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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT– SIXTH SESSION

THE PUBLIC ACCOUNTS COMMITTEE

THE REPORT ON THE EXAMINATION OF THE REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS FOR THE NATIONAL GOVERNMENT

FOR THE FINANCIAL YEAR 2018/2019

VOLUME I

DIRECTORATE OF AUDIT, APPROPRIATIONS & OTHER SELECT COMMITTEES
THE NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
NAIROBI

MAY, 2022

List of Abbreviations

AGL	-	Above Ground Level
AIA	-	Appropriation-In-Aid
AIE	-	Authority to Incur Expenditure
ASCU	-	Agricultural Sector Coordinating Unit
ATC	-	Agricultural Training Centers
CBK	-	Central Bank of Kenya
CBS	-	Chief of the Order of the Burning Spear
CFS	-	Consolidated Fund Services
CoB	-	Controller of Budget
CoK	-	Constitution of Kenya
CPAIC	-	County Public Accounts and Investments Committee
CRBR	-	Counter Receipt Book Registers
CRJ	-	Chief Registrar of Judiciary
CSFC	-	Cereals and Sugar Finance Corporation
DCI	-	Director Criminal Investigations
DPP	-	Director of Public Prosecution
DYT	-	Department of Youth Training
EABL	-	East African Breweries Limited
EAC	-	East African Community
EACC	-	Ethics and Anti-Corruption Commission
FEPACI	-	Pan-African Federation of Film
GAA	-	Government Advertising Agency
GDP	-	Gross Domestic Product
GFS	-	Government Financial Statistics
GL	-	General Ledger
GSU	-	General Service Unit
ICDC	-	Industrial and Commercial Development Corporation
ICTA	-	Information and Communication Technology Authority
IDB	-	Industrial Development Bank
IDPs	-	Internally Displaced Persons
IFMIS	-	Integrated Financial Management Information System
IGRTC	-	Inter-Governmental Relations Technical Committee
IPSAS	-	International Public Sector Accounting Standards
JCF	-	Joint Consolidated Fund
JSC	-	Judicial Service Commission
KALRO	-	Kenya Agricultural and Livestock Research Organization
KCAA	-	Kenya Civil Aviation Authority
KCB	-	Kenya Commercial Bank
KCFNMS	-	Kenya Citizens and Foreign Nationals Management
KEMRI	-	Kenya Medical Research Institute
KEPSHA	-	Kenya Primary School Heads Association
KIMC	-	Kenya Institute of Mass Communication

KLLSF	-	Kenya Local Loans Support Fund
KPA	-	Kenya Ports Authority
KPLC	-	Kenya Power and Lighting Company
KPSTC	-	Kenya Police Service Training College
KPTC	-	Kenya Posts and Telecommunication Corporation
KRA	-	Kenya Revenue Authority
KTCIP	-	Kenya Transparency Communication Infrastructure Project
LPO	-	Local Purchase Order
MDAs	-	Ministries Departments and Agencies
MOE	-	Ministry of Education
MOHA	-	Ministry of Home Affairs
MOU	-	Memorandum of Understanding
MOYAS	-	Ministry of Youth Affairs and Sports
MTC	-	Ministerial Tender Committee
MTEF	-	Medium Term Expenditure Framework
NALM	-	National Assets and Liabilities Management
NCAJ	-	National Council for Administration of Justice
NCCC	-	National Consultative Coordination Committee
NCLR	-	National Council for Law Reporting
NCPB	-	National Cereals and Produce Board
NDMA	-	National Disaster Management Authority
NHIF	-	National Hospital Insurance Fund
NOCK	-	National Oil Company of Kenya
NOFBI	-	National Optic Fiber Backbone Infrastructure
NPS	-	National Police Service
NPSC	-	National Police Service Commission
OAG	-	Office of the Auditor-General
OOP	-	Office of the President
PAC	-	Public Accounts Committee
PA-K	-	President's Award Kenya
PAYE	-	Pay As You Earn
PIC	-	Public Investments Committee
PFM	-	Public Finance Management Act
PIN	-	Personal Identification Number
PMG	-	Paymaster General
PMIS	-	Pension Information Management System
PSASB	-	Public Sector Accounting Standard Board
PSSSA	-	Public Service Superannuation Scheme Act
RDU	-	Rapid Deployment Unit
SAGAs	-	Semi-Autonomous Government Agencies
SCAC	-	State Corporation Advisory Committee
SFAC	-	Special Funds Accounts Committee
SRC	-	Salaries and Remuneration Commission
TMEA	-	Trade Mark East Africa

UNDP	-	United Nations Development Programme
UNHCR	-	United Nations High Commissioner for Refugees
UNICEF	-	United Nations Children's Fund
USAID	-	United States Agency for International Development
VGA	-	Volunteer Graduate Assistants
VAT	-	Value Added Tax
YEDF	-	Youth Enterprise Development Fund

CHAIRPERSON'S FOREWORD

Honourable Speaker, on behalf of the Public Accounts Committee (PAC), and pursuant to Standing Order 199, I wish to present to the House the report of the Committee on the audited financial statements of Ministries, State Departments, Commissions and Independent Offices for financial year 2018/2019.

The National Assembly exercises oversight over national revenue and its expenditure pursuant to Article 95(4) (c) of the Constitution through PAC which, in turn, derives its mandate from Article 124 (1) of the Constitution and Standing Order 205 of the National Assembly Standing Orders. It's instructive that Article 229 (8) of the Constitution requires Parliament, within three months after receiving an audit report, to debate and consider the report and take appropriate action. Further, Article 203(3) of the Constitution provides that the equitable share of the revenue raised nationally and allocated to the National Government and County Governments is to be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.

Honourable Speaker, the tabling of this report is a demonstration of the Committee's purposefulness in the discharge of its duty and unwavering commitment and fidelity to its constitutional mandate.

The Committee held a total of 115 sittings, under the unique circumstances occasioned by the COVID-19 pandemic, during which it received both written and oral evidence from Accounting Officers on audit queries raised by the Auditor-General. Minutes of the Committee's meetings are annexed to this report.

Honourable Speaker, I wish to commend, once again and most sincerely, all the Accounting Officers whose financial statements received unqualified opinion from the Auditor-General. The Committee remains forever grateful to them for their diligence. I encourage all other Accounting Officers to emulate these worthy examples.

In this report, the Committee has continued to hold individual officers to account for their various acts of omission and/or commission that occasioned either loss or illegal application of public funds. In a number of instances, the Committee has recommended specific follow-up actions, including further investigations by the relevant investigative agencies. It is my hope that these recommendations will be implemented within the shortest time possible by all those who are concerned and that, in the final analysis, public interest will continue to be safeguarded.

In conclusion, Honourable Speaker, I wish to register my appreciation to fellow Honourable Members of the Committee, the Offices of the Speaker and the Clerk of the National Assembly and the Parliamentary Liaison Offices of the Auditor-General and the National Treasury for facilitating the work of the Committee and making the production of this report possible. Special appreciation goes to the Directorate of Audit, Appropriations & Other Select Committees and, in particular, members of the Committee Secretariat for their commitment and devotion to duty.

Honourable Speaker, on behalf of the Public Accounts Committee, I now wish to table the report and urge the House to adopt it and the recommendations therein.

HON. JAMES OPIYO WANDAYI, CBS, MP

1. INTRODUCTION

1.1 Establishment of the Public Accounts Committee

1) The Public Accounts Committee (PAC) of the Twelfth Parliament was established on Monday, 18th December 2017, pursuant to Article 124 of the Constitution and the National Assembly Standing Order 205.

1.2 Mandate of the Committee

2) PAC is mandated under Standing Order 205 (2) of the National Assembly Standing Orders to examine the accounts showing the appropriations of the sum voted by the House to meet the public expenditure and of such other accounts laid before the House as the committee may deem fit.

3) The Committee oversights the expenditure of public funds by ministries, state departments, commissions and independent offices, to ensure value for money and adherence to government financial regulations and procedures. The Committee executes its mandate on the basis of annual and special audit reports prepared by the Office of the Auditor General.

1.3 Guiding Principles

4) In the execution of its mandate afore-stated, PAC is guided by core constitutional and statutory principles on public finance management, as well as established customs, traditions, practices and usages. These principles include:

a) Constitutional Principles on Public Finance

5) Article 201 provides for the fundamental principles that "…shall guide all aspects of public finance in the Republic…" These principles are, inter alia:-

201(a) there shall be openness and accountability, including public participation in financial matters;
201(d) public money shall be used in a prudent and responsible way; and
201(e) financial management shall be responsible, and fiscal reporting shall be clear.

6) PAC places a premium on these principles, among others, and has been guided by them in the entire process that has culminated into this report.

b) Direct Personal Liability

7) Article 226(5) of the Constitution is emphatic that "If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not''.

8) PAC has relied on this constitutional provision as the basis for holding each individual Accounting Officers and other Public Officers directly and personally liable for any loss of public funds under their watch. The Committee has and will continue to invoke this provision in its recommendations to hold those responsible personally accountable. It is envisaged that it will serve as a deterrent measure.

c) Obligations of Accounting Officers

9) Section 68 (1) of the Public Finance Management Act, 2012 provides, inter alia, that: "An Accounting Officer for a National Government entity, Parliamentary Service Commission and the Judiciary shall be accountable to the National Assembly for ensuring that the resources of the respective entity for which he or she is the Accounting Officer are used in a way that is lawful and authorized, and effective, efficient, economical and transparent."

10) This provision obligates all Accounting Officers to appear before the Public Accounts Committee of the National Assembly to respond to audit queries in their respective ministries/state departments or agencies.

11) And section 74 (2) of the same PFM Act stipulates that: "If a Cabinet Secretary reasonably believes that an Accounting Officer is engaging in or has engaged in improper conduct within the meaning of subsection (4), the Cabinet Secretary shall take such measures as may be provided in regulations; or refer the matter to the relevant office or body in terms of the statutory and other conditions of appointment or employment applicable to that Accounting Officer."

12) This section empowers the appointing authority to discipline errant Accounting Officers, which could include revoking their appointment. This provision has sealed a long-standing loophole that has previously seen Accounting Officers continuously commit or preside over fiscal indiscipline and malpractice in their ministries, departments and agencies.

13) PAC strongly holds the view that these provisions of the law were intended to be fully deployed to give effect to the high principles in Article 201 of the Constitution stated hereinabove, to ensure prudent and responsible use of public funds.

1.4 Committee Membership

14) The Committee is comprised of the following Members

Hon. James Opiyo Wandayi, CBS, MP, Chairperson
Ugunja Constituency
Orange Democratic Movement Party

Hon. Jessica Nduku Kiko Mbalu, CBS, MP, Vice- Chairperson
Kibwezi East Constituency
Wiper Democratic Movement Kenya Party

Members

Hon. Junet Mohammed Nuh, CBS, MP
Suna East Constituency
Orange Democratic Movement Party

Hon. Maj. (Rtd.) (Dr.) Eseli Simiyu, MP
Tongaren Constituency
Ford- Kenya Party

Hon. Aden Bare Duale, EGH, MP
Garissa Town Constituency
Jubilee Party

Hon. Christopher Nakuleu Doye
TurkanaNorth Constituency
Jubilee Party

Hon. Justus Gesito Mugali M'mbaya, MP
Shinyalu Constituency
Orange Democratic Movement Party

Hon. John K. Waluke, MP
Sirisia Constituency
Jubilee Party

Hon. (Dr.) Otiende Amollo, EBS, SC, MP
Rarieda Constituency
Orange Democratic Movement Party

Hon. Michael Mwangi Muchira, MP
Ol Jororok Constituency
Jubilee Party

Hon. (Dr.) Wilberforce Ojiambo Oundo, MP
Funyula Constituency
Orange Democratic Movement Party

Hon. (Dr.) Eve Akinyi Obara, MP
Kabondo Kasipul Constituency
Orange Democratic Movement Party

Hon. Peter Francis Masara, MP
Suna West Constituency
Independent Member

Hon. Michael Thoyah Kingi, MP
Magarini Constituency
Orange Democratic Movement Party

Hon. James Gichuhi Mwangi, MP
Tetu Constituency
Jubilee Party

Hon. Samuel Kinuthia Gachobe, MP
Subukia Constituency
Jubilee Party

Hon. (Eng.) Joseph Ngugi Nduuati, MP
Gatanga Constituency
Jubilee Party

Hon. Maj. (Rtd) Bashir Sheikh Abdullahi, MP
Mandera North Constituency
Jubilee Party

Hon. Amina Gedow Hassan, MP
Mandera County
Economic Forum Party

1.5 Committee Secretariat

Oscar Namulanda	- Principal Clerk Assistant I (Lead Clerk)
CPA Joash Kosiba	- Senior Fiscal Analyst
Salat Abdi Ali	- Senior Serjeant At Arms
Nebert Ikai	- Clerk Assistant II
Ms. Brigitta mati	- Legal Counsel II
Dennis Mawira	- Audio Officer

2. GENERAL OBSERVATIONS AND RECOMMENDATIONS

3.0 Introduction

15) The Committee made general observations, findings, and recommendations from the proceedings, evidence tendered and selected project inspected relating to the report of the Auditor-General on the financial statements for Ministries, State Departments, Commissions, and Independent Offices for the financial year ended June 30, 2019.

16) Accounting Officers for the various Ministries, Departments and Agencies (MDAs), Judiciary, Parliament, Constitutional Commissions, and Independent Offices are required to monitor, evaluate and oversee the management of public finances in their respective entities. Section 66 of the Public Finance Management (PFM) Act 2012 mandates the Accounting Officers to ensure proper management and control of and accounting for their finances to promote the efficient and effective use of budgetary resources.

17) The Committee made the following general observations on the implementation of the approved budget for the financial year 2018/2019:-

4.0 Low Spending or Failure to Spend the Approved Budget

18) The gross estimated government expenditure has increased over the last five years from Kshs.2,099,370,186,391 in the year 2014/2015 to Kshs.3,106,405,817,692 in the year 2018/2019 representing an increase of Kshs.1,007,035,631,301 or approximately 48 percent over the five financial years 2014/2015 to 2018/2019. Similarly, the actual gross expenditure has increased over the years from Kshs.1,906,841,500,924 in the year 2014/2015 to Kshs.2,911,690,013,343 in the year 2018/2019, representing an increase of Kshs.1,004,848,512,419 or approximately 53 percent over the period.

19) The Auditor-General observed that the national government has not been utilizing the approved budget 100 percent. The national government's Ministries, Departments & Agencies (MDAs) have not been able to use approximately between six percent and eleven percent of the approved gross estimated expenditure.

Table 2.1: Summary of the Trends of budget usage in the period FY 2014/2015- 2018/2019 in Kenya Shillings

Year	Gross Estimated Expenditure	Actual Gross Expenditure	Unspent Approved Budget	Percentage not spent
2014/2015	2,099,370,186,391	1,906,841,500,924	192,528,685,467	9%
2015/2016	2,253,494,806,467	1,999,174,760,912	254,320,045,555	11%
2016/2017	2,541,568,251,270	2,390,531,985,901	151,036,265,369	6%
2017/2018	2,690,233,829,942	2,419,275,195,751	270,958,634,191	10%
2018/2019	3,106,405,817,692	2,911,690,013,343	194,715,804,349	6%

Data Source: *The Kenya National Audit Office*

20) The failure to utilize fully the approved budgets for the MDAs denies the citizen the rights for public goods and service. The Committee observed that, on average, there was under-utilization of the approved budget by approximately 8.4 percent over the five years. In the FY 2018/19, only 94 percent of the approved gross estimated expenditure was spent, leaving Ksh. 194.72 billion unspent by various MDAs. As previously observed by the Committee, **the low utilization of the approved budget is attributable to the late approval of supplementary budget estimates by the National Assembly, unrealistic revenue projections by the National Treasury, and unmet revenue collection targets leading to non-release or delay in releases of exchequer.**

21) **The Committee recommends that:**

1) The Cabinet Secretary for the National Treasury and Planning should ensure that no supplementary budget estimates are submitted to Parliament later than two months before the close of the financial year; and

2) The House to fast-track the proposal by the Committee to amend Section 44 of the PFM Act 2012 to provide that all supplementary budget estimates are submitted to Parliament not later than two months (60 days) before the close of the financial year.

2.2 Statement on the Revenue Received and Audited for the period ending 30th June 2019

22) During the financial year 2018/2019, total revenue recorded under various revenue statements as received by the National Government amounted to Kshs.1,587,589,959,877 representing an increase of Kshs.173,895,117,642 or approximately 12 percent compared to Kshs. 1,413,694,842,235 realized in the financial year 2017/2018.

Table 2.2: Comparative Summary of Actual Revenue Receipts in Kenya Shillings

Details	Actual Receipts 2018/2019	Actual Receipts 2017/2018	Change in Revenue	percent Change
Recurrent	1,537,471,281,334	1,369,095,080,001	168,376,201,333	12 percent
Development	50,118,678,543	44,599,762,234	5,518,916,309	12 percent
Total	**1,587,589,959,877**	**1,413,694,842,235**	**173,895,117,642**	**12 percent**

Data Source: *The Kenya National Audit Office*

23) The total revenue of **Ksh. 1,587,589,959,877** composed of Ksh. 1,537,471,281,334 and Ksh. 50,118,678,543 relating to recurrent (ordinary revenue) and development revenue, respectively, as shown in Table 2.2. Further report by the Auditor-Generals shows that the actual Recurrent Revenue collected during the year reflected a shortfall of Kshs.54,585,464,809 or 3 percent while there was a shortfall of Development Revenue collected of Kshs.17,550,064,458 or 26 percent.

24) **The Committee recommends that:**

The total nationally collected revenue amount of Ksh. 1,587,589,959,877 forms the basis of sharing of revenue between the national and county governments as contemplated in Article 203 (3) of the Constitution.

2.3 Inadequate Funding of the Office of the Auditor-General

25) Article 229 (7) of the Constitution requires the Auditor-General to audit and submit reports to Parliament or the relevant County Assembly within six (6) months after the end of the financial year. However, Section 81(4) of the Public Finance Management Act, 2012, reduces the timeline to three (3) months by giving entities leeway up to the end of September to prepare and submit financial statements for audit. The shortened duration for the audit cycle, inadequate funding and delays in disbursement of funds by the National Treasury adversely affect the scope of audit in terms of coverage and comprehensiveness.

26) The Office of the Auditor-General resource requirement for the financial year 2016/2017 to FY 2019/2020 was Ksh.35.1billion. However, the National Assembly approved a total of Kshs. 21.2billion representing a shortfall of Ksh. 13.9billion during the four year period.

Table 2.3: Summary of Resource Requirements vis-a-vis Budget Allocation and spending by the Office of the Auditor-General for the period FY 2016/17 to 2019/20 in Kenya Shillings Billions

Description	**2016-17**	**2017-18**	**2018-19**	**2019-20**
Requirement	8.253	8.722	9.206	8.88
Budget Allocation	4.428	5.296	5.968	5.505
Budget Shortfall	**3.825**	**3.426**	**3.238**	**3.375**
Actual Expenditure	4.311	4.735	5.783	5.425
Absorption Rate	97%	89%	97%	99%

Data Source: *Office of the Auditor-General*

27) Analysis of the resource requirements vis-a-vis the allocation by the National Treasury and approval by the National Assembly shows that on average, the Office of the Auditor-General received approximately 60 percent of its resource requirement. Further analysis of the resource requirements by the Office of the Auditor-Generals shows that the Office requires approximately 0.5 percent of all revenue collected by the national government.

28) **The Committee recommends that:**
   1) **The annual budget allocation to the Office of the Auditor-General shall not be less than one half per cent of all the revenue collected by the national government each year calculated based on the most recent audited accounts of revenue received, as approved by the National Assembly.**
   2) **Amendment of Section 20 of the Public Audit Act, 2015 by introducing a new sub-Section 3 to provide that *"in reviewing of the budget estimates submitted under sub-section (2), the Cabinet Secretary responsible for Finance shall ensure that the allocation to the Office of the Auditor-General is not less than one-half percent of all the revenue collected by the national government each year calculated based on the most recent audited accounts of revenue received, as approved by the National Assembly".***

2.4 Lack of Follow-Up Mechanisms on Implementation of Recommendations

29) The Auditor-General and indeed the Committee has continuously raised concerns on lack of an effective mechanism for follow up on implementation of audit recommendations leading recurrence of most audit queries in subsequent audit reports. Section 204(1) (g) of the Public Finance Management Act, 2012 provides that the Cabinet Secretary for the National Treasury may apply sanctions to a national government entity that fails to address issues raised by the Auditor-General and recommendation by PAC, to the satisfaction of the Auditor-General.

30) The Committee notes with lots of concern the lack of requisite sanctions by the Cabinet Secretary for the National Treasury that has led to perennial failure by some Accounting Officers to account adequately for the management and use of public resources. This inaction by the Cabinet Secretary has also led to fiscal indiscipline including misallocations, wastage of resources and lack of value for money in implementation of projects, thereby affecting development programmes in various entities, threatening quality and sustainability of service delivery to citizens.

31) **The Committee recommends that:**
The Parliamentary Service Commission establishes a specialized audit oversight Department at the Parliamentary Budget Office (PBO) to provide technical backstopping on all audit matters to the watchdog Committees of Parliament and collaborate with the Auditor-General in following up on implementation of audit recommendations and Parliament resolutions on all audit matters.

2.5 Breach of Fiscal Responsibility Principles on Development Expenditures

32) The National Treasury is the custodian of the principles of public finance as espoused in Article 201 of the Constitution and mandated to enforce the fiscal responsibility principles in Section 15 of the Public Finance Management Act, 2012. However, as reported in our previous report, the National Treasury has consistently breached Section 15(2) (a) of the Public Finance Management Act, 2012 that requires that, over the medium term a minimum of thirty percent (30%) of the national and county government budget shall be allocated to the development expenditure.

