contract, but there is no evidence that the Procurement Committee approved the extension for the additional sum. This was contrary to the procurement guidelines.

Furthermore, The EAC entered a contract with Security Market Consultants (CMC) and VAS Consultants Limited for provision of Consultancy services for Financial Education, for the contract term not exceeding 90 working days. The contract was signed on 26th November 2014 and expected to be completed on January 2015 at a contract sum of USD.149,750.

Audit noted that the contract was revised through Addendum No.1 and the terms of payments were changed. The addendum No 1 was signed on 27th October 2015 nine months (9) after the end of the 90 days contract period. It was not explained why the consultant did not deliver within the contracted period of 90 working days.

The EAC Management concurred with the Audit finding and reported that the contract extension was signed three months after the first extension. They said that the reason was that the consultant's contract was tied to InfoTech private company contract that was managing the Capital Market Infrastructure. It expected that the GO LIVE of the infrastructure would have taken place by January 2016, hence the contract of the CMI project manager would have come to an end. Management further reported that due to a number of challenges from Partner States, the GO LIVE target could not be achieved. More discussions were needed with Partner States; hence, it was not clear for how long the CMI Project manager was required. They further reported that after recruitment of the CMI IT Specialist, management decided that the service of the CMI Project Manager was no longer needed after ensuring the work would continue uninterrupted.

The Committee noted that the procurement guidelines were not adhered to in extending the contract period. Delayed delivery of contracted services denies the project from the timely implementation and achievement of the project planned activities, leading to underutilization of project funds.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the EAC Management adheres to procurement guidelines as well as the contractual terms to ensure value for money for contracts entered into and avoid scenarios that could lead to legal challenges and loss of EAC resources.

2.17 RAILWAY SECTOR ENHANCEMENT PROJECT

2.17.1 Expired contract for railway Expert

The Audit Commission reported that the East African Community (EAC) engaged a consultant as a Contract Coordinator for EAC Railways Sector Enhancement Project. The project commenced on February 17, 2014 for a period of 24 months. Audit noted that at the time of Audit, the project had been completed and yet the contract expired had expired on March 16th2016. The consultant was still in office discharging duties. The arrangements against which the contractor was still in office after the expiry of his contract were not provided.

While interacting with the Committee, the EAC Management revealed that the EAC was in a dilemma in handling the Contract for the Railways Expert in the foregoing Circumstances:

1) According to the Indian Trust Fund procurement rules for Consultants, the termination of a procured consultant would require a "no objection" from the Bank to terminate recruitment of a new consultant after the subsequent replenishment of the Account would require a fresh recruitment process;

2) It was critical that the Railways Expert remained on board to guide the consultants over the extended consultancy period.

3) The Bank had so far given positive undertakings that was working on the grant extension. It would, therefore, seem inopportune to request the Bank for a "no objection" to terminate a contract of an expert delivering on the project as per the terms of reference.

The EAC undertook to seek a formal commitment from Indian Trust Fund and this has been replenished so that the Railways Expert is given a contract extension and paid his arrears.

The Committee observed that keeping the consultant in office while discharging EAC work is illegal and contravenes the EAC rules and regulations.

The Committee recommends to the Assembly to urge the Council of Ministers to consider renewing the Consultant's contract or he is removed from office. Management should ensure that only staff with valid contracts should be allowed to execute the Community work.

2.18 AUDIT OF MRH PROJECT 2015-2016

2.18.1 Unsupported payment of Salaries $43,896

The Audit Commission reported that US $ 43,896 was paid to six MRH staff members in the form of salaries for April and May 2016. However, it noted that their employment contracts had expired since 31 March 2016 and the new contracts for the staff were signed only on 31 May 2016. It implied that the staff were not in formal service during the months of April and May 2016.

The Audit further observed that the staff were illegally paid salaries for the two months period when their employment contracts had expired. Their salaries were therefore irregularly paid.

At its meeting with the Committee, the EAC Management concurred with the audit observation and reported that the staff were performing their duties as required and there was no loss of funds.

The Committee recommends to the EAC Management to ensure that no salary is paid without an employment contract. It is further advised that Management should timely renew, if applicable and necessary, employment contracts for temporary staff for projects.

2.19 AUDIT OF INTER-REGIONAL COORDINATION COMMITTEE (IRCC) PROJECT

In 15th August 2014 East African Community (EAC) entered into a financing agreement with the European Development Fund (EDF) amounting to €1,535,900 to finance Eastern and Southern Africa-India Ocean (ESA-IO) through Inter-Regional Coordinating Committee (IRCC) to support the project until 15th April 2016.

The Audit Commission conducted a performance review of IRCC and noted a number of irregularities in respect of project management as detailed below;

2.19.1 Delay completion of project activities resulted into project closure delay

Audit observed that the status of the project implementation as at 18th November, 2016 revealed that the project was still in progress and some of the activities were still pending completion; three months after the expiry of the 4 months extended period.

A review of the General Ledger also revealed that the project had outstanding liabilities due for services rendered by various supplies totalling to $238,793, but the available cash on the bank account was $49, and the project (IRCC) had received the entire amount from the European Development Fund.

The EAC Management informed the Committee that IRCC was implemented using Programme Estimates (PE) which detailed and summarized all the activities to be implemented till the closure of the project.

The balances as of 30th June 2016 indicated that IRCC EURO 1,064.33 was not enough to liquidate the payables at that time. The project however received funding to the tune EURO 236,746.09 on 19th July 2016 which was used to liquidate those payables.

Committee Observation that:

- The project intended objective of strengthening EAC's capacity to coordinate, develop and implement 11th EDF programmes was not timely achieved.

- There was over commitment under the project which may have resulted into a risk of utilizing the EAC fund to liquidate the liabilities accrued from IRCC suppliers.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the EAC Management to ensure that a detailed comprehensive process for supervision and monitoring of all projects financed by Development Partners to ensure timely implementation of the planned activities, is established.

2.19.2 Inadequate management of donor funds of €76,000

The Audit Commission reported that EAC signed a financing agreement with the European Development Fund (EDF) on 15th August 2014. A review of the agreement noted that one of the components was to review the EAC procurement manual. The EDF set aside €20,550 for consultancy fees & air tickets and €31,370 for stakeholder's workshop including Partner States, EAC institutions and Organs for a conference of 22 participants for 6 nights. A further review of the Contract between Julius Mulera Professional Consultant and EAC for the review of the procurement manual noted that the Consultant was paid a contract fee of €21,615.37which exceeded the approved EDF contract amount of €20,550by €1,065.

The following irregularities in respect of IRCC fund and programme management were noted:

i) The IRCC agreement set aside budget for 6 night, however the EAC conducted the activities for 12 days.
ii) The budget for the stakeholders' workshops as per agreement was €31,370 but the EAC activities utilized €107,208 which was €75,838 above the agreed amount.
iii) The operationalization of the procurement manual was aimed to draw participants from other EAC Commissions but only drew participants from Arusha EAC.
iv) The approval of the additional activities for 6 days for validation of procurement templates was granted after two days, during the process of harmonization of the procurement manual. In our view the validation of procurement templates was a replica of the manual operationalization.
v) Involvement of the Internal Audit in the review process as well as the secretaries was questionable, and the 28 participants were higher than that agreed 22

participants in the project agreement. The excess expenditure over the budget was not supported with the approval of the additional budget by EDF for the purpose and functions of the EAC procurement manual harmonization and validation of templates. In the absence of approval by the funding partner, the expenditure above the agreed budget was therefore unauthorized.

While interacting with the Committee, the EAC Management informed the meeting that the need to have a revised version of the policies and procedures manual was long overdue. The EU assessment report had previously glaring gaps and mismatch between the financial rules and regulations 2012 and the Procurement policies and procedures manual 2011. There was urgent need to revise and have them operational before the EU Fiduciary Risk Assessment that was planned to take place February 2016.

Management further reported that due to the size of the documents together with the annexes in the form of operational templates, the management thought that it was better to deploy a big team and fast track the review. However, the budget originally provided (EURO 45,940) was seen to be inadequate and therefore the management requested for more funding and as a result the budget was revised to EURO 71,093 and later on revised to EURO 90,353.

The Committee took note of the likely risk that the DP may withdraw from supporting the region due to divergence from the financing agreement. Besides, some of the planned activities may not be accomplished due to utilization of funds to other unplanned activities.

The Committee further noted that the attendance of non-core staff like the secretaries who were supposed to provide technical assistance in developing the EAC procurement manual casts doubt into the seriousness of the exercise and the EAC might not have achieved the value for money.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Management of EAC;

i) ***Ensures that the project managers of IRCC project strictly adheres to the financing agreement when implementing projects financed by the Development Partners. In case of any excess expenditure envisaged, authority for approval of such expenditure should be sought from the Development Partners and the EAC Management.***

ii) ***The management should ensure that future engagements are strictly attended by the intended beneficiaries of the project or the technical personnel who are knowledgeable or relevant in that particular area/field.***

2.19.3 Deficiencies in the management of the contract for "Asset Management Software and post implementation support"

The audit Commission reported that on 31st March 2016, East African Community entered in a contract with IMPAX BUSINESS SOLUTIONS LIMITED to supply and install the Asset Management Software and Post Implementation Support for EAC Institutions of LVBC, LVFO and IUCEA at a contract sum €97,559.45.The contract under paragraph 1.1 stipulated that the place of acceptance of the supplies has to be the Headquarters of EAC Institutions of LVBC, LVFO and IUCEA in KISUMU, JINJA and KAMPALA respectively. According to the contract, the timeframe for implementation of the project was to run from 21st January 2016 to 13th April 2016 (a period of three weeks, maximum 3 months).

Audit noted that a review of the Implementation Plan for the service noted that the Consultant started implementing of the project on 19th September 2016 and was supposed to complete the exercise on 13 October 2016(a period of three weeks). It stated that the project was delayed for period of six months from the original implementation date of 13th April 2016. In addition, the project implementation programme agreed between the AFD and EAC was to expire on 14th August 2016 and therefore the project started the implementation while the agreement had expired and there was no objection granted by EDF for further extension of project closure besides the project implementation was not completed as some of the scope of work were not adequately implemented. According to the payment documents, the supplier was paid the entire contract sum amounting €97,559.45 although some of the contracted works had not been completed.

The EAC Management informed the Committee that much as the contract for Assets Management for the LVBC, LVFO, CASSOA and IUCEA was supposed to have run between 21st January 2016 to 13th April 2016, funding to support the project from the IRCC was not forthcoming until September, 2016 when the project was only given partial payments of the required funds to enable the consultant to commence.

Management further reported that, it was until the end of the September 2016, that the project commenced the implementation of the software in the EAC Institutions in which the deliverables were delivered. For this constraint the supplier assigned more resources on to the project so as to finalize the project within the renegotiated timelines.

The supplier developed and agreed an implementation plan to not only commit to deliver the remaining tasks but also continue to handhold the EAC Institutions at no additional costs until they are all comfortable and operational with regard to the Assets Management Software.

The Committee observed the following:

- The intended objective was not timely met since the custodian of the assets was not conversant with the systems application of asset management.

- The Community risked loss of funds in case the consultant failed to complete the remaining scope of works since there was no legal recourse in case of dispute as the consultant had submitted the project final report to the Community.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the EAC Management to ensure that: -

- ***in future, final payment is effected upon adequate completion and testing of the project.***

2.19.4 Long outstanding items on the bank Reconciliation

The Audit Commission reported that there existed long outstanding items on the bank reconciliations amounting to €708.93 contrary to EAC Financial Procedures Manual 2012, When the Committee interacted with the management, and they concurred with the audit finding and revealed that this was a result of bank error which has remained unresolved.

The Committee observed that long outstanding items are an indication of inadequate monitoring and follow-up of items identified during the bank reconciliation process.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the EAC Management to carry out regular and timely monitoring and follow up of long outstanding items with the intention of clearing them from the future reconciliation statements.

2.20 THE EAST AFRICAN LEGISLATIVE ASSEMBLY

2.20.1 Non-Provision of Internal Audit Reports

The Audit Commission reported that the Internal Audit Manual Sec. 3.4.7 provides that the Internal Audit is expected to produce quarterly internal audit reports to be submitted to the Secretary General and the Audit and Risk Committee detailing risks uncovered and the recommendations required to mitigate the same.

The Financial Rules and Regulations 114(3) provide that the Head of Internal Audit shall prepare quarterly internal audit reports which shall be discussed with the Secretary General before submission to the Audit and risk Committee.

The Audit Commission found that, the internal audit did not carry out the audit of EALA for financial year 2015/16.

Appearing before the Committee the Management of the Assembly admitted that the internal audit for the period under review was not carried out largely due to manpower and staffing challenges faced by the department of internal audit. In addition, EALA had no internal auditor within its staff structures and that, the audit function for all EAC organs and some institutions is shared with the East African Community Secretariat. In addition, the Assembly management informed the Committee that the process of recruiting a full time internal auditor for the Assembly was awaiting the completion of the institutional review exercise which seeks to establish the position within the Assembly staff structure.

The Principal Internal Auditor on the other hand informed the Committee that the Audit department has largely been understaffed with one auditor providing audit services for all organs and institutions of the Community. He however, informed the Committee that two auditors have been recruited and more positions have been advertised to fill the vacant positions. In addition, the Assembly management informed the Committee that the process of recruiting a full time internal auditor for the Assembly was awaiting the completion of the institutional review exercise which seeks to establish the position within the Assembly staff structure.

The Committee observed that non-provision of audit services may be a cause for errors or losses if not regularly detected through the internal audit function.

The Committee recommends to the Assembly to urge the Council of Ministers;

i) ***to ensure that management complies with guidelines related to the performance of regular internal audits of all organs and institutions of the Community.***

ii) ***to establish an Audit department at the East African Legislative Assembly in order to ensure that the auditing function is in place.***

2.20.2 Non-Appraisal of Staff Performance

The Audit Commission reported that regulation 32 (3) of the EAC Staff Rules and Regulations (2006) requires that performance evaluations are conducted on annual (calendar year) basis for every confirmed member of staff. For the staff on probation, performance evaluation shall be carried out as stipulated under regulation 30 of the staff rules and regulation.

During its meeting with Management of the Assembly, the Committee noted that the matter arose due to lack of HR function in the Assembly, which relies on the Secretariat for HR services. As a result, not all staff members were able to fill appraisal forms and this included two sets of performance assessments, namely; the regular performance reviews stipulated in the EAC Staff Rules and Regulations and the other being the EALA Commission assessment reviews for EALA Staff. In order therefore, to comply with the Auditors recommendations, the management explained that, an *annual silent week* was introduced whereby all the staff convene to carry out a midterm review of their performance through a self-assessment which culminates into filling the annual appraisal forms for the previous calendar year.

The Committee observed that non-assessment of staff performance impedes the assessment of the level of achievement of the agreed objectives and output. It also limits performance improvement in areas of weaknesses as well as difficulties in rewarding or recognizing good performance.

The Committee recommends to the Management of the East African Legislative Assembly to ensure that the Staff Appraisal forms are regularly updated and filled as per regulation 32 of the staff rules and regulations.

2.20.3 Renewal of the contracts for temporary staff without Due Diligence

The Audit Commission reported that Section 20 (2) (b) of the EAC staff rules and regulations on temporary staff explains that, the persons appointed shall be required to have qualifications applicable to that position. The Commission noted that during the year under review EALA had renewed the contracts for 19 temporary staff/short term contracts. However, there was no due diligence exercise undertaken to ascertain the staff requisite qualifications and experiences for the job.

The Management of the Assembly informed the Committee that the initial due diligence process was carried out in July 2016 and forwarded the same to the EALA Commission, which formed the basis for the renewal of contracts. The Commission has also authorised a comprehensive due diligence exercise for the same category of staff. As a result, management brought this matter to the attention of the Secretary General to include the staff in the overall comprehensive exercise for the EAC General Staff category as and when it commences.

Management further informed the Committee that staff recruitment is guided by the Administration of the EALA Act 2011 which mandates the EALA Commission in section 4 to make recommendations on staff recruitment and this empowers it to effect due diligence when needed. The procedure further requires the Commission to assess all proposals for recruiting EALA staff.

The Committee observed that issuing new contracts without conducting due diligence process suggest that EALA was unable to measures the performance of those staff hence may have affected their overall operational performance.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to;

i) ***to compel the management of EALA to ensure that staff appraisal forms are regularly filled and updated as per regulation 32 of the Staff Rules and Regulations.***

ii) ***do a retrospective due diligence exercise on the qualifications and experience of all the temporary staff that were recruited.***

iii) ***urge the EALA Commission to review the EALA structure to establish the positions that are needed and upon establishment, to authorise a competitive recruitment exercise to fill the vacancies.***

2.20.4 Items worth USD.51, 362 not taken in Stores Ledger

The Audit Commission reported that according to the EAC Financial Rules and Regulations 2012, Regulation 10.3(b), provides that all supplies, equipment and other property received by the EAC will be immediately inspected by a Senior officer not involved in stores and procurement management to ensure that their condition is satisfactory and in accordance with the terms of the related purchase/ contract.

In addition, a goods received note is prepared by the Stores Assistant and approved by the Senior Officer on all items received, and the items shall be immediately entered in the appropriate stores ledger and property records. The Stores Assistant will then enter the items purchased into the system.

During an interactive meeting with the Committee, the Management of the East Africa Legislative Assembly admitted that the items were later recorded in compliance with the regulations. Management further reported that all procedures had been followed up to the issuance of the goods received note from the stores but did not follow up with the stores to ensure that the items were recorded in the ledger. This was attributed to the lack of knowledge of full stores procedures by the concerned staff. In addition, the lack of fully dedicated stores staff in the EALA staff structures has created a manpower gap and management has made recommendations in the institutional review report to have a dedicated stores officer for the Assembly.

The Committee observed that the failure to record all purchases in a stores ledger over and beyond a goods received note presupposes non-verification of the receipt of goods or whether they were entered in the stores.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to;

i) ***advice Management of the Assembly to ensure that all items that are procured are recorded in the stores ledger.***

ii) ***expedite the Institutional Review exercise such that the manpower gaps are addressed at the Assembly including filling the position of the Stores Assistant.***

2.20.5 THE EAST AFRICAN COURT OF JUSTICE (EACJ)

2.20.6 Transactions with Non-prequalified Suppliers- USD 151,157

The Audit Commission reported that the EACJ procured goods and services from different suppliers worth **USD151,157** that were not pre-qualified as per the updated list provided by the Procurement unit for the year under review. Contrary to EAC Procurement Policies and Procedures Manual 2011, Section 5.2.1(1) and (3) and regulation 67 of the Financial Rules and Regulation 2012

The Management of the Court conceded to the audit finding and clarified that Court does not carry out any procurements above 10,000. Any amount above that threshold is forwarded the Secretariat for processing. The Committee was informed that when the proposal to grant full autonomy to EACJ is actualised, the EACJ will have its own fully procurement department to handle its own procurements.

