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REPUBLIC OF KENYA



**RECEIVED**  
Accountant General  
14 August 2012  
by Minister  
FINAN CC

MINISTRY OF FINANCE P.O. Box 30084-00100  
P. O. Box 30007, NAIROBI NAIROBI

## KENYA NATIONAL AUDIT OFFICE

C.868/(24)

9 August, 2012

Mr. Patrick Gichohi, C.B.S.,  
Clerk of the National Assembly,  
Parliament Building,  
P.O. Box 41842-00100,  
NAIROBI.

Dear Hon. Gichohi,

### SPECIAL AUDIT REPORT OF THE AUDITOR-GENERAL ON THE PURPORTED SUPPLY OF EARTHQUAKE DATA MEASURING EQUIPMENTS WORTH KSHS.31,245,700.00 - MINISTRY OF TRANSPORT FINANCIAL YEAR 2009/2010

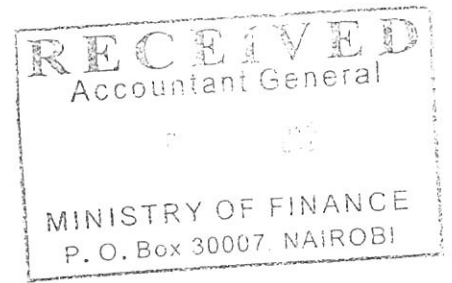
Enclosed, please find four (4) copies of the Special Audit Report of the Auditor General on the purported supply and payment for Earthquake Data Processing Equipments worth Kshs.31,245,700.00 in the financial year 2009/2010 for laying before the National Assembly in accordance with Article 229(7) of the Constitution of Kenya.

I have also submitted a copy of the Report to the Minister of Finance in accordance with Section 11 of the Public Audit Act, 2003.

Yours sincerely,

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

✓ Copy to: Hon R. Njeru Githae, EGH, MP.,  
Minister for Finance,  
Ministry of Finance/Treasury,  
P.O. Box 30007-00100,  
NAIROBI.



## Office of the Auditor General



# Special Audit Report

On the Purported Supply and Payment for Earthquake Data  
Measuring Equipments worth Kshs.31,245,700.00 during  
the *Financial Year 2009/2010*

**Ministry of Transport**

# Table of Contents

<i>Abbreviations</i> .....	2
<i>1. Executive Summary</i> .....	3
1.1 Introduction .....	3
1.2 Background information.....	3
1.3 Summary of our findings and conclusions.....	4
1.4 Responsibility and culpability.....	6
<i>2. Objectives and scope of the audit</i> .....	8
2.1 Work done and sources of audit evidence.....	8
<i>3. Findings of the audit</i> .....	9
3.1 Irregular and invalid payments were made to four merchants for supply of earthquake measuring equipment .....	9
3.2 A Series of irregular transactions and preceded payments .....	12
<i>4. Conclusions</i> .....	16

## ***Abbreviations***

- AO** -Accounting Officer
- AIA** -Appropriation in Aid
- CID** -Criminal Investigation Department
- EFT** - Electronic Funds Transfer
- KACC** -Kenya Anti Corruption Commission
- KFS** - Kenya Ferry Services
- KMD** - Kenya Meteorological Department
- LPO** - Local Purchase Order
- MOT** - Ministry of Transport
- OAG** - Office of the Auditor General
- PAC** -Public Accounts Committee
- PS** -Permanent Secretary
- VAT** - Value Added Tax

# ***1. Executive Summary***

## ***1.1 Introduction***

We have, following information received by the Office, conducted a special audit on two expenditures totaling Kshs.31,245,700.00 reflected in Development Appropriation Account of the Ministry of Transport (MOT) for the year ended 30 June 2010. The expenditure was shown in the Ministry's records as having been incurred on purchase of an earthquake data-measuring equipment for use by the Shipping and Maritime Affairs Department of the Ministry. The audit also examined several other transactions made by the Ministry between the 2006/2007 and the 2009/2010 financial years and which appeared to have laid the groundwork for the expenditures.