33) The National Assembly has superintended the violation of the law by failing to ensure that the budget approved for development expenditure meets the required threshold of thirty percent (30%) as shown in table 2.4.

Table 2.4: Summary of the Approved Budget Estimates for the FY 2018/2019 in Kenya Shillings

Description	**Gross Estimated**	**AIA**	**Approved Net**	**Ratio**
Recurrent Votes	1,144,029,478,667	152,967,524,003	991,061,954,664	42%
Development Votes	650,502,676,596	273,749,737,054	376,752,939,542	24%
Consolidated Fund Services	935,392,278,232	-	935,392,278,232	34%
Total for National Government	**2,729,924,433,495**	**426,717,261,057**	**2,303,207,172,438**	**100%**

Data Source*: The Kenya National Audit Office*

34) The Cabinet Secretary for the National Treasury charged with the mandate of overseeing budget implementation at the national level as per Section 36 (1) of the Public Finance Management Act, 2012 has consistently failed to ensure that development budget implementation meets the required minimum of thirty percent (30%). Our examination of the financial statements for the year 2018/2019 for the national government shows total actual expenditure of Kshs.2,569,134,104,494 which comprised Kshs.1,097,163,147,740 or 43 percent for Recurrent Votes, Kshs.572,359,939,613 or 22 percent for Development Votes and Kshs.899,611,017,141 or 35 percent for Consolidated Fund Services (mainly repayment of principal debts and servicing interest).

35) **The Committee recommends that:**
The Cabinet Secretary for the National Treasury be reprimanded for failure to enforce the fiscal responsibility principles in Section 15 (2) that requires the development budget meets the required minimum of thirty percent (30 percent).

2.6 The Management of the Growing Public Debt

36) According to the Auditor-General, outstanding amount of public debt increased over the years from Kshs.2,674,806,364,195 reported in the year 2014/2015 to Kshs.5,451,153,803,416 reported in the year 2018/2019. This represents an increase of Kshs. 2,776,347,439,221 or approximately 104 percent over the five (5) years. Further, the expenditure on public debt has increased from Kshs. 418,156,528,347 reported in 2014/2015 to Kshs. 827,036,163,185 incurred in 2018/2019 financial year.

37) According to the National Treasury, the overall National Government external debt stock increased by Kshs. 65.09 billion from Kshs. 4,109.28 billion in November 2021 to Kshs. 4,174.37 billion (33.7 per cent of GDP), equivalent to USD 36.90 billion as at December 31, 2021. In the month of December 2021, Debt owed to bilateral creditors increased by Kshs. 8.21billion from Kshs. 1,086.68billion while multilateral debt increased by Kshs. 54.56 billion from Kshs 1,727.52 billion. Commercial debt increased by Kshs. 2.32 billion from Kshs. 1,133.34 billion during the same period. Publicly guaranteed external debt marginally decreased from Kshs. 161.74 billion in November 2021 to Kshs. 161.73 billion in December 2021.

38) The Committee observed that the country's public debt register and records were still poorly maintained and no one can clearly tell the exact amount of total outstanding public debt. The Auditor-General continues to raise various issues pertaining to the maintenance of the public debt records. The issues include lack of comprehensive maintenance of loan registers, variances between figures reflected in the loan registers, other supporting schedules and the financial statements, and unsupported prior years' adjustments.

39) **The Committee reiterates its previous recommendations that:**
1) **The National Assembly fast-track the amendment to Section 64 (2) of the PFM Act 2012 to obligate the National Treasury to prepare, publish and publicize an up-to-date national debt register every quarter of the financial year;**
2) **The National Assembly prioritize an amendment to Section 50 of the PFM Act 2012 by providing that any borrowing by the national government for a project to the tune of Ksh. 1 billion and above should be approved by the National Assembly before the loan contracts are signed by the government; and**

3) **The Cabinet Secretary for the National Treasury should within three (3) months of tabling and adoption of this report, form a national task force on public debt and engage an independent audit consultant to audit the national debt register and report to Parliament within three (3) months.**

2.7 The Runaway Pending Bills

40) The Ministries, Department and Agencies (MDAs) failed to settle the total reported pending bills of Kshs. 127,398,047,997 during the financial year 2018/2019 and but were instead carried forward to the FY 2019/2020. The pending bills balance comprises of Kshs.80,477,945,730 and Kshs.46,920,102,267 reported under Ministries, Department and Agencies (MDAs) and Donor Funded Projects. The reported pending bills for Ministries, Department and Agencies (MDAs) for the year ended 30 June, 2019 increased drastically by 73 percent to Kshs.80,477,945,730 from the previous years' reported amount of Kshs.46,529,173,323. This is the highest amount of pending bills reported in the five-year period for the financial years 2014/2015 to 2018/2019.

41) The MDAs that failed to settle pending bills during the year included the Ministry of Health, Kshs. 41.9 billion; State Department of Devolution, Kshs. 6.74 billion; State Department for Correctional Services, Kshs. 6.28 billion; State Department for Interior, Kshs. 4.37 billion; Independent Electoral and Boundaries Commission (IEBC), Kshs. 4.3 billion; and, State Department for Crop Development, Kshs 4.1bilion. Others are State Department for Regional and Northern Corridor Development, Kshs. 2.45 billion; State Department for Youth, Kshs. 1.9billion; the Parliamentary Service Commission, Kshs. 1.1 billion; and, the Judiciary, Kshs. 858million.

42) The Committee observed that some Accounting Officers did not settle the bills promptly despite availability of funds or selectively settled some bills in breach of Section 74(4) of the Public Finance Management Act, 2012. As per the law, an Accounting Officer engages in improper conduct in relation to a national government entity if the officer fails, without reasonable excuse, to pay eligible and approved bills promptly. Further, some Accounting Officers attributed the failure to settle some of the bills to inadequate Exchequer releases and lack of vital supporting documents such as purchase orders, delivery notes, and inspection and acceptance certificates, among others.

43) The Committee notes with a lot of concern that the runaway pending bills continues to put pressure on the fiscal space with some of these bills attracting penalties thereby putting more strain on the available scarce government resources. The delays by the government to settle bills exposes the government as a risky buyer and deepens the difficult financial situation of the suppliers of goods, and services to public entities, particularly the MSMEs and Small Medium Enterprises (SMEs).

44) **The Committee recommends that:**

1) **The House reprimands all the Accounting Officers who neglected their duties by failing to settle bills in time despite availability of funds or selectively settled some bills in breach of Section 74(4) of the Public Finance Management Act, 2012;**

2) **An amendment of section 38(1) (b) of the PFM Act, 2012 to include a list of all pending bills by vote and the justification for the delay in settlement of the bill thereby forming a first charge in the budget for subsequent financial year;**
3) **The 12th Parliament finalizes the enactment of the Prompt Payment Bill, 2020, a legacy Bill that provides for prompt payment for the supply of goods, works, or services to the government.**

2.8 Delayed Completion of and Stalled/Incomplete Projects

45) The project management continues to pose fiscal risks for various government entities. The government incurs additional expenditures on projects that are either stalled or incomplete long after their completion dates have elapsed. Delays in project completion has led to penalties due to delays in payment of completion certificates, projects costs escalations to amounts higher than the original contract sum, and in some instances, government paying for projects that are completely stalled, casting doubt on value for money.

46) The government incurred a total of Kshs. 9.5 billion on stalled and incomplete projects during FY 2018/2019. The entities that continued to spend public funds on stalled and incomplete projects included the Judiciary - Kshs. 3.5billion payment for delayed completion of thirty-nine courts. State Department for Regional and Northern Corridor Development paid Kshs. 3.7 billion as an advance payment for Kimwarer Multipurpose Dam Development Project and Sigor Wei Wei Project.

47) State Department of Public Works paid Kshs. 802 million for several incomplete projects including Voi Pool Housing, Construction of Mathare Nyayo Hospital, Proposed Headquarters of Nyandarua County at Ol-Kalaou, and the incomplete Nyanza Headquarters Building in Kisumu. The expenditure incurred for the stalled projects translates to ineffective use of public resources, as the projects are not achieving their intended purposes and value to the taxpayers.

48) **The Committee recommends that:**
1) **The Cabinet Secretary for the National Treasury and Planning should ensure that MDAs with stalled/incomplete projects do not initiate any new project until the completion of the on-going projects. Further, the respective Departmental Committees of the National Assembly should ensure that stalled/incomplete projects with no legal objections are given priority during budget appropriation; and**
2) **The relevant government entity liaise with the investigatory body and the Judiciary for timely conclusion of any investigation and/or cases to allow any public project stalled due to an on-going investigation or a court case to continue expeditiously.**

2.9 The Managed Equipment Services (MES) Scheme

49) On February 6, 2015, the Ministry of Health entered into agreements with five (5) medical contractors for lease of medical equipment to ninety-eight (98) hospitals across the forty-seven (47) counties under the Government Managed Equipment Services (MES) Scheme. The Ministry of Health later on increased the number of hospitals covered under the

contracts by 24 additional hospitals. However, the Auditor-General found out that no needs assessment report which informed the decision to lease additional equipment for the twenty-four (24) hospitals was availed for audit verification. Further, the team from the Auditor-General's Office undertook a physical verification exercise in January 2020. The team found out that some of the equipment is lying idle and was not in use in some hospitals in select eight counties. The Committee observed that the MES contracts including late variations of contracts done in August 2018 is set to lapse in June 2022. The Ministry has constituted a taskforce for the extension of the contract.

50) On October 2, 2017, the Ministry entered into a contract with an ICT firm for provision of health care information technology (HCIT) solutions for the Managed Equipment Service Project (MES) Scheme at a contract sum of Kshs.4.9 billion. The project was to take five (5) years commencing on the contract date and was to cover ninety-eight (98) hospitals under the Government's Managed Service (MES) plan. Although the project had not commenced as at June 30, 2019, the Ministry vide letter dated November 18, 2019, terminated the contract without notice thereby exposing the Government to the risk of litigation and damages. The Committee observed that the contractor has taken the government to court.

51) **The Committee recommends that:**

1) **The Auditor-General undertake a comprehensive performance audit as per Section 36(2) of the Public Audit Act, 2015 within three months after the end of the MES contracts in June 2022. The purpose of the audit is to evaluate whether the citizens have got value for money in the MES project and submit the report to the National Assembly, promptly.**
2) **The Accounting Officer must ensure that the Taskforce appointed to look into extension of the MES contract, renegotiates the terms including ensuring those counties that did not utilize the equipment are compensated with additional duration at no extra cost. Further, the variations of contracts signed in August 2018 do not lapse with the main contract in June 2022; and**
3) **In view of the fact that the contract for Health Care Information Technology (HCIT) solutions for the Managed Equipment Service Project falls is subject of a Court process and, therefore, within the purview of National Assembly Standing Order Number 89, the Accounting Officer should, within three months after the tabling and adoption of this report, submit a brief on the status of the Court case to the National Assembly.**

3. THE NATIONAL TREASURY

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1071

Dr. Julius Muia, PhD, CBS, the Principal Secretary and Accounting Officer for the National Treasury (Vote 1071), appeared before the Committee on 19th July, 2021 and 20th July 2021 to adduce evidence on the audited financial statement for the National Treasury (Vote 1071) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. Bernard Ndungu - Director General Accounting Services & Quality Assurance
2. Mr. James Kimathi Mugambi - Senior Chief Finance Officer
3. Mr. Michael A. Kagika - Secretary/Director of Pension
4. Mr. Nemwel Motanya - Head of Accounting Unit
5. M. John Wala - Director Accounting Services
6. Mr. Francis Amuyanzu - Deputy Accountant General
7. Mr. Kennedy Ondieki – Director Government Investment Public Enterprise

The Accounting Officer submitted as follows:

1. Variance Between Financial Statements and IFMIS Balances

52) The financial statements and the IFMIS trial balance presented in their support had variances. Further, the reported accounts payable balance of Kshs.80,200,064 includes returned payments under the development vote of Kshs.6,913,831. This differs from the IFMIS report balances of Kshs.8,085,150 resulting in an unexplained variance of Kshs.1,171,319.

Submission by the Accounting Officer

53) The variances have been reconciled and the two statements` figures agree as per the table here below except Bank balance and Accounts Payable which reconciliation is on-going.

Component	Financial Statements Balance in Kshs.	IFMIS Balance in Kshs.	Variance in Kshs.
Bank Balances	2,248,780,788	116,580,445,030	(114,331,664,242)
Cash Balance	1,020,917	1,020,917	Nil
Accounts Receivables	899,585,508	899,585,508	Nil
Accounts Payables	80,200,064	173,301,104,441	(173,220,904,377)
Fund Balance B/F	2,056,688,154	2,056,688,154	NIL
Prior Year Adjustments	(32,282,003)	(32,282,003)	Nil

54) The remaining components of Bank balances and Accounts payables are being reconciled.

55) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer is yet to reconcile the Accounts Payable and the Fund Balance brought forward components of the Financial Statements;

(ii) The Committee also observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012; and

56) **Committee Recommendation**

The Committee therefore recommends that:

i) The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

(i) The Committee reprimands the Accounting Officer for violation of the provisions of Article 229 (4)(h) of the Constitution and Section 81(4)(a) of the Public Finance Management Act 2012.

2. Compensation to Employees

57) As disclosed under Note 5 to the financial statements, the statement of receipts and payments reflects compensation to employees of Kshs.2,524,328,336;(2018-Kshs.2,308,812,613). However, the Integrated Financial Management Information System - IFMIS payroll report in support of the balance reflects an amount of Kshs.2,275,019,969 resulting to an unexplained variance of Kshs.249,308,367. Similarly, payment vouchers supporting the expenditure on compensation to employees reflects an amount of Kshs.2,287,104,986 resulting to a variance of Kshs.237,223,350. The variances between the three (3) sets of records have not been reconciled.

Submission by the Accounting Officer

58) The Accounting Officer submitted that the differences in the expenditure for the compensation of employees amounting to Kshs.12,085,017.35 are arising from the fact that the Integrated Payroll and Personnel Database - IPPD system is not able to export data with respect of officers with 11-digit personal numbers. IPPD system was initially configured to take on board 10-digit personal number. The 11-digit personal number is a new development under the Unified Personal Numbers (UPN) policy launched in February 2020 by the State department for Public Service Management. It is applying to the officers who joined the service from the county government. Based on this observation, the matter has been brought to the attention of the IPPD core team for synchronization in the system.

59) The Statement of Receipts and Payment reflected an amount of Kshs.2,524,328,336.00 utilized on compensation of employees, while IFMIS system/payroll reflected a total of Kshs.2,275,019,969.05 thereby giving a variance of Kshs.249,308,366.95. Our records` actual difference between the amount in the Statement of Receipts and Payment and the payrolls payment vouchers as Kshs.237,223,349.60.

60) The difference of Kshs.237,223,349.60 is the component of other Personnel Emolument payments (reimbursements of personnel emoluments to KRA, CBK and other entities for officers seconded to National Treasury) which were prepared and processed outside IPPD payroll but paid through IFMIS during the F/Y 2018/2019. The analysis and copies of IFMIS invoices and Journal Entries supporting the difference were provided for perusal by the Committee.

61) **The Committee observations and Findings**

(i) The Committee observed that the variances between the IFMIS and IPPD systems was occasioned by failure of the IPPD System to capture data for seconded employees with personal numbers reading more than 10 digits; and

(ii) The Committee also observed and found that the explanation and documents given by the Accounting Officer with regard to Compensation to Employees was satisfactory;

62) **Committee Recommendations**

1) **Within three (3) months upon adoption of this report, the Accounting Officer for the National Treasury should follow-up and ensure the system is configured to accommodate personal emoluments expenditures being incurred outside the system.**
2) **The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution**

3. Budgetary Control and Performance

63) The summary statement of appropriation- recurrent and development combined reflects final receipts budget and actual on comparative basis of Kshs.64,865,387,441 and Kshs.56,209,005,073 respectively resulting to an underfunding of Kshs.8,656,382,368 or 13% of the approved budget. Of the underfunding, Kshs.6,508,245,168 and Kshs.2,148,137,200 relate to recurrent and development votes respectively. Further, of the realized budget receipts of Kshs.56,209,005,073 only Kshs.55,164,224,075 was absorbed resulting to an under absorption of Kshs.1,044,780,998.

64) The underfunding and failure to absorb the realized receipts affected the planned activities and projects, which may have affected negatively on service delivery for the citizens.

Submission by the Accounting Officer

65) The Accounting Officer submitted that the National Treasury had an overall performance where the Recurrent and Development Votes combined reflects final receipts budget and actual on comparative basis of Kshs.64,865,387,441/- and Kshs.56,209,005,073/- respectively resulting to an underfunding of Kshs.8,656,382,368/-(13%) of the approved budget. The underfunding of Kshs.6,508,245,168/- and Kshs.2,148,137,200/- relates to recurrent and development votes respectively. Further out of the budget receipts of Kshs.56,209,005,073/- only Kshs.55,164,224,075/- was absorbed resulting to an under absorption of Kshs.1,044,780,998/-.

66) The underfunding was attributed to:

i. Lack of exchequer
ii. Additional funds that were factored in Supplementary Estimates II that was approved by Parliament in late June 2019 and which could not be utilized by 30th June 2019, the closure of financial year under review.
iii. Allocation of Equalization Fund that was not utilized due to lack of Implementing Policy.
iv. The under absorption of Ksh.1,004,780,998 was due to delays in procurement by KEMSA.
v. Late disbursements of funds by development partners.

The Committee observations and Findings

67) The Committee observed and found that:

(i) The explanation and documents given by the Accounting Officer with regard to budget control and performance was satisfactory;
(ii) Under absorption was as a result of late approval of supplementary budget II in June 2019; and
(iii) UParliament has since approved the PFM (Equalization Fund Administration) Regulations, 2021 to aid disbursement of the Equalization Fund.

Committee Recommendations

68) The Committee therefore recommends that:

1) **Section 44 of the PFM Act 2012 be amended to provide that all supplementary budget estimates are submitted to Parliament not later than two months (60 days) before the close of the financial year.**
2) **The total allocation to the Equalization Fund as of financial year (FY) 2019/20 stood at Kshs.12.4billion against the Constitutional entitlement to the Fund of Kshs.34.6billion represents a shortfall in the allocation of Kshs.22.2billion. The Cabinet Secretary for the National Treasury ensure that the all the entitlement to the Fund are disbursed without any further delay.**

4. Pending Bills

69) Note 18.1 to the financial statements reflects pending bills amounting to Kshs.241,957,497; (2018-Kshs. 563,474,303). The balance comprises of opening balance

of Kshs.2,035,366 and bills incurred during the year of Kshs.239,922,131. Failure to settle bills during the year in which they relate to adversely affects the provisions of the subsequent year to which they have to be charged**.**

Submission by the Accounting Officer

70) The Accounting Officer submitted that The Financial Statements on pending accounts payable reflects pending bills for supply of services amounting to Kshs.241,957,496.85/- as at 30th June 2018. The figure refers to the payments relating to leasing of vehicles that were processed but due to lack of exchequer issues, they were not paid. The amount also includes invoices from suppliers that were received late but did not have supporting documents such as demands notes (invoices), requisitions and approvals for services, delivery notes, LSO's, LPOs, S11 and S13 among others. A team of Internal Auditors verified and recommended them for payments and all were paid as they formed first charge of FY 2019/20 budget. The auditor confirmed the payment**.**

71) **The Committee observations and Findings**

The Committee observed and found that the pending bills formed the first charge of the financial year 2019/2020 and were therefore cleared.

72) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

5. Contracts for Renovation of the Treasury Building, Bima and Herufi House

73) The National Treasury entered into a contract for rehabilitation, plumbing, drainage and sanitary appliances, amongst others, at the Treasury Building, Bima and Herufi Houses following tendering during the 2016/2017 financial year vide tender number TNT/012/2015-2016. The contract was awarded for a sum of Kshs.88,956,951 with the contractor taking possession of the site on 5 April, 2017. As at December, 2018 and more than one and half years later, no significant progress had been made due a number of reasons, amongst them, theg need for the contractor to undertake additional works. This occasioned an additional contract to be awarded to the same contractor using direct procurement method.

74) As at 22 May 2019 two (2) years into the contract and after its expiry, progress was at 4.17% of the total contract works. The contractor has subsequently been granted multiple extension of time contracts but had not completed the renovation works as at the time of the audit. Available information indicates that three (3) other contracts were subsequently awarded to other contractors with total value of Kshs.90,644,783 and which are related to some of the works under the above initial contract. This could be indicative of duplicate awards. No explanation has been given on the subsequent awards and actions being taken against the first contractor to fully discharge the contract as per the contract terms. Under the circumstances, it has not been possible to confirm if value for money will be realized from the four contracts valued at Kshs.179,621,734.00.

Submission by the Accounting Officer

75) The Accounting Officer submitted that on expiry of the contract period, the same was extended from 6th April, 2019 to 5th November, 2019 and thereafter extended to 30th September, 2020 at no-cost under the same terms and conditions of contract, to enable the Contractor to complete the works. The Accounting Officer vide memo ZZ MOF/307/03/02/B Part ‘A’ (23) dated 4th October, 2018 granted approval to utilize Kshs.12,313,690.00 from the contingency sum for the additional works in the washrooms which had not been factored in the original contract. M/s Vanguard Engineering Limited was engaged through direct procurement for the works. The National Treasury became concerned due to delays by the contractor to complete works.

76) The Negotiations Committee was appointed vide memo Ref: TNT/034/2018-2019 (41) and TNT/034/2018-2019 (42) dated 18th July, 2019 to negotiate with the contractor with a view to complete the works on the demolished toilets only since the materials were already on site. During the site meeting held on 11th September2019, instructions were issued to vary the contract period to complete works.