The Committee observed that the EACJ exposed itself to risks associated with non-prequalified suppliers as they are not committed to offer the best quality goods and services at competitive prices.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to ensure that;

i) ***procurement unit transacts with only prequalified suppliers as per the procurement guidelines and procedures of 2011.***

ii) Procurement Unit should periodically pre-qualify or seek for updates from the already prequalified firms; or with the approval of the Procurement Committee identify new suppliers in accordance with Section 5.2.1(14&15) of the EAC Procurement Policies and Procedures Manual 2011.

iii) the institutional review exercise is expedited such that the positions of procurements are filled at the Court of Justice for them to handle their own procurements.

2.20.7 Supply and Installation of ICT Equipment at USD 100,949.78

The Commission reported that M/S. Cyberworld was given two purchase orders to supply Desktops, Laptops, Printers, UPSs, Smart TVs and heavy-duty scanners for EACJ on 19/06/2015 at a cost of USD.100,949.78. The items were subsequently delivered and paid for on 30/06/2015 and 21/09/2015 respectively. However, audit review revealed the following anomalies:

Appearing before the Committee, the Registrar of Court and the Senior Procurement officer, reported that every procurement above 10,000 USD is forwarded to the Secretariat for processing and conceded to the procurement queries as pointed out by the Audit Commission report.

Regarding VAT, Management of Court clarified that during tendering process of the ICT equipment was VAT exempt but it changed towards the end of the Financial Year where the Government reinstated the VAT in all ICT equipment. They noted that since that particular procurement was completed towards the end of that particular Financial Year, the Supplier had to charge VAT in order to comply with the Government Policy. They explained that Since EAC is tax exempt, a refund had to be requested from Tanzania Revenue Authority (TRA) through the Ministry of Foreign Affairs and are still waiting for the response.

The Committee observed that:-

i) non-compliance with the procurement procedures may have denied the EACJ the benefit of purchasing goods of high quality at prices that are competitive,

ii) **The role of the Counsel to the Community.** The Committees observes that the conspicuous absence of the Council to the Community in the tendering and procurements processes was denying the Community the legal guidance. If his input was to be considered, the Committee hopes that the glaring procurements frauds currently facing the Community could have been avoided.

iii) Absence of the Contracts Manager. Just like the other numerous procurements at the Community, the absence of a Contracts Manager makes it extremely difficult to have a successfully procurement exercise. Normally every procurement should have a Manager to follow up on the implementation of the Contract.

iv) Payment of VAT on exempted goods could have caused a financial loss to the Community.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to;

i) ***Ensure that the management of EACJ should comply with the procurement procedures in dealing with all procurements of goods and services in order to enhance compliance and transparency and also to obtain high quality goods and services at a reasonable price.***

ii) ***Immediate and mandatory presence of the office of the Counsel to the Community on every procurement at the East African Community to ensure that the procurements adhere to the legal and statutory obligations of the Community.***

iii) ***Immediate and mandatory presence of the Contracts Manager on every procurement to ensure follow up on the implementation of the Contract.***

2.20.8 Supply of furniture for the new appointed EACJ Staff – USD 29,486

The Audit Commission reported that purchase order for the supply of various furniture for new staff of EACJ was given to M/s. Mbasha Holdings Ltd at a cost of **USD 29,486** on 19/06/2015.The Audit Commission noted the following:

- There was no procurement file.
- There was no proof to verify that the same request for quotation was sent to at least three suppliers and those quotations were received and evaluated to benefit from quality products and competitive prices contrary to EAC Procurement Regulation 6.5(14)
- Differences were noted in the items ordered, delivered and invoiced against the items requisitioned for and approved.
- A complete evaluation report was not provided, but the evaluation results showed that M/S.Mbasha Holdings was recommended for the award of LOT 4 at USD.22,781.20. The LPO issued on 19/06/2016, however had a different total cost

of USD29,486.20 which was caused by changes on the number of items ordered from the ones recommended under the evaluation price list. The changes lacked approval of the Procurement Committee to be authentic.

- A manual goods received note was issued and yet an official SUNSYSTEM local purchase order was used without justification.

During an interactive meeting with the Committee, the Management of the Court and the Senior Procurement officer reiterated same response as above, regarding procurements.

The Registrar of the Court explained that he was hardly three months in office and as such he found when the procurements processes had been initiated.

The Committee observed that:-

i) The EAC procurement procedures were not adhered to, and as such, this could have denied the EACJ the benefit of purchasing goods of high quality at prices that are more competitive.

ii) **The role of the EACJ in the procurements.** Although the regulations require that all the procurements above the 10.000 USD threshold are handled at the Secretariat, the failure by the user department in this case the EACJ an opportunity to get involved in the procurement process renders the entire exercise problematic in the event of not procuring the required items.

iii) **M/s. Mbasha Holdings Ltd.**

The Committee observed the preferential manner in which M/s. Mbasha Holdings Ltd is treated to the extent that M/S.Mbasha Holdings was recommended for the award of LOT 4 at USD.22,781.20. The LPO issued on 19/06/2016 however had a different total cost of USD29,486.20 which was caused by changes on the number of items ordered from the ones recommended under the evaluation price list. The changes lacked approval of the procurement Committee to be authentic.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to;

i) Direct Management of Court to comply with procurement procedures in force in dealing with all procurement of goods and services to enhance transparency and obtain value for money.

ii) ***Work in line with regulation 82, which states inter alia "An official of the Community who willfully purchases or causes to purchase any goods, works and services contrary to this part shall be personally liable for the cost of the purchase" the Senior Procurement officer should be held responsible for this blotched procurement process.***

2.20.9 Supply of Judges' Gowns and tyres USD

The Audit Commission reported that various firms supplied gowns and tyres to the Community. They noted that procurement procedures were not adhered to and lacked transparency and fairness which may have denied EACJ the benefit of purchasing goods and services at competitive prices.

The EACJ Management concurred with audit finding but noted that J.R. Stephens is specialized supplier of the gowns, chamber jackets, shirts, trousers and bibs in the region. Management further informed the Committee that are the only ones in the region that supply the quality of the materials recommended. They said that whenever new Judges are appointed they get the standard measurements of their attire and forward them to the supplier who will then forward the quotation to EACJ.

As regards the new tyres, they explained that sometimes it is difficult to get quotations for the same type of tyres in Arusha since EACJ vehicles are similar they use the same quotation obtained earlier for another vehicle if the requisition are within the duration of not more than one month and are unable to get a quotation when tyres are out of stock they wait till such tyres are in stock thus leading to different dates on the quotations.

The Committee noted gross violation of the procurement regulations across the EAC Organs and Institutions. Called for Management to enforce compliance to the procurement procedures in force.

2.20.10 Employees on Short term Contracts

The Audit Commission reported that EACJ appointed three members of staff on short term contracts which were varied from 6 months to 1 year yet there were no rules and regulations in place governing short-term contract employment contrary to regulations, 2006, 22(1&2) and to Regulation 23 (14).

It was also noted that there was no evidence of interviews done on getting the initial contracts and the EACJ incurred costs amounting to USD 30,511 as salaries paid to employees who were appointed on short term contracts.

The Management of the Court attributed Short-term recruitments to the delay in finalizing the Institutional Review and Court has had to use the available interns as short-term staff to bridge the gap on staff recruitment. They expressed optimism that now that the EAC adhoc Service Commission was in place, the Court expects to get the optimum number of staff to fill the vacant positions.

The Committee observed the legality of the contracts for the employees on short term contracts and their payments thereof that could not be justified in the absence of approved rules and guidelines from the staff Rules and Regulations. The Committee further noted that this as persistent problem in most EAC institutions and organs.

The Committee recommends to the Assembly to urge the Council of Ministers to

i) **Direct management of Court to always ensure that *all appointments strictly adhere to the provisions of EAC Staff Rules & Regulations.***

ii) ***Expedite the institutional review such that the short-term positions are filled and phased out.***

2.20.11 Fully depreciated Assets still in use

The Audit Commission reported that, upon review of EACJ Fixed Assets register maintained at EACJ revealed that assets worth **USD 229,166** fully depreciated were still in use as at the time of the audit.

While interacting with the Committee, the management of the Court concurred with the Audit observation and pledged to ensure that the useful assets are regularly reassessed.

The Committee recommends the Assembly to urge the Council of Ministers to;

i) ***direct that EACJ reassesses its PP&E such that the useful assets are assessed annually before they reach zero value and identify those assets which are likely to be fully depreciated while they still have a service potential;***

ii) ***direct Management to establish whether their expectations are significantly different from the previous estimates;***

iii) ***ensure that depreciation charge for the current and future periods is accordingly adjusted.***

iv) ***Ensure that all assets with zero book value should be disclosed as a way of a note indicating their cost, net book values and their physical status.***

PART III

3.0 THE LAKE VICTORIA BASIN COMMISSION (LVBC) SECRETARIAT

3.1 CURRENT YEAR AUDIT FINDINGS

3.1.1 Delayed Funding by Partner States

The Audit Commission reported that LVBC was unable to receive contributions from Partner States during the financial year of 2015/2016. The budgeted contribution was USD 2,766,394.00, and the Commission received a sum of USD 2,163,640.00 resulting in under funding of USD 602,754 (21%) %. Considering the arrears from financial year 2014/2015, the outstanding amount was USD 604,012 as at 30 June 2016.

While appearing before the Committee, the LVBC Management led by Mr. Niyongabo Patrice, the Deputy Executive Secretary concurred with the audit finding and said that the LVBC is engaging Council to solicit for funding. The underfunding has affected the Commission to postpone its statutory meetings and honour its obligations to the service providers. This has resulted into negative publicity of the Institution.

The Committee recommends to the Assembly to urge the Council of Ministers to explore alternative funding mechanisms to raise funding for the Community Institutions.

3.1.2 Lack of Mid-Year and Annual-Results Review Report of 2015/2016

The Audit Commission reported that LVBC did not produce a Mid-Year and Annual Results Review Reports for 2015/2016 despite disclosing in the financial statements the details of operationalization of Results-Based Management Strategy (RBMS) as among the achievements recorded during the financial year under review.

During an interactive meeting with the Committee, the LVBC Management reported that the LVBC prepares Annual and Semi-annual reports for projects, programmes as well as the Finance and Administration which are subsequently considered by the Sectoral Council of Ministers for Lake Victoria Basin (LVB-SECOM) on a Semi-annual and Annual basis. The reports were first subjected to initial review by Regional Policy Steering Committee (RPSC) meetings before they are channelled to the LVB-SECOM. The reports detail the results achieved at mid-year and end year.

The Committee noted lack of Annual Result-Based Report inhibits management from properly assessing the level of achievements as well as the financial resources utilized; outputs/outcomes.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that LVBC enforces a mechanism, which should be an ideally Results-Based Management implementation policy/Manual within the Planning Department to ensure that Mid-Year and Annual Results Review Reports are issued on the due date.

3.1.2 Weaknesses in Assets Management

3.1.3 Lack of regular updating of the fixed Asset Register

The Audit Commission noted that the LVBC maintains a computerized asset's register for all the asset classes. However, the register is not regularly updated as some of the items were disposed but were still in the register such as motor vehicles contrary to para 8.1.4.3 (b) of the EAC Financial procedures Manual 2013.

Appearing before the Committee, the LVBC Management admitted to the audit finding but informed the Committee that as part of the EAC harmonisation project of financial systems, LVBC in conjunction with the Secretariat embarked on the installation of an asset management software and the attendant physical verification exercise and reconciliation were done. The exercise has been completed and the training component is to be finalised. They further reported that the inconsistencies within the asset register have been rectified following completion of the exercise and updated accordingly.

The Committee is concerned that an incomplete assets register may consequently affect the reliability of disclosure of non-current assets under the IPSAS requirement.

The Committee recommends the Council of Ministers to ensure that the Management of the LVBC is advised to timely update its assets register and to conduct periodic reconciliations of the fixed asset register with the general ledger.

3.1.4 Management of Fully Depreciated Assets

The Commission reported that 24 full depreciated assets were still in use and some of those assets were in operation for a time ranging from three to twelve years. The fully depreciated assets were 11 Telecom equipment with cost of $53,552 while 9 were motor vehicles with cost of $493,703 and 4 were marine equipment with cost of $689,882.

The Audit further noted that Management had not performed comprehensive survey of the fully depreciated assets and identified the assets which suffice to be in use and those which do not deserve to be in use due to higher running costs in terms of maintenance, repair and fuel consumption.

The management informed the Committee that due to the funding challenges they are faced with no alternative but to continue using obsolete equipment despite the fact that it reached the depreciating stage. LVBC has contacted Council to procure new equipment for the Commission.

The Committee observed the following;

i) None uplifting of fully depreciated assets may result into inadequate management of those assets.

ii) The Commission does not have a policy on asset evaluation and management.

The Committee recommends the Assembly to urge the Council of Ministers;

i) The LVBC should perform a comprehensive survey to identify active assets which suffice to be in use and define the nominal value of the active assets and estimate the useful life accordingly.

ii) LVBC should develop an asset evaluation and inventory policy so as to have a proper management of assets of the Commission.

3.1.5 Delayed write-off and disposal of plant, Property and Equipment

The Audit Commission reported that documents from the Board of Survey Report indicated that three motor vehicles were recommended for disposal since financial year 2014/2015 but the vehicles had not been disposed. The pending write off was valued at Ksh 2,050,000 an indicator that even more assets were pending write-off in the current period for instance the spare parts of RV Jumuiya.

The LVBC Management admitted to the audit finding and informed the Committee that the LVBC has engaged a Valuer to carry out valuation of the motor vehicles for disposal to enable it obtain the reserve price that shall give a price indication of the expected income from the disposal. Management further disclosed that, identification and listing of the old spare parts for RV Jumuiya earmarked for disposal was completed mid October 2016.

The Committee observed that extending the lead time for PPE pending write-off and disposal could lead to the Commission incurring additional costs for storage, security and exposes the assets to risks of misappropriation or theft and also the assets may further deteriorate due to tear and wear.

The Committee recommends the Assembly to urge the Council of Ministers to direct the EAC Management to ensure that the LVBC undertakes measures to expedite write-offs and disposals to avoid further wear and tear; and consider other approved disposal methods to expedite the process of disposing spare parts of RV Jumuiya Vessel assets taking into account that, this are specialized assets.

3.1.6 Lack of Monitoring for Fuel Consumption

The Audit Commission reported that LVBC operates 11 motor vehicles that serve 44 staff members of the Commission-wide. The Audit pointed out that LVBC did not have a mechanism in place for monitoring and analysing motor vehicles fuel consumption contrary to Paragraph 8.1.4.3 (g) of the EAC Financial Manual The current practice used by the Commission is to issue fuel imprest to the drivers which are subject to retirement when the imprest is exhausted. Under Financial year 2015/16, LVBC incurred $48,346 for motor vehicle fuel issued as an imprest. The Audit further noted that the LVBC did not have a harmonized fleet management policy resulting into the Commission abandoning the adopted norm for fuel control.

During the meeting with Committee, the LVBC Management admitted to the Audit finding and informed the Committee that it is in the process of developing a *comprehensive* policy for vehicle fleet management.

Committee observed that:

i) The use of imprest for vehicle fleet fuel consumption might expose LVBC into risk of invalid, inaccurate and false data of fuel consumption due to numerous errors that might arise in the records.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the Management of the LVBC: -

i) develops a comprehensive policy for vehicle fleet Management;

ii) expedites the initiated process to re activate the fuel card system across all the Partner States.

3.1.7 Weaknesses in Procurement and Contracts Management

3.1.8 Understaffing of the Procurement Unit

The Audit Commission reported that some of procurement activities were undertaken by one staff member from the process of preparation of the procurement plan, preparation of the minutes of the Procurement Committee, documentation of procurement files to all programs and projects. As a result, the Audit Commission noted inadequate filing of tender documents in the tender files and some of the contracts were not indexed with tender and contract numbers. Section 3.3 of the Procurement Policies and Procedures Manual (PPPM) of 2011.

Appearing before the Committee, the LVBC Management reported that the current staffing levels do not allow for appropriate segregation of duties and yet there are additional projects. The reported that they have forwarded request to Council to enhance the staffing levels.

The Committee observes the following;

- Inadequate staffing levels at the LVBC may result into staff fatigue and hence trigger staff low performance resulting to errors of commission and omission.
- Current staffing level at the procurement unit duties cannot be adequately segregated as required by the Financial Policies and Procedures Manual.

The Committee recommends the Assembly to urge the Council of Ministers;

i) ***The LVBC Management is advised to ensure that all documents relating to the procurement process are filed in the same tender file;***

ii) ***Liaise with to EAC-HQ and consider a comprehensive review of the structure of LVBC such that a Procurement Unit is established at the Commission.***

iii) ***Assign or allocate appropriate staff to the Procurement Unit to mitigate potential risk.***

3.1.9 Incomplete Annual Procurement Plan (APP)

The Audit Commission reported that upon examination of the Contract Register and APP revealed that LVBC did not incorporate the carried over activities from previous year for easy monitoring and evaluation of the tender process. Furthermore, tenders valued at more than Kshs 7,100,000 for electrical and tiling of Nyanza Office was carried over from the previous year were not included in the APP for the year 2015/2016.

While interacting with the Committee, the LVBC Management reported that they generate the Annual Procurement Plan from the Budget Management System based on the Annual Work Plan and the Budget for that specific financial year. LVBC further reported that all procurement activities in the APP were expected to be carried out or implemented within the specific financial year. Any activities that spills over to another financial year and have budget implications are assumed to be another activity in the plan and are therefore provided for in the subsequent budget in order to be captured in the APP.

For this particular activity, the LVBC informed the Committee that it sought and obtained approval for the re allocation of funds from the EAC Finance & Administration Committee meeting which took place in Dar-es-Salaam from 16th to 21st November 2015. The Committee approved Kshs. 7,100,000 for the structured cabling and electrical installation at the new office.

The Committee observed that the exclusion of carried over activities in the Annual Procurement Plan are likely to limit adequate monitoring and tracking of the status of works and payments and will further curtail the Commission from enjoying economies of scale through aggregation of procurements of similar nature.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the *LVBC Management to consider enhancing its review process of APP and ensure that all budgeted activities of procurement nature are incorporated in the APP and Budget Estimates.*

3.1.10 Deficiencies in the management of the contract for Partitioning and remodelling of LVBC Nyanza Office.

The Audit Commission noted that on 26 June 2014 LVBC entered into a contract with M/s Lunao Enterprises to carry out office remodelling, partitioning and interior fit at contract sum of Kshs 20,175,061. The project was to commence on 14th August 2014 and to be completed within 16 weeks. However, the payment delayed and an extension of the Contract had to be sought.