This report sets out the work done and key findings from the audit, and is aimed at assisting the Public Accounts Committee (PAC) in their review thereof. This Executive summary should be read in together with the full report:

## ***1.2 Background information***

The Ministry of Transport made payments totaling Kshs.31,245,700 to four firms purportedly contracted to supply the Ministry with earthquake data measuring equipment. The payments were preceded by a series of related transactions spanning three financial years from 2006/2007 to 2009/2010. The transactions related to budgeting, procurement, accounting and reporting and were all effected in the development appropriation vote and in the statement of assets & liabilities for deposits of the Ministry. The purpose of our audit investigation was to establish whether the payments were valid and whether transactions effected by the Ministry prior to and in relation to the payments were made with due regard to Government financial regulations and procedures.

### **1.3 Summary of our findings and conclusions**

We have through the audit found that the expenditures totaling to Kshs.31,245,700.00 reflected in the Ministry's development appropriation account financial statements for the year ended 30 June 2010 were fraudulent and that they were preceded by several transactions effected by the Ministry in an irregular and un-procedural manner as summarized below:

- i. In the financial year ended 30 June 2007, the Meteorological Department, which was, then under the Ministry of Transport, was allocated a sum of KShs.260,500,000.00 to procure various categories of specialized equipments. However, two merchants contracted to supply equipments valued at KShs.31,245,711.20 failed to supply equipments even though the Ministry had, contrary to government financial regulations, paid them in advance. Two years after the payments, the Kenya Anti-Corruption Commission compelled the suppliers to return the money to the Ministry but upon receiving the refunds on 24 March 2009, the Ministry did not credit the money to the development appropriation Account as Government financial regulations require. It instead put the funds in a suspense deposit account of statement of assets & liabilities for funds and deposits.
- ii. During the 2009/10 financial year, Treasury included a sum of KShs.31,245,700.00 in the Ministry's supplementary estimates (development expenditure) for the year published in March 2010. The sum, which was all but identical to the deposit suspense sum of Kshs.31,245,711.20 in the 2008/2009 statement of assets & liabilities for funds and deposits, was shown in the estimates, as a provision for purchase of earthquake data-measuring machines for use by the Shipping and Maritime Department of the Ministry. The purchase was classified as an Appropriations-in-Aid (AIA) item to be funded from a deposit held by the Ministry. The inclusion of the amount in the supplementary estimates cleared the way for the Ministry to transfer the refund from the funds and deposits account to the development vote cashbook.
- iii. We have also established that two months before the close of the financial year on 29 April 2010, the Ministry granted the Kenya Ferry Services Company (KFS) a grant of KShs.31,245,700.00, an amount similar to the deposited sum to buy five (5) new ferry engines that would replace the

existing ones which were reported to have become inefficient to run and costly to maintain due to old age. The sum was paid to the Company on 17 May 2010 as a normal grant item budgeted by the Ministry.

- iv. At the close of the financial year on 28 June 2010, the Ministry made payments totaling KShs.31,245,700.00 to four (4) suppliers purportedly for delivery of earthquake data measuring equipment to the Shipping and Maritime Department of the ministry. The payments were charged to the provision amounting to Kshs.31,245,700.00 made in the revised supplementary estimates for the year.

**the following conclusions follow from the observations that we made in the audit:**

- i. Payments totaling KShs.31,245,700.00 shown in the Ministry of Transport books as having been made to four merchants to supply of earthquake data measuring equipments were fraudulent. About one-half of the payments were not supported with any documentary evidence while proof provided for the balance was invalid as explained below.
  - Expenditures totaling to KShs.15,685,700.00 were not supported with any documentation.
  - Documentation provided by the Ministry in support of expenditures totaling KShs.15,560,000.00 were for equipments previously delivered to the Kenya Meteorological Department (KMD). In addition, the documentation showed that the goods paid for were delivered in June 2009. Further, the Ministerial Tender Committee Minutes shown to have deliberated and awarded the contract for supply of the equipments related to the award for supply of aviation equipments during the 2007/2008 financial year. In any case, it was irregular for Ministry of Transport to have procured equipments on behalf of a fully-fledged parastatal.
- ii. Payment to Kenya Ferry Services of grants totaling KShs.31,245,700.00 for the procurement of five (5) new ferry engines that would replace the existing ones was irregular, as the sum had not been included in the annual or revised estimates of the Ministry for the financial year 2009/10. It is evident that the payment was made to conceal the intention to misappropriate the returned cash.