77) The Ministry of Transport, Infrastructure, Public Works, Housing and Urban Development – State Department of Public Works vide letter Ref: RWO/E-M/D107/VOL.II/267 dated 8th November, 2019 requested for the extension of the contract for 160 days from 6th November, 2019 to 13th April, 2020. The Accounting Officer vide Memo Ref: TNT/012/2015-2016(21/22) dated 7th January, 2020 approved the request for extension.

78) The contractor resumed works on site and has since completed the outstanding works as per Bills of Quantities and as confirmed by the following attached documents:
-Handing Over certificate dated 18th August, 2020
-Certificate of Practical Completion dated 18th August, 2020
-Final Inspection report dated 10th December, 2020.

Other contracts

79) There were three separate contracts that were running but not related to the above Contract No. TNT/012/2015 – 2016.
1. Contract No.CQS/D107/40/2016-2017-was the Renovations and Furnishing Works on Third (3^{rd}) Floor Offices of Treasury Building at total cost of Kshs.82,187,276.00.
2. Contract No. CWO/NRB/D107/75/2017-2018: was for the Refurbishment works to twelfth (12^{th}) floor (Toilets, External walls and ceiling paint works, Directors main Office and Reception Including Associated Electricals and Mechanical Works) at a total cost of Kshs.4,647,441.00.
3. Contract No. CWO/NRB/D107/25/2017-2018 was for the Refurbishment works on 10^{th} Floor,

80) Pending Bills Closing Committee Offices Bima House at a total cost of Kshs.3,810,066.40. Contract No. CQS/D107/40/2016-2017 and Contract No. CWO/NRB/D107/25/2017-2018 rehabilitated toilets through putting tiles in the two floors while the contract being implemented by Ms Vanguard Engineering Ltd was overhauling and replacing the whole old toilets drainage system with automatic drainage system covering all the fourteen floors in National Treasury Building. This contracted affected tiles fixed by the other two

contracts and therefore they were to be replaced by Ms Vanguard engineering ltd and there was no duplication of works.

The Committee observations and Findings

81) The Committee observed and found that:

(i) The explanation and documents given by the Accounting Officer with regard to the renovation of the Treasury Building, Bima and Herufi House was satisfactory. However, the National Treasury did not have measures in place to ensure contracts execution is undertaken within stipulated timelines.

(ii) The use of direct procurement method for the engagement of M/S Vanguard Engineering at a sum of Kshs.12,313,690.00 from the Contingency sum for the additional works in the washrooms violated Section 103 (2) of the PPAD Act, 2015

82) **Committee Recommendations**

Within three months of tabling and adoption of this report, the EACC should investigate the direct procurement of M/S Vanguard Engineering at a sum of Kshs.12,313,690.00 from the Contingency sum for the additional works in the washrooms in violation of Section 103 (2) of the Public Procurement and Assets Disposal Act, 2015

6. Consultancy Contracts

83) On 12 September 2016, The National Treasury contracted three (3) professional accounting firms for consultancy services on the preparation of financial reports of National Government entities, State Agencies and County Governments at total cost of Kshs.425,100,219. As at 30 June 2019, a sum of Kshs.403,617,347 had been paid out to the three (3) firms from the contract price of Kshs.425,100,219. However, the audits of the National Government entities, State Agencies and County Governments financial statements for the financial years 2017/2018 and 2018/2019 reported numerous gaps on accounting, disclosures and presentation of financial statements. Under the circumstances, it has not been possible to confirm whether value for money has been realized from the award of contract and payment totaling Kshs.425,100,219 for consultancy services to the three (3) professional firms.

Submission by the Accounting Officer

84) The Accounting Officer submitted that the Public Sector Accounting Standards Board (PSASB), in August 2014, prescribed accounting and auditing framework for public sector entities in line with Section 194 of the Public Finance Management (PFM) Act (2012). These frameworks include the International Public Sector Accounting Standards (IPSAS), the International Financial Reporting Standards (IFRSs) and the International Professional Practice Framework (IPPF) for financial reporting and internal auditing respectively.

85) Hitherto, Kenya was accounting and reporting on the basis of local standards and the decision to transit to international standards required technical and capacity building skills for all public sector accountants both the National and County governments. Kenya was processing payments, accounting and reporting manually including use of cheque books, hard copy cashbook and hard copy financial orders being the primary accounting

documents. The manual secondary accounting tools included T-accounts, GAV accounts, Appropriation and Exchequer Accounts with a big main frame computer that used punch cards used to maintain accounting records. Accounting and reporting standards are the bedrock of the public sector accountability framework in Kenya. Section 12 (1) (e), (f), and (j) requires the National Treasury, in consultation with the PSASB, to:

i. design and prescribe an efficient financial management system for the national and county governments and ensure transparent financial management and standard financial reporting as contemplated by Article 226 of the Constitution.
ii. ensure uniform accounting standards are applied by all national and county government entities.
iii. assist county governments to develop their capacity for efficient, effective, and transparent financial management.

86) The above three reform agendas above are the bedrock of Phase 1 public sector accountability reforms in the country. These reforms are a substantive pillar of PFMR Strategy and supported by both the World Bank (GESDEK and KDSP programs) and DANIDA. The transition to the new financial system had its challenges as was expected. There was need to reengineer IFMIS and link it to Hyperion (Budgeting System) the CBK (IB system) and KRA (Tax collection) systems for automated processing of transactions. There was need to capacity build public sector accountants to use automated accounting systems, accounting standards and the revised Standard Charts of Accounts (SCOA). There was need to clean up old suspense balances from the former District Treasuries that were being carried forward year after year. There was also need to identify all public sector entities in line with Section 4 and 5 of the PFM Act and develop institutional tables along GFS 2014 to enable Consolidation of all public sector financial statements.

87) It was with this background that the World Bank, Danida and the National Treasury found it necessary to seek for technical assistance to fast track implementation of these reforms. Through open tendering, National Treasury procured consultancy services with the following auditing firms: Due to the size of the public sector entities in Kenya (there are 855 national government entities and 345 county government entities), the three-year open tender was divided in lots as follows:

Ernst & Young.

88) Lot 1: National Government Ministries, Department and Agencies (MDAs), and subsidiary entities under their control including development projects, Independent Commissions, Consolidated Fund and Consolidated Fund Services Accounts (but excluding State Corporations); Lot won by Ernst & Young.

Deloitte & Touche

89) Lot 2: National Government State Corporations, Semi-Autonomous Government Agencies and Public Funds established and governed under an act of Parliament or a Legal Notice; Universities, TVETs and other learning Institutions; Lot won by Deloitte & Touche.

PricewaterhouseCoopers.

90) Lot 3: County Governments and County government entities including Water Service Providers, Municipal Boards, County hospitals, and County Funds. Lot won by PricewaterhouseCoopers. The contracts were signed for three years' renewable subject performance

91) The contracts specific deliverable was to provide technical assistance support and knowledge transfer to government accountants and other officers in the preparation of individual entity financial statements and consolidated financial statements using international accounting standards. However, the responsibility of preparing financial statements remained with the individual Accounting Officers. The consultants, together with the Department of Accounting Services at the National Treasury, organized biannual group training as per the above Lots for all accountants at the Kenya School of Government and also visited these entities for on the job training.

92) Some of the key milestones achieved (value for money) in these consultancies were as follows:

i. The transition and adoption of International Public Sector Accounting Standards across the entire public sector financial reporting,
ii. Entrenchment of IFMIS as the backbone financial transacting and reporting for the entire central and county governments;
iii. Improvement in clean audit opinions in both national and county government;
iv. Capacity building of accountants across the public sector;
v. Preparation of Consolidated Financial Statements for the entire public sector (see reports on the National Treasury website;
vi. Created a platform to transition the entire public sector from cash basis of accounting to accrual accounting.

The Committee observations and Findings

93) The Committee observed that:

(i) The explanation and documents given by the Accounting Officer with regard to Consultancy Contracts was satisfactory; and
(ii) The National Treasury there has been a marked improvement by MDAs and County governments getting unqualified audit opinion.

94) **Committee Recommendations**

The Committee reiterates its recommendation that the Cabinet Secretary fast track the migration from IPSAS Cash basis of financial reporting to IPSAS accrual basis of reporting.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

95) **Conclusion**

7. There were no material issues relating to effictiveness of internal controls, risk management and governance.

NATIONAL EXCHEQUER ACCOUNT

REPORT ON THE FINANCIAL STATEMENTS

96) **Unqualified Opinion**

8. There were no material issues noted during the audit of the financial statements of the National Exchequer Account.

Other Matter

9. **Budget Control and Performance**

97) The statement of comparison of budget and actual performance reflects revised revenue estimates of Kshs.2,617,207,172,439 and total revenue collections of Kshs.2,497,637,419,575 resulting to an under collection of Kshs.127,337,194,547 or 5% of the budget. The statement also reflects budget realization on Exchequer transfers to National Government; Recurrent and Development Votes, County Governments and Consolidated Fund Services of 97%, 88%, 98% and 96% of the budgets respectively. However, as reflected under Annex I to the financial statements: detailed analysis of transfers, four (4) Ministries, Departments and Agencies (MDAs) received transfers that were significantly low - ranging between 41% and 80% with some not receiving any funding under the development vote despite having budgets.

Submission by the Accounting Officer

98) The Accounting Officer submitted that it was true that Ministries, Departments and Agencies (MDAs) with low budget utilization especially on Development Vote were:
- State Department for Fisheries, Aquaculture and the Blue Economy
- State Department for Tourism
- Parliamentary Service Commission
- National Gender and Equality Commission

99) National Treasury provides exchequer after Ministries have processed their payments and make exchequer request when ready to make payments. In the absence of exchequer request from the MDA, release of funds may not be possible thus resulting to low budget utilization for example, Parliamentary Service Commission did not have any request unfunded at the end of the year under review.

100) It was also important to note that Donor funds are part of voted provision for development and therefore low disbursement of donor funds from development partners affected the utilization budget by the respective MDAs.

101) State Department for Fisheries, Aquaculture and the Blue Economy and National Gender and Equality Commission whose development budgets are mainly donor funded, have low budget utilization due to low disbursement by donors.

The Committee observations and Findings

102) The Committee observed and found that:

(i) There was revenue under-collection of Kshs.127,337,194,547 or 5% of the budget;

(ii) Four MDAs namely: State Department for Fisheries, Aquaculture and the Blue Economy, State Department for Tourism, Parliamentary Service Commission and National Gender and Equality Commission had not made their Exchequer requests for development votes for funds to be released for expenditure.

Committee Recommendations

103) The Committee therefore recommends that:

i) The National Treasury should ensure that the revenue target for KRA and the AIA factored by the Accounting Officers in annual budgets are realistic and achievable.

ii) The Accounting Officers must at all times adhere to their annual work plans, procurement plans and cash disbursement schedule to increase their level of exchequer requests from the National Treasury.

iii) The Cabinet Secretary, National Treasury should ensure that the budget prepared by the National Assembly Departmental Committees and the National Treasury are realistic and adheres to credible budgeting to ensure that the revenue raised are adequate to cover the expenditures.

10. Excess Exchequer Releases

104) Two (2) MDAs received Exchequer issues in excess of the approved budget for Salaries and Remuneration Commission (Recurrent) and State Department for Public Service and Youth (Development).

Submission by the Accounting Officer

105) The Accounting Officer submitted that it was true that there was an Exchequer over issue reflected in our Financial Statements for the year 2018/2019 under the following:

- Salaries and Remuneration Commission (Vote R2081)-Recurrent.
- State Department for Public Service and Youth (Vote D1211)-Development.

106) Salaries and Remuneration Commission had original budget of Kshs.564,170,000.00, but was revised downwards in Supplementary Estimates no 1 by Kshs.14,273,363.00 and in Supplementary Estimates no 2 Kshs.66,700,000.00. It is important to note that Supplementary Estimates no 2 reduction of Kshs.66,700,000.00 on Salaries and Remuneration Commission budget was more than the balance available in the budget at the time of effecting Supplementary Estimates no 2 leading to Exchequer over issues.

The Committee observations and Findings

107) The Committee observed and found that:

(i) Two (2) MDAs namely: Salaries and Remuneration Commission (Recurrent) and State Department for Public Service and Youth (Development) received Exchequer issues in excess of their approved budgets due to excess vote arising from supplementary estimates.

Committee Recommendations

108) The Committee therefore recommends that:

1) **The Cabinet Secretary National Treasury, when tabling supplementary estimates, should also table a Circular detailing the changes in the votes affected by supplementary budget.**
2) **The said detailed Circular should have been issued to the affected MDAs before finalization and submission of the estimates to the National Assembly.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

109) **Conclusion**

11. There were no material issues relating to effectiveness of internal controls, risk management and governance.

CONSOLIDATED FUND SERVICES-PUBLIC DEBT

Basis for Adverse Opinion

12. Public Debt-Outstanding Balance

110) The summary statement of public debt reflects an outstanding loan balance of Kshs.5,451,153,803,416; (2018-Kshs.4,801,416,851,482) representing an increase of Kshs.649,736,951,934 or (13.5%) of the public debt. The statement also reflects loan repayments of Kshs.1,648,856,675,693 during the year but does not expressly indicate the amount procured during the year. However, review of the opening and closing balances and adjusted for the repayments during the year results in borrowings of Kshs.2,298,593,627,627 which have not been supported.

111) Further, out of the twenty-four (24) loans sampled and reviewed, eleven (11) had total balances different from those reflected in the summary statement of public debt prepared by The National Treasury. The total variance between the two sets of records amounted to Kshs.95,241,461,497. The causes of the variances have not been explained. Under the circumstances, the accuracy of the outstanding loan balance of Kshs.5,451,153,803,416 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

112) The Accounting Officer submitted that the increase in outstanding public debt is due to additional disbursements on the existing loans, new loans contracted during the year and fluctuations in exchange rates. The outstanding loan balance of Ksh.5,451,153,803,416.00 is the outstanding government contractual obligation as at 30th June, 2019.

113) The movement of outstanding public debt from Ksh.4,801,416,851,482.00 at the beginning of the year to Ksh.5,451,153,803,416.00 as at the end of June, 2019 is shown in the movement schedule. Out of 24 loans sampled in the debt database, 11 loans had variances amounting Ksh.95,241,461,497. The seven loans were understated in the computation. Out of the seven loans, three loans are multi-currency, three loans had variances attributable to rounding up of applicable exchange rates and one loan was erroneously overstated. Analysis of the loans was attached.

114) **Committee Observations and Findings**

i. The Committee observed that the Accounting Officer was yet to reconcile the accumulated brought forward balances of Ksh.1,064,098,739;
ii. The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
iii. The Committee also observed that the Accounting Officer failed to ensure that reconciliations of the loan book are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

Committee Recommendations

115) The Committee therefore recommends that:

i) **The Committee reprimands the Accounting Officer for violation of the provisions of Article 229 (4) (h) of the Constitution and Section 68 (2) of the Public Finance Management Act 2012.**
ii) **The Accounting Officer should always ensure that the loan records are reconciled and analyzed with necessary supporting documents and submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012.**

13. Inaccuracies in the Cash and Cash Equivalents

116) As disclosed in Note 5 to the financial statements, the statement of assets and liabilities reflects bank balances of Kshs.249,080,863 as at 30 June 2019. On the other hand, the Trial Balance reflects bank balances of Kshs.1,064,098,739 resulting in a variance of Kshs.815,017,876 which has not been explained or reconciled. Further, the Board of Survey Report on the bank balance as at 30 June, 2019 was not availed for audit review. Under the circumstances, the accuracy of the reported bank balances of Kshs.249,080,86 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

117) The Accounting Officer admitted that the bank account balance as at 30th June, 2019 was Ksh.249,080,863 as reflected in the financial Statements. The amount shown in the trial balance of Ksh.1,064,098,739 includes accumulated brought forward balances that had

not been analyzed and cleared in the system. The two sets of records are being reconciled in the debt auto bank reconciliation system. Further, the board of survey report as at 30th June, 2019 has since been provided.

118) **Committee Observations and Findings**

i. The Committee observed that the Accounting Officer was yet to reconcile the accumulated brought forward balances of Ksh.1,064,098,739;

ii. The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

iii. The Committee also observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

Committee Recommendations

119) **Committee therefore recommends that:**

Within three (3) months upon adoption of this report, the Accounting Officer should reconcile and submit for audit review the bank reconciliations in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

Emphasis of Matter

14. Unauthorized Over-Expenditure - Finance Costs and Loan Interest

120) The summary statement of appropriation reflects a final expenditure budget and actual on comparable basis of Kshs.848,303,865,142 and Kshs.826,202,867,839 respectively, resulting in under expenditure of Kshs.22,100,997,303 or 3% of the budget. However, detailed analysis of the individual expenditure items revealed that an over-expenditure was incurred on Interest on Treasury Bonds (TB) and Foreign Borrowing (FB) of Kshs.50,247,591,640 and Kshs.76,011,232,922. Although Management has explained that part of the over expenditure on interest on Treasury Bonds of Kshs.28,915,693,668 related to pending bills for the financial year 2017/2018, the amount had not been disclosed in the financial statements for that year. The over expenditure has not been authorized.

Submission by the Accounting Officer

121) The Accounting Officer admitted that the final budget for the year under review was Kshs.848,303,865,142.00 while the actual exchequer issues amounted to Kshs.826,202,867,839.00. The variance of Kshs.22,100,997,303.00 was the under expenditure due to lack of exchequer.

Over-Expenditure on Treasury Bonds Interest

122) The overpayment of Ksh.50,247,591,639.95 on Treasury Bond interest relates to an expenditure for 2017/2018 which was paid using Government Overdraft account. The

Treasury Bonds were later budgeted for in the financial year 2018/2019 to service the overdraft.

Over-Expenditure on Foreign Borrowing Interest

123) The expenditure as reported in the ledger reflected variances that are due to the rise in exchange rate, interest on new borrowings and mis-posting. However, variances resulting from mis-posting have since been corrected. The omission of disclosing the pending bills of Ksh.28,915,693668 is regretted**.** Projected interests on foreign debt are generated from the debt management system at the time of budget formulation. They are based on the actual disbursements of individual loans.

Committee Observations and Findings

The Committee observed that:

i. The final budget for the year under review was Kshs.848,303,865,142.00 while the actual exchequer issues amounted to Kshs.826,202,867,839.00 leading to a variance of Kshs.22,100,997,303.00.
ii. An over-expenditure was incurred on Interest on Treasury Bonds (TB) and Foreign Borrowing (FB) of Kshs.50,247,591,640 and Kshs.76,011,232,922;

Committee Recommendations

124) The Committee therefore recommends that:

The National Treasury should ensure that the pending bills disclosed in the financial statements are complete to enable accurate budgeting in the subsequent financial year.

15. Unresolved Prior Year Matters

15.1 Unsupported Balances

125) As previously reported, the statement of assets and liabilities for the year ended 30 June, 2018 reflected a prior year adjustment balance of Kshs.27,251,420,599 which was not supported by a journal voucher or Notes to the financial statements. In addition, the general ledger under payments reflected a balance of Kshs.516,547,493,884 which included a credit balance of Kshs.1,244,520,000 under Debut International SVRNG Bond (USD 2.75 BN). The balance was not supported by any documentary evidence. Further, the ledger reflected expenditure for new loans and new administrative costs of Kshs.7,919,757,971 and Kshs.59,894,313,393 respectively but details of these payments were not provided. Consequently, the accuracy and completeness of these balances could not be confirmed.

Submission by the Accounting Officer

126) The Accounting Officer admitted that the issue was discussed by PAC in report for 2017/2018 but remain unresolved since the Fund Balance and Accounts Payable are yet to be reconciled in 2018/2019.

Committee Observations and Findings

127) The Committee observed and found that:

1) The Accounting Officer did not implement the Committee recommendations for 2017/2018;
2) The Accounting Officer breached Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure that accurate and complete financial statements and records for CFS is prepared and maintained in conformity with Regulation 97 on the basic structure of government accounts;
3) The amount of Ksh.1, 244,520,000 has been adequately explained and supporting schedules provided for audit review and verification;
4) A prior year adjustment of Ksh.27,251,420,599 had not been adequately been explained;
5) An expenditure of Ksh.7,919,757,971.05 had been clarified up to Ksh7,777,060,595 leaving a balance of Ksh142,697,375.07 unexplained.

Committee Recommendation

128) The Committee recommended that:

Within three (3) months upon adoption of this report, the Accounting Officer should reconcile and submit for audit review the supporting documents in compliance with provisions of Section 68(2) of the PFM Act 2012. Further, the Accounting Officer should ensure that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

15.2 Accuracy of the Financial Statements

129) As reported in the previous year, a comparison of the statement of receipts and payments and the ledger for the year ended 30 June, 2018 reflected different accounts balances in respect to the same items as indicated.

Item Description	Financial Statement Balance (Kshs.)	Ledger Balance (Kshs.)	Variance (Kshs.)
Interest Payments on Foreign Borrowings	84,357,487,111	84,725,600,971	368,113,860
Principal Repayment on Domestic Loans	111,700,845,296	294,836,376,343	183,135,531,047
CBK -Pre-1997 Loans	1,110,000,000	2,220,000,000	1,110,000,000
Repayment of Principal from Foreign Lending and On-Lending	141,532,524,729	141,360,882,966	171,641,763

Exchequer Releases	517,161,876,534	-	517,161,876,534

130) Management has however not provided any analysis and supporting documents to support the adjustments. The accuracy of the balances reflected in the financial statements could therefore not be confirmed.

Submission by the Accounting Officer

131) The Accounting Officer admitted that the variance observed between financial statements and Ledger on Principal Repayment on domestic loans and CBK- Pre-1997 Loan was due to IFMIS Reporting challenges while balances for prior financial year were erroneously brought forward. The error was corrected and the amended ledger was submitted for audit review.