Further review of the project on office partitioning and remodelling revealed a number of deficiencies raised during the execution including stalled works, namely: -

a) Abnormal project extensions and delays;

b) Single sourcing and additional works awardee to non-performing Contractor without performances appraisal on the previous contracted work;

c) Sub-standard workmanship of LVBC office partitioning and remodelling;

d) Over payment by Kshs.2,058,337

The LVBC Management informed the Committee that the delays and subsequent extension of contract caused by the absence of the lift to facilitate transportation of materials up to 12th and 13th floors where the sites for remodelling were located and as such the contractor could not manage to carry the building materials to the 13th and 14th floor. The Management further informed the Committee that they contacted Council and it permitted LVBC to procure the lift. The LVBC also informed the Committee that the existing electrical installation and structural cabling installations had been vandalised and needed to be redone as additional work.

The Committee observed and noted the following anomalies: -

i) glaring laxity, laisser-faire and sheer negligence with regards the use of the EAC resources by the Management of the LVBC;

iii) lack of professionalism as noted by the signing of the initial contract on the assumption that the building already had a lift to facilitate transportation of materials up to 12th and 13th floors;

iv) Delayed office partitioning denied the Commission savings from the rental amount for the 11 months of the extension paid to the Reinsurance Plaza (former landlord) of USD 30,800 (i.e. USD 2,800 per month);

v) LVBC could lose Kshs 2,058,337 being overpayment made to the contractor due to weak contract Management;

vi) The Intended objective was not met timely.

The Committee recommends the Assembly to urge the Council of Ministers to direct the LVBC Management: -

i) to institute disciplinary procedures against the specified officers involved in the execution of the Project for negligence of duty and not following the established rules and procedures.

ii) to strengthen and improve the current coordination between the user departments and Procurement Unit to ensure that awarding of subsequent contracts must be based on the evaluation of performance appraisal;

iii) ***to establish a pre-audit desk within the finance department to carry out pre-audits before payments are affected;***

iv) ***Initiate stringent procedural recovery of Kshs 2,058,337 overpayment*** **from the contractor and investigate the reasons for payment.**

3.1.11 Questionable payment for staff medical insurance

The Audit Commission reported irregular payments for Staff Medical Insurance, contrary to Regulation 41(4) of the EAC Financial Rules and Regulation.

While appearing before the Committee, the LVBC admitted to the audit finding but informed meeting that the payment was made after the addendum was signed. They stressed that though the payment voucher was initiated on 5th august, the final review and approval were done on 13 August 2015, In addition they reported that there was an email from CTC on the 11th urging LVBC to have the payment done urgently which could not have been sent after payment had been allegedly done. The signing of contract with a service provider is procurement process and does not require approval of the Council

The Committee observed that: -

i) The payment process to the agent was initiated before the addendum was signed.

ii) There was a noticeable difference between the initial contract and the addendum as the initial contract had the Insurance firm company seal whereas that addendum only had a rubber stamp casting doubt on its authenticity.

iii) The addendum had manual alterations on it casting doubt on its validity and legality.

iv) A contract was entered into without approval of the Council of Ministers as required by the regulation.

The Committee recommends to the Assembly to urge the Council of Ministers to strongly reprimand the Management of LVBC and make sure that payments are made to the legally contracted suppliers, comply with a valid agreement and investigate the circumstances of these payments.

3.1.12 Failure to recover USD 8,000 from Lift Contractor as penalty for delay in the installation of a passage lift.

The Audit Commission reviewed the contract for "contract for supply, installation, testing and commissioning of one passenger lift" completed in an addendum signed on 15th

December 2014. The addendum extended lead times until 30 June 2015 and, at the same time, the contractor agreed to indemnify the client (LVBC) for the delay by paying LVBC an amount of USD 8,000, equivalent to two months rental fees. This amount was to be paid to the LVBC account by 16th March 2015. As at the time of the audit in November 2016, LVBC had not received the said amount and there was no recognition of the receivable in the LVBC financial statements.

While meeting the Accounts Committee, LVBC management informed the Committee that the meeting which was held on 21st October 2015, discussed the delay and it was confirmed that it was occasioned by the following factors:

1. The National Government through the office of the Regional Coordinator who were actually the owners of the building delayed in giving clearance to EAC – LVBC through the County Government to install the lift. This was occasioned by the security personnel refusing the contractor to access the site.

2. After clearance was given to the Contractor through the County Government the hours allocated for works were less than that which the contractor had planned. The Regional Coordinator insisted that installation works could only take place between 8.00 am and 5.00 pm and also no work was to be carried out beyond 8.00 pm. This therefore meant that the contractor could only put in an equivalent of 3 hours a day against the planned 14 hrs per day.

3. The Regional Coordinator also instructed the caretaker that EAC-LVBC to separate their electricity meter before the works of installing the lift could start. Electrical power was critical for the successful installation and subsequent running of the lift and were not considered in the initial BQ. This therefore called for initiation of a procurement process to be able to lay fresh cabling for the lift installation and separation of Electricity meter and isolation of the electrical cabling from the National Government. This occasioned further delay for the installation of the lift though the contractor was actually on site ready to work.

Based on the above reasons, the Commission hesitated to recover any amount from the contractor since the delay wasn't occasioned by them. However, due to the contractual obligation, it was agreed with the contractor that this money be recovered from his lift maintenance contract dues.

The failure by management to recover the funds as per the contract resulted into loss of funds for the LVBC.

The Committee recommends the Assembly to urge the Council of Ministers to ensure immediate and prompt adherence to the contractual requirements and ensure that the 8000 USD is fully recovered from the contractor.

3.1.13 Weaknesses in Financial Management

3.1.14 Failure to file for VAT refunds on Qualifying Expenditure

The Audit Commission reported that LVBC did not recover from Kenya Revenue Authority (KRA) VAT the outstanding balance as at 30 June 2016 stood at USD 212,167 an increased by USD 27,777 from the previous year.

The LVBC Management informed the Committee that it has engaged the Chief of Protocol in Ministry of Foreign Affairs and the Kenya Revenue Authority on modalities of obtaining tax exemption.

The Committee observed that the LVBC was losing money in unclaimed refunds on a variety of qualifying expenses.

The Committee recommends the Assembly to urge the Council of Ministers to advise Management to enhance follow up for VAT refund from Kenya Revenue Authority in line with the VAT Bill of 2013 which puts no time limit on the filing of returns. Going forward, management of LVBC is further advised to put in place a mechanism for timely compilation and submission of such claims for tax refunds.

3.1.15 Inadequate Accounting Policies on provision for bad and doubtful debts and on impairment of Assets

The Audit Commission reported that upon review of the criteria used in estimating the provisions/ assets impairment, it noted that there was no criterion used in addressing the impairment of assets to determine the fair value of recoverable amount of the assets. For instance, RV Jumuiya vessel had not been operational for the past three years but there is no provision for impairment provided as aforementioned.

While appearing before the Committee, the LVBC Management conceded to the audit finding and informed the Committee that indeed the Financial Rules and Regulations of 2012 and the accounting policies do not address the provision criteria for bad and doubtful debts that could be invoked on the VAT receivable. They undertook to present a request to the EAC Secretariat so as to have the provision reviewed. As regards the vessel, the Commission has put in place plans to have the asset inspected to obtain a certificate of seaworthy then deployed at the MRCC centre given that negotiations of the Multinational Maritime communication and transport project have been concluded and project operations are expected to commence in 2017.

The Committee observed that the amount in the financial statements presented may not be fairly presented without adequate provisions being made.

The Committee recommends to the Assembly to urge Council to ensure that the Management of LVBC to: -

i) ***Liaises with EAC-HQ to review the Financial Policy and align it with the IPSAS requirements;***

ii) ***Reviews the provision estimate criteria basing on the past experiences and likelihood of serviceability of the item for fair and objective presentation.***

iii) ***Reviews the whole reporting policy document and align it with IPSASs reporting framework.***

3.1.16 Weaknesses in Imprest Management

3.1.17 Delays in retirement of imprest

The Audit Commission reported that reported delays in retirement of imprest contrary to regulation 40 of EAC Finacial Rules and Regulations., Audit Commission further observed cases where the imprest was not retired on time and delays ranged from 6 up to 94 days to amounting to $30,850. In addition, an employee was given additional imprest before accounting for the previous one.

Lack of adequate controls over imprest may increase the risk of misappropriation of LVBC funds. Delay in retirement also may result in misusing the LVBC funds and having excess funds held by staff which may limit the implementation of some the Commission's activities.

Management is advised to ensure that imprest to the employees are cleared within the specified period of five (5) days, and no further imprest should be authorised and issued to any staff member before the previous imprest is accounted for.

3.2 LVWATSAN PROJECT

3.2.1 Weaknesses in Project Management

The Audit Commission reported that on 4th April 2011 the EAC entered in a protocol agreement with the African Development Fund (ADF) to finance Lake Victoria Water Supply and Sanitation Program (LVWATSAN) through the arrangement of Lake Victoria Basin Commission (LVBC) as a regional coordinator of the program. The African Development Fund principally agreed to finance the program by a grant amounting to UA 72.98 million (approx. USD 107.86 million) of which Tanzania was allocated UA 17.48 (approx. USD 25.84 million) while Kenya and Uganda were allocated UA10.39 million (approx. USD 15.36 million) and UA11.13 million (approx. USD 16.45 million) respectively and ultimately Burundi and Rwanda were allocated UA14.13 million (approx. USD 20.88 million) and UA 15.11 million (approx. USD 22.33 million) respectively. In the same arrangement the LVBC was allocated UA4.74 (approx. USD 7 million) for program supervision & monitoring and training and capacity building of the implementing agencies (IA). In taking that responsibility, the EAC on 15th April 2011 entered in subsidiary grant transfer agreement to all beneficiary Member States namely Tanzania; Kenya; Uganda; Burundi; and Rwanda. The Audit Commission found that the program implementation by the implementing agencies faced significant challenges that may have prevented the LVBC from achieving its intended objectives, as follows:

a) Delays in Project Implementation

b) Inadequate supervision and monitoring of LVWATSAN program by LVBC

The Committee made the following observations: -

i) Insufficient supervision and monitoring of implementing agencies activities resulted into lack of assurance of the implemented activities and exposed LVBC to a significant risk of being unable to obtain adequate assurance in the appropriate use of cash transfers made to the implementing agencies and produce the comprehensive progress report to the donor.

ii) During the on-spot assessment activity which was conducted by the East African Community, Members observed that: -

- The water facility was never extended to the intended beneficiaries and some of the water facilities were non-functional and did not have the water supply. When the EALA members visited Kisumu hospital they found that the hospital did not have water supply. This was the case with the communities where the project was located.

- The project equipment was in poor shape, neglected and lying idle.
- Individuals were bottling the water and selling it.

iii) Lack of sustainability measures to ensure that there is continuity.

iv) Delayed implementation of grants programs may result into reduction of donor confidence to offer financial assistance to EAC because the mandated objectives were not met timely.

The Committee recommends the Assembly to urge the Council of Ministers

i. ***Institute and Commission a forensic audit into how the Lake Victoria Water Supply and Sanitation Program (LVWATSAN) project has been managed.***
ii. ***The Management of LVBC as a matter of urgency should strengthen and improve its current annual plan on supervision and monitoring mechanism of the projects on an-ongoing basis;***
iii. ***As a matter priority, the Management should consider establishing an advisory working group to perform an in-depth and comprehensive review of resources needed for supervision and monitoring of IAs for the extended time, ultimately to achieve a more reliable and justifiable budget estimate for the extended program time frame;***
iv. ***As a matter of necessity, the management should liaise with EAC-HQ for fund solicitation for LVWATSAN supervision and monitoring;***
v. ***Management should develop suitability mechanisms and programs to ensure there is project continuity and longevity.***

3.2.2. Project Field visit Report

The Audit Commission reported that between 3rd to 6th November 2016, the Audit Commission physically visited some of the LVWATSAN II projects located in Uganda to verify the operations efficiency, the level of LVBC supervision and monitoring of the programs as well as project sustainability mechanisms. The projects visited were Buwama water and sewage management project and the Mayuge water supply and improvement of public sanitation, all in Uganda.

During the site visits, the Audit noted a number of challenges in respect of management and sustainability of the program's investments and these included; -

i) Insufficient supervision and monitoring.

ii) Underutilization of the projects capacity, the audit noted cases where the capacity of water supply was 4,000 cubic meters while the current utilization was 500 cubic meter and the sewerage system was idle since its inception;

iii) Idle investment of IVECO truck & Power Tiller for sewerage management. The equipment was not in operational a period ranging for 6 to 12 months. The reason provided was lack of capacity in terms of human capital and financial resources;

iv) Unclear demarcation of equipment ownership between the Central Government and the Local Council and lack of branding on the site to indicate the source of funding. When the Committee interacted with the Management of LVBC, it informed the Committee that it endeavoured to undertake the following measures aimed at enhancing the monitoring and effectiveness of the project.

   (i) LVBC h enhanced its monitoring and oversight roles using the meagre available resources.

   (ii) The design capacity provided was for the design period is for the year 2035, implying that the facilities should adequately serve populations of the focal towns up to the design year, and therefore the plant capacity is underutilized due to the lower current population, which is normal;

   (iii) The equipment was idle due to lack of availability of conventional/ official disposal points, which are under construction as Landfill (Solid Waste Management Disposal Point) and Feacal Sludge Treatment Plant. The capacity for operations and maintenance has been built through the Training and Capacity Building (TCB) Component of the program and the staffs are ready for activities. The Local Authority and the Water utility have been sensitized and educated on the need for provision of budgets for Operations and Maintenance (O&M); and.

   (iv) The equipment is owned by the Local Authority as they are meant to serve the local authority, but they are held in trust and managed by the utility, which has the role and responsibility of providing services.

The Committee observed that lack of sustainability of the projects' investments will be at stake as most of them lack contingent plans at the time of program exit.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the Management of the LVBC;

(a) Takes further measures to improve the rate of projects physical visit to ensure that the projects are on track and conduct interventions in case of any project problems;

(b) Liaises with Partner States through EAC so as to find the best way for optimal utilization of the equipment or to make the trade-off where the equipment is needed in exchange with the equipment according to the current capacity of the beneficiaries; and

(c) *Considers engaging a consultant to carry out the impact assessment to all projects aimed at improving the surrounding life of society and Community and the result of the study should be utilized for formulating outreach for future Programmes.*

3.3 USAID PHE PROJECT

3.3.1 Irregularities in the provision of Communication equipment's for PHE Conference

The Audit Commission reported that, aaccording to Chapter 6.4.1 of the EAC procurement policies and procedures manual 2011, open bidding shall be the preferred method of procurement, however where it is determined that it's not feasible, the EAC may use any other competitive method prescribed therein in order to ensure that the selected type of competition is both economical and efficient that results in EAC obtaining "Value for money"

- Regulation 80 (5) of the Financial Rules and Regulations 2012 stipulates that no services or works shall commence, or goods ordered, until a contractual obligation between LVBC and the supplier has been established by signature of both parties to the contract.

  When the Committee interacted with the Management of LVBC it informed the Committee that the Population Health and Environment (PHE) Conference which was held in Kisumu was of international stature thus the necessity for communication equipment which included the Public-address system, sound systems, cordless microphones, table microphones with provision for translation and other related communication equipment. Management noted that there was a budget provision for the PHE conference and the communication equipment was catered for within the conferencing expense. The venue of the conference was Tom Mboya Labour College, which did not have such facilities and therefore necessitated outsourcing.

- Management further noted that the five bidders who were invited to provide the quotations were on the shortlist of service providers given by Tom Mboya Labour College. It noted that was a standard procurement practice for Government institutions, Intergovernmental or International organizations to share prequalified list of suppliers / service providers with each other. The nature of the procurement was estimated to fit within the rrequest for Quotations method and the requirements were straight forward for a two days conference.

The Committee made the following Observations: -

- This procurement was not included in the annual procurement plan of the Commission for the year 2015-2016 yet this was a statutory meeting which was on the Calendar of LVBC.

- LVBC used the request for quotation for this procurement against the requirement of the procurement regulation which require that all procurements above USD 10,000 shall be by tender.

- The evaluation report of the procurement indicated that the quotations were sent to five service providers. However, it was not clear how the service providers were identified and there was no evidence that the list was approved by the procurement Committee as required by the procurement regulations.

- There was no evidence on the payment documents to indicate that equipment was supplied as requested to support the payment.
- Procurements not included in the annual procurement plan cast doubt on the accuracy of the plan in forecasting the commissions requirements and may result in emergency procurements as well as deployment of budgets while differing the planned activities.

- The Commission may not have received value for money in the procurement of the service.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that: -

i) ***Management is advised to ensure compliance to procurement requirements and in case of emergency procurement a user request to be documented to justify their decision.***

ii) ***The Management of LVBC should adhere to the procurement guidelines and ensure that future procurements are within the Procurement plan.***

3.4 USAID PREPARED PROJECT

3.4.1 Delayed signing of Implementation letter

The Planning for Resilience in East Africa through Policy, Adaptation, Research and Economic Development (PREPARED) was a medium-term (five year), multi-organization, comprehensive program between the East African Community (EAC) and USAID East Africa (EA). It was funded by USAID EA and implemented by different Partners under coordination of key partners including EAC and Lake Victoria Basin Commission (LVBC) Secretariats; IGAD Climate Prediction and Applications Centre (ICPAC), the Regional Centre for Mapping of Resources for Development (RCMRD), and FEWS NET. It aimed at mainstreaming integrated, multi-sectoral, evidence-based, climate-resilient development planning and program implementation into the EAC and its Partner States' development agendas.

It was noted that although the Donor (USAID EA) signed the project implementation letter on on 11 August 2015, EAC signed the letter on 11 November 2015 two months after the start of the implementation period on 1 September 2015.

The Committee observed the following: -

- Delay in signing project implementation letters resulted into non-implementation or delayed execution of the project's planned activities hence the project goals/objectives were not being attained on a timely manner.
- The project was not able to absorb the available project funds within the stipulated project period.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Management of LVBC enhances liaison between EAC, LVBC and USAID in order to ensure timely signing of the implementation letters.

3.4.2 Planned project activities not implemented

The Audit Commission report noted that a review of the budget performance report showed the budgeted activities amounting to USD 66,720 that were not implemented.

The LVBC Management informed the Committee that implementation letter was signed in November 2015; while activities were required to be implemented from July 2016. LVBC further reported that funds were released six months after. The Committee was further informed that the delay of funds caused some activities like awareness building and training workshops, and development of the water policy not to be implemented within the agreed financial year.