- iii. Payment to suppliers of goods worth KShs.31,245,711.20 not delivered in the financial year 2006/2007 was irregular and contravened Government financial regulations and procedures, which do not allow processing and payment of forged and invalid vouchers.
- iv. The action of the Ministry of Transport to deposit the sum of KShs.31,245,711.20 returned to the Ministry on 24 March 2009 in its statement of assets and liabilities for deposits account instead of a suspense account of the development appropriation account was irregular as Government financial regulations and procedures, stipulate that, such refunds be surrendered back to Treasury at the close of each financial year. Further, the inclusion of the sum of KShs.31,245,700.00 in the supplementary (development vote) estimates of the Ministry for year 2009/2010 was irregular as the Accounting Officer of Ministry did not formally include the sum in its request for additional funds when submitting its supplementary estimates proposals to Treasury. Available evidence suggests that there was collusion between some officers in the Ministry of Transport and Treasury on the matter.

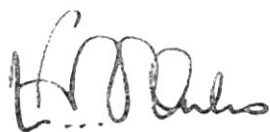
#### **1.4. Responsibility and culpability**

We have established that the following individuals may have been compromised and/or participated in the potentially criminal activities, which have led to the loss of public funds totaling Kshs.31,245,700.00.

<b>Parties</b>	<b>Findings on wrongdoing and/or irregularities</b>	<b>Conclusion and next steps</b>
The Accounting officer, Dr Cyrus Njiru	For authorizing grants to Kenya Ferry Services totaling Kshs.31,245,700.00 to procure 5 new ferry engines that had not been provided for in the printed estimates.  For failure to put in place financial controls or otherwise to avert misappropriation of public funds totaling to KShs.31,245,700.00.	The AO should take personal responsibility for the actions of the Ministry of Transport staff involved.



<p>Mr. Jeremiah Matoke an Accounts Officer in MOT.</p>	<p>He acted contrary to instructions given by The Ag. Principal Accounts Controller by expensing Kshs.31,245,700.00 to normal grants a/c 0117-2220207 instead of Shipping &amp; Maritime head 572-000-3111100.</p> <p>It's alleged that he approached the Treasury Desk officer, Mr. Onderi Ontweka and requested him to irregularly include the Kshs.31,245,700.00 in the supplementary estimates.</p>	<p>The Accounts Officer should be investigated by CID and the Ethics and Anti Corruption Commission on his role in the irregularity and various offences including abuse of office.</p>
<p>Treasury officials in the Budget Department and/or Mr. Onderi Ontweka,</p>	<p>The vouchers of KShs.31,245,700.00 were supported by an Authority Letter Ref: ES 3/14/01 (15) dated 29 March 2010 and signed by Mr. Onderi Ontweka, the Ministry's Desk Officer at Treasury, where it was indicated that Treasury had approved a request by the PS, MOT to revoke the amount that was returned by the suppliers.</p>	<p>Treasury staff should be investigated to assess whether there are grounds to bring charges in relation to negligence in the performance of official duties.</p> <p>Mr. Ontweka should be investigated and charged with various offences including abuse of office.</p>
<ol style="list-style-type: none"> <li>1. Interscope Tech &amp; Services</li> <li>2. Firstling Supplies Ltd,</li> <li>3. Flagstone Merchants</li> <li>4. Interpon</li> </ol>	<p>For illegally receiving public funds totaling Kshs.30,704,800.00</p>	<p>The Ethics and Anti Corruption Commission should liaise with CID to identify and freeze the assets the companies and their directors.</p>
<p>The then OAG Branch head-MOT</p>	<p>Did not respond/act to audit query raised on the accountability of Kshs.31,245,700.00 expenditure.</p>	<p>The Office has initiated disciplinary against the staff member.</p>



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

8 August 2012

# Main Report

## **2. Objectives and scope of the audit**

The objective of this engagement was to conduct an investigative audit on allegations of irregular financial management practices at the Ministry of Transport (MOT) headquarters in Nairobi. The purpose and focus of the audit was to establish;

- i. whether payments totaling to totaling Kshs.31,245,700.00 shown in the Ministry's 2009/2010 annual Development Vote (D-14) financial statements as having made to four merchants for supply of specialized earthquake data monitoring equipments were valid; and
- ii. whether several budgeting and accounting transactions effected by the Ministry prior to or in relation to the payments were in line with established government financial regulations.