Committee Observations and Findings

132) The Committee observed and found thatThe Accounting Officer did correction of the errors.

Committee Recommendation

133) The Committee recommended that-

The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

134) **Conclusion**

16. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

135) **Conclusion**

17. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REVENUE STATEMENTS (RECURRENT)

Basis for Qualified Opinion

18. Cash Book Balance

18.1 Unsupported Adjustments

136) During the year under review, unsupported adjustments were made to the cashbook because of the long outstanding reconciling items as detailed below:

Reconciling Item	Amount (Kshs.)
Payments in bank not in cash book	15,723,735,928
Receipts in bank not in cash book	34,524,942,523
Receipts in cash book not in bank	16,240,834,531
Payments in cash book not in bank	605,746,618

137) However, the adjustments were unsupported by way of authorized journal entries.

Submission by the Accounting Officer

138) The Accounting Officer admitted that the statement of Assets and Liabilities as at 30th June, 2018 reflects a prior year adjustment of Kshs.27,251,420,599 which mainly comprised of interest on Treasury Bills and Central Bank of Kenya commission that were paid under Treasury Bills` deposit account and were erroneously reported in R050 that lead to the adjustments.

139) The amount of Kshs.1,244,520,000.00 indicated as a receipt in the ledger relates to the reversal of amount on PA No. 112755 being principal payment to Citi Bank that had been erroneously captured on the item for Debut International Sovereign Bond. The error was corrected by posting the entry on relevant item. The details of new loans amounting to Kshs.7,919,757,971.00 were analyzed and submitted for audit review.

140) Expenditure amounting to Kshs.59,894,313,392.70 had initially been charged on new administration costs` head due to an error caused by the system.

141) **Committee Observations and Findings**

i) The statement of Assets and Liabilities as at 30th June, 2018 reflects a prior year adjustment of Kshs.27,251,420,599 which mainly comprised of interest on Treasury Bills and Central Bank of Kenya commission that were paid under Treasury Bills` deposit account and were erroneously reported in R050 that lead to the adjustments
ii) The amount of Kshs.1,244,520,000.00 indicated as a receipt in the ledger relates to the reversal of amount on PA No. 112755 being principal payment to Citi Bank that had been erroneously captured on the item for Debut International Sovereign Bond.
iii) The error was corrected by posting the entry on relevant item. The details of new loans amounting to Kshs.7,919,757,971.00 were analyzed and submitted for audit review. Expenditure amounting to Kshs.59,894,313,392.70 had initially been charged on new administration costs` head due to an error caused by the system.

142) **Committee Recommendations**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

18.2 Long Outstanding Reconciling Items

143) The bank reconciliation statement in support of the cash book as at 30 June, 2019 reflects long outstanding receipts in bank statement but not recorded in cash book of Kshs.164,731,174 dating back to June, 2000. No satisfactory explanation has been rendered for failure to reconcile the items. From the foregoing, it is not possible to confirm the accuracy and fair statement of the reported nil cashbook balance as at 30 June 2019.

Submission by the Accounting Officer

144) The Accounting Officer admitted that during the year under review, there were adjustments made on the long outstanding items in the Bank Reconciliation statements. The National Treasury in the course of cleaning up the bank reconciliation and clearing the outstanding items realized that whereas bank statements are posted on an individual item basis, the Cashbook is posted on a voucher basis which includes several payments processed in a single voucher. These postings in the bank were cleared against the postings in the cashbook to which an amount of Ksh.164,731,174.20 remained outstanding as receipt in the bank but not posted in the Cashbook. A receipt Voucher for the same was prepared and posted in the Cashbook on the 6th august 2019. The bank reconciliation has since been updated. The documents were submitted to the auditor for verification.

145) **Committee Observations and Findings**

The Committee observed and found thatThe Accounting Officer that receipt voucher and cash book entries have been reviewed.

Committee Recommendation

146) The Committee recommended that-

Within three (3) months upon adoption of this report, the Accounting Officer should reconcile and submit for audit review the backlog of un-reconciling items in compliance with provisions of Section 68(2) of the PFM Act 2012.

19. Variance in Tax Receipts

147) The statement of revenues and transfers reflects tax revenues receipts of Kshs.1,440,830,331,255. However, the Kenya Revenue Authority accountability statement for the period reflects tax income receipts transfers of Kshs.1,338,169,499,540 resulting to an unexplained net variance of Kshs.102,660,831,716. No satisfactory explanations have been rendered for the discrepancies between the two sets of records. Consequently, it is not possible to confirm the accuracy and completeness of the reported tax revenue receipts of Kshs.1,440,830,331,256 for the year ended 30 June, 2019.

Submission by the Accounting Officer

148) The Accounting Officer admitted that the Statement of revenues and transfers reflects tax revenues receipts of Ksh.1,440,830,331,225 while Kenya revenue Authority`s

accountability statement reflects tax receipts of Ksh.1,338,169,499,540 resulting to a variance of Ksh.102,660,831. However, KRA has since reconciled the balances.

Committee Observations and Findings

149) The Committee observed and found that:

i) The Accounting Officer admitted that the Statement of revenues and transfers reflects tax revenues receipts of Ksh.1,440,830,331,225 while Kenya revenue Authority`s accountability statement reflects tax receipts of Ksh.1,338,169,499,540 resulting to a variance of Ksh.102,660,831

ii) The reconciliations done by the Accounting Officer did not fully address the audit query as raised by the Auditor.

Committee Recommendation

150) The Committee recommended that-

Within three (3) months upon adoption of this report, the Accounting Officer ensure that reconciliations is done and the complete financial statements submitted to the Auditor General for review and reporting in the subsequent audit cycle.

20. Unsupported Non-Tax Revenues

151) The statement of revenue and transfers reflects non-tax revenue receipts of Kshs.39,056,195,610; (2018-Kshs.39,440,753,231) comprising of fees on use of goods and services (PDL / traffic), social security contributions, property income, other receipts (miscellaneous), proceeds from domestic borrowings and proceeds from foreign grants. However, they were unsupported by way of detailed ledgers. In the circumstances, the accuracy and completeness of the reported non-tax revenue receipts of Kshs.39,056,195,610 for the year ended 30 June 2019 could not be confirmed.

Submission by the Accounting Officer

152) The Accounting Officer admitted that the revised statement of revenue and transfers reflect non-revenue receipts of Kshs.39,058,894.95/- for the year under review whose ledgers had not been provided by the time of audit. However, detailed ledgers supporting the revenue have since been availed for Audit review.

Committee Observations and Findings

153) The Committee observed and found that complete ledgers supporting statement of revenue and transfers reflect non-revenue receipts of Kshs.39,058,894.95/- for the year under review was not submitted to the Auditor-General at the time of audit.

Committee Recommendation

154) The Committee recommended that-

The Accounting Officer ensures timely reconciliations and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year. This is in line with provisions of Article 229(4) (h) of the Constitution and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

21. Variances Between Revenue Statements and the General Ledger

155) The statement of revenue and transfers reflects tax revenues receipts that were at variance with the ledgers presented in support as detailed out below: -

Revenue Item	Revenue Statements (Kshs.)	General Ledger (Kshs.)	Variance (Kshs.)
Taxes on Individuals (PAYE)	393,439,728,378	393,361,503,751	78,224,627
Corporation Tax	294,841,466,811	294,979,065,094	(137,598,283)
(Land Rent)	610,032,875	617,606,996	(7,574,121)
Vat on Domestic Goods/Services	230,775,544,313	234,058,961,044	(3,283,416,731)
Vat on Imports	183,367,863,463	182,586,223,952	781,639,511
Excise Duty	196,608,900,149	196,588,499,134	20,401,015
Custom Duties	106,874,931,944	107,701,825,385	(826,893,441)
Import Declaration Fees	24,196,727,815	24,182,047,020	14,680,795
Stamp Duty	10,115,135,308	10,213,854,991	(98,719,683)
Total	**1,440,830,331,055**	**1,444,289,587,367**	**(3,459,256,311**

156) No explanations have been rendered for the variances. Consequently, the accuracy and completeness of the reported tax revenue receipts of Kshs.1,440,830,331,055 for the year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

157) The Accounting Officer admitted that by the time of audit, the Statement of receipts and transfers reflects various balances which were at variance with the figures in the General ledgers. This was because by the time of Audit, some adjustments from KRA had not been captured in the ledger. However, the reconciliation has since been done and the two records agree. The reconciled records were submitted to the auditor for verification.

Committee Observations and Findings

158) The Committee observed and found that:

The Auditor-General has reviewed reconciliation between Revenue Statement and General ledger. Adjustments made will be effected in the 2020/2021 financial statements as prior year adjustments by the Accounting Officer.

Committee Recommendation

159) The Committee recommended that-

The Accounting Officer ensures timely reconciliations of revenue statements and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year. This is in line with provisions of Article 229(4) (h) of the

Constitution and section 82(2) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

Other Matter

22. Budgetary Control and Performance

160) The statement of comparison of budget and actual amounts reflects final proceeds from foreign grants (AMISOM) budget and actual on comparable basis of Kshs.6,500,000,000 and Kshs.575,433,441 respectively resulting to under collection of Kshs.5,924,566,559 or 91% of the budget. No satisfactory explanation has been rendered for the under collection and measures being put in place to avoid recurrence.

Submission by the Accounting Officer

161) The Accounting Officer admitted that the Statement of Comparison of budget and actual amounts reflects proceeds from foreign grants (AMISOM) approved budget of Ksh.6,500,000,000 against the actual of Ksh5.75,433,441. The huge difference of Ksh.5,924,566,559 or 91% of the budget was because the Ministry of Defence was appointed as a Receiver of Revenue within the financial year and the Ministry collected the balance of the revenue.

<u>Further submission by the Principal Secretary Ministry of Defence</u>

Dr. Ibrahim Mohammed, CBS, the Principal Secretary and Accounting Officer for the Ministry of Defence appeared before the Committee on 20th July, 2021 to adduce evidence on paragraph 22 of the audited financial statement for the National Treasury (Vote 1071) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. Lt Gen Levi Mgalu - Vice Chief of Defence Force.
2. Mr. C. K. Muhia - Senior Chief Finance Officer.
3. Mr. Electinia W. Wamumii - Deputy Accountant General

162) The Accounting Officer submitted that the projected budget of Kshs.8.5Billion was revenue expected from proceeds from grants with regard to AMISOM and all other missions including the UN Peace-keeping mission in Democratic Republic of Congo among others. The money was budgeted under the National Treasury since the Cabinet Secretary had not appointed the Principal Secretary Ministry of Defence as the Receiver of Revenue. The Principal Secretary Ministry of Defence has since been appointed a Receiver of Revenue and received other grants that followed in the financial year.

The Committee observations and Findings

163) The Committee observed and found that:

(i) The appointment of the Principal Secretary Ministry of Defence as receiver of revenue was done later in the financial year after the receipt of the first payment by the National Treasury.

(ii) The figures of Kshs.6,500,000,000 included receipts from other UN peacekeeping missions apart from African Union Mission in Somalia - AMISOM.

Committee Recommendations

164) The Committee therefore recommends that:

The Cabinet Secretary for the National Treasury must ensure that the designation of Receivers of Revenues under Section 75 of the Public Finance Management Act, 2012 is done at the beginning of the financial year.

23. Incomplete Reporting on Waivers/Exemptions

165) The report on waivers/exemptions made available for audit review was incomplete and lacked crucial information such as names of the beneficiary, tax amount waived, reason(s) for the waiver and the applicable law for the waiver as required in law.

Submission by the Accounting Officer

166) The report on Waivers/ Exemptions did not include the full names of beneficiaries, tax amount waived and reasons for the waivers. This was because the file is bulky but a soft copy of the same has been provided for audit verification.

Committee Observations and Findings

167) The Committee observed that the Cabinet Secretary for the National Treasury and receivers of revenues for the National Government entities have been granting waivers of interest and penalties and write off/abandonment of tax including tax exemption. However, full details of these waivers and exemptions including full names of beneficiaries, tax amount waived and reasons for the waivers were not disclosed to the Auditor General at the time of audit.

168) **Committee Recommendations**

i) **The Committee reprimands the Accounting Officer for violation of Section 9 of the Public Audit Act, 2015 Article 210 of the Constitution and Sections 76 and 82 of the PFM Act 2012.**

ii) **Within three months of adoption of this report, the Cabinet Secretary for the National Treasury and planning initiate the development of a national government policy on waivers and exemptions that include quarterly reporting to the National Assembly on all waivers and exemptions.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

169) **Conclusion**

24. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REVENUE STATEMENTS (DEVELOPMENT)

REPORT ON THE REVENUE STATEMENTS

170) **Unqualified Opinion**

25. There were no material issues noted during the audit of the development revenue statements.

Other Matter

26. Budgetary Controls and Performance

171) The statement of comparative budget and actual amounts reflect final revenue budget and actual on comparable basis of Kshs.67,668,743,001 and Kshs.50,118,804,547 respectively resulting to under performance of Kshs.17,549,938,454 or 26% of the budget. Management has attributed the under collection to requirement of the implementing units to exhaust funds released in the prior periods before accessing new disbursements, stringent conditions from the development partners on meeting AIA payments before accessing funding and partner delays in releasing no objection for projects not funded using Country systems. Consequently, there was under funding of the planned development activities which may have impacted negatively on service delivery to the citizens

Submission by the Accounting Officer

172) The Statement of comparable budget and actual amounts reflect final revenue budget and actual comparable basis of Ksh.67,668,743,001 and 50, 118,804,547 respectively resulting to under performance of Ksh.17,549,938,454 or 26%. The reasons for the underperformance are:

i. The delays in getting no objections from development partners.

ii. The budget for Equalization Fund amounting Ksh.4.7billion was not utilized due to litigations and lack of implementation policy.

iii. Lack of exchequer

iv. Additional funds that were factored in Supplementary Estimates II that was approved by Parliament in late June 2019 and which could not be utilized by 30th June 2019, the closure of financial year under review.

v. The under absorption of Ksh.1,004,780,998 was due to delays in procurement by KEMSA.

vi. On the other hand, the under absorption was due to late disbursements of funds by development partners

Explanations provided by management are noted.

173) **Committee Observations and Findings**

The Statement of comparable budget and actual amounts reflect final revenue budget and actual comparable basis of Ksh.67,668,743,001 and Kshs.50,118,804,547 respectively resulting to under performance of Ksh.17,549,938,454.

174) **Committee Recommendation**

The Cabinet Secretary, National Treasury should ensure that the revenue estimates are realistic and adequate measures are in place to achieve the development revenue targets by the MDAs.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

175) **Conclusion**

27. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

176) **Conclusion**

28. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REVENUE STATEMENTS - GOVERNMENT INVESTMENT AND PUBLIC ENTERPRISES

Basis for Adverse Opinion

29. Accuracy of Schedule of Outstanding Loans

177) The summary schedule of outstanding loans reflects an outstanding loans balance of Kshs.809,988,920,916 as at 30 June, 2019. However, circularization of sample debtors for the loan balances revealed significant discrepancies between the reported book balances and the amounts confirmed as owing by the respective institutions as detailed below:

No	Entity	Balance as per Financial Statement	Confirmed Balance (Kshs.)	Variance (Kshs.)
1	Kenya Civil Aviation Authority	1,710,514,701	2,343,070,698	632,555,997
2	South Nyanza Sugar Company Ltd	199,027,420	794,628,045	595,600,625

3	Agro Chemical and Food Company Limited	2,846,884,000	9,351,809,235	6,504,925,235
4	Moi University	231,250,000	257,765,332	26,515,332
5	Kenya Utalii College	127,000,000	140,125,028	13,125,028
6	IDB Capital Ltd	1,555,675,500	212,979,779	1,342,695,721
7	Kenya Railways Corporation	473,210,691,342	435,466,126,847	37,744,564,496
8	Cooperative Bank	402,151,336	351,857,512	50,293,824
9	Water Resources Authority	362,612,300	372,705,009	(10,092,709)
10	Equity Bank	421,332,807	100,282,010	321,050,797
11	Industrial and Commercial Dev't Corp. (ICDC)	371,848,560	891,848,560	(520,000,000
12	Kenyatta University	10,857,620,656	85,988,783	10,771,631,873
13	SMEP Bank	79,037,111	69,157,472	9,879,639
14	Northern Water Works Dev't Agency	5,389,000,000	2,757,697,547	2,631,302,453
15	Faulu Micro Finance Ltd	137,415,056	-	137,415,056

178) The discrepancies between the two sets of records was not explained or reconciled. Under the circumstances, the accuracy of the reported outstanding loans balance of Kshs.809,988,920,916 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

179) The Accounting Officer submitted that to confirm the accuracy of the outstanding loan balance, the National Treasury circularized and requested Entities with outstanding Loans to confirm directly to the Auditor General the principal Loan amounts owed to the National Government as at 30th June 2019. As observed by the Auditor there were major discrepancies between the reported book balances and the amounts confirmed as owing by the respective institutions. The differences/variances reflected on schedule under para 29 have been reconciled/analyzed explained and given to the auditor for review**.** While some of the variances have been reconciled and agreed with the Auditor and the Statement of Outstanding Loans adjusted where appropriate, some on-lent loan balances remain unreconciled. Efforts are being made to find the relevant data to clear the outstanding reconciliations. However, to address this challenge the National Treasury has developed a template as a reporting tool to report and record on-lent loan disbursements. This will enable the department compare the figures as reported by the loanees.

180) **Committee Observations and Findings**

i. The Committee observed that the matter was discussed in PAC report 2017/2018 and recommended that the Cabinet Secretary for the National Treasury and Planning should, within three months (3) of tabling this report, ensure that the National Treasury develops a comprehensive framework for on-lending including loan write-offs to government entities by the National Treasury;
ii. The Committee further observed that implementation of the above recommendation is still ongoing.

Other Matter

30. Unresolved Prior Year Matter

30.1 Dormant Loans

181) Loans amounting to Kshs.84,284,132,909 representing 10.4% of the total loan portfolio of Kshs.809,988,920,916 as at 30 June, 2019 had no movement and as previously reported, have remained unpaid over a significant period of time casting doubts on their recoverability. The loan details are as tabulated below:

		Balance as at
		30 June, 2019
No	**Institution**	**(Kshs.)**
1	Coast Water Service Board	12,241,117,290
2	East African Sugar Industries Limited, Muhoroni	177,123,100
3	Halal Meat Products	27,701,420
4	Kenya Meat Commission	940,241,100
5	Kenya Urban Transport Various Towns	40,706,140
6	Lake Victoria North Water Services Board	7,593,445,499
7	Lake Victoria South Water Services Board	13,121,785,606
8	Miwani Outgrowers Mills Limited	6,600,000
9	Miwani Sugar Company (1989) Ltd	16,000,020
10	Miwani Sugar Mills Limited	78,088,180
11	Mumias Sugar Company Limited	3,000,000,000
12	National Irrigation Board	2,262,036,544
13	National Water Conservation and Pipeline Corporation	2,460,874,897
14	Tana Water Services Board	7,543,116,143
15	Tanathi Water Services Board	9,713,565,506
16	Water Resource Management	362,612,300
17	Agricultural Finance Corporation	475,119,163
18	Kenya Airways	24,224,000,000
	Total	**84,284,132,908**

182) No evidence of the measures taken by Management to recover the outstanding amounts was provided for audit.

Further submission by the National Water Harvesting and Storage Authority – NWHSA

Ms. Sharon Obonyo, the Ag. Chief Executive Officer and Accounting Officer for National Water Harvesting and Storage Authority – NWHSA formerly National Water Company and Pipeline Cooperation - NWCPC appeared before the Committee on 18th October, 2021 to adduce evidence on paragraph 30.1 of the audited financial statement for the National Treasury (Vote 1071) for the Financial Year 2018/2019. She was accompanied by the following officers:

1. **CPA Patrick O. Otara - General manager Finance**
2. **Mr. Job Kiprotich - Chief Economist**

And submitted as follows

183) The Accounting Officer submitted it had obtained three loans through various subsidiary agreements with the Government of Kenya for various projects as shown below:

Loan from IDA
Loan No.: Loan agreement dated 28th August, 1992
Project: Second Mombasa and Coastal Water Supply, Engineering and Rehabilitation project.
Loan amount: USD 17,400,000
Loan Period: 15 Years, instalments payable semi annually
Repayment start date: 15/11/1997
Principal amount outstanding after handing over (30/06/2006):USD 6,960,000
Interest: Accrued interest at the rate of 16.65% p.a as per agreement

Loan from KfW (Kreditanstalt Fur Wiederaufbau)
Loan No.: Loan agreement dated 5th July, 2002
Project: Sabaki Wellfield Rehabilitation project.
Loan amount: DM 5,000,000
Loan Period: 15 Years, instalments payable semi annually
Repayment start date: 31/12/2005
Principal amount outstanding after handing over (30/06/2006): DM 4,666,666.67
Interest: Accrued interest at the rate of 6.5% p.a as per agreement

Loan from AFD (Agence Francaise De Development)
Loan No.: Loan agreement dated 7th May, 1999
Project: Improvement of the Operational Conditions of Drinking Water Transmission and Distribution System.
Loan amount: EUROS 9,146,941.03
Loan Period: 15 Years, instalments payable semi annually
Repayment start date: 30/06/2005

Principal amount outstanding after handing over (30/06/2006): EUROS 8,232,246.93
Interest: Accrued interest at the rate of 5.5% p.a as per agreement

184) The loans were disbursed through the National Treasury who in turn disbursed to the Ministry of Water and Irrigation and thereafter the same was disbursed to the Authority. The loans were to be serviced as per indicated repayment plans at the indicated interest rates. The proceeds obtained from water sales were to be partly used in defraying the same. However, the water tariffs were to be adjusted to accommodate the repayment but this was never done.