The Committee observed that the existence of the unimplemented activities indicates non-achievement of the projects' objectives for the year and implied unrealistic project budget.

The Committee recommends the Assembly to urge the Council of Ministers to devise strategies to ensure activities are implemented as planned and the budget lines are realistic.

3.4.7 Procurements using activity imprest

The Audit Commission noted that the project undertook a number of procurements through activity imprest amounting to $15,975. Audit Commission further reported that, there was no evidence that the services were procured competitively and it was not clear why the procurement were not done through the Procurement Unit of the Commission.

The LVBC Management conceded to the Audit finding and noted that the Procurement of conference facilities were dictated by the nature of the meeting. Management further explained that due to the uniqueness of EAC meetings and requirements of main conference halls and breakaway rooms for Partner States consultations, a hotel that fits the requirements of the specific meeting is usually identified and requested to submit a quotation based on the EAC negotiated conference rates.

The Committee observed that LVBC could not have derived value for money through direct procurement of the goods and services.

The Committee recommends the Assembly to urge Council of Ministers to direct the LVBC Management;

- ***to ensure that all procurements are planned well in advance to identify cases where procurements could be consolidated to derive advantage from economies of scale in procurement of stationeries and printing services.***

- ***to ensure that procurement for conference facilities are done in a competitive manner and payment made directly to the service provider rather than using imprest.***

3.5 STATUS OF IMPLEMENTATION OF PREVIOUS YEARS AUDIT RECOMEMENDATON

The Audit Commission reported that of the 22 audit recommendations issued in June 2015, 14 (64 per cent) were fully implemented, while four (18 per cent) were under implementation, 2 (9 per cent) had been reiterated while two (9 per cent) had not been implemented. The import of this the Commission noted, was that the eight outstanding audit recommendations of 2013/2014, four (50 per cent) had been fully implemented, two (25 per cent) were under implementation, one (12.5 per cent) had been reiterated while one (12.5 per cent) had not been implemented.

Management informed the Committee that they were trying their best to ensure that the audit issues are addressed and in line with the regulations governing the use and management of resources at the Community.

The Committee noted an upward trend in the overall status of implementation of the previous audit recommendations.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the EAC Management to put in more effort and implement the audit recommendations that were not implemented in the previous financial year.

3.6 AUDIT FINDINGS

3.6.1 Weaknesses noted in Activity Budgeting

The Audit Commission informed the meeting that the representatives of Kenya National Cleaner Production Centre participated in the meeting for the whole duration but inadvertently forgot to sign in for some of the days an anomaly they pledged to rectify in future meetings.

The Committee made the following observations:

- The unbudgeted DSA paid to the meeting participants is a weakness in planning of the meetings and inadequate management of the project resources.

- The paid amount for absence days was irregular in case the person did not participate in the meeting. However, the management provided proof that the DSA was paid to the participants.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the management of LVBC:

- ***Make a proper planning of the meeting and all expenditure should be comprehensively budgeted for. Daily Subsistence allowance should be paid at the authorized EAC rate;***

- ***The Daily Subsistence allowance should only be paid based on days a participant that has attended the meeting and the Management should ensure that all participants sign the attendance list;***

- ***Management should improve on the coordination of meetings to enhance value for money and address the weaknesses in the initiation, planning and execution of meetings.***

3.6.2 Planned project activities not executed

A review of budget performance report of LVEMP II for the year ended 30 June 2016 revealed unexecuted planned activities amounting to **USD 375,000** were not executed.

The Management of LVBC informed the Committee that the Commission presented the Terms of Reference to the World Bank for clearance in September, 2015. But because of inadequate funds, the Bank made a proposal to source more funds to finance the consultancies among others. Although funds were secured from FAO and DFID, there was a delay in the conclusion of the negotiations.

The Committee observed that the unexecuted planned project activities was an indicator that the project did not attained the objectives for the year and this could have adversely affected the confidence of development partners towards the project.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the management of LVBC: -

i) puts in place strong mechanisms to ensure that the planned activities are executed as scheduled for the attainment of the intended objectives;

ii) endeavor to conclude the consultancies within the current financial year.

3.6.3 Review of Cleaner Production Centres' Activities

The Audit Commission reported that in implementing cleaner production technology activities of LVEMP II project, a contract dated 13th August, 2010 was signed between LVBC and Kenya Cleaner Production Center to coordinate activities of other cleaner production centers across the Partner States. The Commission noted that the addendum was signed on 1st July 2015 for contract period extension to 31st December 2017.

A review of the above contract revealed the following issues: -

- Lack of annual work plan detailing the activities and expenditure for each Partner State cleaner production center.

- Delays in disbursing operational funds to Kenya National Production Center (KNPC).

- No annual financial report detailing revenue received and expenditure incurred by each cleaner production center rather a summary of performance budget report which did not compare the annual budgeted expenditure with actual expenditure.

The LVBC Management informed the Committee that the delay in the release of the operational funds to CPCs was due to late release of funds from the World Bank which was done in the month of April 2016.

The Committee observed that: -

- Without a detailed work plan and budget, it was difficult LVBC to assess the budget performance of cleaner production centers.

- Delay in disbursing operational fund to cleaner production centers hindered the effective implementation of planned activities.

- Lack of detailed financial reports denied management important information for decision making.

- Lack of evidence proving that the deliverable was achieved serve as an indicator that there were unimplemented activities by Kenya Clean Production Center.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that;

- ***Cleaner Production Centers are prepared with detailed Annual Work Plans and budgets which form the basis of transfer of funds from LVBC.***

- ***Cleaner Production Centers should make early request for operation funds and LVBC should equally respond without delay in order to avoid unimplemented annual activities.***

- ***Kenya Cleaner Production Centers should prepare a detailed financial report to fully inform the users of financial information.***

- ***A proper mechanism to evaluate the implementation of project activities should be strengthened in order to achieve all deliverables and outputs.***

3.6.4 Deficiencies noted in Budget Performance Report

The Audit Commission reported that during the reporting period ended 30 June 2016, the project received funds from Development Partners amounting to **USD 2,255,996** including the direct payment made by the development partners to supplier. However, the actual funds received presented in the summary budget performance report amounted to **USD 1,884,950**, making a difference of **USD 371,046.** There was no explanation given for the difference.

- There was a difference of **USD 26,325** between the actual expenditure as per detailed budget performance report by activity and actual expenditure as per summary of budget performance report presented in the financial statements.

- According to detailed budget performance report per activity, the budget expenditure of USD 150,000 for cleaner production technology was spent. However, a review of cleaner production centers expenditure revealed that only **USD 98,900** was transferred to Kenya national production centre. Therefore, an amount of **USD 51,100** was not spent in the year ended 30 June 2016.

The LVBC Management conceded to the audit finding and clarified that there was an anomaly which they would endeavoured to clarify.

The Committee observed that: -

i) owing to the scenario presented above and the differences, presented in the budget performance report was not accurate and misled the users of financial information.

ii) the amount transferred to Kenya Cleaner production 51,000 USD was way above the limited amount. The Committee further observed that there was no proof that the 51,000 USD was used in the following financial year.

The Committee recommends to the Assembly to urge the Council of Ministers to properly align the automated system to make sure that the budget performance report does not require manual adjustment to ensure accuracy of the presented report.

3.6.5 Failure to file for VAT refunds on Qualifying Expenditure

The Audit Commission reported that the LVEMP II did not recover from Kenya Revenue Authority (KRA) VAT outstanding balance amounting to **USD 28,216.**

LVBC Management informed the Committee that it is continuously engaging the Ministry of Foreign Affairs and KRA to assist expedite the settlement of the refunds and a series of meetings have been held with the two offices regarding the refunding process.

Committee Observed that: -

i) the issue of VAT refunds is affecting most Organizations and Institutions of the EAC in the Partner States hence denying the Community the meagre resources they would use to foster integration.

ii) The Commission is further losing money in unclaimed refunds on a variety of expenses.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the LVBC Management;

i) Streamlines follow up for VAT refund from Kenya Revenue Authority in line with the VAT Bill of 2013 which puts no time limit on the filing of returns

ii) Puts in place a mechanism for timely compilation and submission of such claims for tax refunds;

iii) Undertakes to engage the Ministry of EAC Affairs to negotiate with Kenya Revenue Authority to have the VAT refunds processed.

3.7 PHYSICAL VERFICATION

3.7.1 Water hyacinths machine not in use

The Audit Commission reported that the Republic of Kenya purchased a water hyacinth machine which was delivered to Kisumu on 12th April, 2016. However, the machine was not yet in use by the time of audit in November 2016. Further, the audit team visited Homa bay pier and noted water hyacinths cover a great part of the lake. For details see photos below.

The LVBC Management informed the Committee that LVBC facilitated and coordinated the development of the Regional Water Hyacinth Surveillance and Management strategy which proposed a mix of manual removal, biological control and mechanical removal methods to control the proliferation of water hyacinth on Lake Victoria.

i) The water hyacinths machine acquired but not in use implies that LVEMP II is not deriving value for money from the purchased machine since it would have facilitated to remove water hyacinths.

ii) The machine is depreciating yet its not being put to use and there no effort being done to save the lake from the water hyacinths that is spreading at an alarming rate currently at 17,000 hectares.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the LVEMP II Management undertakes a closer follow up with the Republic of Kenya to ensure that the machine delivered is put to use and serves the intended purpose.

3.7.2 Kisumu County: KISAT Water Treatment Plant

The Audit Commission reported that the plant has a challenge of disposing off the inorganic substances (oil, fish scales and other remnant from food processing companies neighbouring to the plant) that may cause the plant to break down.

The LVBC Management informed the Committee that the sub-component on rehabilitation and/or construction of wastewater treatment was being carried out according to the project financing agreement and the Project Appraisal Document (PAD) a technical function of the National Project Coordination Team.

The Committee observed that:-

i) The Committee observed that there is a risk of sustainability of the plant without proper disposal of inorganic substances.

ii) The plant may not operate effectively due to electricity interruption and non-trained staff.

The Committee recommends the Assembly to urge the Council of Ministers to direct the Management of LVBC to: -

i) ensure that the plant is equipped with incinerator for proper disposal of inorganic substances, generator as alternative power source and providing trainings to the employees of the plant as to improve its operations.

ii) Initiate together with the Kenya National Coordination Unit remedial actions to mobilize financial investments to addresses the emerging challenges.

3.7.3 Improvement of Sewerage System in Kirinya-Jinja Waste Water Treatment Plant

The Audit Commission reported that LVEMP II funding agreement required LVBC to conduct effective project coordination at regional and national levels and monitor and evaluate the activities as well as share information among Member States Countries.

On 4th November 2016, the audit team visited Kirinya- Jinja Waste Water Treatment plant where improvement works were carried under LVEMPII. The verification intended to confirm the level of LVBC supervision and monitoring of the project by the LVBC. The audit team made the following observations on the project: -

i) Inadequate visit by LVBC as the regional coordinator of the projects.
ii) Delay in project implementation.

The LVBC Management informed the Committee that the LVBC Secretariat undertook monitoring and implementation missions to the project sites in Partner States (for both regional and national level interventions) at least on a semi-annual basis. Furthermore, limitations in budgetary allocation make project coordination, monitoring and supervision difficult.

The Committee observed that the LVBC did not carry out its role of monitoring and evaluating the project which led the project to stagnate although the Management attributed this to the budgetary challenges.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Management of LVBC take further measures to improve the rate of projects physical visit to ensure the projects are on track and recommend for interventions in case of any problems.

3.7.4. STATUS OF IMPLEMENTATION OF PREVIOUS AUDIT RECOMMENDATIONS

The Audit Commission reported that the assessment of the status on the implementation of previous audit recommendations revealed that most of previous recommendations were not implemented. **54%** were fully implemented, **8%** were partially implemented while **38%** were not implemented.

The Committee noted good performance but encouraged LVBC to continuously improve the implementation for the better performance of LVBC.

PART IV

4.0 THE INTER UNIVERSITY COUNCIL FOR EAST AFRICA

4.1 CURRENT YEAR AUDIT FINDINGS

4.1.1 Unexplained difference between confirmations obtained from creditors and financial statements figure

The Audit Commission reported that a comparison of confirmation responses from three creditors with credit balance reported in the statement of financial position revealed an unexplained difference of **USD 102,358.76.** Accuracy and completeness of creditors reported in the statement of financial position could not be confirmed.

The Management of IUCEA acknowledged the Audit observations and informed the Committee that Globetrotters and Bunyonyi, travel agents recorded every ticket they issued to IUCEA but IUCEA recorded only tickets that they had consumed. However, the Audit noted that there was a lapse in management of the ticketing but acknowledged that the difference was paid. The IUCEA also carries our reconciliations to ensure that value for money is achieved.

The Committee observed *that the accuracy and completeness of creditors reported in the statements of financial positions cannot be confirmed.*

The Committee recommends to the Assembly to urge the Council of Minister to ensure that the Management of IUCEA reconciles monthly and annually with its suppliers. The unexplained difference should be investigated and agreed upon with the related suppliers.

4.1.2 Long outstanding refundable VAT

The Audit Commission reported that the statement of financial position of IUCEA for the year ended 30 June 2016 included VAT refund totalling USD 226,109. However, the VAT refund comprised USD 242,153.43 that was claimed for refund from URA but only USD 79,552.48 was refunded and USD 162,238.12 was rejected. The reasons for rejection by URA as per rejection notices included payments against non-tax invoices and unverifiable and missing invoices.

The Management of the IUCEA informed the Committee that they were in talks with the Management of Uganda Revenue Authority, and Ministry of Finance to have this matter addressed.

The Committee observed this as a cross-cutting issue is affecting most Institutions, Organs and Agencies across the Partner States.

The Committee recommend the Assembly to urge the Council of Ministers to advise the Management of IUCEA to continue engaging with the Uganda Revenue Authority, and Ministry of Finance to have this matter addressed.

4.1.3 Doubtful Receivables

A review of the statement of financial position (receivables) revealed that receivables from projects totaling **USD 83,997.75** was outstanding for two to five years. It further revealed that most of these receivables were from various projects that have closed their activities more than a year ago.

While appearing before the Committee, the Management of IUCEA acknowledged the audit finding and informed the Committee that VicRes project, was closed May 2015 but one of its activities had not yet wound up at the time of audit and the project still had a balance of 31,702 on account.

The Committee recommends to the Management of IUCEA to recover the above receivables and write off the ones that might not be possible since the projects have closed.

4.1.4 Delay to recover advances from staff

A reviewed of the advances on salary, housing and imprest revealed the following weaknesses:

- Housing advances totaling **USD 6,240** including USD 3,420 from prior year 2014/2015 were not yet recovered as at 30th June 2016.

- Salary advances totaling **USD 16,799** including USD 12,506 from prior year 2014/2015 were not yet recovered as at 30th June 2016.

- Staff imprest totaling **USD 39,212.06** were not yet retired as at 30th June 2016. It is worth noting that USD 39,212.06 includes balances not retired on USD 51,861.36

advanced to staff during the year ended 30 June 2015. Contrary to section 6.5 of IUCEA Financial Procedures Manual and regulation 48 of IUCEA Staff Rules and Regulations.

The Management of IUCEA admitted to the delays in the recovery of the salary advances but informed the Committee that they have since undertaken measures to ensure that the advances given to staff are promptly recovered. The Accountant of IUCEA under whose jurisdiction this function falls, informed the Committee that because of the manpower challenges, they were unable to do adequate reconciliation and recover the outstanding advances; documentary evidence was presented to the Committee as proof that the money was recovered.

The Committee observed: -

i) gross negligence of duty by the Principal Accountant of IUCEA for failing to perform her duties and adhere to regulation 88 the staff rules and regulations of the East African Community.

ii) delay to recover the above funds deprives IUCEA from having funds that would have been utilized in other activities.

iii) delay to recover advances and unretired imprest is not only non-compliance with rules and regulations but also impairs the value for money principle in management of public funds.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the Management of IUCEA;

i. ***complies with its rules and regulations to ensure that advances and imprest are well managed.***

ii. ***The Principal Accountant of IUCEA should be held personally responsible for negligence of duties and failing to recover the advances to staff.***

4.1.5 Imprest Paid to Staff with Outstanding Balance

The Audit Commission reported that some staff were paid imprest while their previous imprest had not been retired; thus, their account balance showed an outstanding balances contrary to the requirement of regulation 48 of IUCEA staff rules and regulations.

The Management of IUCEA admitted to the audit finding and informed the Committee that the staff who were being advanced the funds were undertaking back to back activities in various Partner States and as result could not account for the funds within the 5 days period as stipulated in regulation 40 (3) of the EAC financial rules and regulations.

The management confirmed that it has since recovered all the outstanding balances the implicated staff from their monthly salaries in installments.

The Committee observed that:-

i) Inadequate control over imprest payments and retirements may lead to misuse of IUCEA funds.

ii) Poor management of cash at the Inter University Council of East Africa.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the management of IUCEA:

i) is advised to adhere to prescribed financial rules and regulations governing IUCEA and EAC.

ii) Institutes disciplinary measures against the Principal accountant for paying imprest to staff while their previous imprest had not yet been retired thus failing to adhere to regulation 48 of IUCEA staff rules and regulations and regulation 40 (3) of the EAC financial rules and regulations.

4.1.5 Avoidable Expenses

The Audit Commission reported that a total of **USD 21,060** was spent on daily subsistence allowances, conference facilities, and accommodation for various meetings held in Entebbe whereas it was possible to hold them at IUCEA Headquarters.

While meeting the Committee, the Management of IUCEA admitted to the Audit finding and informed the meeting that currently, all meetings of less than 15 people are held at IUCEA Secretariat as cost cutting measures and implementation of EAC Secretary General circular on the cost cutting measures of EAC.

The Committee observed that IUCEA could have avoided the expenditures if it had conducted the activities at the IUCEA Secretariat.

The Committee recommends the Assembly to urge the Council of Ministers to direct the management of IUCEA to always exercise prudence and rationality to avoid such unnecessary expenditures in future.

4.1.6 Overpayment of Housing allowance to Ms Winfred Itamba

A review of personnel emolument revealed that Ms Winfred Itamba, the Personal Secretary to the Executive Secretary (grade G5) was receiving housing allowance of USD

570 instead of USD 400 as stipulated in IUCEA Staff Rules and Regulations. According to the management of IUCEA, when IUCEA was restructuring, they could not down grade her housing allowance as stipulated in her contract. However, the downgraded provision was irregularly applied because her salary increased by USD 616.