The investigations were conducted between March 2012 and May 2012 and covered the period between the 2006/2007 and 2010/2011 financial years, which is the period during which the payments and transactions examined occurred.

### **2.1 Work done and sources of audit evidence**

We obtained audit evidence from various sources which including:

- i. Various individuals that we interviewed.
- ii. Reviews of documents obtained from the Ministry.
- iii. We obtained documentation from the following sources.
- iv. Tender committee minutes approving the contracts.
- v. Payment vouchers, accounting records including bank statements.
- vi. Review of the procurement process.
- vii. Printed estimates and correspondences.
- viii. Relevant legislation, regulations and circulars.
- ix. Meetings with various MOT officials including, the Permanent Secretary, Head of Accounting Unit and the Deputy Head of Procurement.
- x. We used the interviews and document reviews to obtain information about the transactions under examination, to understand the related allegations, and to verify facts.

### 3. Findings of the audit

#### 3.1. Irregular and invalid payments were made to four merchants for supply of earthquake measuring equipment

3.1.1. We have established that on 28 June 2010, the accounts department of the Ministry of Transport transferred cash totaling to Kshs.31,245,700 from the statement of asset and liabilities and deposits account to development vote bank account no. 1-572-0000-1450101 through payment voucher No. 079 and receipt voucher No. 023 of 30-6-2010. A narration in the accounts of the Ministry explained the transfer as a “receipt of funds from the deposits account being funds returned by M/S Kenya Auto Electrical Ltd. after failing to deliver equipment to the Kenya Meteorological Department (KMD)’. The transfer of funds was supported by an authority letter Ref: ES 3/14/01 (15) dated 29 March 2010 signed by Mr. Onderi Ontweka, the Ministry’s Desk Officer at the Treasury.

3.1.2. Out of the total sum Kshs.31,245,700 transferred, payments totaling Kshs.30,704,800.00 were made to four suppliers through the Electronic Funds Transfer (EFT) system. The Ministry explained the payments as having been made on account of several equipments purchased on behalf of the KMD. About one half of the payments - Ksh.15,560,000.00- were supported with documentary evidence while the rest amounting to Kshs.15,144,800.00 were not supported with any proof at all as detailed below:

##### Payments Supported

PV #	Payee	Details	Kshs.
5514	Firstlings Supplies Ltd	Receiver & Radio Modem Link	5,988,000
5512	Interpon Kenya	Digital Thermohygograph	2,460,000
5511	InterScope Tech & services	Wind Speed Sensors	4,860,000
5513	Flagstone Merchants	Transmitter, receiver modem	2,252,000
			<u>15,560,000</u>

##### Payments Not Supported

140	Flagstone Merchants	Surge Arrestors	4,480,800
142	Firstlings Supplies Ltd	UTA Sonic Wind	2,868,000
141	InterScope Tech & services	Wind Direction sensors	2,936,000
143	InterScope Tech & services	Wind data	4,860,000
			<u>15,144,800</u>
<b>Total</b>			<u><b>30,704,800</b></u>

**3.1.3.** The documentary evidence presented by the Ministry to support the payments totaling to Ksh.15,560,000.00 made to the three merchants; M/S Flagstone Merchants, M/s Firstlings Supplies Ltd and M/s InterScope Tech & services Ltd had the following material discrepancies :