185) On 12th August 2005, the then Minister for Water and Irrigation gazetted (Legal Notice No. 101 in the Kenya Gazette Supplement No. 61) the water (plan of transfer of water services) rules, 2005 to guide on the enactment of the Water Act 2002. The Notice required that the Authority finalizes the transfer of certain roles relating to sale of water to Water Service Boards in their jurisdictions. The deadline for such execution of transfer agreements was 30th June 2006. The transfer was to be in the form of signed transfer agreements. Though drafted, the transfer agreements were not signed. However, the Water Service Boards assumed the assets but did not take the ensuing liabilities.

186) Severally, the National Treasury and the Auditor General have continued to claim from the Authority, and the Authority has written to the Ministry of Water seeking on their intervention for both the signing of the transfer agreements and assistance on repayment of the loan due before handing over. Through a letter dated 19th October, the Principal Secretary in the State Department of Water directed the Authority to hand over the loan portfolio taken by the Authority to the relevant Water Service Board as per the Transfer Plan.

1. ON-LENT LOAN STATUS

187) After analysis of the outstanding loan portfolio, the Authority allocated the outstanding loan to the Water Service Boards on the basis of the areas where projects that were directly financed by the loans were executed. As such the loans were allocated as shown below:

Loan from IDA
Loan No.: Loan agreement dated 28th August, 1992
Project: Second Mombasa and Coastal Water Supply, Engineering and Rehabilitation project.
Loan amount: USD 17,400,000
Loan Period: 15 Years, instalments payable semi annually
Repayment start date: 15/11/1997
Principal amount outstanding after handing over (30/06/2006):USD 6,960,000
Interest: Accrued interest at the rate of 16.65% p.a as per agreement

a) Coast Water Works Development Agency

Loan from KfW (Kreditanstalt Fur Wiederaufbau)
Loan No.: Loan agreement dated 5th July, 2002

Project: Sabaki Wellfield Rehabilitation project.
Loan amount: DM 5,000,000
Loan Period: 15 Years, instalments payable semi annually
Repayment start date: 31/12/2005
Principal amount outstanding after handing over (30/06/2006): DM 4,666,666.67
Interest: Accrued interest at the rate of 6.5% p.a as per agreement

b) <u>Tana Water Works Development Agency</u>

<u>Loan from AFD (Agence Francaise De Development)</u>
Loan No.: Loan agreement dated 7th May, 1999
Project: Improvement of the Operational Conditions of Drinking Water Transmission and Distribution System. (**Kandara and Kahuti Projects**)
Loan amount: EUROS 9,146,941.03 **Allocated Amount**: EUROS 4,573,470.52
Loan Period: 15 Years, instalments payable semi annually
Repayment start date: 30/06/2005
Principal amount outstanding after handing over (30/06/2006): EUROS 4,116,123.47
Interest: Accrued interest at the rate of 5.5% p.a as per agreement

c) <u>Lake Victoria South Water Works Development Agency</u>

<u>Loan from AFD (Agence Francaise De Development)</u>
Loan No.: Loan agreement dated 7th May, 1999
Project: Improvement of the Operational Conditions of Drinking Water Transmission and Distribution System. (**Siaya Project**)
Loan amount: EUROS 9,146,941.03 **Allocated Amount**: EUROS 2,286,735.26
Loan Period: 15 Years, instalments payable semi annually
Repayment start date: 30/06/2005
Principal amount outstanding after handing over (30/06/2006): EUROS 2,058,061.73
Interest: Accrued interest at the rate of 5.5% p.a as per agreement

d) <u>Central Rift Valley Water Works Development Agency</u>

<u>Loan from AFD (Agence Francaise De Development)</u>
Loan No.: Loan agreement dated 7th May, 1999
Project: Improvement of the Operational Conditions of Drinking Water Transmission and Distribution System. (**Litein Project**)
Loan amount: EUROS 9,146,941.03 **Allocated Amount**: EUROS 2,286,735.26
Loan Period: 15 Years, instalments payable semi annually
Repayment start date: 30/06/2005
Principal amount outstanding after handing over (30/06/2006): EUROS 2,058,061.73

Interest: Accrued interest at the rate of 5.5% p.a as per agreement

e) **National Water Harvesting & Storage Authority.**

Loan from IDA

Loan No.: Loan agreement dated 28th August, 1992

Project: Second Mombasa and Coastal Water Supply, Engineering and Rehabilitation project.

Loan liability: USD 10,440,000 = KES.1,067,385,600 (ExcR 1:102.24)

Interest: Accrued interest at the rate of 16.65% p.a as per agreement

Loan from KfW (Kreditanstalt Fur Wiederaufbau)

Loan No.: Loan agreement dated 5th July, 2002

Project: Sabaki Wellfield Rehabilitation project.

Loan liability: DM 333,333.33 = KES.18,093,333.15 (ExcR 1:54.28)

Interest: Accrued interest at the rate of 6.5% p.a as per agreement

Loan from AFD (Agence Francaise De Development)

Loan No.: Loan agreement dated 7th May, 1999

Project: Improvement of the Operational Conditions of Drinking Water Transmission and Distribution System.

Loan liability: EURO 914,694.10 = KES.97,506,391.06 (ExcR 1:106.60)

188) The Authority on her part has requested the National Treasury through the Ministry of Water, Irrigation and Sanitation to assist with the loans repayments. The Authority has declared the loans as historical pending bills and has sought the intervention of the National Treasury through the parent Ministry in clearing loans.

Further submission by Lake Victoria North Water Works Development Agency – LVNWWDA

Eng. Danson Peter Ngongi, the Ag. Chief Executive Officer and the Accounting Officer for Lake Victoria North Water Works Development Agency appeared before the Committee on 12th October, 2021 to adduce evidence on paragraph 30.1 of the audited financial statement for the National Treasury (Vote 1071) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. **CPA Fredrick Toloyi - Ag. Chief Manager finance**
2. **Mr. Dickson Opiyo - Technical Manager USP**

And submitted as follows

189) The Agency submitted that the National Treasury on various dates has on lend loans from various development partners to the agency to develop water infrastructure. Once this infrastructure was developed, it was handed over to the county governments in line with provisions of Water Act 2016, to be operated and maintained by respective Water Service Providers (WSP) and or Community Organizations water service providers.

190) The details of the loans and the benefiting Water Service providers is as follows:

Lender	**Loan ID**	**Subsidiary Loan Agreement Date**	**Amount**	**Benefiting WSP**
			Kshs	
KfW	Nzoia Cluster 1	9/30/2006	774,963,553.60	NZOIA WATER AND SEWERAGE COMPANY
KfW	Nzoia Cluster 1	11/13/2009	728,048,400.00	NZOIA WATER AND SEWERAGE COMPANY
KfW	Nzoia Cluster 2	3/28/2007	1,217,228,445.46	BUSIA WATER AND SEWERAGE COMPANY
KfW	Nzoia Cluster 2	7/28/2008	3,490,119,861.60	KAKAMEGA WATER AND SEWERAGE COMPANY
IDA	-	12/17/2012	1,383,085,238.34	ELDORET WATER AND SEWERAGE COMPANY
			23,139,000	VIHIGA WATER & SANITATION CO. (AMATSI)
Total			**7,593,445,499.00**	

191) A brief examination of the five (5) WSP under the mandate area of LVNWWDA brings out common challenges though a few are unique to respective WSPs: -

a. Kakamega County Water & Sanitation Company/Corporation

192) The company is owned by the County government of Kakamega and it's in the process of becoming a County Corporation. The WSP is operating the water supplies infrastructure of Kakamega, Mumias, Butere and Kipkarren that were developed by LVNWWDA through these loans. The company also operates a sewerage system in Kakamega town. The challenges this WSP undergoes include underperforming water schemes e.g. like Mumias Water Supply which operates at 30%; the company has no periodic maintenance schedules; over employment of staff; low revenue collection; lack of meters to install; high non-revenue waters;

b. Nzoia Water Services Company(NZOWASCO)

193) This Company is owned by the counties of Bungoma and Transzoia counties. The company operates Webuye, Bungoma, Kimilili, Sirisia-Chwele and Kitale Water Supplies. The company also operates sewerage system in the towns of Kitale, Bungoma and Webuye.

194) The company is non-compliant to corporate governance and the regulator – Water Services Regulatory Board(WASREB) has placed it under Special Regulatory Regime (its

operations are closely monitored with conditions to meet before its lifted). Some of the challenges include lack of relevant skill mix to give strategic and policy directions. Appointment of managers is on the basis of tribal or regional basis without regard to the desired professional skills and exposure; high costs of pumping that leads to high maintenance costs; and there is inefficiencies in managing the assets due to ownership;

c. Vihiga Water Services Company (Amatsi)

195) This Company is owned by the county Government of Vihiga. The company operates Mbale, Kaimosi, Maseno and Sosiani water supplies. The company has not been able to sustain its operations because all its schemes use pumping. The 7 schemes under the company have a monthly running cost of Kes 2.1 million in electricity and relies on County government of Vihiga for subsidies. With a customer base of 9,500, 0nly 4000 are active thus a low coverage of last mile connectivity; there is also High Non-Revenue water and Inadequate ICT structure (software & Hardware) to improve efficiency;

d. Kapsabet Nandi Water & Sanitation Company

196) This company is owned by the county government of Nandi. It operates the water supplies of Kapsabet and Nandi Hills. Kapsabet town also has a small sewerage system with a component of pumping. The sanitation system is run by the county government due to high costs of managing it. Some of the challenges in this WSP include old meters that get stuck and in need of frequent servicing; old tariffs in need of review; Non-revenue water which is at 43%; the high electricity costs which is at Kshs.1.5million per month; low last mile connectivity; and low efficiency in revenue collection at 75%. Though the company has improved revenue collection at Kshs.3million per month against billed Kshs.3.6 million, which is as a result of the support by county government through installation of the billing software (WSB 16), the company still relies on subsidy from the county government of Nandi.

e. Busia Water & Sewarage Company

197) This company is owned by the County government of Busia. The company operates seven (7) schemes including Busia Mundika, Nambale, and Malaba - Kocholia water supply projects. The company also manages a sewerage system in Busia town. The company's monthly electricity bill is Kshs.2.2 million against a collection of Kshs.2.6 million. The high costs of chemicals is at Kshs.800,000 per month. High non-revenue water is at 50% due to frequent bursts, old meters that get stuck, many illegal connections. Inefficient revenue collection of Kshs.2.6million against a billing of Kshs.3.6million.

<u>On reasons why the loan has not been serviced for all that period</u>

198) The Agency submitted that though the Loan repayments are factored in the current tariffs being used for billing, the WSPs collect and do not remit the funds to the Agency for onward transmission to the National treasury. The main reasons across the WSP are: -

a) Most of the WSP are underperforming and in most cases being subsidized by the county governments. This is due to; -
    - The insufficient last mile connectivity
    - High energy costs due to pumping resulting in high maintenance costs.

- High non-revenue water of up to 50% due to old meters that frequently get stuck, frequent bursts due to old infrastructure and illegal connections.
- Inefficient & unscheduled repair & maintenance.
- Poor governance.

b) The WSPs are firmly under the control of County Governments with the Agency having no control. Though the infrastructure has been developed by the National Government.
c) Insufficient capacity by WASREB to carry out monitoring and Inspection and enforce regulations.
d) There is Lack of clear policy and direction asset ownership, use and liability holding.

<u>As with the Measures put in place to Service this Loan</u>

199) The Agency submitted that there are no elaborate measures put in place to oblige the WSP on repayment of the loan due to constraints. The best the Agency has tried to do is to engage the water service providers in a conversation both at the management and board levels on the importance of loan repayment and how it affects future funding. The Agency has also on various occasions agreed with the WSPs to open Loan accounts with the loan repayment as the first charge on all the WSPs revenue accounts before any other transfers are made. This has not been honored.

200) The Agency has no budgetary support for capacity building; Monitoring &Evaluation and; to make follow up on repair & maintenance and improvement of the schemes. However, out of the beneficiary WSPs, Eldoret water and sanitation company has started servicing its loan portion having paid Ksh.32,292,194 in financial year 2019/2020 and Kshs.21,254,930 in Financial year 2020/2021. The following requires to be done:

a) Strengthening the legal framework to ensure recovery of the loans and levy arrears.
b) The National Treasury to have the loans due as the first charge on county government revenues if the WSPs fail to remit.

<u>Further submission by the Kenya Meat Commission - KMC</u>

Brigadier James N. Githaga - Managing Commissioner, and Accounting Officer for Kenya Meat Commission appeared before the Committee on 10th November, 2021 to adduce evidence on paragraph 30.1 of the audited financial statement for the National Treasury (Vote 1071) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. **Mr. Joseph M. Kimani - Finance Officer**
2. **Maj. Ajierh G. A. - Chief Legal Officer**
3. **Mr. Wellington Magoi - Chief Accountant**
4. **Mr. Festus M. Joseph - Chief Internal Auditor**

and submitted as follows

201) The Commission submitted that it received details of a loan of Kshs.940,241,100.00 from the National Treasury vide letter Ref. DGIPE/LOANS/25 dated 5th June 2015. From the available records KMC does not owe the National Treasury Kshs.940,241,100.00. However, the Commission confirmed owing the National Treasury Kshs.300M excluding interest and penalty as stipulated in the loan agreements. The Commission has acknowledgement vide KMC/MC/MOF/O4/15 of 16 April 2015 and annual confirmation to Auditor General during circularization loan of Kshs.300M. This letters were availed to the Committee for perusal.

202) On the outstanding amount of Kshs.300Million, the Commission submitted as follows:

1.0 Outstanding Loan of Kshs.300 Million

i. KMC LOAN of Kshs.200,000,000.

Through the food security, water and energy crisis management programme, the Government approved a budget of Kshs.1.398 billion for the Ministry of Livestock Development to finance livestock offtake program. Offtake is a drought mitigation strategy where the government gives resources in the form of grants to stakeholder to purchase emaciated animals.

203) Out of the approved budget, the Government issued a loan of Kshs.200 M for purchase of livestock from drought stricken areas. The terms and conditions of the loan are stipulated in the loan agreement of 22 January 2010. Copy of the agreement was availed for perusal by the Committee.

ii. Dormant loan of Kshs.100,000,000

204) In addition, the government had approved a budget of Kshs.1.312 billion to intervene in the livestock sub-sector to mitigate against the drought that was prevailing in the country. Out of the approved budget, the Government issued a loan of Kshs.100 M for purchase of livestock from drought stricken areas. The terms and conditions of the loan are stipulated in the loan agreement of on 4th may 2011. Copy of the agreement was availed for perusal by the Committee.

205) The Commission received government loans of Kshs.200 million and 100 million in 2009/10 and 2010/11 respectively and these are the loans the Commission hereby acknowledges being owed to the government.

2.0 Reasons for Non-Payment

206) Has never honored its obligation in the payment of the outstanding instalment hence accruing both interest and penalty at a rate of 2% and 3% per annual respectively since:

i. The Commission was technically insolvent; it was unable to honor its obligation as they fall due and persistent loss making due to high operational costs. Copies of the financial performance was availed for perusal by the Committee.

ii. The loans were issued for drought mitigation (Offtake program) which is highly risk (animal procured during the program are weak and emaciated hence very low yield despite the fact that the animals are procured at a predetermined premium to cushion the livestock farmer).

3.0 Proposed way forward on the loan

207) The way forward is as follows:

1. The KMC Audited account for the period ending 30 June 2007 referred to a Circular of April 2005 where the Cabinet directed that loans owed by KMC be taken over and settled by the government to enhance KMC Value. Copies of the audited account Financial Year 2007 were availed for perusal by the Committee.
2. The Cabinet directive preceded the re-opening of KMC and it is presumed that all loans prior to April 2005 amounting to Kshs.640,241,100.00 were taken over by the Government and capitalized as Equity-Recommend the National Treasury to take over.
3. KMC acknowledges the loan of Kshs.300M and proposes the following measures to address the outstanding loan:

   i. Conversion of 300M loan to a grant as it was derived from approved budgets for 2009/10 and 2010/11. Being an emergency offtake program it was not commercially viable.

208) In the alternative, the loan be treated as historical and referred to Multi-Agency Pending Bills Verification Committee for consideration for write off.

Committee Recommendations

209) **Within three months of adoption of this report, the Accounting Officer seeks loan write-off approval for Kshs.940,241,100 for Kenya Meat Commission (KMC) from the Cabinet Secretary as required under Section 69 (2) of the PFM Act 2012 read with Regulation 148 (6) of the PFM (National Government) Regulations 2015. Further ensures submission of a copy of the granted approval to the Auditor-General as per Regulation 148(7) the PFM (National Government) Regulations 2015 to clear this matter.**

Further submission by KENYA AIRWAYS - KQ

Mr. Allan Kilavuka, the Group Managing Director/ Chief Executive Officer and Accounting Officer for Kenya Airways appeared before the Committee on 25th October, 2021 to adduce evidence on paragraph 30.1 of the audited financial statement for the National Treasury (Vote 1071) for the Financial Year 2018/2019. He was accompanied by the following officeru:

1. **Ms. Hellen Mathuka - Chief Finance Officer**

and submitted as follows:

210) Kenya Airways submitted that following approval by Cabinet in June 2017 and the extra ordinary shareholders general meeting of 7th August, 2017 held to approve the restructuring of the debt and equity in KQ Government of Kenya (GoK) converted the total debt/loan to equity. GoK also received a mandatory convertible note that matures in 2027. This saw GoK acquire a 48.9% stake in KQ. Therefore, there is no outstanding loan.

211) **Committee Observations and Findings**

i) Following approval by Cabinet in June 2017 and the extra ordinary shareholders general meeting of 7th August, 2017 held to approve the restructuring of the debt and equity in KQ Government of Kenya (GoK) converted the total debt/loan to equity.
ii) GoK also received a mandatory convertible note that matures in 2027. This saw GoK acquire a 48.9% stake in KQ.
iii) The National Assembly approved Sessional Paper No. 3 of 2017 on the government guarantee of USD 750million (approximately Kshs 77.48Billion) in support of the restructuring of Kenya Airways

212) **Committee Recommendations**

Within three months of adoption of this report, the Accounting Officer seeks loan write-off approval for Kshs.24,224,000,000 for Kenya Airways from the Cabinet Secretary as required under Section 69 (2) of the PFM Act 2012 read with Regulation 148 (6) of the PFM (National Government) Regulations 2015. Further ensures submission of a copy of the granted approval to the Auditor-General as per Regulation 148(7) the PFM (National Government) Regulations 2015 to clear this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

31. Supporting Documents and Management of Loan Portfolio

213) As previously reported, Management has not been able to confirm its active role in the management of existing loan portfolio and issuance of new loans through annual work plans and periodic monitoring and evaluation reports. In the absence of budgets, annual work plans, assessment or evaluation and performance reports of the loaning portfolios, the propriety on the utilization of public funds could not be ascertained. There is also risk of non-servicing of the loans leading to continued write offs as bad debts which is a cost to the public.

Submission by the Accounting Officer

214) Loans advanced by The National Treasury are done through loan agreements signed between the National Treasury and the respective Entities. Each loan agreement spells out clearly the terms of each loan which include the reports that must be submitted periodically to The National Treasury during the life of the loan facility.

215) **Committee Observations and Findings**

The Committee observed that Management has not been able to confirm its active role in the management of existing loan portfolio and issuance of new loans through annual work plans and periodic monitoring and evaluation reports

216) **Committee Recommendation**

The CS for the National Treasury and Planning should within three months (3) of tabling this report, ensure that the National Treasury develops a comprehensive framework for active participation of the National Treasury in the management of existing loan portfolio and issuance of new loans through annual work plans and periodic monitoring and evaluation reports.

31. Long Outstanding Loans (Arrears)

217) The statement of arrears of receipts reflects total amount in arrears of Kshs.39,165,038,029 as at 30 June, 2019 (2018-Kshs.37,606,213,925) representing an increment of Kshs.1,558,824,104 during the year under review. Management has attributed the default to the fact that most of the entities were experiencing financial difficulties. However, Management has not provided evidence of measures taken to obtain payments or reports to the Cabinet Secretary explaining specific difficulties experienced in collecting the debts as required under Regulation 64 of the PFM (National Government) Regulations, 2015. Consequently, Management is in breach of the Regulations.

Submission by the Accounting Officer

218) The loan redemption and interest arrears have continued to grow and as at the end of the financial year under review the arrears stood at Kshs.39,165,038,239. As it has been observed that most of those Entities in arrears are experiencing financial difficulties. However, the National Treasury continues to demand what is due and outstanding. On the other hand, the Schedule of Arrears prepared by the Department on behalf of the Accounting Officer is also shared the Cabinet Secretary on the same. However, the department currently prepares the report for the Cabinet Secretary/NT as required by the PFM Regulations, 2015.