The Management of IUCEA acknowledged the error that was made in the implementation of the decision of the Executive Committee on the Personal Secretary's emoluments. Management further explained that it decided that her salary should remain on person to holder until the end of her contract on in 4th January 2017. Money was not recovered from Winfred Itamba and she later resigned the job and joined Parliament of Uganda.

The Committee noted that overpayment of USD 4,080 amounts to irregular payment leading to loss of IUCEA funds.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the Management of IUCEA recovers the amount overpaid to Winfred itamba from her gratuity, including the existing interest from the time of the expiry of her contract.

4.1.7 Wasteful expenditures due to costs of double recruitment

The Audit Commission reported that upon review of the recruitment process of ACE II Coordinator and Information and Communication officer, the advertisement, shortlisting and interview were done twice contrary to regulations 19 of IUCEA Staff Rules and Regulations 2014.

On 13th June 2015, IUCEA advertised the position of ACE II project Coordinator and Information and communication Officer. The shortlisting was completed on 2nd July 2015 and interview completed on 14 July 2015. On 29th October 2015, the same positions were re-advertised, the shortlisting was completed on 26 November 2015 and the interview was done and completed on 15th January 2016.

When the Committee interacted with the Management of IUCEA, it acknowledged the double costs on recruitment of the two positions of ACE II Project staff.

Committee Observed that:-

i) The project suffered loss due to the double costs on recruitment.

ii) There was gross negligence of duty and lack of seriousness on the management of IUCEA for not ensuring that all the necessary consultations with the World Bank were undertaken before the advertisements were issued.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the Management of IUCEA to:-

i. ***always make all necessary consultations and refer to the relevant policies and procedures for all recruitments.***

ii. ***instituted disciplinary measures against the Executive Secretary and the Human Resources Officer for flouting the EAC rules and regulations and the money IUCEA incurred refunded by the Executive Secretary and the Human Resources Officer.***

4.1.8 Recruitment without respecting rules and regulations

The Audit Commission reported that regulation 21 of IUCEA Staff Rules and Regulations stipulates that:

1) The Council shall advertise vacant posts in major newspapers of Partner States including use of electronic media.
2) All applications for advertised positions shall be submitted directly to the Council by the applicants either electronically or submit hard copies.
3) Following the advertisement deadline for professional and General staff posts, an equal number of candidates shall be short listed where possible, from each Partner State.
4) Short listing Panels will be established as follows:
    a) D1 and P5 positions by the Governing Board;
    b) P4 to P1 positions by the Planning Finance and Human Resources Committee
    c) G5 to G1 positions-by the Executive Secretary
5) All appointments shall be subject to interview.

While appearing before the Committee, the management of IUCEA acknowledged that the appointment of the shortlisting panel for ACE II Project staff by the Executive Secretary was done in error. However, the recruitments that followed were done differently. They pledged to ensure that in future they would ensure that all ACE II project staff recruitments would follow the procedures as per rules and regulations. Management further informed the Committee that the regional steering Committees oversees the recruitment processes and have been involving them in the recruitment process.

Management noted that in this particular recruitment, the regional steering Committees delayed the process because there was delay in the composing them.

The Committee Observed that:-

i) The Executive Secretary abrogated the recruitment procedures and appointed his own shortlisting panel contrary to regulation 21 of IUCEA Staff Rules and Regulations.

iii) The intent of attracting and retaining staff who meet the highest standards of efficiency, competency and integrity was not considered hence making the entire process a nullity.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that:-

i. ***Management is advised to comply with rules and regulations whenever recruiting staff to ensure that the fundamental principles of fairness and equity are observed.***

ii. ***Disciplinary proceedings should be instituted on the Executive Secretary and Principal Human Resource Officer for failing to ensure the shortlisting/recruitment exercise as per regulation 21 of IUCEA Staff Rules and Regulations.***

4.1.9 Irregular recruitment and payment of Experts

A review of administrative expenses revealed that during the year under review, IUCEA hired and paid **USD 395,428** to various experts who participated in various activities including evaluation of proposals, site visits and technical and financial evaluation for creation of centers for excellences in universities in East Africa.

The audit noted the following irregularities:

- All experts were recruited using single sourcing instead of using normal IUCEA procurement procedures basing on what was done by ACE I. IUCEA management explained that due to the nature of the activities, the experts needed could not bid like normal consultants. However, audit observed that the process of identifying these experts was contrary to IUCEA rules and regulations.

- In addition, audit noted that IUCEA-ACE II paid the experts daily subsistence allowance of USD 500, the same rate ACE I project pays. However, there is no any documentary evidence of how the daily subsistence allowance of USD 500 was determined.

The Management of IUCEA informed the Committee that the payments for the evaluators honorarium fee of USD500 per day was based on the World Bank rates which IUCEA used in line with the ACE 1 in West Africa. The Management further explained that the World Bank gave them a list of professors who had undertaken similar exercises elsewhere and all the recruitments processes were done on the recommendations of the World Bank West Africa Office.

On the discrepancies' in the ticketing and high tickets which were procured, the management informed the Committee that they were business class tickets and most of the professors were travelling from as far as United States America and Australia among other Countries to South Africa, and most of the confirmations were being confirmed at the last minute hence high cost per ticket.

The Committee observed that transparency, effective competition and value for money principles of procurement were violated.

The Committee recommends to the Assembly to argue the Council of Ministers to ensure that;

i. ***IUCEA complies with financial and procurement rules and regulations in recruitment of experts and consultants.***

ii. ***IUCEA develops special guidelines and procedures to ensure that future exercises of that nature and magnitude are conducted in line with the IUCEA laid out guidelines.***

iii. ***The Disciplinary measures should be instituted against the Procurement Officer for failing to adhere to the IUCEA Financial Policies and Procedures Manual 2014 Section 7.3 on short-term consultants (experts).***

4.1.10 Delay in Payment of Creditors

The Audit Commission reported that as at 30th June 2016 a total of USD 123,582 accounting for 28 % of the total outstanding amounts related to creditors beyond 90 days. In addition, there were other creditors totaling USD 85,031 which had been long outstanding for more than one year. Contrary to regulation 31 (7) of the IUCEA Financial Rules and Regulations 2014.

When the Committee met the management of IUCEA, it acknowledged the delay in settling its creditors and informed the Committee that it was taking adequate measures to ensure that the creditors were paid.

The Committee observed that the delay in payment of creditors may lead to litigation costs and disruption of IUCEA activities. The presence of long outstanding payables casts doubts to the genuineness of the liability.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that;

i. ***Management should endeavor to pay creditors on time.***

ii. ***All long outstanding creditors should be identified, analyzed and paid off.***

4.1.11 Use of wrong procurement Methods

The Audit Commission reported that Chapter 6 of IUCEA Procurement Policies and Procedures Manual 2014, provides the thresholds for procurement methods to be used. However, it was observed that some tenders were awarded using single source method of procurement contrary to procurement regulations.

When the management of IUCEA interacted with the Committee they acknowledged the audit observation and informed the Committee that they are considering streamlining the operations of the procurement department such that all procurements are handled as per the procurement manual in order to enhance compliance, economy, and value for money and transparency principles.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the management of IUCEA stream line the operations of the procurement department such that all procurements are handled as per the procurement manual in order to enhance compliance and transparency.

As recommended in above the Council should ensure that disciplinary measures are instituted against the Procurement Officer for flouting the procurement procedures of IUCEA.

4.1.12 Insufficiently supported tenders

The Audit Commission reported that its review of the availed procurement report revealed that tenders awarded during the year ended 30/06/2016 amounting to **USD 359,970** were not supported by any verifiable document as required by Section 2.10.1 of

EAC Procurement Policies and Procedures Manual. The missing documents included contracts, evaluation reports, proof of publication etc.

Management further observed that because of the staffing gaps that existed in procurement department at the time, it was difficult to ensure that all the transactions were fully supported with the necessary documents. They noted that the respective documents have since been attached to the respective transactions.

When the Committee interacted with the management they conceded to the audit finding and undertook to ensure that all the tenders in future are adequately supported with the necessary supporting documents as required by regulations.

The Committee observed that in absence of adequate verifiable supporting documents for expenditure incurred, was difficult to establish whether IUCEA complied with the Procurement Rules and Regulations and could neither confirm that IUCEA gained value for money in the related tenders.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that for better management of Council funds, all tenders should be adequately supported by necessary documents. The documents should be chronologically referenced and properly filed for future reference.

4.1.13 Shortfall in funding of IUCEA

The Audit Commission reported that regulation 24 (2) of Financial Rules and Regulations 2014 of IUCEA stipulates that assessments on Partner States shall be based on the principle of equal contributions as stipulated in the Article 134(4) of the EAC Treaty. Audit noted that although efforts have been made to recover outstanding balance from Partner States stood at USD 11,232,711; an equivalent of more than two years' contribution.

When the Committee interacted with the management of the IUCEA, they informed the Committee that reminders were sent on 27th January, 2016, Republic of Rwanda paid its arrears of FY 2014/2015 USD 401,953 in March 2016 and Republic of Kenya fully paid its contribution for FY 2015/2016.

The Executive Secretary informed the meeting that he undertook physical visits to the Republic of Rwanda, Kenya and Burundi in March 2016 which resulted into the Republic of Rwanda and Kenya remitting their balances.

The Committee observed the following: -

- Failure by Member States to promptly remit their annual contributions is likely to negatively affect the IUCEA performance.

- The recoverability of the above amount is impaired as the balance has accumulated over the years.

i. ***The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Management of IUCEA always obtains firm undertakings for funding before a budget is commissioned for any given year.***

ii. ***Whereas the Committee applauds the physical visits by the Executive Director, Management should continue following up and recover all the outstanding amounts from the Partner States.***

4.1.14 Long outstanding Subscription Fees due from Member Universities

The Audit Commission reported that out of a total amount of USD 412,883, only USD 75,945 (that is 18%) was collected during the financial year the outstanding balance remained USD 336,938 contrary to regulation 26(1) of IUCEA Financial Rules and Regulations 2014 and Paragraph (15.4) of the IUCEA Act 2009.

When the Committee interacted with the management of IUCEA, it informed the Committee that it has notified its members that support by IUCEA to participate in IUCEA activities will only be extended to member universities that have fully pay their subscription.

The Executive Secretary informed the Committee that because of their vigilance most Countries have so far paid their subscriptions and they have so far realized 5.5 Million USD which had been in arrears from the Partner States and they are currently engaging the Sectoral Council on Education to explore the possibilities of constructing their own headquarters.

The Committee observes that the non-implementation of the requirement of the Act will result to unrealistic budgeting of the annual contribution from member Universities hence affecting the operations of the IUCEA.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the management of IUCEA ensures that;

i. ***Adequate efforts are made to follow up and recover all the outstanding amounts from the Member Universities.***

ii. ***Remind and caution the defaulting Universities on the provisions of the Act.***

4.1.15 Non-Compliance with NSSF Act

The Audit Commission reported that in the previous the previous financial year, the IUCEA did not comply with NSSF Act by not effecting monthly contributions to NSSF; and neither was a Certificate of Exemption from the Fund availed for verification. In 2012 NSSF Uganda had placed a claim of **USD 3,812,422** as arrears in respect of contributions to NSSF by IUCEA on behalf of its employees. Although IUCEA was advised by EAC Secretariat that EAC Organs and Institutions are not subjected to Social Security in their host Partner States, the matter has not been resolved with NSSF Uganda.

When the Committee interacted with the Management of IUCEA, it informed the Committee that it has its own Social security Fund which is housed in the Insurance Company of East Africa (ICEA). The ICEA provides 3 % interest per annum and the money is remitted to ICEA in dollars but its returns are calculated in shilling hence affecting the profitability of the returns. The Executive Secretary further informed the Committee that, the Act governing the IUCEA provided it with the immunities and other diplomatic immunities and privileges in the Partner States. IUCEA is in the process of procuring a better insurance Company with a better deal as they await the formulation of their own pension scheme.

The management further informed the Committee that a meeting has been organized between the National Social Security Funds, Ministry of Finance, and the Ministry of East African Community Affairs to resolve the issue. NSSF has directed IUCE to put in place pension scheme that is better or like the existing one at the NSSF.

- Failure to abide by the NSSF Act may lead to fines from the Fund.
- The claim may adversely affect the operations of IUCEA in case the matter is not settled and the liability falls due.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that Management should involve East African Community competent organs to ensure that the matter is concluded as the resolution may affect the whole Community.

4.1.16 Delay to solve issue relating to two houses on plot 55-59

The Audit Commission reported that the Inter University Council of East Africa owns two houses on plot 83/85 Prince Charles Drive Kololo - Kampala which were valued at UGX 400,000,000 (Four Hundred Million) in 2003. The houses were not included in the IUCEA fixed assets ledger; instead they were disclosed as contingent liabilities in IUCEA financial statements.

The report noted that there is a dispute involving registered Trustees of Arya Pratindhi Sabha (EA) claiming ownership of IUCEA two houses located on plot 83/85 Prince Charles drive.

In 2000, the registered trustee of Arya Pratinidhi Sabha of East Africa instituted a court proceeding for vacant possession, general damages for trespass, interest and costs because of occupation of land and houses on plot 55-59 Price Charles Drive Kololo .Further to this, in 2009 the Republic of Uganda through the Ministry of Lands, Housing and Urban Development wrote to IUCEA indicating that the two houses belonged to the Government of Uganda and demanded rent payment of UGX 73,500,000 for the period ended September 2009. One of the houses was occupied forcefully by person's claiming to be tenants of the Ministry.

The matter of these houses was referred to the 24th Council of Ministers meeting held on 29th November 2012 in Bujumbura. The Council directed IUCEA and the Government of Uganda to resolve this issue amicably.

When the Committee interacted with the management of IUCEA, they informed the meeting that despite the Government directive that IUCEA takes full possession of the houses, the title deed has never been given to IUCEA.The Executive Director informed the meeting that he has scheduled a meeting with the office of the Attorney General of the Republic of Uganda and the Ministry of East African Community Affairs to discuss the matter. The E.S further informed the meeting that on the 15/ May 2018 a meeting is scheduled between the Council to the Community (CTC), the Permanent Secretary (PS) Ministry of East African Community Affairs to pave way for and enforce a compulsory take officer.

- Delay to resolve the issue prevents IUCEA from enjoying the ownership rights and deriving revenue from the houses.

- The claim by Ms. Arya Pratindhi Sabha (EA) may adversely affect the operations of IUCEA in case the matter is not settled in his favour.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the matter is urgently and expeditiously concluded.

PART V

5.0 THE LAKE VICTORIA FISHERIES ORGANIZATION (LVFO)

5.1 CURRENT YEAR AUDIT FINDINGS

5.1.1 Non-Alignment of LVFO Financial Rules and Regulations with the East African Treaty

The Audit Commission reported that Articles 134 of the Treaty that established the East African Community (EAC) states that there shall be an Audit Commission whose functions will be to audit the accounts of the Community and its affiliate Organizations.

In addition, Rule 14 of the Financial Rules and Regulations (FRR) of the Lake Victoria Fisheries Organization (LVFO) highlight the appointment of auditors to audit its accounts.

The audit noted that the FRR recognizes the Auditors General of the Partner States to audit its accounts on a rotational basis. Rule 14 also goes further to prescribe the tenure, scope, facilities, and reporting of the external auditor of LVFO to refer to Auditors Generals of Partner States, instead of the Audit Commission. This is attributed to absence of harmonization of the FRR with the Treaty that created the East Africa Community (EAC). When the management of LVFO interacted with the Committee, they informed it that LVFO took measures to harmonize and finalize its manuals including the Financial Rules and Regulations and they are now in place.

The Committee applauds LVFO upon the milestone but urges the management of LVFO to adhere to the financial rules and regulations in order to promote good governance and best practices.

5.1.2 Positions not filled despite recruitment approval

The Audit Commission reported that LVFO staff establishment provides for the position of a Procurement Expert which is also reflected in its organization structure. Additionally, Audit reported that 9th Regular Session of LVFO Council of Ministers held on 29th January 2016 in Nairobi, the Council approved the position of a Procurement Expert. Other vacant positions were reported in the directorates of Aquaculture Management & Development and fish Quality Assurance and Marketing which were yet to be filled by Management.

When the Committee interacted with the Management of the LVFO it informed the Committee that due to the zero-budget increment by Community to all the Institutions and Organs they could not fill the positions. They anticipate to fill the positions once the funds are realised.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the vacancies are filled up without further delay.

5.1.3 Low budget execution

The Audit Commission reported that upon review of the budget performance of LVFO, it noted that the Council approved USD.3,091,097 for the year 2015/2016, but only managed to realize a total of USD.1,244,009 (i.e. about 40% of the budget). Audit noted that this led to a dismal implementation of development programmes (6%), and 70% for total operations. The poor performance was mainly attributed to low remittances from the Partner States and Development Partners.

When the Management of LVFO interacted with the Committee, they informed it that the overall budget performance (38%) was attributed to the non-remittance of funding from the Development Partners through the EAC Secretariat. They said that LVFO is engaging donors for direct funding in addition contributions from the Partner States. They reported that so far Kenya and Tanzania has paid all their arrears and Uganda has paid only up to 33%.

The Organization's effective execution of its mandate is at risk with this very low realization of its budget. Its worthy noting that LVFO is operating in 3 Partner States. (Uganda, Kenya and Tanzania)

The Committee recommends the Assembly to urge the Council of Ministers to advise the LVFO Management to continue following up the unsettled remittances and also consider bringing this matter to the EAC Council of Ministers for further discussion and consideration.

5.1.4 Long outstanding receivables from partner states

The Audit Commission reported that the review of the financial statements revealed that the Organization's receivables for the year stood at USD.1,845,656, the bigger part of which related to contributions by Partner States (i.e. USD.1,749,288).

Audit noted that the trend was worrying as the receivables from Partner States increased from USD.1, 305,705 (30th June 2015) to USD.1, 749,288 during 2015/16 financial year.

When the Committee interacted with the management of LVFO, they informed it that the outstanding receivables were acknowledged by the respective Partner States who have never indicated reluctance to settle the outstanding obligations. Management is continuing to remind the Partner States of their outstanding arrears and will continue to do so.

Low pace of recovering receivables is likely to jeopardize the fulfilment of the Organization's objectives.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the LVFO Management becomes more aggressive in collecting the long outstanding debts.

5.1.5 Delayed banking of unutilized imprest funds

The Audit Commission observed that upon review of the accountability files for various payments revealed that employees of the Organization were given imprest to facilitate various planned activities. Audit further noted that unutilized funds after the completion of the activities, at times took a long time before being re-banked. The time period ranged between 30 days (one month) and above.

When the Committee interacted with the management of LVFO, they informed it that the activity was a one-off to cover the costs for the Council meeting which was held from 25th January to 29th January 2016. They undertook to ensure that such incidences do not reoccur and have been keen on late accountabilities. The delayed banking was caused by staff who travelled by road in the three Partner States and delayed to retire the imprest.