- i. All the Local Purchase Orders (LPO) related to one quotation No. 300/2007-08 of the year 2007/2008 and were not signed by the Accountant -In-Charge Vote Book Control (VBC).
- ii. All the invoices, delivery notes and counter receipt vouchers (S13) related to year 2008/2009 while the payments made related to financial year 2009/2010, an indication that they may have been used before.
- iii. The meeting of the Ministerial Tender Committee (MTC) No. 4/14/2007-2008 that discussed Quotation No. 300/2007-08 was held on 14 May 2008, i.e. during the 2007/2008 financial year. The Minutes of the meeting show the Committee discussed the supply of Aviation Control Instruments and not earthquake data equipment for the Shipping and Maritime Affairs Department of the Ministry. Further, all the equipments shown as having been purchased by the Ministry were to be delivered to the **Airport** while payments made were charged to the Shipping and Maritime Department's Account Number- 1-572-0000-311117. Thus, the documents presented in support of the payments did not relate to the earthquake data measuring equipment budgeted for in the revised estimates for the 2009/2010 financial year.
- iv. All the invoices presented were hand written and reflected gross payments devoid of Value-Added-Tax( VAT) deductions required in tax legislation. Furthermore, no documentary evidence was presented for proof of the sum of Kshs.4,235,134.00 shown in the Ministry's records purported to have been paid to the Commissioner of Domestic Tax as VAT.
- v. The counter requisition and issue vouchers (S11) availed to support the receipt and issue from the stores of the supposedly procured equipments indicated that the equipments were issued to the KMD in August 2009, nine months before the payments were made.
- vi. There was no evidence of physical receipt of the equipment in question.

**3.1.4.** It is evident that the documentation presented by the Ministry to support the payments were for a different contract. The documents were fabricated to support the invalid payments totaling to Kshs.15,560,000.00.

**3.1.5.** We in addition noted that the un-supported payments totaling to Kshs.15,144,800.00 were recorded in the cashbook on 16 June 2010 while the payments totaling to Kshs.15,560,000 supported with fake documents had not been recorded in the cashbook as at 30 June 2010.

**3.1.6.** We further observed that the Department of the Registrar General's records show Mr. James Thuita Nderitu, as the majority shareholder of M/s Firstling Supplies Ltd (90% shares) and the sole proprietor of M/S Interscope Tech & Services. The registered office and location of these two companies are the same. The two companies were paid Kshs.18,644,000.00 out of the total payments totaling to Kshs.30,704,800.00 made by the Ministry.

**3.1.7.** The Ministry of Transport has not provided justification as to:

- i. the mandate or authority under which the MOT purchased equipment on behalf of KMD, a fully fledged department that had moved to Ministry of Environment & Mineral Resources;
- ii. why the above purported procurements do not relate to earthquake data measuring equipment indicated in the 2009/2010 revised estimates;
- iii. why equipments meant for Airports as shown in the Ministry Tender Committee minutes were charged to Shipping and Maritime Department and shown delivered to KMD; and;
- iv. why items invoiced and delivered in the year 2008/2009 were paid in 2009/2010 contrary to laid down Government financial regulations and procedures.

## ***A Series of irregular transactions and preceded payments***

The audit further revealed that before the payments totaling to Kshs.30,704,800.00 were made to the four merchants, the Ministry effected several transactions over a period of three financial years, which in our view laid the groundwork for the successful execution of the fraudulent payments. The transactions, which were all irregular, involved creating invalid deposits of funds, obtaining unauthorized supplementary funding and granting one of its corporations a development grant that had not been budgeted for in the Ministry's printed estimates as:

### **Irregular deposit created from refund received from a compulsory refund received from Merchants who failed to deliver goods**

During the 2006/2007 financial year, the Meteorological Department, which was, then under the MOT, was in the Appropriations Act of the year, allocated Kshs.260,500,000.00 under the development appropriation vote 14, Item 3111100-Purchases of specialized plant and equipment. Of the total allocation, a sum of Kshs.31,245,700.00 was to be used for purchase of earthquake data measuring equipment.

The entire sum of Kshs.31,245,700.00 was expensed in that financial year when two suppliers, M/S Kenya Auto Electrical Ltd and Electro Technologies Ltd were contracted to supply the department with the equipments. The Ministry paid the suppliers the aggregate sum of Kshs.31,245,711.00 before they delivered the equipments. However, the suppliers failed to deliver equipments worth Kshs.27,004,331.90 and Kshs.4,241,379.33 respectively, or Kshs.31,245,711.00 in aggregate. The firms were later on compelled by the Kenya Anti-Corruption Commission to return the money in after the matter was reported to the Commission.