219) **Committee Observations and Findings**

The Committee observed that the matter was discussed in PAC report 2017/2018 and recommended that the Cabinet Secretary for the National Treasury and Planning should, within three months (3) of tabling this report, ensure that the National Treasury develops a comprehensive framework for on-lending including loan write-offs to government entities by the National Treasury.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

220) **Conclusion**

33. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATEMENT OF OUTSTANDING OBLIGATIONS GUARANTEED BY THE GOVERNMENT OF KENYA

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

34. Presentation and Disclosure

221) The statement of outstanding obligations guaranteed by the Government of Kenya reflects outstanding balance of Kshs.152,317,825; (2018-Kshs.164,132,745) being Capital and Interest owed by Cereals and Sugar Finance Company. However, the Consolidated National Government Investment Report for the year 2018/2019, prepared by The National Treasury in accordance with Section 89 of the Public Finance Management Act, 2012, indicates that the total outstanding Government guaranteed debt stood at Kshs.159,405,000,000 as at 30 June, 2019 as shown below:

Agency	**Outstanding Government Guaranteed Debt as at 30 June, 2019 (Kshs.)**
Kenya Broadcasting Corporation (KBC)	357,000,000
Tana and Athi River Development Authority	279,000,000
East African Portland Cement PLC	346,000,000
Kenya Electricity Generating Company PLC	43,035,000,000
Kenya Ports Authority	34,061,000,000
Kenya Railways Corporation	4,603,000,000
Kenya Airways	76,724,000,000
Total	**159,405,000,000**

222) The total outstanding Government guaranteed debt of Kshs.159,405,000,000 does not include the balance of Kshs.152,317,825 reflected in the statement of outstanding obligations guaranteed by the Government of Kenya prepared and submitted for audit by The National Treasury, which is indicated as relating to Capital and Interest owed by Cereals and Sugar Finance Company. Further, the parent Ministries for the Agencies mentioned above did not prepare and submit for audit their respective statements of outstanding obligations guaranteed by the Government of Kenya as at 30 June, 2019. No explanations have been provided for the omissions. Under the circumstances, the completeness and accuracy of the outstanding balance of Kshs.152,317,825 reflected in the statement of outstanding obligations guaranteed by the Government of Kenya as at 30 June, 2019 could not be ascertained

Submission by the Accounting Officer

Cereals and Sugar Finance Corporation

223) The obligation guaranteed by the Government in respect of borrowing by Cereals and Sugar Finance Corporation amounting to Kshs.152,317,825 has remained outstanding pending conclusion of the winding up of the corporation. The National Treasury established a Taskforce on winding up of Dormant Funds. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II(5) of 17th May 2019. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval. The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/(18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General`s Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly. With the conclusion of the winding up, the issues raised by the Auditor will be fully addressed.

224) **Committee Observations and Findings**

The obligation guaranteed by the Government in respect of borrowing by Cereals and Sugar Finance Corporation amounting to Kshs.152,317,825 has remained outstanding pending conclusion of the winding up of the corporation.

225) **Committee Recommendation**

1) **The Cabinet Secretary for the National Treasury should ensure the finalization of the Cabinet Memorandum on winding up of the Fund**
2) **The Accounting Officer follows up with the Attorney General`s Office on the transmission of the memorandum to the National Assembly for the approval of conclusion of the winding up so as to fully address the issues raised by the Auditor-General**

35. Decrease in Guaranteed Obligations

226) The statement indicates that obligations guaranteed decreased from Kshs.164,132,745 reported as at 30 June, 2018 to Kshs.152,317,825 as at 30 June, 2019. Although Note 2 to the financial statements explains the reasons for the decrease in balance, Management did not avail documentary evidence to support the explanation. Consequently, the accuracy of the reported decrease of Kshs.11,814,920 could not be confirmed.

Submission by the Accounting Officer

227) The statement of Obligations Guaranteed by Government of Kenya reflected contingent liabilities amounting to Kshs.164,132,746 as at 30th June, 2018 made up of Ksh.11,814,920.00 guaranteed to Bond Holders relating to Kenya Railways Corporation and Ksh.152,317,825 in respect of borrowing by Cereals and Sugar Finance Corporation as at 30th June, 2018. Kenya Railways Corporations informed us vide their letter referenced KRC/FIN/22 dated 9th April, 2018 that there are no documents to support the two Bonds. Therefore, the corporation is unable to provide information and maturity dates and details of bond holders. The Corporation has further confirmed that no claim or communication on the said bonds has been received in the last ten years.

228) Further, the National Treasury wrote vide letter reference No. DMD4/46 dated 30th November, 2018 seeking the corporation's concurrence to stop reporting these bonds in the financial statements forthwith. The corporation vides letter reference number KF/FIN/NT/(13) dated 5th March, 2019 concurred with Treasury's proposal. The National Treasury therefore stopped reporting the obligation guaranteed to Kenya Railways Corporation. Therefore, this reduced the level of obligations guaranteed by government.

229) **Committee Observations and Findings**
The National Treasury stopped reporting the obligation guaranteed to Kenya Railways Corporation. Therefore, this reduced the level of obligations guaranteed by government.

230) **Committee Recommendation**
The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

231) **Conclusion**

36. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

232) **Conclusion**
37. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

CONSOLIDATED FUND SERVICES - SUBSCRIPTIONS TO INTERNATIONAL ORGANIZATIONS

REPORT ON THE FINANCIAL STATEMENTS

233) **Unqualified Opinion**
38. There were no material issues noted during the audit of the financial statements of the Fund

234) **Committee Observations and Findings**

The Committee observed that Paragraph 36 to 38 had no issue compliance with lawfulness and effectiveness in use of public resources effectiveness of internal controls, risk management and governance.

Other Matter

39. Dormancy of Consolidated Fund Services - Subscriptions to International Organizations

235) The financial statements of the CFS- Subscriptions to International Organizations for 2016/17, 2017/18 and 2018/19 financial years reflects no activity for the three years period. Although a budget of Kshs.500.000 has been allocated under CFS - Subscriptions to International Organizations every year, no activities have been reported during the three (3) years period. The relevance of the CFS- Subscriptions to International Organizations is, therefore, not clear especially in view the Public Finance Management Regulations (African Union (AU) and Other International Organizations Subscription Fund) Regulations, 2017 that established the AU and Other International Organizations Subscription Fund from which Kenya's contributions to AU and Other International Organizations should be paid from.

Submission by the Accounting Officer

236) The Accounting Officer admitted that there were no payments made during the financial years 2016/17, 2017/18 and 2018/19 as reflected in the respective reports under vote 0006 CFS Subscriptions to International Organizations because since there were no demand notes from the respective organizations. The expenditure under vote 0006 for the five institutions i.e., International Bank for Reconstruction and Development/IDA, International Monetary Fund, Multilateral Investment Guarantee Agency (M.I.G.A.), African Development Bank and International Finance Corporation is as required by various laws creating them.

237) Explanation by management of lack of demand note from International Organizations satisfactory.

238) **Committee Observation and Findings**

No payments were made during the financial years 2016/17, 2017/18 and 2018/19 as reflected in the respective reports under vote 0006 CFS Subscriptions to International Organizations because there were no demand notes from the respective organizations.

40. Unresolved Prior Year Audit Matters

239) The following prior year audit matters remained unresolved as at the end of the financial year:

40.1 Comparison of Expenditure with the Appropriation Account

240) As reported in 2017/2018 financial year, The National Treasury financial statements reflected payments as grants and transfers amounting to Kshs.1,069,476,595. Included in

the amount were membership dues and subscriptions to unspecified international organizations totaling to Kshs.48,779,790 while the remaining balance of Kshs.1,020,696,805 was indicated to have been paid to four organizations as detailed out below: -

Organization	Amount (Kshs.)
Africa Capacity Building Foundation	42,333,304
Shelter Afrique	355,000,000
MEFMI	81,363,501
International Bank for Reconstruction and Development, IBRD	542,000,000
Total	**1,020,696,805**

241) There is a risk of duplicate payments of expenditure where The National Treasury makes payments without authenticating with organizations responsible for the payments and more specifically where payments are not adequately disclosed as is the case of Kshs.48,779,790. From the foregoing, The National Treasury has not drawn a distinction between subscriptions and grants and hence the pay points of CFS - Subscription to International Organizations and The National Treasury main account respectively.

Submission by the Accounting Officer

242) The Accounting Officer submitted that during the financial year 2017/2018, the Government made payments as grants and transfers amounting to Kshs.1,069,476,595. Included in the expenditure of Kshs.1,069,476,595 are membership dues and subscriptions totalling Kshs.48,779,790 that was paid to various International Organizations under voted provision vote 1071. During the FY 2016/2017 all subscriptions both local and international organisations were consolidated and budgeted under Vote 1071 – The national Treasury Head 0092 indicating the allocation for each institution. Since then, there was no budget allocation for these institutions under vote CFS R053 - CFS Subscriptions to International Organizations.

Committee Observation and Findings

243) During the financial year 2017/2018, the Government made payments as grants and transfers amounting to Kshs.1,069,476,595. Included in the expenditure of Kshs.1,069,476,595 are membership dues and subscriptions totalling Kshs.48,779,790 that was paid to various International Organizations under voted provision vote 1071. The explanation by the Accounting Officer was satisfactory to both the Committee and the Auditor.

40.2 Unsupported Balances

244) In the audit report of 2015/2016, the detailed statement of Kenya Government share subscriptions and capital contribution to international organizations under Note 5 of the financial statements had reflected local value of subscriptions totaling Kshs.51,403,651,783 against various amounts in foreign currencies as at 30 June, 2016. However, an independent circularization to twelve (12) reported recipient organizations yielded only four (4) confirmations. Further, amounts confirmed by two (2) of the four (4) organizations differed significantly with the reported amounts as per The National Treasury records. Further, subscription for 2014/15 amounting to Kshs.116,813,106,919 in respect of ten (10) organizations were restated to Kshs.49,750,957,607 and attributed to foreign exchange rate fluctuations. However, the huge discrepancies attributed to foreign exchange losses have not been explained.

Submission by the Accounting Officer

245) At the time of audit of financial statements for the year ended 30th June, 2016, four organizations namely African Capacity Building Foundation, P.T.A. Bank, International Finance Corporation and Macroeconomic and Financial Management Institute (MEFMI) had confirmed Kenya`s status.

246) The amounts confirmed by P.T.A. Bank and MEFMI differed with the reported amounts but were later updated as indicated by the confirmation letters. The remaining eight organizations later confirmed Kenya`s subscriptions and are in agreement with reported figures. The subscriptions for 2014/2015 amounting to Kshs.116,813,106,919 in respect of eight organizations included subscribed capital. The amount was restated to Kshs.49,750,957,607 in order to reflect the total paid up capital as at 30th June, 2015.

247) The variance in foreign currencies does not represent a loss to the Government but majorly attributable to reporting of the paid-up capital which is less than the amounts subscribed.

248) **Committee Observations and Findings**

i) At the time of audit of financial statements for the year ended 30th June, 2016, four organizations namely African Capacity Building Foundation, P.T.A. Bank, International Finance Corporation and Macroeconomic and Financial Management Institute (MEFMI) had confirmed Kenya`s status. The amounts confirmed by P.T.A. Bank and MEFMI differed with the reported amounts but were later updated as indicated by the confirmation letters.

ii) The remaining eight organizations later confirmed Kenya`s subscriptions and are in agreement with reported figures. The subscriptions for 2014/2015 amounting to Kshs.116,813,106,919 in respect of eight organizations included subscribed capital. The amount was restated to Kshs.49,750,957,607 in order to reflect the total paid up capital as at 30th June, 2015. The variance in foreign currencies does not represent a loss to the Government but majorly attributable to reporting of the paid-up capital which is less than the amounts subscribed.

iii) The explanation by the Accounting Officer was satisfactory and therefore the matter was resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

249) **Conclusion**

41. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

250) **Conclusion**

42. There were no material issues relating to effectiveness of internal controls, risk management and governance.

251) **Committee Observations and Findings**

The Committee observed that Paragraph 41 and 42 on compliance with lawfulness and effectiveness in use of public resources effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

EAST AFRICA TOURIST VISA FEE COLLECTION ACCOUNT

Basis for Disclaimer of Opinion

43. Inappropriate Financial Reporting Framework

252) Section 81(3) of the Public Finance Management Act, 2012 requires an Accounting Officer to prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Public Sector Accounting Standards Board (PSASB). The Board has prescribed the Accrual Basis of accounting method for accounts that carry forward and do not surrender balances at the end of financial year with the following elements; the statement of financial position, statement of financial performance, statement of changes in net assets, statement of cash flows and comparative statement of budget and actual expenditure. However, the financial statements presented for audit have been prepared in accordance with the Cash Basis of accounting method under the International Public Sector Accounting Standards (IPSAS), which comprise of; the statement of assets and liabilities, statement of receipts and payments, statement of cash flows and comparative statement of budget and actual amounts.

253) In the circumstances, the financial statements as prepared and presented do not comply with the provisions of Section 81(3) of the Public Finance Management Act, 2012.

Submission by the Accounting Officer

254) The Accounting Officer submitted that it was true the financial statements of East African Tourist Visa fee have been prepared on IPSAS Cash - basis as per the advice of the Public Sector Accounting Standards Board Kenya Gazette Notice no 5440 of 8th August 2014. There has not been any revision on reporting standards to the Fund.

255) **Committee Observations and Findings**

The financial statements of East African Tourist Visa fee have been prepared on IPSAS Cash - basis as per the advice of the Public Sector Accounting Standards Board Kenya Gazette Notice no 5440 of 8th August 2014.

256) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

44. Completeness of Statement of Budget versus Actual Performance

257) The statement of budget versus actual performance reflects receipts as a consolidated amount from East Africa Tourist Fee whereas the statement of receipts and payments disaggregates receipts into; receipts from sale of EATV stickers by Kenya, share of EATV revenue from partner states and foreign exchange gain. The Statement does not also disclose the budgeted transfers. Consequently, the statement of budget versus actual performance as prepared and presented is not IPSAS cash basis compliant.

Submission by the Accounting Officer

258) The Accounting Officer admitted that the Statement of Revenue and Payment disaggregates receipts into Receipts from sale of EATV stickers by Kenya, Share of EATV revenue from Partner States and Foreign Exchange gain. Receipts from sale of EATV stickers by Kenya- Kshs.100,775,998.31 is money collected by various agencies in Kenya to be shared by the three partner states (including Kenya) and therefore doesn't belong to any one country and as such cannot be compared to the budgets of a particular country.

259) Share of revenue from Partner states amounting to Kshs141,256,597.10 is money that has already been shared by the three countries (including Kenya) and transferred to the receiver of revenue to be eventually transferred to the consolidated fund (Exchequer account) for spending by the Government. This is the actual receipts from EATV that may be compared to the Budget as tabulated here below. Attached is an extract of revenue budget.

Receipts	Original Estimates	Adjustments	Revised Estimates	Actual 30th June 2020	Difference
	Kshs	Kshs	Kshs	Kshs	Kshs
EATV Fee	80,193,845.97	16,631,086.97	63,562,759.00	141,256,597.10	(77,693,838.10)

260) Foreign Exchange gain Kshs.157,702.92 is nominal receipt that cannot be shared since the operative currency is the USD. East Africa Tourist Visa Fee MOU doesn't provide for any expenditure other than the costs associated with the collection and transfer of EATV revenue to partner states which should be within the 40%. (For FY 2018/2019 Bank charges of Kshs.2,100,516.36 were the only expenses)

261) **Committee Observations and Findings**

(i) The Accounting Officer admitted that the Statement of Revenue and Payment disaggregates receipts into Receipts from sale of EATV stickers by Kenya, Share of EATV revenue from Partner States and Foreign Exchange gain.

(ii) The share of revenue from Partner states is the money that has already been shared by the three countries (including Kenya) and transferred to the receiver of revenue and may be compared to the budget

262) **Committee Recommendation**

(i) The Accounting Officer should ensure that the National Treasury prepares a statement of revenue that compare the budgeted and actual share of revenue from Partner state in compliance with provisions of Section 68(2) of the PFM Act 2012.

45. Poor Maintenance of Accounting Records and Supporting Documents

263) The financial Statements prepared and presented for audit were not adequately supported with the underlying source documents including the Trial Balance, Ledgers and Visa Registers. Furthermore, the cashbook presented had no evidence of having been reviewed. No monthly bank reconciliation statements were prepared and board of survey reports were not carried out as part of the end of year procedures. The Joint verification report balances are at variance with those reported in the financial statements. In absence of proper accounting records and supporting documents, no reliance can be placed on the financial statements as prepared and presented.

Submission by the Accounting Officer

264) The Financial Statements are reported in Kshs being the reporting currency but the USD currency is the operative currency of EATV. In the course of Audit, the management provided the Bank reconciliation statements, certificate of bank balances, the Bank statements, the Cashbook, Receipt ledger and Trial balance as requested by the audit team. The cash book and the bank reconciliation statement were prepared and checked by

different auditors. A signed and stamped bank certificate was also provided to ascertain the bank balances.

265) The above documents were in the operative currency (USD) but a conversion schedule to the reporting currency (Kshs) was also provided. The conversion rates were based on the day's mean rate as provided by CBK. The manual ledgers were provided because no proper IFMIS module is fully developed to enable receipts and payments of the EATV which are transfers done in foreign currency through Payment Advices (PAs).

266) It is true that The National Treasury did not avail the Stickers register received from Rwanda. However, The Management advised the auditor via a letter dated 5th September 2019 Ref no. AG.3/172/1 Vol 4 (12) that the EATV registers and unused EATV stickers are kept by the Ministry of Interior and Coordination of National Government. The responsibility of The National Treasury is to Share revenue received from the collecting agencies: The Ministry of foreign affairs and the Directorate of Immigration.

267) **Committee Observations and Findings**

The National Treasury did not avail the Stickers register received from Rwanda. However, The Management advised the auditor via a letter dated 5th September 2019 Ref no. AG.3/172/1 Vol 4 (12) that the EATV registers and unused EATV stickers are kept by the Ministry of Interior and Coordination of National Government

268) **Committee Recommendation**

1) **The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.**
2) **The Auditor-General undertake the audit of the EATV registers and EATV stickers under the Ministry of Interior and Coordination of National Government and report in the subsequent audit cycle**

46. Non-Compliance with the EATV MOU

269) Article 7 of the MOU outlines the modalities for sharing out revenues raised on EATV fees amongst the partner states with ten percent (10%) being retained by each member country issuing the sticker for its administration costs, including accrued bank charges, and the remaining 90% to be shared equally among the three partner states each receiving 30%. The MOU also indicates the departments with the responsibilities to implement the MOU, the timeframe for effecting the transfers to the member states and further defines the

amounts for administration costs or bank charges. However, the statement of receipts and payments reflects receipts from sale of EATV stickers by Kenya of Kshs.100,775,998 resulting to equitable share to the partner countries of Kshs.60,465,599. However, actual transfers total to the partner countries amounted to Kshs.66,574,248 resulting an overpayment of Kshs.6,108,649. Management has not provided the reasons for the overpayment. In the circumstances, Management is in breach of the MOU.

Submission by the Accounting Officer

270) The Accounting Officer submitted that it was true that the Kshs.100,775,998.00 was received from sticker issues from various agencies and Kshs.109,126,198 transferred to Partner states. The account had an opening balance of Kshs.27,652,299.16, Bank charges of Kshs.2,100,516.36, Forex gains of Kshs.157,702.92 (the operative currency is the US Dollar while the reporting currency is Kshs) and a closing balance of Kshs.17,359,285.34 The table below analyses the amount of Kshs.109,126,198 being transfers to partner states in accordance with the MOU.

Description			**Kshs**	
Balance brought forward.			27,652,299.16	
Add sales during the year			**100,775,998.00**	
Add Forex Gains for the year			157,702.90	
Less: closing balance			(17,359,285.34)	
Less: Bank Charges			(2,100,516.36)	
Amount shared during the year			**109,126,198.36**	
Sharing in	**Kenya (Kshs)**	**Uganda (Kshs)**	**Rwanda (Kshs)**	**Total (Kshs)**
Quarter				
Q1	13,844,023.32	10,756,250.62	10,756,250.62	**35,356,524.56**
Q2	9,958,835.16	7,722,797.11	7,722,797.11	**25,404,429.39**
Q3	10,990,788.80	8,989,348.81	8,989,348.81	**28,969,486.41**
Q4	7,758,303.72	5,818,727.30	5,818,727.30	**19,395,758.33**
Total amount				
Shared	**42,551,951.00**	**33,287,123.84**	**33,287,123.84**	**109,126,198.68**

271) **Committee Observations and Findings**

i) The statement of receipts and payments reflects receipts from sale of EATV stickers by Kenya of Kshs.100,775,998 resulting to equitable share to the partner countries of Kshs.60,465,599. However, actual transfers total to the partner countries amounted to Kshs.66,574,24 resulting to equitable share to the partner countries of Kshs.60,465,59

ii) The actual transfers total to the partner countries amounted to Kshs.66,574,248 resulting an overpayment of Kshs.6,108,649. The Accounting Officer did not provide satisfactory explanation for the overpayment.

272) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should provide to the Auditor-General a satisfactory analysis of the overpayment of Kshs. 6,108,649. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle.

47. Limited Segregation of Duties

273) The financial transactions for the Account were prepared and recorded by one officer. The officer solely undertook recordings in the cashbook and other books of original entry. Further, the officer was responsible for the preparation of financial statements and provision of supporting records and documents. Consequently, there is limited segregation of duties which makes the process susceptible to errors and manipulation.

Submission by the Accounting Officer

274) According to Article 2 and 7 of the Memorandum of Understanding the institutions that implementation EATV are Directorate of Immigration and Registration of Persons under the Ministry of Interior and Coordination of National Government, the Ministry of Foreign Affairs and the National Treasury. The Directorate of Immigration and Registration of Persons receives and distribute all visa stickers, manage issuance of EATV stickers at Airports and Boarder points and keep records for EATV sticker balances. The Ministry of Foreign affairs is responsible for issuance of EATV stickers in Missions abroad. Both the Directorate of Immigration and Ministry of Foreign affairs have EATV collection accounts from which remittances are made to the main EATV account at the National Treasury. The National Treasury coordinates the sharing of collected revenues to the partner states.

275) Therefore, EATV is implemented by three Entities i.e. The State Department of Immigration, The Ministry of Foreign Affairs and the National Treasury. At the National Treasury whose mandate is to distribute EATV fees collected and banked by the two institutions, one officer does reconciliations and then prepares a payment schedule that is signed by two officers and finally prepares Payment Advices. The Payment Advices are then signed by three Ministry officials. Therefore, there is adequate segregating of duties. During the FY 2019/2020 the cash book and the bank reconciliation statements were prepared and checked by different officers for Internal Control purposes.