Delays in banking such unutilized funds expose them to a risk of misuse by the concerned staff members.

The Committee recommends to the Assembly to urge the Council of Ministers to direct that the *LVFO management to ensure that imprest issued for various activities is promptly accounted for and that any unutilized balances are promptly re-banked. In*

addition, no new imprest should not be given to any staff before the previous one is fully accounted for.

5.1.6 STATUS ON IMPLEMENTATION OF PREVIOUS YEAR AUDIT RECOMMENDATIONS

The Audit Commission reported that an assessment of the status on the implementation of previous audit recommendations revealed that most of my previous recommendations were not implemented. 60 % of the audit recommendations were fully implemented and the remaining 40% were yet to be implemented. When the Committee interacted with the management of LVFO it informed it that financial and manpower challenges affect the implementation of the previous audit recommendations.

Non-implementation of audit recommendations implies that the weaknesses noted are not addressed, which may negatively affect LVFO's ability to effectively carry out its activities and operations.

The Committee recommends the Assembly to urge the Council of Ministers to direct the Management of LVFO to take adequate actions that will ensure that audit recommendations are promptly implemented and followed up.

PART VI

6.0 CIVIL AVIATION SAFETY AND SECURITY AGENCY (CASSOA)

6.1 CURRENT YEAR AUDIT FINDINGS

6.1.2 VAT Recoverable USD 49,690

The Audit Commission reported that article 4(4) of the EAC CASSOA headquarters agreement between the East African Community and the Republic of Uganda, the Agency, its property, assets, income and transactions shall be exempt from all direct taxation including value added tax and from customs duties and prohibitions, restrictions on imports by the Agency for its official use.

Audit noted that the Republic of Uganda had not issued the agency with a tax exemption, therefore the agency has had to pays VAT on taxable goods and services and subsequently claims the VAT refund from Uganda Revenue Authority.

When the Committee interacted with the management of CASSOA, it reported that the Agency is complying with the requirements to submit monthly diplomatic VAT claims to Uganda Revenue Authority and is engaging Uganda revenue Authority to ensure that VAT is refunded by Uganda revenue Authority

The Committee observed that;

i. Failure to recover VAT contravenes EAC Headquarters Agreement with the Republic of Uganda and the Rules and Regulations of EAC-CASSOA and may affect implementation of Agency programs.

ii. EAC-CASSOA may not be able to recover the whole amount of tax paid and hence, a loss to the Agency.

The Committee recommends to the Assembly to urge the Council of Ministers to engage the Minister of Finance, Planning and Economic Development and the Commissioner General to ensure that the issue of the VAT recoverable is addressed.

6.1.3 Low absorption rate of budget-Budget performance

The Audit Commission reported that during the financial year 2015/16 the agency had an approved budget of $ 2,163,428 with actual income of 1,868,520. It stated that out of received revenue, USD 1,868,520 only 1,385,618 were spent equivalent to 74 per cent. Subsequently there were scaling down of the development partner funding through the EAC Partnership Fund from US $ 373,925 to $ 197,700.

When the Committee interacted with the Management of CASSOA it concurred with the Audit finding and reported that it has recruited additional staff to enable the Agency achieve the objectives of the annual plan of Activities within the allocated budget for the FY2016/2017.The agency further reported that it has brought on board 3 technical staff and this has increased the budget absorption to 68%.

Failure to fully absorb the budgeted funds may have an impact on the implementation of some of the planned activities hence the agency may not achieve its objectives as planned.

The Committee recommends the Assembly to urge the Council of Ministers establish a sustainable funding mechanism for the agency.

6.1.4 Lack of segregation of duties

The Audit Commission reported that the Financial Rules and Regulations of CASSOA of August 2014, Regulation 31 (2) (a) , requires the Executive Director to maintain a system of internal controls which shall provide for an effective review of financial management and operational transactions in order to ensure the proper receipting, recording, custody and disposal of funds and other financial resources of the Agency.

Regulation 20(1) of the Staff rules and Regulations requires that consideration in the appointment of staff shall be the need to secure the highest standards of efficiency, technical competence, professionalism and integrity.

A review of the operational environment of the entity revealed that there is no segregation of roles and duties in the Accounts department as the Accountant received cash, did the banking, made records in the accounts and prepared the bank reconciliation statements.

Furthermore, it was also noted that the principal of specialization and division of labor had also been violated by assigning the Principal Human Resource and Administration Officer to perform procurement functions.
When the Management of the agency interacted with the Committee, it informed the meeting that CASSOA is in the process of reviewing the organizational structure to provide for the positions of the Procurement Officer and the Accounts Assistant. CASSOA further reported that during that period the management was using the Procurement Officer of the Civil Aviation Authority when ever need arose.

The management further reported that due to the funding gaps at the agency it has been difficult to recruit the necessary staff but it has since recruited Principal Human Resources Officer, an Accounts Assistant, and Procurement Officer to address the issues of segregation of duties.

The Committee made the following observations;

i. Lack of segregation of duties in the Accounts department is likely to cause errors and frauds which would be easily detected if the necessary personnel were in service.

ii. Furthermore, Allowing the Principal Human Resource and Administration officer to perform procurement functions may lead to compromise of quality of goods and services purchased and the failure of the entity to realize value for money from its procurement processes.

The Committee recommends to the Assembly to urge the Council of Ministers to direct the CASSOA Management to ensure that: -

i) ***The separation of duties in the Accounts department is improved by the creation of an extra position of a cashier who should carry out the tasks of receiving cash, issuing receipts for cash received and banked as well, the Accountant should be left to make entries in the records and prepare bank reconciliation statements. The Senior Accountant should then perform supervisory roles and review the work of the two officials.***

ii) ***The Procurement function is enhanced and adequately staffed to ensure that it handles all the procurements of the entity in order secure the highest standards of efficiency, technical competence, professionalism and integrity as required by Staff regulations and rules.***

6.1.5 Absence of Internal Audit Unit within CASSOA

The Audit Commission reported that during the year under review the Agency had recruited four staff in the position of Deputy Executive Director Technical, Manager Airworthiness, Senior Information Technology Officer and Aviation Security Officer. However; the recruitment of staff under the key function in the Governance arrangement like Internal Audit has remained vacant since the establishment of the Agency in 2007 despites of several recommendations from the Audit Commission. This was contrary to regulation 110 and 113 of CASSOA Financial Rules and Regulations (2013).

When the management of CASSOA interacted with the Committee, they informed it that the management has presented to the Board of Directors the job description for the position of Internal Auditor for approval. This was followed by making budgetary provisions for recruitment of the Internal Auditor in the FY2017/2018 budget estimates.

CASSOA confirmed and provided documentary proof that the positions of internal auditor has since been filled.

The Committee observes that although the agency has recruited the necessary personnel lack of checks and balances from the internal audit unit might lead the agency to be vulnerable to inefficiencies in its operations.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the Agency continues to strengthen the Internal Audit function to enable it accomplish its objectives through systematic and disciplined approach to evaluate the risk management processes and governance arrangement.

6.1.6 Outstanding Contribution USD 40,383.25

The Audit Commission reported that regulation 23 (4) of CASSOA requires that contributions from Member States be considered due on 1st July of each financial year and the first instalment shall be paid within the first three months and the second by January of the financial year.

It noted that, for the financial year 2015/16, CASSOA budgeted $ 1,848,424 as contribution from Partner States. However, the agency hadn't received contributions from Partner States of $ 1,767,657. Audit further revealed that contrary to the regulations requirement, the Burundi Civil Aviation Authority had not fully paid its contribution to the tune of USD 40,383.25 at the time of audit in October 2016.

When the Management of CASSOA interacted with the Committee, they informed it that underfunding and late remittances of funds from the Partner States is a very big challenge the agency is facing. However, they reported that the Republic of Burundi has made a request to the Board to write off the balance of US$40,383.25 owed to date and further for the reduction of their current year's contribution to 70%. They reported that, the Agency has no mandate to write off any outstanding Partner States contributions and the matter has been referred to the Council.

i. Insufficient remittance of contributions limits CASSOA to fully implement its activities and programs in an efficient and effective manner.

ii. Insufficient funding and late contributions from Partner States is a very big challenge affecting the Institutions, Organs and agencies of the East African Community. There is need for Council to fast tracks the proposals to implement the alternative funding mechanisms of the Community.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that Management of CASSOA

i) Continue to liaise with the Partner State to recover the outstanding balance.

ii) Engages the Council of Ministers to ensure that the outstanding contribution USD 40,383.25 owed to CASSOA from the Republic of Burundi is cleared.

6.1.7 Absence of Resources Mobilization strategy as a Funding Mechanism

The Audit Commission reported that the Civil Aviation Safety and Security Oversight Agency (CASSOA) is an autonomous self-accounting institution of the Community was established, through the signing of the EAC CASSOA Protocol during the 5th Extraordinary Summit of EAC Heads of State held in Kampala, Uganda on 18th June 2007.

The report further pointed out that since its operationalization's started in 2007, the primary funding of CASSOA has been from the Partner States Civil Aviation Authority and the supplementary contribution from donors through EAC Partnership Fund, and the EU Funded Regional Integrated Support Program (RISP).

Audit noted that since its start, the agency had never been engaged in preparation of the resources mobilizations strategy or action plan to boost the sources of revenues or enhance its sustainable funding sources. The report further revealed that, the contribution from development partners are very low estimated at 1% of CASSOA budget, and this is attributed to the absence of resources mobilization strategy.

When the Management of the CASSOA interacted with the Committee, it reported that because of the insufficiency of the current funding mechanism and as part of the implementation of the 2nd Strategic Plan, CASSOA planned activities towards identification of a sustainable funding mechanism beginning FY2017/2018.
The agency further reported that it has as part of the resource mobilisation strategy, organised the 4th EAC aviation symposium to attract funding to the agency. They have also developed a joint mobilization manual which they envisage to be complete by next year 2019. The agency is also working on increasing its visibility in the region.

The agency further reported that they held meeting with donors in Nairobi where they were able to raise more than 98,000 USD. They have contacted other donors like GIZ, AIRBUS, AIRSEA, to raise the funding of agency.

Whereas the Committee appreciated the strategy and attempts the agency has put in place to mobilise resources for the agency, the Committee observes that in the absence of the resources mobilization strategy or technical proposal to attract donors; the Agency could not explore more avenues for revenues eventually there might be going concern problem in the event that the Partner States fail to contribute or if their contribution is lowering. In absence of the mobilization strategy, the funding sustainability is jeopardized.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the agency puts in place a robust resource mobilization strategy to attract funding.

6.1.8 Planned activities not implemented

The Audit Commission reported that according to Article 9 section 2 (c), the Secretariat of the agency is required to prepare and seek for the approval of the Board, an annual program of activities and budget for the Agency, at least six months before the end of the financial year.

When the Audit reviewed the annual plan of activities and budget of the fourth quarter performance reports sent to the Board of Director, it noted that, out of 20 planned activities that were to be implemented during the year 2015/16, the agency had implemented only 12 activities leaving 8 activities unimplemented, equivalent to 40 per cent.

When the Management of CASSOA interacted with the Committee, it concurred with the Audit finding and reported that due limited resources, the agency was unable to implement all the planned activities.

Unimplemented activities resulted into non-achievement of the agency sets target and objectives as per its annual activities plan.

The Committee recommends to the Assembly to urge Council of Ministers to ensure that CASSOA should plan for program activities that are manageable within the context of available resources and avoid setting over ambitious targets.

6.1.9 Annual Activities Plan and Performance Reports Preparation

The Audit Commission reported that the Result Based Management concept encourages the preparation of Activity plans and performance reports that clearly indicate the Key Performance Indicators (KPIs) which are SMART and shows the status before implementation of the activities/projects and Targets and shows the results to be achieved after project implementation.

Audit noted that when it reviewed the annual plan of activities and performance reports of the Agency, it noted areas where improvement was needed as follows;

- The annual plan does not show the baseline for its activities.
- Some of the Key performance Indicators were not SMART hence difficult to reliably measure the set targeted performance.

- Most of the targets for the results to be achieved were not clearly stated

When the Committee interacted with the management of CASSOA, it conceded to the audit finding and informed the meeting that they have undertaken steps to improve on areas which were observed in the audit report and to continuously make improvements.

They further informed the Committee that the EAC has developed a performance indicator criterion which has been uploaded in the CASSOA system to enhance on their performance.

The Committee observed that modern day management and good governance trends expect organisations to enhance and measure their performance.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the agency intensifies efforts to further improve on preparation of the annual activity plans and its performance reports so that it includes the base line, SMART KPIs and clear target for its activities to be undertaken which are SMART for its activities.

6.1.10 Non-attendance of CASSOA Chair of Board to EALA Accounts Committee meetings

The Audit Commission reported that under the Corporate Governance arrangement Best Practice, the Chairman of the Board or its designate together with the Director General or Executive Director and his delegation has to attend the Public Accounts Committee (PAC) meetings during the discussion of its entity audited report.

Audit noted that the review of the Corporate Governance and oversight arrangement of CASSOA revealed that, the Chairman of the Agency or its designated had never attended the Accounts Committee Meetings since the start of CASSOA.

When the Committee interacted with the management of CASSOA, it concurred with the Audit finding and informed the Committee that during the 12th extra ordinary board meeting, the board was briefed about the Audit finding but had taken a decision to the effect that whenever they are meetings in the different Partner States a particular board member from that Country attends the meetings in order to mitigate the costs.

Although the Committee commends CASSOA for the attendance of Eng. Chris Njenga the Board Member from the Republic of Kenya, the Committee recommends that the Board Chairman or its designated should continuously attend the EALA Accounts Committee meetings during the discussion of the agency audit reports, so that they can own the resolutions and recommendations of the Accounts Committee.

6.1.11 Funds not Accounted for

The Audit Commission reported that regulation 41(6)(b) of CASSOA requires the Senior Accountant to ensure that all payments made have supporting documents that are appropriate and complete showing the payment was due.

Audit noted that CASSOA spent United States dollars 16,000 from its dollar account and UGX 5,100,000 from its shilling account contrary to the above provision, the said amounts had not been accounted and acknowledgment receipts had been attached.

Audit opinioned that the likely cause of the anomaly could be failure by responsible officials to ensure acknowledgment receipts were picked from beneficiaries and attached on to the respective expenditure vouchers.

When the Committee interacted with the management of CASSOA, they noted that at the time of Audit, the follow up with the suppliers had not been appropriately done. They informed the meeting that the receipts have since been attached and the other supplier (5,000,000) five million Uganda shillings is no longer operating and is out of business.

The Committee observed that the amount was paid for activities that didn't occur hence a loss was incurred.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that

- ***i) CASSOA abides to the EAC financial rules and regulations regarding the accounting for funds;***
- ***ii) The Senior Accountant of CASSOA should refund the 5 million Uganda Shillings which was not accounted for with the interest accrual to-date.***

6.1.12 Non-Maintenance of Stores supplies records

The Audit Commission reported that regulation 95(2) requires the Principal Human resource and Administration officer to maintain complete and accurate records of property, plant, equipment and stores supplies of the entity including receipts, issues and disposals.

When the Committee interacted with the management of CASSOA it informed it that previously due to the small number of individual stationery items, lack of staff to handle the stores function and inadequate office space available to house a store, stationery was procured as and when required and expensed immediately. However, the amounts procured were managed in the office of the Office Management Assistant and records on receipts and issues were kept.

Management informed the meeting that the agency is in the process of establishing a stores function with the assistance of the Civil Aviation Authority and a new documentation system is in use for verification. CASSOA further informed the meeting that the functionality of the stores is part of the SAN system management and it has taken the concern taken seriously.

The implication of this anomaly is that errors in the records could have occurred hence compromise control of store supplies.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the management keeps proper stores records in line with regulation 92 of the EAC financial rules and regulation in order to ensure that this issue is addressed.

6.1.12 Lack of Documentation for repair and maintenance Works

The Audit Commission reported that CASSOA spent UGX 26,798,272 on the repair of its drive way and external drainage without any agreement and procurement contrary to regulation 52(c) of the financial rules and regulations.

When the Management of CASSOA interacted with the Committee, it informed the meeting that all the documentations of the driveway were attached to the payment voucher including the Purchase Order which is considered as a legally binding contract between the issuer and the receiver. Once a supplier accepts a Purchase Order it becomes binding and the latter has to abide by it together with the request for Quotations and the submitted bid. The Agency undertook to develop specific contracts for maintenance works to be used for future purposes.

i. The Committee observed that there were a number of important procedures and documents missing in the procurement processes such as competitive bidding and there was no procurement file to support the transaction.

ii. The implication of the said anomaly is that CASSOA could have easily payed for substandard works and might not have any legal redress to resort to as a quotation is not a legally binding document.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the contract agreements are drawn for maintenance works and procurement files are maintained to keep all the necessary communication regarding these works in accordance with the EAC rules and regulations.

PART VII

7.0 THE EAST AFRICAN KISWAHILI COMMISSION

7.1 AUDIT FINDINGS

7.1.1 Lack of Strategic Plan for EAKC

The Audit Commission noted that EAKC did not have a Strategic Plan since inception on 13th September 2008 and operationalized in July 2015. The Audit was not provided an annual work plan and were unable to determine whether the activities in the work plan were directed toward the achievement of the objectives and functions of the Kiswahili Commission as set out in the protocol on the establishment of the EAKC.

When the Committee interacted with the management of the Kiswahili Commission, it reported that the Commission developed its first Five Year Strategic Plan (2016/7 – 2021/2) through collaboration and consultation with stakeholders from all the Partner States and is now in place and is both in English and in Kiswahili. And it was launched by the Vice President of the United Republic of Tanzania

Without a strategic plan it may be difficult to measure how the activities of the EAKC are geared towards the achievement of its objectives as set out in the protocol.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that EAKC endeavours to work towards the objectives of the Commission as spelt out in the strategic plan.

7.1.2 Understaffing of the EAKC

The Audit Commission reported that Article 17 of the protocol establishing the EAKC provides for Executive Secretary to be assisted by two deputy secretaries appointed by the Council and such other officers and staff of the Commission as may be determined by the sectorial council.

Audit noted that EAKC was understaffed with only four positions filed i.e. Executive Secretary, Principal Accountant, Senior Human Resources Officer and a driver.

When the Committee interacted with the management of the EAKC, it reported that the problem still persists but Council approved the recruitment of two Principal Officers and the Deputy Executive Secretary. The positions have to await the formalization of the recruitment process by the ad hoc Service Commission of the East African Community.