On 11 March 2009, Dr. Joseph Mukabana, Director KMD Ministry of Environment and Mineral Resources vide letter ref: MET/2/11/2/62 forwarded two cheques namely No's 045614 and 045615 of Kshs.27,004,331.90 and 4,241,379.30 respectively, or Kshs.31,245,711.00 in total to the Permanent Secretary –Ministry of Transport. Upon receipt of the cheques at the Ministry on 27 March 2009, the funds were banked in the statement of assets and liabilities

for funds and deposits bank account No. 4.264.0000.7320201 and credited to a suspense account.

We observed the Financial Management Act, 2001 Sec 25 (1) (b) stipulates that any appropriated amounts that have been withdrawn from the Exchequer Account but not expended at the end of the financial year shall be paid into the Exchequer. In addition, Sec 5.4.29 of the regulations that prohibit a suspense account being used for carrying forward unspent balances of Parliamentary Grants from one year to the other was violated. Further Government Financial Management Act Sec 25(1) (b) that that stipulate appropriated amounts that have been withdrawn from the Exchequer Account but not expended at the end of the financial year be paid back to exchequer account was violated.

Article 5.5.13 of the regulations which stipulates that payments should be processed for settlement of goods and services which have been supplied/rendered to the Government in accordance with valid regulations, scales, tariffs, contracts or agreements and which are supported with Local Purchase and Service Orders (LPO/LSO), invoices, receipts, receipted bills duly confirmed by the receiving officers or Authority-to- Expenditure (AIE) holders was violated.

The Ministry has not explained why it paid the suppliers in contravention of the Government financial regulations and procedures, which lay down standard payment procedures that disallow pre-payments and require payment vouchers to be supported with valid and sufficient documentation.

Further, the Ministry has not explained:

- i. Why it took the KMD more than two years to have the money returned by the suppliers; and
- ii. Why the refunds were placed in a deposits suspense account in the statement of assets and liabilities for funds and deposits and not credited back to the suspense of the development appropriation account pending return to the Exchequer as required under Government financial regulations and procedures.

The returned cash in question therefore did not meet the basic principle of being applied as an Appropriation in Aid.



**2.2. Treasury made a provision of Kshs.31,245,700.00 in the Ministry's Supplementary estimates development expenditure for the Year 2009/2010 without the Accounting Officer's having requested for it:**

The revised supplementary estimates of the Ministry of Transport for the financial year 2009/2010 reflected a provision of Kshs.31,245,700.00 under Head 572 -0000-3111100 -Shipping and Maritime Department - expenditure of specialized plant and equipments for procurement of earthquake data measuring equipments. The purchase was to be financed through Appropriations-in-Aid, Head 572, Item 1450100, "Receipts not classified elsewhere". The funds were to be realized from the deposit account.

However, the Accounting Officer in his submission to Treasury for the Revised Estimates of 2009/2010 made vide letter Ref No. /FIN/2/3 (10) of 18 January 2010 did not request for the supplementary sum of Kshs.31,245,700.00. In spite of the Accounting Officer not having requested for the sum, Treasury included the figure in the revised estimates for the year 2009/2010.

Authority for MOT to incur expenditure on the re-voted amount is contained the letter Ref ES 3/14/(01/(15) titled –Supplementary Estimates 2009/2010- Kshs.31,245,711.10 from the PS, Office of the Deputy Prime Minister and Minister of Finance, signed by Mr. Onderi N. Ontweka on behalf of the Permanent Secretary.

*It reads; "Reference is made to your letter No: MOTC/ACCTS/9/6 Vol.XV/110) dated 18<sup>th</sup> March 2010 regarding the above mentioned. It is not clear to us why the suppliers was paid Kshs.31,245,711.10 before delivering the equipment required. Your request to revoke the amount has been **approved**. However, we emphasize that your Ministry should adhere to the laid down financial regulations and Public Procurement law to avoid such a situation"*

The MOT quoted Reference letter MOTC/ACCTS/9/6 Vol.XV/110) was not availed for audit review.

Section 6.3 of the Government financial regulations and procedures is clear on the classes of revenue, which the Treasury has allowed Accounting Officers to use as Appropriations-in-Aid. The said sum did not fulfill the criteria since it was a refund of voted funds and not fees collected by the Ministry, which the regulations may have sanctioned as Appropriations-in-Aid.