276) **Committee Observations and Findings**

The Committee observed that during the year under review, one officer prepared and recorded the financial transactions including the preparation of financial statements and provision of supporting records and documents. However, in the FY 2019/20, a different officer prepared and checked the cashbook and the bank reconciliation statements for internal control purposes.

277) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should provide to the Auditor-General a verifiable internal control system for the funds. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle.

48. Unresolved Prior Year Audit Matters

48.1 Receipts from Issue of Stickers in Kenya

278) As disclosed under Note 10.1 to the financial statements, the statement of receipts and payments for the year ended 30 June, 2017 reflected receipts from issue of stickers by Kenya of Kshs.72,459,424. However, Management did not avail the Trial Balance, Ledgers, and the Register for Visa Stickers Register in support of the reported revenue. Further, there is no reconciliation between receipts issued out by the agencies and the reported revenue receipts.

279) A review of stickers under the custody of two revenue collecting agencies; Ministry of Foreign Affairs and the Directorate of Immigration and Registration of persons revealed that five thousand seven hundred and fifty (5,750) and five thousand and thirty-six (5,036) stickers were issued respectively. With each sticker selling at USD 100, the total receipts amounted to USD 1,078,600 or approximately Kshs.107,860,000.

280) From the foregoing, the accuracy and completeness of the reported receipts from issue of stickers by Kenya of Kshs.72,459,424 for the year ended 30 June, 2017 could not be confirmed.

Submission by the Accounting Officer

281) The Accounting Officer admitted that in the FY 2016-2017 Kshs.72,459,423.88 was received from sticker issues from various agencies and Kshs.82,109,999.89 was transferred to Partner states (including Kenya). The account had an opening balance of Kshs.48,280,744.26 which included, Kshs.30,319,510 received from Rwanda and Uganda and had not been transferred to the receiver of revenue. There were also Bank charges of Kshs.450.00, Forex Loss of Kshs364,206.73 and a closing balance of Kshs.8,674,414.98.

282) **Committee Observations and Findings**

(i) The Committee observed that the Trial Balance, Ledgers, and the Register for Visa Stickers Register in support of the reported revenue have not been availed for review. Further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Committee also observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

283) **Committee Recommendations**

1) **The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012. Further, the Accounting Officer should ensure that complete financial and accounting records including supporting documents are presented within three (3) after the close of the financial year in breach of Section 9(1) (e) of the Public Audit Act, 2015**
2) **Within one month of adoption of this report, the Accounting Officer should provide to the Auditor-General copies of Trial Balance, Ledgers, and the Register for Visa Stickers. The Auditor-General undertake a review and report to the National Assembly in the subsequent audit reporting cycle.**

48.2 Non-Submission of Financial Statements

284) As previously reported, the financial statements prepared and presented for audit for the year ended 30 June, 2016 had comparative balances for the year ended 30 June, 2015. However, the financial statements for the year ended 30 June, 2015 were not prepared and presented for audit. Consequently, the comparative balances were for an unaudited financial statement. A review of the East African Tourist Visa (EATV) Memorandum of Understanding (MOU) indicates that it was signed on 27 October, 2013 with the collection of fees commencing in the financial year ended 30 June, 2014. The first set of financial statements should have covered the year ended 30 June, 2014 and subsequently to 30 June, 2015. Consequently, the accuracy of the unaudited comparative figures could not be established.

Submission by the Accounting Officer

285) When the MOU was signed, the implementation of visa by the partner states had various bottlenecks because accounting & reporting structures had not been put in place However, with the intervention of various institutions including the office of the Auditor General these issues have been resolved.

286) **Committee Observations and Findings**

i. The Committee observed that the Accounting Officer has started preparing financial statements, the unaudited balances will be reviewed to confirm that they have been accurately carried forward to subsequent periods of audit;
ii. The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

iii. The query remained unresolved.

287) **Committee Recommendations**

1) **The Committee reprimands the then Accounting Officer for failure to ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012. Further, reprimands the Accounting Officer for failure to ensure that complete financial and accounting records including supporting documents are presented within three (3) after the close of the financial year in breach of Section 9(1) (e) of the Public Audit Act, 2015**
2) **Within one month of adoption of this report, the Accounting Officer provide to the Auditor-General the financial statements. The Auditor-General undertake a review and report to the National Assembly in the subsequent audit reporting cycle.**

48.3 Non-Adherence to MOU Provisions on Sharing of Receipts

288) As previously reported, the statements of receipts and payments reflected receipts from issue of stickers by Kenya of Kshs.70,883,521 for the year ended 30 June, 2016. However, the sharing out was not equitable as per the MOU which entitles the issuing party to retain 10% of the amount or Kshs.7,088,352 and the balance to be shared equally by the parties each receiving 30% or Kshs.21,265,056. Instead, each partner state received Kshs.15,934,153 which was an understatement by Kshs.5,330,903 as per the signed MOU. No satisfactory explanation has been provided for the breach of the agreement. Management has also not provided proof of remittance of its share of receipts of Kshs.28,353,408 to the Exchequer.

Submission by the Accounting Officer

289) As mentioned above, the implementation of MOU had various bottlenecks like delays in Account opening by the implementing agencies of all the partner States & delays in remittances from Missions abroad. However, these initial problems were resolved and shortfalls to any of the Partner states were made good in subsequent quarters. The total figure since inception to 30th June, 2016 confirms establishes that the ratios were adhered to as prescribed by the MOU. See analysis below:

ANALYSIS OF EATV RECEIPTS FROM INCEPTION TO JUNE 2016	
Source	**Amount USD**
Directorate of immigration and Registration of persons	659,100.00
Ministry of Foreign Affairs	345,900.00
Total distributed	**1,005,000.00**

ANALYSIS OF EATV SHARING FROM INCEPTION TO JUNE 2016									
Country	% Sharing	1st Distribution 23. 02. 2015 USD	2nd Distribution 21. 04. 2015 USD	3rd Distribution 20. 07. 2015 USD	4th Distribution 16.10.15 USD	5th Distribution 29.04.16 USD	6th Distribution 19.05.16 USD	Final Distribution 26.10.2016 USD	Total Collections USD
Kenya	40%	28,854.43	2,269.43	1,401.04	125,168.00	36,022.61	42,560.00	165,724.49	402,000.00
Uganda	30%	21,640.82	1,719.95	1,401.04	93,528.92	27,016.96	31,920.00	124,272.32	301,500.00
Rwanda	30%	21,640.82	1,719.95	1,401.04	93,528.92	27,016.96	31,920.00	124,272.32	301,500.00
Total	100%	72,136.07	5,709.32	4,203.12	312,225.84	90,056.53	106,400.00	414,269.12	1,005,000.00

290) **Committee Observations and Findings**

The committee observed that the implementation of MOU had various bottlenecks like delays in Account opening by the implementing agencies of all the partner States & delays in remittances from Missions abroad. However, these initial problems were resolved and shortfalls paid to the Partner states in subsequent quarters.

291) **Committee Recommendations**

Within one month of adoption of this report, the Accounting Officer should provide to the Auditor-General the financial statements with analysis of EATV receipts by Kenya from 2016 to date. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle.

48.4 Discrepancies between Financial Statements and Supporting Records

292) As previously reported, a review of records in support of the financial statements revealed that The National Treasury maintains two EATV fee operating bank accounts, account number 1000227257 denominated in Kenya Shillings and account number 1000239026 denominated in US dollars. Review of the Kenya Shillings account revealed that Kshs.51,182,218 EATV fees collected and recorded in the cashbook during the year was omitted from the 2015/2016 financial statements. Further, receipts from share of revenue from partner states, Uganda and Rwanda amounting to Kshs.16,236,859 and Kshs.16,818,866 respectively deposited in the Kenya shillings bank account was not reported in the financial statements for the year. In addition, the Kenya Shillings cashbook reflected a closing balance of Kshs.39,898,521 as at 30 June, 2016 which was not incorporated in the financial statements. Further, the transfers made to the partner states from the Kenya Shillings bank account were omitted from the reported share of EATV revenue to partner states in the statement of receipts and payment. Consequently, it has not been possible to confirm the accuracy and completeness of the financial statements as prepared and presented.

Submission by the Accounting Officer

293) The Accounting Officer submitted that in the Financial Year 2014/2015 the National Treasury operated a Kenya shilling account No. 1000227257, instead of the USD account as stipulated in the MOU this is because the EATV structures had not been well established.

In the FY 2015/2016 and FY2016/2017 the National Treasury operated a Kenya shilling accounts No. 1000227257 and a US Dollar account no 1000239026. The Kenya shilling account could not be closed immediately since remittances from Missions abroad were still being made through the account. In the FY2017/2018 only the USD account was used according to the MOU. Both accounts were incorporated in the Financial Statements together with other relevant documents were submitted to the Auditor General.

294) **Committee Observations and Findings**

i) The National Treasury operated in the Financial Year 2014/2015, a Kenya shilling account instead of the USD account as stipulated in the MOU due to lack of operation structures for the EATV.

ii) The National Treasury operated in the Financial Years 2015/2016 and FY2016/2017, a Kenya shilling accounts and a US Dollar account. The National Treasury did not close the Kenya shilling account since remittances from Missions abroad were still being made through the account. In the FY2017/2018 only the USD account was used according to the MOU

295) **Committee Recommendations**

Within one month of adoption of this report, the Accounting Officer should provide to the Auditor-General the financial the account statements and certified balances for all the accounts from 2016 to 2021. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle.

48.5 Accountability for EATV Stickers

296) As previously reported, Article 6 of the MOU sets the modalities for issuance of the EATV stickers with the sticker issued to a tourist upon payment of USD100 or its equivalent in the local currency. The stickers issued to tourists are accountable documents and hence records of how they are procured, distributed and issued are critical for accountability. However, the management does not have in place registers of all stickers received from the partner states and issued out for the year.

Submission by the Accounting Officer

297) The National Treasury did not avail the Stickers register received from Rwanda at the time of audit. However, the auditor was advised via a letter dated 5th September 2019 Ref no AG.3/172/1 Vol 4 (12) that EATV registers and unused EATV stickers are kept by the Ministry of Interior and Coordination of National Government The responsibility of The National Treasury is only to Share revenue received from the collecting agencies: The Ministry of foreign affairs and the Directorate of Immigration.

298) **Committee Observations and Findings**

The National Treasury did not avail the Stickers register received from Rwanda at the time of audit.

299) **Committee Recommendation**

1) **The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year in line with Article 229 of the Constitution.**
2) **The Auditor-General should undertake the audit of the EATV registers and EATV stickers under the Ministry of Interior and Coordination of National Government and report in the subsequent audit cycle**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

300) **Conclusion**

49. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

301) **Conclusion**

50. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

CONSOLIDATED FUND SERVICES (CFS) - SALARIES ALLOWANCES AND MISCELLANEOUS SERVICES

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

51. Unsupported Prior Year Adjustments

302) As disclosed under Note 10 to the financial statements, the statement of assets and liabilities reflects a prior year adjustment of Kshs.158,249,113; (2018- Kshs.18,420,097). However, the disclosures are inadequate, as they are not supported by way of an itemized breakdown of the adjustment. Consequently, the accuracy of the prior year adjustment of Kshs.158,249,113 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

303) **Unsupported prior year adjustments - Kshs.158,249,113.00**

The prior year adjustments of Kshs.158,249,113.00 reported in the statement of assets and liabilities relates to the opening bank balance that was surrendered to the Exchequer at the beginning of the financial year and removal from the cashbook of the long outstanding bank reconciliation entries.

Date	Details	Amount - Kshs	Remarks
31.08.2018	Exchequer Account	(161,582,957.00)	Closing bank balance as at 2018 surrendered to Exchequer
29.05.2019	Cash book adjustment (17)	645,091.50	As per analysis
27.06.2019	Cash book adjustment	2,694,686.05	As per analysis
27.06.2019	Cash book adjustment	(5,934.00)	Reversal of receipt relating to prior year period.
Total - Kshs		**(158,249,113.00)**	

304) **Committee Observation and Finding**

The Accounting Officer provided to the Committee the itemized breakdown of the adjustment to confirm the accuracy of the prior year adjustment of Kshs.158,249,113 as at 30 June, 2019.The explanation was satisfactory.

Other Matter

52. Budgetary Provisions and Performance

305) The summary statement of appropriation: recurrent and development combined reflects final miscellaneous services budget and actual on comparable basis of Kshs.128,000,000 and Nil respectively. As similarly reported in 2017/2018, the planned activities and programmes on the budgetary provision have not been disclosed.

Submission by the Accounting Officer

306) The Accounting Officer submitted that the CFS Vote R052 provides includes a budget of Kshs.128,000,000 to cater for miscellaneous services which include Payment of employer contributions to National Social Security Fund and Loan Management Expenses. However, there was no demand note/invoice from National Social Security Fund for

payment of Government contribution and there was no payment relating to loan management expenses in the year under review was made.

307) **Committee Observations and Findings**

i) The CFS Vote R052 provision includes a budget of Kshs.128,000,000 to cater for miscellaneous services including payment of employer contributions to National Social Security Fund and Loan.

ii) National Treasury did not receive demand note from the National Social Security Fund for payment of Government contribution. Further, there was no payment relating to loan management expenses in the year under review.

308) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year in line with Article 229 of the Constitution.

53. Prior Year Issues

309) The following prior year audit matters remained unresolved as at 30 June, 2019:

53.1Accuracy of the Financial Statements and Records

310) A review of various balances reflected in the financial statements for the year ended 30 June, 2018 revealed that records maintained by Management reflected different balances though relating to the same items as highlighted below:

i) The statement of receipts and payments reflected an expenditure of Kshs.2,685,214,290 under compensation of employees. The Trial Balance reflected a credit balance of Kshs.3,217,869,377 on the same item while the payroll and payment vouchers showed a total expenditure of Kshs.2,675,257,162. The differences between the three sets of records have not been reconciled.

ii) An analysis of the 'off payroll' payments reflected an expenditure of Kshs.256,036,689 while the physical vouchers availed and examined for the period indicate a total expenditure of Kshs.254,479,596. An expenditure of Kshs.1,557,093 could not therefore be vouched or explained.

iii) The expenditure on Teachers Service Commissioners as per the supporting schedules was Kshs.70,500,744 while the Ledger reflected a balance of Kshs.55,586,543 for the same period. The difference of Kshs.14,914,201 was not explained.

iv) Examination of schedules supporting the expenditure for the Independent Electoral and Boundaries Commission in the statement of receipts and payments reflected a closing balance of Kshs.61,788,248 while the payroll reflected an amount of Kshs.51,679,730 The difference of Kshs.10,108,518 was not explained. In addition, the amount was not recorded in the Ledger and Trial Balance.

v) Examination of payment vouchers revealed that an amount of Kshs.23,705,121 paid to two retired officers of the National Gender and Equality Commission (NGEC) was wrongly charged to the National Police Service Commission (NPSC) expenditure item. No adjustment has been made to correct the anomaly.

vi) The ledger reflected an expenditure of Kshs.100,210,801 for the National Cohesion and Integration Commission while the payment vouchers examined indicates a total of Kshs.97,017,530. The difference of Kshs.3,193,271 was not explained or reconciled.

vii) The Trial Balance provided for audit included balances which had not been identified as either debits or credits. Whereas the Trial Balance represents a prima facie evidence on the accuracy of recording of all the transactions affecting an entity, it was difficult to establish whether the two sides of the Trial Balance balanced as at 30 June, 2018. The accuracy of the financial statements' figures cannot therefore be ascertained without confirming the balancing of the Trial Balance.

311) In absence of an accurate Trial Balance, the resultant financial statements could have been grossly misstated and may not have reflected a true and fair view of the operations of the Consolidated Fund Service - Salaries, Allowances and Miscellaneous Services for the year ended 30 June, 2018.

Submission by the Accounting Officer

312) The Accounting Officer submitted as follows:

i. The statement of receipts and payments for the financial year ended 30th June 2018 reflected an amount of Kshs.2,685,214,290 as compensation to employees as indicated in the table below which agrees with the trial balance.

Constitutional Office	KShs.
12 Months Salary(Payrolls)	2,429,177,601.20
Attorney General	9,923,211.60
Judiciary	20,872,831.40
National Gender Comm.	23,705,121.30
National Cohession and Integration Commission	31,040,334.40
Public Service Commission	30,992,190.10
Salaries and Remuneration Commission	65,253,000.00
President, Deputy President And Retired Presidents	74,250,000.00
TOTAL - Kshs.	**2,685,214,290.00**

313) **Committee Observations and Recommendations**

The Accounting Officer provided a satisfactory explanation to both the auditor and the Committee. The matter is therefore resolved with auditor

314) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year in line with Article 229 of the Constitution.

ii. **Analysis of off-payroll payments of Kshs.256,036,689.00**

315) At the time of submission of financial statements, the off-payroll expenditure amounting to Kshs.256,036,689.00 was supported with a detailed schedule. All the vouchers were availed for audit. The difference of Kshs.1,557,093.00 was due to the missing of some payment vouchers at the time of audit but were later found and records were reconciled.

Analysis of Off-Payroll Payments

Particulars	**Kshs.**
Attorney General	9,923,211.60
Judiciary	20,872,831.40
National Gender Comm.	23,705,121.30
National Cohesion And Integration Commission	31,040,334.40
Public Service Commission	30,992,190.10
Salaries And Remuneration Commission	65,253,000.00
President, Deputy President And Retired Presidents	74,250,000.00
Total – Kshs.	**256,036,689.00**

316) The expenditure on Teachers' Service Commission as reported in the supporting schedules for Receipts and Payments reflects the correct amount of Ksh.70,500,744.00. The expenditure of Ksh.55,586,543.00 in the IFMIS ledger relates to Independent Electoral Commission which is erroneously described in IFMIS as Teacher's Service Commission but this was rectified.

317) **Committee Observation and Findings**

By the time of audit the Statement of receipts and payments for the Independent Electoral Commission reflected an expenditure of Ksh.61,788,248 while payroll reflected Ksh.51,679,730. The two records were reconciled. Matter was therefore resolved with auditor

318) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year in line with Article 229 of the Constitution.

iii. **Trial Balance as at 30th June,2018**

319) A detailed Trial Balance for Vote 0004 submitted for audit reflected values of transactions of payments and receipts. A detailed Ledger Extract for the same period was availed for audit.

320) **Committee Observations and Recommendations**

The Accounting Officer provided a satisfactory explanation to both the auditor and the Committee. The matter is therefore resolved with auditor

321) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year in line with Article 229 of the Constitution

322) The expenditure on National Cohesion and Integration Commission amounting to Ksh.100,210,801.20 as reported in the Ledger is comprised of Pay rolls and off payroll payments as shown below.

	Amount (Ksh.)
Payroll summary	69,170,466.60
Payment vouchers	31,040,334.40
Total	**100,210,801.20**

323) The detailed Trial balance for Vote 0004 submitted for audit reflected values of transactions of payments and receipts. However, the report generated by IFMIS does not show segregation of debits and credits. A detailed Trial balance for the same period was availed for audit review.

324) **Committee Observations and Findings**

The Accounting Officer provided a satisfactory explanation to both the auditor and the Committee. The matter is therefore resolved with auditor

325) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM

Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year in line with Article 229 of the Constitution.

53.2Unsupported Prior Year Adjustments

326) The statement of assets and liabilities as at 30 June 2018 reflected prior year adjustment of Kshs.18,420,097 (2017: Kshs.26,919,334) which was not supported. As reported similarly in the previous years' audit reports, Management has not explained the genesis for the adjustments or provided any records by way of journal vouchers or entries in the ledger. It appears Management may have used the 'prior year adjustments' as a way of balancing inaccuracies and inconsistencies in the financial records. In absence of sufficient verifiable supporting documents and records, the authenticity of such adjustments in the financial statements cannot be ascertained.

Submission by the Accounting Officer

327) The Accounting Officer submitted as follows:

a. Prior Year adjustments of Ksh.18,420,097

The statement of Assets and Liabilities for the year ended 30th June 2018 reflects a prior year adjustment of Ksh.18,420,097. The amount relates to erroneous direct deposits from the entities indicated in the table below.

Date	reference	Details	Amount	See Audit response 2016/17- Comments
4-Oct-16	FT1627878D57	Outward Cheque-EACC-P KINISU	63,000.00	FO 76 CONTRA 19/10/16 APX 19
22-Dec-16	FT16357S5YW7	Outward Cheque-EACC- P KINISU	27,000.00	FO23 CONTRA- APX 20
9-Feb-17	FT170404D6C5	Outward Cheque JUDICIARY- H OKWENGU	261,000.00	FO 86 CONTRA – APX 21
7-Jul-17	FT17188M8CWV	TRFS Payments	40,812.45	FO 01 4/8/2017
3-Feb-17	FT17034M3PYX	TRFS Payments-MIN AGRICULTURE	41,179.05	FO 86 RECIEPTS 28/02/2017 APX 23
27-Feb-17	FT17058MVVNK	TRFS Payments-MIN AGRICULTURE	41,507.75	FO 86 RECIEPTS 28/02/2017 APX 24
2-Dec-16	FT163379S1ZW	TRFS Payments-MIN AGRICULTURE	42,555.30	FO 81 19/12/16 APX 25
28-Sep-16	FT1627260F9R	TRFS Payments-SAL-OVERPAY	206,500.00	FO 74 30/9/2016 APX 26

28-Sep-16	FT16272QMZY4	TRFS Payments-NATIONAL ASSEMBLY	17,696,542.60	FO 83/78/74/93 APX 27
	TOTAL		**18,420,097.15**	

The direct deposits were reported as accounts payable in the FY 2016/2017. However, the amount was paid to exchequer in July 2018 asper the table above.