The Committee observed that: -

i) ***A lean structure at EAKC may not sufficiently deliver on its mandate.***

i. ***The understaffing will contribute to the deficiencies in procedures and controls in EAKC.***

The Committee recommends to the Assembly to urge the Council of Ministers to ensure recruitment and filling of the vacant positions to enable the Commission efficiently and effectively deliver on its functions.

7.1.3 Under-absorption of budget by EAKC

The audit Commission reported that the Commission budgeted to spend a total of USD 1,475,099 in the period under review; however, by the close of the period, USD 870,604 equivalent to 41% of the total budget had only been spent. Audit noted that failure to implement activities according to plan could lead to inability to achieve the objectives of the Commission in a timely manner.

When the management of the Commission interacted with the Committee they acknowledged the audit finding and reported that the Commission budgeted to spend a total of USD 1,475,099 in the period under review but USD 870,604 or 41% of the total budget was spend instead. They attributed the under expenditure to the fact that while it was anticipated that the Commission would recruit staff in the financial year 2014/2015, but recruitment was undertaken in 2015/2016 hence funds budgeted for staff emoluments, administrative expenses and even part of the development budget for that part of the year was not used.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that approved budget is realistic and can adequately be implemented.

7.1.4 Delayed Contribution from the Partner States

The Audit Commission reported that regulation 24 (4) of EAC Financial Rules and Regulations 2012 stipulates that the contribution by Partner States shall be considered due on 1st of July of each financial year and shall be paid within the first six months of the financial year. Audit Commission noted that as at 30th June 2016 a total of USD 241,625 was outstanding form the Partner States.

This is a general observation that is affecting all the Institutions and Organs of the Community.

i. ***Failure by Partner States to promptly remit their annual contributions may negatively affect the Commission's performance in as far as fulfilling its mandate is concerned.***

ii. ***Management is advised to make follow up and to recover the outstanding amounts from the Partner States in liaison with EAC secretariat.***

7.1.5 Irregularities in the Procurement of Works on the Renovation of East African Kiswahili Commission Headquarters USD 99,821.

The Audit Commission reported that EAKC entered into a contract with M/s Quality Building Contractors Ltd for the renovation of the headquarters in Zanzibar on 30th June 2016. The contract sum was USD 99,821 inclusive of 18 % VAT. The Audit Commission noted the following anomalies;

Use of the wrong procurement method for the works

Regulation 68 (1) of the EAC Financial Rules and Regulations 2012, provides that where the estimated value of procurement is USD 50,000 or higher, a call for bids shall be advertised on the website of the Community and at least one newspaper with wide circulation in each of the Partner States. While regulation 68(7) provides the thresholds choice of procurement as detailed below;

a)	Open bidding	above USD 50,000
b)	Restrictive bidding	USD 10,000 to USD 49,999
c)	Request for quotations	USD 1,000 to USD 9,999
d)	Micro – Procurements	Below USD 1000

The Audit noted that contrary to the requirement of the above regulation EAKC used restrictive bidding instead of open bidding for the contract for the renovation of building at a sum of USD 99,821.

When the Committee interacted with the management of the EAKC, it informed the Committee that the office block which was given to the Commission by the revolutionary Government of Zanzibar was not in good condition and lacked the basic amenities such as running water, electricity, sanitary facilities, fence, cooling system, etc.

The Commission requested for a Supplementary Budget to improve on the hospitality of the premises. In February 2016, the 33rd Council adopted a Supplementary Budget amounting to USD 85,000 for the renovation of the EAKC Offices in Zanzibar. With this Council decision, and the Headquarters Agreement having been signed in December 2015, the Commission relocated to Zanzibar in March, 2016. On 1st April, 2016, and preparation of the impending renovation works, the Commission wrote to the EAC Secretariat asking for a list of service providers. The Commission was informed that the list was being updated and would be available when ready.

The Supplementary Budget was adopted for renovations by the Council in February 2016 and appropriated by EALA on the 24th of May, 2016. The EAC Financial Rules and Regulations (2012) provide that no contract with financial implication shall be entered into beyond the 30th of June of every Financial Year.

The Committee was informed that the Commission sought advice from the EAC Secretariat on the best way to handle the matter. This meant that the Commission would not use the open bidding in view of the time constraint. In the circumstances, the Secretariat advised the Commission to consider using prequalified registered contractors in the Ministry of Works in Dar-es-Salaam. It was on this basis that the Commission wrote to Zanzibar State House for the list of prequalified registered contractors.

The Committee made the following observations;

i. Non-compliance with procurement procedures in force may have denied EAC the benefit of purchasing goods and services of high quality at prices that are competitive. This undermines the fundamental principles of transparency, efficiency, economy and fairness in the management of Commission's funds.

ii. The Commission risks paying for substandard and poor-quality works with no value for money attained.

iii. The Committee was satisfied with the explanation given by the Executive Secretary of the Kiswahili Commission, and during the on-spot assessment activity of Assembly some members of the Committee testified the good and habitable ambiance the EAKC offices.

The Committee recommends the Assembly to urge the Council of Ministers to direct Management to ensure that all procurements are handled as per the procurement manual in order to enhance compliance and transparency.

7.1.6 Inadequate time allowed between the award of a tender and the signing of the contract

The Audit Commission noted that Section 9.5.3 of the EAC Procurement Policies and Procedures Manual 2011 stipulates that for every contract worth USD 50,000 and above there shall be a holding period of 14 days for the approval by the selected Procurement Committee or head of the appropriate EAC Organ or Institution. Audit noted that the tender was done in a rush since it was opened, evaluated and contact signed within two days against the above requirement.

When the Committee interacted with the Management of the EAKC, it informed the Committee that there was not enough time for a holding period of 14 days before signing of the renovation Contract and failure to sign it would mean that the money would be returned to the reserve account of the EAC.

The Committee observed that although the EAKC was in the process of setting up its offices and had inadequate staff at the Commission offices in Zanzibar, inadequate holding time may result to unscrutinised contracts being signed and this might not allow time for complaints resolution from other bidders who participated in the tender.

The Committee recommends the Assembly to urge the Council of Ministers to direct the Management of EAKC to adhere to the provisions in the EAC Procurement Policies and Procedures Manual 2011 in order to adequately scrutinize contracts and enhance transparency in the procurement process.

7.1.7 Single sourcing of Air ticketing Services

The Audit Commission noted that EAC Procurement Policies and Manual 2011 requires all procurement activities of EAC to be carried out in a manner that maximizes competition. Audit noted that EAKC procured air travel services from M/s Star Link Travel without evidence of competition as provided by the regulations and the Commission did not have a service agreement with the supplier. A total USD 26,667 was paid to the supplier during the year.

When the management of EAKC interacted with the Committee, they informed it that the Commission commenced its operations at the EAC Secretariat in Arusha and like other EAC Institutions and Organs, the Commission had to attend meetings that entailed traveling. The Commission approached EAC Travel agencies to supply tickets to its staff. They reported that while two travel agents were willing to supply the tickets, requests for immediate payment made it difficult for the Commission to honour its obligations. The agencies insisted for upfront payment because their contracts were with the EAC Secretariat and not Kiswahili Commission, which is semiautonomous. The Commission's requests were not acceptable to the Travel agencies who insisted that the Commission had to have an account with them. This not only inconvenienced Commission staff travels, but also raised the question of prequalification. The Commission had to devise alternative arrangements while ensuring value for money. The Commission has prequalified for suppliers from across the EAC Partner States, among them Travel Agents.

The Committee observed that the EAKC may not be receiving value for money through the single sourcing of services.

The Committee observed that although the EAKC was in the process of setting up its offices and had inadequate staff at the Commission offices in Zanzibar, Management is advised to ensure that in future, it prequalifies its suppliers to ensure that services are sourced competitively.

7.1.8 Lack of Segregation of duties under Cash and Bank Management

The Audit Commission reported that at the time of Audit exercise cash and bank functions in EAKC were not properly segregated and the Principal Accountant was involved in all cash and bank transactions including; preparing the payment vouchers, writing the cheques, signing cheques, performing bank reconciliations and posting transactions in the general ledger. Although the bank reconciliations were being checked by the Executive Secretary such controls were not sufficient.

When the Management of the Commission interacted with the Committee they acknowledged the audit finding and noted that at the time of the Audit the Commission had just opened its offices in Zanzibar and were facing manpower challenges an Accounts Assistant has since been recruited.

The Commission further informed the Committee that they raised this concern with the Council and an approval was granted to recruit an Accounts Assistant.

The Commission informed the Committee they now have total of 7 staff members with an Account Assistant and the Council has approved the 2 positions which are going to be filled soon. Lack of segregation of duties under cash and bank implies there is no counter checking and errors could pass undetected.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the management of EAKC liaises with the Council to recruit another accounting and procurement staff to enhance segregation of duty.

7.1.9 Possible fraudulent transactions of USD 38,000 in EAKC Bank account

The Audit Commission reported that a review of the bank reconciliation and bank statement of EAKC KCB USD Account 3301189237 showed two payments amounting to USD 38,000 were not posted in the cashbook and did not have supporting document as shown below;

Date	Details in the bank statement	Amount (USD)
02 March 2016	Chq encashment CHQ 22 Shamira R. Masika at TZZNZ	6,000
11 March 2016	Transfer at LUMTZ4616 Tranfer TPDC FT16071343H	32,000
		38,000

When the Audit Commission enquired from EAKC accountant on the transaction it was informed that the transaction was passed by the bank but were not initiated from EAKC when EACKC made follow up with the bank, a refund of USD 32,000 was made within the year under review. Although the bank refunded the USD 38,000 after a month there was no evidence that the Commission sought for the interest for the one-month period.

The Committee interacted with the Executive Secretary of the East African Kiswahili Commission Professor Keneth Inyani Simala and he informed the Committee that the East African Kiswahili Commission operates an account with KCB (T) Ltd at Stone Town Branch, Zanzibar, in the United Republic of Tanzania. He gave the Committee a sequence of events that led to the discovery of the fraudulent transaction of the 38,000 USD at the EAKC and they include the following;

a) On two occasions, there were two irregular fund transfers made by the bank as hereunder:

   i) A withdrawal of $ 6,000.00 on 10/03/2016 under the description "Chq Encashmt CHQ000022 SHAMIRA R MASIKA AT-TZZN

ii) A withdrawal of $ 32,000.00 on 11/03/2016 under the description AT-LUMTZ4614 TRANSFER TPDC FT16071343H.

b) While these irregular transfers were made in March, 2016 and were noted by the Principal Accountant at the end of that month, they had been recorded in the bank reconciliation statement as a reconciling item. As the Accounting Officer, he came to know of the matter in June, 2016. The Commission had relocated to Zanzibar in March, 2016 and this, coupled with the absence of Sun Systems, delayed in detecting the anomaly.

c) He said that on 12th May, 2016 the bank partly corrected the transaction by reversing the amount of USD.32 000. On 11th March, 2016 the bank deposited USD. 6000 on the Commission account.

The Executive Secretary further informed the meeting that he wrote to KCB demanding for an explanation for the irregular transfers, and despite reminders and several visits to the KCB Stone Town Branch, no satisfactory answer was given to him instead the management of the KCB Zanzibar informed him that the matter was being handled directly at KCB (T) Ltd Head Office in Dar-es-Salaam. When he demanded why KCB did not even acknowledge initial communication from EAKC ES, as courtesy demands of dealing with customers, the Manager said that KCB (T) Ltd was dealing directly with EAC Secretariat in Arusha.

d) He stated that after failing to get any useful information from the Bank, on 9th July, 2016 he communicated to Ag. Deputy Secretary General (Finance and Administration), Dr. Enos Bukuku, informing him about the irregularities. He proposed that EAC Security and Safety Department helps the Commission initiate criminal investigations on the matter. The DSG advised the Commission to get information on the exact office KCB was dealing with at the EAC Secretariat.

e) He said that on 20th July 2016, he informed the EAC Secretary General of the irregular transfers and sought his intervention, especially on the need for the EAC Security and Safety Department to step in and pursue criminal investigations. On 21st, July 2016, the SG wrote seeking the EAKC to furnish him with further details concerning the transaction. He responded and furnished him with information of what had happened and the actions the office had taken in pursuing the matter, including writing to the Bank, discussing with the Commission Accountant and conversation with Mr. Luttashaba, Head EAC Security and Safety Department.

f) The ES further stated that he was particularly keen on criminal investigations because his mobile number was diverted during the same period when the irregular transfers were being effected and that was the period the Commission staff were relocating to Zanzibar. He said that he was further alarmed when KCB (T) Ltd Head Office called him in June, 2016 and insisted he had been called and cleared the said irregular payments.

g) The matter of irregular transfers was picked up by the EAC Internal Auditor during EAKC's auditing exercise conducted between the 6th- 10th, June 2016. The Auditor requested for EAKC Management response to the same. In the absence of clear information from KCB, the Commission did not have an immediate response as required. He asked the Auditor to come back for an exit meeting with the whole EAKC staff on the 8th August as he did not attend the earlier one as he was away from the station on official duty.

h) On 7th August, 2016, the EAC Director of Finance called him and informed him that he was already in Zanzibar and he would be attending the planned exit meeting between the EAKC and the auditor. The ES was curious why he was not informed of the DF's presence and planned attendance at the exit meeting. He quickly alerted the Ag. DSG (F&A), Dr. Bukuku about this. The DSG wrote back an email informing him that he had taken up the matter with Governor, BOT and assured the ES that the matter was being handled professionally at the highest level of banking in Tanzania.

i) The Director Finance to attended the exit meeting during that meeting, the DF informed the meeting that there was yet another attempt to transfer a sum of USD 27 000 (Twenty-seven thousand) from the Commission account and KCB stopped that attempt. The ES was shocked and distressed at this revelation as he was neither aware of the same and nobody had informed of the same. On hindsight, the ES was tempted to think that indeed KCB (T) Ltd was dealing directly with the Secretariat at his exclusion. The ES has demanded an explanation to no avail.

j) In communication from Head of Retail, Masika Mukule, KCB admitted that the transactions were a fraud. And that after internal investigations, disciplinary measures were taken on staff who were involved in the fraudent transaction. In the same letter, the Head of Retail revealed that the transfer of USD 32,000 was through cheque number 000023. This was the first time he was getting information regarding the matter of cheque although the bank statements at the Commission indicated the transfer was direct.

k) The EAKC informed the meeting that the two cheques in question of fraudulent transactions were issued by the Commission and honoured by KCB Bank in 2015 and could not again be used in March, 2018.

When the Committee deliberated the matter, it observed that the matter could not be conclusive without interacting with the bank and get their side of the story. In line with its mandate and the powers enshrined upon it by rule 14 (d) of the rules of procedures of the Assembly on special powers of the Committees on 10/ 5/ 18, the Committee summoned Group Managing Director of KCB. On 11/5/18 the management of KCB appeared before the Committee represented by Mr. Lawrance Kimathi the group Chief Finance Officer and Mr Masika Mukule Head of Retail in Tanzania.

The management of the bank informed the Committee that KCB Tanzania conducted two investigations, one that the Lumumba Branch Manager reported on 15 March 2016, KCB Lumumba branch detected forged cheque No. 000024 amounting US $ 27,550 drawn by Customer known as EAC Kiswahili Commission A/C No. 3301189237 domiciled at Stone Town branch payable to another KCBT customer known as TPDC A/C No. 3301256546 domiciled at Msimbazi Branch.

This prompted, branch management to recall another cheque No. 000023 deposited at Lumumba branch on 11 March 2016 drawn and paid to the same customer US $ 32,000 and confirmed that the said cheque was altered as well but the fraudster TPDC had already withdrawn the funds from the account on 11 March 2016 and 12 March 2016. Based on these two scenarios cheque No. 000024 for US $ 27,550 was dishonored meanwhile the customer who brought the cheque disappeared from the branch and has never showed up again to date. It was also observed that account No. 3301256546 of TPDC was opened at Msimbazi branch on 20 November 2015 as a sole proprietor company under one signatory named WILLIAM BRAOWN MKASA.

The second investigation was conducted after the Customer EAC KISWAHILI COMMISSION reported on 8th June 2016 that forged cheque No. 000022 amounting US $ 6000 drawn by Customer known as EAC Kiswahili Commission a/c No. 3301189237 domiciled at Stone Town branch was cashed to one individual known as SHAMIRA MASIKA on 10th March 2016 at Stone Town Branch.

The bank revealed that the said forged cheque 000022 was originally issued to KENNETH SIMALA with amounting US $ 9,499 on 9 November 2015. However, the investigation, revealed that the original cheque number 000022 was issued to KENNETH INYANI SIMALA on 28 September 2015 amounting US$ 9,499. The Investigation also revealed that the drawer, EAC KISWAHILI COMMISSION took 3 months to detect the fraud incident and report the discrepancies from the account. It was further revealed that the alleged cheque was altered in five sectors which are; account number, cheque number, cheque code, account holder name and Branch name. The cheque was not originated from account of EAC KISWAHILI COMMISSION domiciled at Stone Town branch. According to examination done through Bar code reader machine, the forged cheque originated from account No. 3301256546 in the name of TPDC issued at Msimbazi Branch. Thus, the fraudster customer and Payee SHAMIRA R. MASIKA used (TPDC) cheque book to defraud the EAC Kiswahili Commission account.

The investigation team was told that confirmation/call back for cheque No. 000022 to the customer EAC KISWAHILI COMMISSION was done on 10th March 2016 by Operations Manager Stone Town Branch through one signatory of the account known as KENNETH SIMALA through Mobile phone No 0758 347184 at 16:27 of the said day. Further, the Investigation team was told that confirmation/call back for cheque No. 000023 and 000024 to the customer EAC KISWAHILI COMMISSION was done on 11 March 2016 by ASHA KAWAGA, Business Banker at Lumumba Branch and also done by SQC Manager Stone Town Branch, DANIEL MWANYIKA. Both Asha and Daniel said they called Kenneth Simala (Cell No +255758347184), as one of the signatories of the account.

It was also noted that account No. 3301256546 which the altered cheque originated belongs to TPDC (this TPDC is not in any way affiliated with the Tanzanian Petroleum Development Company) and was opened at Msimbazi branch on 20 November 2015, as a sole proprietor company under one signatory named WILLIAM BRAOWN MKASA. The investigation team discovered that the same customer TPDC on 11th March was involved with a fraudulent transaction on account of EAC Kiswahili Commission.

The meeting was further informed that investigation team requested the signature specimens of the two signatories MR JOSEPH MALESI and MR KENNETH SIMALA for the purpose of verification with Forensic Bureau Police Force to ascertain whether they signed the cheque. Joseph Malesi provided the signature specimen but Mr. Simala Kenneth has since refused.