No explanation has been provided by the Ministry or Treasury as to why the sum of Kshs.31,245,700.00 was included in the revised estimates without the Accounting Officer having requested for it and failure by Treasury to comply with relevant legislation pertaining to government financial management

### **3.2.3. Grants of Kshs.31, 245,700.00 paid to Kenya Ferry Services**

According to a letter dated 29 April 2009, Ref No. MOT/C/SM/Vol.II (40) and titled 'Grant of Kshs.31,245,700.00 to Finance Procurement of New Engines for the Five Ferries' and signed by Mrs. P. B. Koech, (Mrs) EBS on behalf of the Permanent Secretary, the Managing Director of the Kenya Ferry Services, Mr. Musa Hassan Musa, was informed of the Ministry's intention to release to his Corporation a sum of Kshs.31,245,700 as Grant. Curiously, the sum was similar to the sum held in the Ministry's deposit account after merchants who failed to supply equipments were compelled by the KACC to return the money. The letter advised him to initiate the process of purchasing the five new engines that would replace the existing ones and in order to ensure standardization of vessels in the KFS establishment the replacement engines should be similar to those of the two new ferries being imported from Germany. *The Kshs.31,245,700.00 amounts was to be used to purchase equipments for the Shipping and Maritime Department as per the printed estimates.*

However, the Ministry eventually disbursed grants totaling to Kshs.98,246,700.00 to the KFS. The sum was accounted for in the books of the Ministry through payment voucher No. 127 dated 17 May 2010 and remitted through an Electronic Funds Transfer (EFT) transaction made on 4 June 2010. The disbursement amount was made up of a sum of Kshs.31,246,700 earmarked for procurement of the five (5) new ferry engines and Kshs.67,000,000 for purchase of ferries, construction of ramps and expansion of the existing jetties for use by new ferries procured by the KFS.

We have established that the revised(printed) estimates of the Ministry for the year 2009/2010 under the KFS provided for grants amounting to Kshs.490,000,000.00 to the Coporation. The grants were for the construction of ramps and expansion of the existing jetties for the new ferries (Kshs.242,000,000.00) and settlement of the final balance (Kshs.248,000,000.00) due on purchase of ferries.

The procurement of five new ferries as a grant payment was not included in the MOT 2009/2010 revised estimates for KFS. We therefore recommend that the Kenya Ferry Services be investigated by the Ethics and Anti-Corruption Commission and the CID on the receipt and accountability of these funds.

## ***Conclusions***

Arising from the findings of the audit, there is sufficient evidence to believe that fraud and irregularities were committed in relation to the sum of Kshs.31,245,700 ostensibly paid by the Ministry of Transport to the four merchants for purported supply of earthquake data measuring equipments. The evidence that we obtained during the audit indicates that the payments were not valid as they were either supported by fabricated documentation or none at all. Further, there is no evidence to show that the Ministry or the KMD received the equipments paid for. Therefore, we consider the payments to be nugatory expenditures that resulted in the theft of public funds.

The fraud was hatched between the 2006/07 – 2007/08 financial years, nurtured in 2008/09 – 2008/09 and finally executed in 2009/2010.

We have, in addition, confirmed that the sum of Kshs.31,245,700.00 returned to the Ministry of Transport by the two merchants whom the Ministry had paid in advance but who failed to deliver the goods due, and who were eventually compelled by the KACC to refund the money to the Ministry, was wrongfully accounted for in the books of the Ministry by being deposited in the statement of assets and deposits for funds and deposits instead of being surrendered to the Exchequer as Government financial regulations require. The sum was thereafter irregularly included in the Ministry's Supplementary Estimates for 2009/2010 and in the end fraudulently paid out to the four other merchants as highlighted above.

The audit has in addition confirmed that the sum of Kshs.31, 245,700 granted by the Ministry of Transport to the Kenya Ferry Services Company Limited to procure five (5) new ferry engines was irregularly paid from the MOT budget and misappropriated for the benefit of the company.

The KShs.31,245,700.00 expenditure reflected in the financial year 2009/2010-MOT Development Vote D14 audited financial statements is therefore questionable.