KCB Bank Tanzania Limited, applied consequence management on staff who were implicated on this scam, five staff; 1) Teller, 2) SQC Manager, and 3) Acting, Cash Officer were given severe warning. Two staff, 4) Business Banker and 5) Branch Manager were terminated from Employment. Meanwhile the Bank refunded EAC Swahili immediately once it was established that the fraud was partially caused by negligence from KCB staff to ensure normal customer operation are not affected

The Management of KCB further informed the meeting that it restricted the remaining balance of TZS 6,737,200 on account No. 3301256546 of TPDC and issued a stop order on the outstanding cheque numbers immediately.

The Bank has taken the following action.

1. Terminated the culpable staff after internal investigations were completed.
2. Refunded EAC Kiswahili Commission account to ensure that EAC Kiswahili Commission account operations are not inconvenienced.
3. Enhanced controls to ensure mitigation against this nature of frauds in future.
4. KCB Bank Tanzania has been working with Police Zanzibar very closely on this matter with reference to various correspondences.

The Commission could lose funds through fraudulent bank transactions and potential interest for the money that was erroneously paid from EAKC account. Further the Committee observed that it was possible and even likely that a member or members of the Kiswahili Commission staff were involved in this fraud.

The Committee urges the Assembly to urge the Council of Ministers:-

i. ***To direct the Executive Secretary and the Principal Accountant to step aside as the investigations into the fraud are undertaken;***

ii. ***Seek interest compensation for the 1 month period before the KCB transferred the amount to EAKC account.***

iii. ***Enforce stringent controls on bank transactions.***

PART VIII

8.0 THE EAST AFRICAN SCIENCE AND TECHNOLOGY COMIISSION (EASTECO)

AUDIT FINDINGS

8.1 Low absorption rate of budget

The Audit Commission reported that according **to the** EAC Financial Procedure Manual section 2.1.15.1 (c) on budget performance monitoring activities require that, budget monitoring shall involve tracking significant budget performance deviations and advising on appropriate corrective measures and compiling budget performance analysis and reports. However the Audit Commission observed that during the year 2015/16 the Commission had an approved budget of USD 847,211 with actual income of USD 847,591 but the Commission was still struggling to absorb its budget. Audit further noted that of the budgeted amount only USD 636,822 was spent equivalent to 75 per cent leaving unspent balance equivalent to 25 per cent.

When the Management of EASTECO interacted with the Committee, they concurred with the Audit finding and reported that the low budget absorption was caused by the non-recruitment of some planned positions for the period under review.

Committee observations/recommendation:

Failure to fully absorb the budgeted funds makes the implementation of the planned activities difficult hence the Commission may not achieve its objectives as planned. The Commission should endeavour to absorb its approved budget by implementing the activities as planned.

8.1.2 Inadequate staffing level

The Audit Commission reported that EASTECO establishment provide for 22 staffs however, the review of the EASTECO approved staff establishment revealed shortage of staff. It noted that out of 22 required staff, the Commission has four (Executive Secretary, Deputy Executive Secretary, Principal Administrative Officer and Principal Accountant); despite the fact, EASTECO started its operations in June 2014 and prepared its first set of financial statements for the financial year 2014/15.The staffing level are at almost 25% of the EASTECO establishment leading to a shortage of 75% of staff.

When the Management of EASTECO interacted with the Committee, it acknowledged the Audit finding and reported that the plans are underway to have the vacant positions filled in line with the Council approval and organizational organogram.

Committee observations / recommendations:-

This is a major challenge across the East African Community Institutions and Organs. The management of EASTECO should engage Council to ensure that the vacant positions are filled in line with its staffing level in order to fulfil its mandate and objectives as planned.

8.1.3 Delay in finalization of the Strategic plan

The Audit Commission reported that since its operation started, the Commission has been operating without the Strategic plan yet it's supposed to set out its principles that will guide the strategic objectives of the Commission and its achievement. The management acknowledged the Audit finding and reported that the strategic plan is now in place.

The Committee observes that without a strategic plan EASTECO risks implementing activities which are not in line with the established strategic objectives of the Commission. The Committee applauds EASTECO upon the finalization of its strategic plan and urges it to endeavour implement its objectives and outcomes.

8.1.4 ESTABLISHING OF THE GOVERNING BOARD

The Audit Commission reported that EASTECO the was established in accordance with the protocol establishing the Commission, signed in 2007.However Audit noted that Article 7 of the Protocol outlines the composition of the Commission, one being the Board as a governing body. Further, article 8 of the same Protocol explains the composition of the Governing Board and states that the Commission should meet least twice a year as recommended in article 9.

The Audit Commission observed that since its operationalization in 2014/15, the Commission had not constituted the Board despite its composition being directed in the Protocol. When the Committee interacted with the management of the EASTCO, they acknowledged the audit finding and reported the challenges they are facing implementing the protocol as far as constituting its board because of its big number. Management reported that the board is supposed to be constituted of 7 board members from each Partner State.

Although absence of the Board underscores the limitation in the Commission strategic decisions, the 7 member Board is difficult to manage in view of the cost implications involved.

The Committee recommends the Assembly to urge the Council of Ministers to *amend the Protocol establishing EASTECO and other EAC Commissions and down size the number of representatives to the governing board from 7 members to 2 members to make the implementation of the governing boards manageable.*

8.1.5 Lack of segregation of Duties

The Audit Commission reported that EASTECO did not have segregation of duties in the accounting sections. The Accounts' section was operating with only one Principal Accountant who prepared cheques, approved and made payments, prepared and signed bank reconciliations. This was as a result of lack of sufficient staff in the EASTECO.

When the management of EASTECO interacted with the Committee, they acknowledged the Audit finding and when EASTECO was started only key staff were recruited and it took some time get approval for recruitment of another Accounts staff since the position did not exist in the initial staff establishment.

Management informed the meeting that an Accounts Assistant has now been recruited and the duties are now segregated.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that the Commission is adequately staff in order to ensure that it performs its mandate.

8.1.6 OUTSTANDING RECEIVABLES FROM PARTNER STATES $ 147,613

A review of the EASTECO financial statements revealed that Partner States have not fully paid their contributions.

Burundi had an outstanding receivable of $135,522 (2014/15: $ 46,764), an increases by 190%; Tanzania had an outstanding receivables of $ 4,884 (2014/15: $ 13,262) a decreases by 63%; and Uganda had an outstanding receivables of $ 7,207 (2014/15: $ 97,287) a decrease by 93%.

Despite the above situation the audit Commission noted that, there were no action plans taken by the EASTECO for the recoverability of the Partner States receivables. When the Committee interacted with the management, it was informed that the problem is general one affecting most EAC Institutions and Organs.

The Committee recommends the management to develop an action plan and continue liaise with Council and to liquidate the outstanding receivables.

8.1.7 VAT Recoverable $ 13,125

The Audit Commission reported that a review of the EASTECO financial Statement noted that no tax exemption had been issued to the Agency, and a review of the EASTECO Financial statements for the year 2015/16 noted a VAT recoverable balance of $ 13,125 an increased by $ 2,884 (representing a 28% increase) from the previous year reported balance of $ 10,241.contrary to article IV Section (4) of the Headquarters agreement between the Government of Rwanda and the East African Community.

When the EASTECO interacted with the Committee, it informed it that the VAT receivables were inherited from EAC and the Rwanda Revenue Authority is paying back the VAT on time.

The Committee Observed that:-

i. Failure to recover VAT contravenes EAC Headquarters Agreement with the Republic of Rwanda and this may affect implementation of Community activities.

ii. There is an increase risk on loss of EASTECO funds which could be used to finance other priorities.

The Committee recommends the Assembly to urge the Council of Ministers to ensure that;

i. ***EASTECO is advised to continue liaising with the Rwanda Revenue Authority by instituting vigorous system to have the VAT reclaimed.***

PART IX

9.0 THE EAST AFRICAN HEALTH RESEARCH COMMISSION (EAHRCO)

9.1 CURRENT YEAR AUDIT FINDINGS

9.1.1 Low Budget performance

The Audit Commission reported that during the year financial year 2015/16, EAHRC had a budget of USD 844,542. The institution spent USD 517,538 resulting into unutilized funds worth USD 327,004 equivalent to 39% of the budgeted funds. Audit noted that the activities that were not executed included the recruitment of 5 additional staff. This affected the operationalization of the Commission including the segregation of duties in all activities of the Commission.

The Management of EAHRCO informed the Committee that the low absorption was due to non-recruitment and the lengthy recruitment process of staff, and during the inception period the Commission was operating from the EAC offices in Arusha so the money which had been budgeted for utilities and other amenities was saved.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that EAHRC endeavors to implement all activities as planned within the agreed time frame. The budget and planned activities should be reasonable and achievable.

9.1.2 Expenditure overstated USD 47,250

The Audit Commission reported that EAHRC accounts revealed that as at 30th June 2016, EAHRC accrued settlement allowance totaling **USD 47,250** for staff that were not yet recruited as at 30 June 2016. In addition, the Audit Commission was not provided with the basis of computation of the settlement allowance. This is because, according to staff rules and regulations settlement allowance depends on the number of family members the staff reported with. It is worth noting that the above amount was also accrued expenditure for the year ended 30 June 2015.

The Management of EAHRC informed the Committee that they had initially budgeted for 7 staff, a number that included 2 Principal Health Officers and their settlement was budgeted for in FY2014/15 but their recruitment process of the PHO delayed. They reported that the settlement allowance was in compliance with EAC Staff Regulations Manual which allows for a staff, the spouse and 04 legal dependents for 30 days.

The Committee observed that expenditures and liabilities for the financial year 2015/2016 were overstated by **USD 47,250**. Consequently, the financial statements of the commission are misstated and misleading the users.

Management of the Commission should make necessary adjustments of its expenditures to reflect reality. EAHRC management should ensure that it complies in full with IPSAS and EAC financial rules and regulations.

9.1.3 Lack of annual performance appraisal of staff

The Audit Commission reported that regulation 32 (3) of EAC staff rules and regulations states that, performance evaluations shall be conducted on an annual (calendar year) basis for every confirmed member of staff. Contrary to the above provision, audit scrutiny on the personnel records and files for the year under review revealed that performance evaluations of EAHRC staff was not conducted.

In addition, a review of personnel files revealed that they did not contain Medical certificate for service fitness and official oath for all EAHRC staff. When the Committee interacted with the Management it confirmed the Audit finding and informed the Committee that the issue has been rectified.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the Management of EAHRC adheres to the staff rules and regulations by ensuring that all staff are evaluated annually and the related documents kept in respective staff files. In addition, personnel files should be updated for future reference.

PART X

GENERAL OBSERVATIONS/RECOMMENDATIONS AND ACKNOWLEDGEMENT

I. IRREGULAR EMPLOYMENTS DUBBED "SHORT TERM CONTRACTS".

The Committee noted that while "short term contracts" in the EAC are used to fill manpower gaps in the institution they promote corruption and nepotism. The Committee warns that continued use of these contracts would be harmful to the regional integration process and recommends to the Assembly to urge the EAC Council of Ministers to direct the Secretary General to immediately put an end to them by finding a permanent and regulation compliant solution.

2. IRREGULARITIES AND NON-ADHERENCE TO PROCUREMENT RULES AND GUIDELINES.

The Committee observed that irregular procurement of goods and services at the EAC create opportunities for fraud and exorbitant prices. There is gross irregularities and non-adherence to the procurement rules and guidelines. The Committee recommends to the Assembly that it;

i. Directs the Council of Ministers to take deterrent disciplinary actions against the non-compliant EAC Officers involved in the procurement process of goods and services at all levels;

ii. Cause a Forensic Audit to be done on the identified procurement transactions in this report above.

iii. The Council of Ministers moves a Bill of the Community that will regulate Procurement and Logistics Management in the Community.

3. NON REMITTANCES OF CONTRIBUTIONS BY EAC PARTNER STATES.

The Committee observed that non remittances of contributions by EAC Partner States is making implementation of EAC programs difficult. Besides when funds are remitted towards the end of the financial year, they are not sent to the specific institution to which the money was budget for but deposited to the reserve account.

The Committee recommends to the Assembly to urge the EAC Council of Ministers to engage all stakeholders on the matter and ensure contributions are remitted timely.

4. NON IMPLEMENTATION OF THE PREVIOUS ASSEMBLY/AUDIT RECOMMENDATIONS

The Committee observed through this process that there was low implementation of the Audit / Assembly recommendations. The Committee recommends;

i. *That the EAC put in place a proper mechanism which will enable the Assembly to receive periodical reports on the status of implementation of its recommendations from the Council of Ministers.*

ii. *Direct the Audit Commission to follow up and report on an half year basis to the Assembly through the EALA Committee on Accounts the status of implementation of the Assembly's recommendations.*

5. WEAK AUDIT FUNCTIONALITY

The Committee observed a weak Audit unit in the EAC secretariat where one Auditor has been carrying out the audit function on all the organs and institutions of EAC. Although 2 auditors have been recruited, the unit is still understaffed.

The Committee recommends the Assembly urges the EAC Council of Ministers to upgrade the Audit function to a department and ensure that the audit function is properly manned with the necessary personnel to carry out the function.

6. LACK OF PROPER MANAGEMENT OF EAC PROJECTS AND PROGRAMMES

The Committee recommends to the Assembly to urge the Council of Ministers;

i. *Direct the EAC Council of Ministers to put in place an established project management unit/mechanism that will ensure all issues for the successful implementation of projects are well addressed;*

ii. to make sustainability plans for all projects and align them with EAC the objectives and mission to enhance durability of these initiatives after project/programme closure;

ii. Direct the Council of Ministers to ensure branding of EAC Projects and Programme initiatives is planned for and implemented to enhance the visibility of EAC activities.

7. VAT RECEIBALES

The Committee observed non remittance of the VAT receivables across the Partner States by the revenue collection bodies. The Council of Ministers should engage the Ministers of Finance and the Sectoral Committee on finance to ensure that the VAT receivables are remitted timely to the EAC institutions.

8. UNDERSTAFFING

Most of the EAC institutions are grossly understaffed and this has led to non-segregation of duties and this has led to violation of staff rules and regulations.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that all the positions at EAC are properly filled as per the staffing structures.

9. Inadequate and weak regulatory framework governing the financial and procurement regimes at the EAC. The committee noted that the existing financial rules and regulations currently governing the financial regime in the EAC is weak and does not hold the staff culpable in instances of staff who violate the rules. This has led to violation of the financial rules and regulations. Therefore, the committee recommends that a substantive Financial Management Act is enacted to regulate the financial regime at EAC.

10. Accounts signatories to EAC Accounts. The Committee observed that some of the account signatories of EAC institutions and organs misuse the rule that allows them to transact in cash from their respective accounts thus making a lot of unexplained cash withdraws almost on a daily basis. The Committee therefore recommends that Cash transactions from institutions accounts should be stopped and a new mechanism devised for running these institutions day to day.

11. Compliance and verification system. The Secretary General should institute a mechanism to ensure that before any payments above of 100,000 USD is made, the Director of Finance/Deputy Secretary General should ensure that the goods and services being procured have been delivered and authenticated in the stores ledger.

12. The Committee recommends strict verification of academic certificates to ensure compliance.

13. *The Committee noted that the senior procurement officer was the Secretary to the procurement committee and thus was likely to lead to a conflict of interest. The Committee recommends that the Senior Procurement Officer or any other staff from the procurement committee should not be involved in the procurement processes at the EAC.*
14. *The Committee recommends that the Council of Minsters urge the Partner States to ensure timely remittances of funds to the EAC and should further expedite the proposed alternative funding mechanism in order to ensure that the EAC is adequately funded to implement activities.*

15. *The committee noted that the membership of the governing Councils of the Commissions are big and are making the implementation of the mandate difficult. The protocol provides for 7 members of the governing council. The committee recommends that the protocol governing the councils be amended to provide for a sizeable number of representation from the respective Partner States. Additionally, the Committee recommends 2 members vis a viz the growing number of Partner States.*

16. *Weak disciplinary mechanism to reprimand staff at the EAC.*

The committee noted a weak disciplinary mechanism at the EAC for enforcing staff discipline. The Committee was informed that whenever disciplinary issues arose on specific staff, issues of partner states overshadow the particular violations the individual staff would have committed. The Committee recommends the Council of Ministers should ensure that strong/stringent disciplinary mechanism are taken against staff who willingly violate the EAC rules and regulations. And the Committee also recommends that the Secretary General should report to the Assembly on an annual basis regarding staff performance and discipline.

17. *The Committee also recommends to the Assembly to urge the Council to ensure that Secretariat adheres to the ISO9000 regulations and standards as it is an ISO certified institution.*

18. *The Committee further recommends that the Assembly urges the Council to put in place a monitoring and evaluation department within the EAC Secretariat to monitor the progress of the Community towards its objectives.*

ACKNOWLEDGMENTS

The Committee wishes to thank the Rt. Hon. Speaker, the Clerk and the entire Management of EALA for the excellent facilitation accorded to it while executing its mandate. Despite limited time, the Committee finalized the bulky and demanding exercise

within the financially dictated timeframe. It is however my place as chairman to state that in future more time is required to dispose of Audit items.

The Committee further wishes to thank the Audit Commission for fulfilling their mandate bestowed on it by *Article 134* of the Treaty.

Finally, the Committee commends the EAC Secretariat and other EAC Organs and Institutions for the continued cooperation.

MEMBERS OF THE COMMITTEE ON ACCOUNTS

Consideration of the EAC Audited Financial Statements for the Year ended 30th June, 2016

APRIL 29TH – MAY 13TH 2018, NAIROBI - KENYA

1. Hon. Dr. Maghembe Ngwaru Jumanne - ------------------------------
2. Hon. Adam Omar Kimbisa - ------------------------------
3. Hon. Aden Omar Abdikadir - ------------------------------
4. Hon. Christopher Nduwayo - ------------------------------
5. Hon. Dennis Namara - ------------------------------
6. Hon. Dr. Gabriel Arol Garang Aher - ------------------------------
7. Hon. Fancy Haji Nkuhi - ------------------------------
8. Hon. Gabriel Garang Alaak - ------------------------------
9. Hon. Gasinzigwa Oda - ------------------------------
10. Hon. Jean Claude Barimuyabo - ------------------------------
11. Hon. Kennedy Ayason Mukulia - ------------------------------
12. Hon. Kennedy Kalonzo Musyoka - ------------------------------
13. Hon. Muhia Wanjiku - ------------------------------
14. Hon. Pierre-Celestin Rwigema - ------------------------------
15. Hon. Pierre Claver Rurakamvye - ------------------------------
16. Hon. Rose Akol Okullu - ------------------------------
17. Hon. Susan Nakawuki Nsambu - ------------------------------
18. Hon. Victor Burikukiye - ------------------------------