328) **Committee Observations and Recommendations**

The prior year adjustment of Ksh.26,919,334.00 relates to salary advance overpayment recoveries and payment of withheld salaries in the year ended 30th June, 2017. The Accounting Officer provided a satisfactory explanation to both the auditor and the Committee. The matter is therefore resolved with auditor

329) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year in line with Article 229 of the Constitution

53.3Account Balances Not Recorded in Ledger

330) The financial statements for the year 2016/2017 reflected balances of individual items that were not reflected in the ledger of the Consolidated Fund Services - Salaries, Allowances and Miscellaneous Services as indicated below; -

Account	**Amount (Kshs.)**
Exchequer Releases	3,905,744,684
Transfers from Other Government Entities	362,830,853
Other Receipts	18,420,097

331) The figures in the financial statements in respect to the specific items could not be authenticated.

Submission by the Accounting Officer

332) The Accounting Officer submitted that at the time of audit, the following balances had not been recorded in the ledger. However, the entries were later captured in the Ledger.

Exchequer releases	3,905,744,684.00
Transfer from other Government Entities	362,830,853.00

Other Receipts	18,420,097.00

333) **Committee Observations and Recommendations**
The Accounting Officer provided a satisfactory explanation to both the auditor and the Committee. The Committee therefore marked the matter as resolved.

334) **Committee Recommendation**
The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year in line with Article 229 of the Constitution

53.4Unsupported Restatement of Balances

335) The financial statements for the year ended 30 June, 2016 reflected balance brought forward amounts under Fund balance, compensation of employees and accounts receivables of Kshs.8,566,405,035, Kshs.2,416,693,457 and nil which had been re-stated from Kshs.397,382,932, Kshs.2,418,352,317 and 8,663,621,032 respectively, reflected in the audited financial statements for 2014/2015. The statement of financial position also showed clearance of outstanding items of Kshs.11,980,334. This has not been explained nor details of the adjustments provided. Consequently, the accuracy of the balances reflected in the financial statements cannot be confirmed.

Submission by the Accounting Officer
336) The Accounting Officer submitted that the statement of financial position as at 30th June 2016 reflected balance brought forward under fund balance, compensation of employees and account receivables of Ksh.8,566,405,035.00, Ksh.2,416,693,457.00 and nil balance respectively which had been re-stated from Ksh.397,382,932.00, Ksh.2,418,352,317.00 and Ksh.8,663,621,032.00 respectively. The statement of financial position also shows clearance of outstanding item of Ksh.11,980,334.00 as reflected in the financial statements as at 30th June, 2015.

337) The balance brought forward of Ksh.8,566,405,035.00 is the accumulated exchequer under issues as at 30th June, 2014 that had been carried forward in the books and reported as receivables. The accumulated exchequer under issues increased to Ksh.8,848,051,762.00 as at 30th June, 2015 and was adjusted by cash book balance of Ksh.172,450,397.00 and overcast on PA No. 101684 of Ksh.11,980,333.50 to arrive at net receivables of Ksh.8,663,621,032.00. The budget allocation expired at the end of June each year and the accounts were prepared on cash basis and hence the adjustment.

338) The amount of Ksh.397,382,932.00 reflected in the audited statement was the bank certificate balance. The amount was restated to Ksh.8,566,405,035.00 being the

accumulated exchequer under-issues brought forward in FY 2014/2015. The amount of Ksh.11,980,334 relates to reversal of an overstatement on payment voucher for PA No. 101684 which had been reported in the payment voucher as Ksh.12,101,354.40 instead of actual payment Ksh.121,020.90. The variation was due to application of a wrong exchange rate. The cash book error was corrected.

339) **Committee Observations and Recommendations**

The Accounting Officer provided a satisfactory explanation to both the auditor and the Committee. The Committee therefore marked the matter as resolved.

340) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year in line with Article 229 of the Constitution

Unexplained Balance

341) The statement of assets and liabilities as at 30 June, 2017 reflected a balance of Kshs.4,456,673 referred to as "difference". Management has not explained what this amount related to. Further the item does not appear in the subsequent financial statements and there is no disclosure on how it was dealt with.

Submission by the Accounting Officer

342) The Accounting Officer submitted as follows:

Suspense balance of Ksh.4,456,673

343) The statement of assets and liabilities reflects a balance of suspense/difference of Kshs.4, 456,673.00 being a difference or suspense. The amounts represented salary overpayment recoveries and salary advances. Salary payments were accounted for in the payroll execution and hence adjustment was necessary to ensure the amounts paid in payroll have not been accounted for twice.

344) **Committee Observations and Recommendations**

The Accounting Officer provided a satisfactory explanation to both the auditor and the Committee. The Committee therefore marked the matter as resolved.

345) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year in line with Article 229 of the Constitution

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

346) **Conclusion**

54. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

347) **Conclusion**

55. There were no material issues relating to effectiveness of internal controls, risk management and governance.

348) **Committee Observation and Finding**
The Committee observed that there were no issues on Paragraph 54 and 55 on compliance with lawfulness and effectiveness in use of public resources effectiveness of internal controls, risk management and governance.

CONSOLIDATED FUND SERVICES - PENSIONS AND GRATUITIES FOR THE YEAR ENDED 30 JUNE, 2019

Basis for Adverse Opinion

56. Inaccuracies in the Financial Statements

56.1 Discrepancies between the Financial Statements and the Ledger Balances

349) The financial statements prepared and presented for audit had the following unexplained and unreconciled variances with the ledger as indicated below.

Item	**Financial Statements Balance (Kshs.)**	**Ledger Balance (Kshs.)**	**Variance (Kshs.)**
Military Gratuity Payments	2,365,015,733	2,580,880,386	(215,864,653)
Returned Pensions	341,468,825	438,896,156	(97,427,331)
Re-credited Cheques	121,791,362	390,937,784	(269,146,422)
Commuted Pension and Gratuities	22,808,826,537	25,095,813,221	(2,286,986,684)

350) The differences between the two sets of records have not been reconciled or explained.

Submission by the Accounting Officer

351) The Accounting Officer submitted that it was true that the financial statements prepared and presented for audit had the following unexplained and unreconciled variances with the ledger.

Item	Financial Statements Balance (Kshs)	Ledger Balance (Kshs)	Variance (Kshs)
Military gratuity payments	2,365,015,733	2,580,880,386	(215,864,653)
Returned pensions	341,468,825	438,896,156	(97,427,331)
Re-credited cheques	121,791,362	390,937,784	(269,146,422)
Commuted Pension and gratuities	22,808,826,537	25,095,813,221	(2,286,986,684)

352) By the time of audit, the differences between the two sets of records had not been reconciled or explained.

a). Payments to military pensioners amounting to Kshs.215,864,653.30 comprise of Kshs.132,892,687 and Kshs.82,971,966, whereby Kshs.132,892,687 together with Kshs.2,286,986,684 that relates to payments for other public servants` retirees that were processed but actual payments were not made due to lack of exchequer. The payments were processed through the PMIS and posted electronically into the ledger as at 30th June 2019. They have remained unpaid at the end of financial year. Further, an amount of Ksh.82,971,966 are payments that had been double posted but were later rectified. The PMIS system does not have a component of reversal of payments once they have been processed and posted electronically into the ledger and the amount is considered as pending bills as at the end of financial year 2018/2019. Therefore, this amount became the first charge in the following financial year 2019/2020.

b). The difference of Kshs.269,146,422.17 was occasioned by system error whereby the wrong balance of Ksh.3,792,842.79 was brought forward for the month of July,2018 instead of the correct balance of Kshs.4,061,252,617.04. The error was noted and the financial statements for the period were revised and submitted for audit review.

353) **Committee Observations and Findings**

The Accounting Officer provided a satisfactory explanation to both the auditor and the Committee. The Committee therefore marked the matter as resolved.

354) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012

56.2 Misstated Payment of Pensions Balances

355) As disclosed in Note 13.3 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.66,917,302,195 under payment of pensions. However, this balance varies with the casted amount of Kshs.66,119,310,602 reflected in Note 13.3 to the financial statements, by Kshs.797,991,593. Further, included in the military pensions payments of Kshs.4,658,469,029 is an amount of Kshs.132,892,687 which was paid in the financial year 2019/2020. In addition, payments of civil pensions amounting to Kshs.29,820,146,295 was not properly supported as the payrolls and payment vouchers reflected an expenditure of Kshs.30,271,871,789 and Kshs.26,586,806,355 respectively as at 30 June, 2019. From the foregoing, the accuracy of the financial statements prepared and presented for audit for the year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

356) The difference of Kshs.797,991,593 was an omission of expenditure item but was later included in the revised statement that was submitted for audit review. Payments to military pensioners amounting to Kshs.132,892,687 referred to in para 56a above relates to payments for other public servants` retirees that were processed but actual payments were not made due to lack of exchequer.

357) Further, at the time of audit the reconciliation of civil payroll had not been done. However, the reconciled payroll has now been done and submitted for audit review.

358) **Committee Observations and Recommendations**

The Accounting Officer provided a satisfactory explanation to both the auditor and the Committee. The Committee therefore marked the matter as resolved.

359) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012

56.3 Comparative Balances Differing with Audited 2017/18 Balances

360) The following comparative balances differed with the balances reflected in the audited 2017/18 financial statements:

		Comparative Balance as Per 2018/2019 Financial	Balance as Per the Certified 2017/18 Financial

Statement	Component	Statements	Statements
Statement of Assets and Liabilities	Bank Balance	572,446,864	(572,446,864)
Statement of Assets and Liabilities	Net Financial Assets	4,633,699,481	(4,633,699,481)
Statement of Assets and Liabilities	Fund Balance b/f	3,876,911,341	(3,876,911,341)
Statement of Assets and Liabilities	Deficit for the period	756,788,140	(756,788,140)
Note 13.1	Exchequer Releases	63,170,121,740	62,413,333,600
Note 13.3	Civil gratuity	Nil	1,219,455,965

361) In addition, the statement of assets and liabilities reflects a fund balance brought forward of Kshs.4,037,848,812 while the audited 2017/18 financial statements reflected a closing balance of Kshs.4,633,699,481 resulting into an unexplained difference of Kshs.595,850,669.

Submission by the Accounting Officer

362) It is true that by the time of audit comparative balances differed with the balances reflected in the audited FY2017/18 financial statements. However, the financial statements were revised and correct balances shown. The difference of Ksh.595,850,669 in the accounts was due to the use of the PMG figure of (572,446,864) instead of cash book balance of 23,405,805/- closing balance however, accounts were reinstated and submitted for review. Further, the financial statements for the year 2018/2019 show Fund balance brought forward of Kshs.4,037,848,842 instead of the audited financial statements balance for 2017/2018 of Kshs.4,633,699,481. This is because the financial statements for 2017/2018 were restated through adoption of the cash basis of accounting concepts through use of the cash book balance of 23,405,805 as at 30th June, 2018 instead of PMG ledger balance of Kshs.(572,446,864) as at 30th June, 2018. The restatement of accounts was done because we used the PMG ledger closing balance instead of cash book closing figures in preparing financial statements. Therefore, the statement of Assets and liabilities for financial year 2017-2018 is restated as follows:

	PMG	ADJUSTMENT	CASH BOOK
Balance	-572,446,864	595,850,669	23,405,805
Re-Credited	-4,061,252,617	-	-4,061,252,617
B/ down	-4,633,699,481	595,850,669	-4,037,848,842

363) The figure of Kshs.595,850,669 resulted from the movement of restatement of PMG closing balance PMG from Kshs.(572,446,864) to Cash book closing balance of Kshs.23,405,805.

364) **Committee Observations and Recommendations**

i) The figure of Kshs.595,850,669 resulted from the movement of restatement of PMG closing balance PMG from Kshs.(572,446,864) to Cash book closing balance of Kshs.23,405,805.
ii) The Accounting Officer provided a satisfactory explanation to both the auditor and the Committee. The matter is therefore resolved with auditor

365) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012

57. Accuracy of the Financial Statements

366) The statement of receipts and payments reflects balances of Kshs.1,706,000,086 and Kshs.1,270,867,275 under other receipts and other payments respectively. The balances are however, not reflected in the summary statements of appropriation. In the circumstances, the accuracy of the financial statements as presented could not be confirmed.

Submission by the Accounting Officer

367) The summary appropriation statement was revised to reflect correct receipts and payments balances as shown in revised account note 11.2 and 11.4 of Kshs.1,759,232,390 and Kshs.1,368,294,606 respectively. The figure of Kshs.929,398,450 was surrendered to the exchequer under revenue collection account while the deposits were for previous financial year that could not be reflected in the current year and the balances of Kshs.829,833,940 and Kshs.438,896,156 under other receipts and other payments respectively were retuned payment as shown by Re-credited cheque analysis from the IFMIS system.

368) **Committee Observations and Findings**

i) The summary appropriation statement was revised to reflect correct receipts and payments balances of Kshs.1,759,232,390 and Kshs.1,368,294,606 respectively.
ii) The figure of Kshs.929,398,450 was surrendered to the exchequer under revenue collection account while the deposits were for previous financial year that could not be reflected in the current year and the balances of Kshs.829,833,940 and Kshs.438,896,156 under other receipts and other payments respectively were retuned payment as shown by Re-credited cheque analysis from the IFMIS system

369) **Committee Recommendations**

1) **The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year in line with Article 229 of the Constitution.**
2) **Within three months of adoption of this report, the Accounting Officer provide to the Auditor-General the statement with adjustments for review. The Auditor-General undertake a review and report to the National Assembly in the subsequent audit reporting cycle**

58. Unbalanced Trial Balance

370) The Trial Balance in support of the financial statements presented for audit reflects total debits and credits of Kshs.64,242,772,210 and Kshs.63,699,446,337 respectively resulting to an unreconciled variance of Kshs.543,325,873. Further, the Trial Balance includes items with balances that have not been incorporated in the financial statements.

Submission by the Accounting officer

371) The Service and compassionate gratuities Ksh.15,267,436, Marriage gratuities Ksh.16,059,357 and Civilian death gratuities under item 0-0962-0901-2710102 are current payments paid as other pensions under Head item totaling Kshs.852,513,923, which is part of the total expenditure for the year under review.

372) The other figures provided for encumbrance under Head 9-808 are journals` entries made to correct errors in the earlier years but because the PMIS has no component to net off a debit or a credit on running items in the year in which the journals` entries were passed, the same has consecutively been being carried forward in the ledger. The error was noted and will be addressed when new system is procured.

373) **Committee Observations and Findings**

i) The Committee observed that although Management submitted manual journals to correct the errors, a new system is yet to be procured in order to capture data and produce accurate financial statements;
ii) The Service and compassionate gratuities Ksh.15,267,436, Marriage gratuities Ksh.16,059,357 and Civilian death gratuities under item 0-0962-0901-2710102 are current payments paid as other pensions under Head item totaling Kshs.852,513,923, which is part of the total expenditure for the year under review.

374) **Committee Recommendations**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year in line with Article 229 of the Constitution.

59. Unsupported Expenditure

375) The statement of receipts and payments for the year ended 30 June, 2019 reflects pension payments of Kshs.66,917,302,195. Included in this balance is Kshs.61,995,510 (2017/2018-Kshs 58,656,973) paid through the pension payroll to Asian and European Pensioners who retired due to Africanization of public sector after independence in 1963. However, no evidence was provided that the pensioners' personal files and life certificates were submitted before payments were effected as required by the Pension Department's internal controls. Consequently, the propriety of the expenditure of Kshs.61,995,510 could not be ascertained

Submission by the Accounting Officer

376) The Accounting Officer admitted that an expenditure amounting Kshs.61,995,510 (2017/2018 – Ksh.58,656,973) is included in the total expenditure of Ksh.66,917,302,195 during the year under review was paid through the pension payroll to Asian and European pensioners who are in our main payroll. The payments have always been made unless there is notification of deaths that leads to the removal of the pensioner from the payroll. However, all the files that auditors requested were provided.

377) **Committee Observations and Findings**

i) The Accounting Officer admitted that an expenditure amounting Kshs.61,995,510 is included in the total expenditure of Ksh.66,917,302,195 during the year under review was paid through the pension payroll to Asian and European pensioners who are the main payroll

ii) The Committee observed that Pensioners Personal files were availed for audit review save for the life certificates that were not availed;

378) **Committee Recommendations**

Within one month of adoption of this report, the Accounting Officer provide to the Auditor-General Life Certificate, Banks Accounts including Payments Details for review. The Auditor-General undertake a review and report to the National Assembly in the subsequent audit reporting cycle

60. Returned Pensions and Unsupported Accounts Payables

379) As previously reported, the statement of assets and liabilities and as disclosed in Note 13.6 to the financial statements, reflects accounts payable of Kshs.4,183,043,979 (2018 - Kshs.4,061,252,617). Analysis of the figure revealed that Kshs.1,189,930,008 related to pensions payments returned during the year while Kshs.372,222,595 was paid back to pensioners on account of 2017 returns resulting in the net movement for the year of Kshs.817,707,413. However, detailed listing by individual pensioners in support of the accounts payables balance of Kshs.4,183,043,979 was not provided.

Submission by the Accounting Officer

380) The Accounting Officer submitted that the account payable balance of Kshs.4,183,043,979 is an accumulative figure since the time PMIS was introduced. The primary source document that are used to capture returned pensions are bank statements, Miscellanies Receipt, cash books and PMIS ledger that captures returned pensions on monthly basis to support payable balance of Kshs.4,183,043,979 that can be accessed in PMIS by the auditors through assistance of ICT staff. The report for re- credited cheques analysis from the PMIS for the last three years is hereby attached for audit verification.

381) **Committee Observations and Findings**

i) The Committee observed that the response provided by the Accounting Officer does not detail individual pensioners to support payable balance of Kshs.4,183,043;
ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
iii) The Committee also observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015.

382) **Committee Recommendations**

Within one month of adoption of this report, the Accounting Officer provide to the Auditor-General supporting documents including individual pensioners to support payable balance of Kshs.4,183,043for review. The Auditor-General undertake a review and report to the National Assembly in the subsequent audit reporting cycle

Other Matter

61. Unresolved Prior Year Matter

383) The following prior year audit matter remained unresolved as at 30 June, 2019:

61.1 Unsupported Expenditure

384) As previously reported, included in the pensions expenditure of Kshs.63,170,121,740 as at 30 June, 2018 is an amount of Kshs.20,294,340 paid to an international development company. Although Management explained that the payment was on account of pre-independence and post - independence pensioners who worked in Kenya and currently residing in the United Kingdom, the expenditure was not adequately supported by way of payrolls detailing out the beneficiaries. Consequently, the propriety of the expenditure could not be confirmed.

Submission by the Accounting Officer

385) The Accounting Officer submitted that the Department agreed with Crown Agent in United Kingdom to manage the accounts of pre and post-independence pensioners residing in the United Kingdom on its behalf. The Department relies on monthly reports from Crown Agents to make monthly payment schedules and payroll which is available for audit review. A sample of the payroll and monthly returns for the same has been attached.

386) **Committee Observation and Finding**

The National Treasury agreed with Crown Agent in United Kingdom to manage the accounts of pre and post-independence pensioners residing in the United Kingdom on its behalf. The Department relies on monthly reports from Crown Agents to make monthly payment schedules and payroll.

387) **Committee Recommendation**

Within three months of adoption of this report, the Auditor-General initiate a special audit into the payments since independence to date for the pre- and post-independence pensioners residing in the United Kingdom. The special audit should also cover how the Crown Agent in United Kingdom was procured and the payments for the services offered to the National Treasury

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

388) **Conclusion**

62. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

389) **Conclusion**

63. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REVENUE STATEMENTS – PENSIONS DEPARTMENT

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

64. Discrepancies Between Budget Statement and the Printed Estimates

390) The statement of comparison of budget and actual amounts reflects total budget of non-tax receipts of Kshs.309,398,233 being contribution by government employees to social welfare which differs from the 2018/2019 printed revenue estimates of Kshs.894,349,041 resulting to an unexplained and unreconciled variance of Kshs.584,950,808. Consequently, the accuracy and completeness of the revenue statements could not be confirmed.

65. Variance Between the Revenue Statement and Trial Balance Figures

391) The statement of revenues and transfers reflects total non-tax receipts of Kshs.262,230,402; (2018-Kshs.308,019,086) comprising of receipts from MDAs and other receipts of Kshs.262,091,309 and Kshs.211,093 respectively. However, the Trial Balance and revenue analysis availed for audit reflected a total of non-tax receipts balance of Kshs.270,789,739 resulting to an unexplained variance of Kshs.8,559,337.

392) In the circumstance, the accuracy and completeness of the reported total non-tax receipts balance of Kshs.262,230,402 cannot be ascertained.

Submission by the Accounting Officer

393) The trial balance generated by the PMIS ledger accumulates figures from previous period and the figures for the current financial year are arrived at by deducting the opening balances from the closing balances. The difference in trial balance was corrected and a corrected analysis is hereby attached for audit review.

394) **Committee Observations and Findings**

i) The Committee observed that the ledger availed is manually prepared and not generated from PMIS which ought to be the source document of balances reflected in the financial statements;
ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
iii) The Committee also observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

395) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer provide to the Auditor-General a verifiable internal control system for the funds. The Auditor-General undertake a review and report to the National Assembly in the subsequent audit reporting cycle

66. Incomplete Progress Report on Follow Up of Auditor's Recommendations

396) As reported in the 2017/18 audit report, there is an unresolved matter of an unexplained difference of Kshs.1,379,147 between the total revenue collected and transferred to the

Exchequer and transfers of receipts reflected in the bank statement. In addition, the receiver of revenue failed to provide a budget of the estimated revenue collections. These issues have not been captured under progress on follow up of auditor's recommendation section of the financial statements. In the circumstances, the financial statements have not been prepared in compliance with IPSAS.

Submission by the Accounting officer

397) The Accounting officer admitted that the Progress Report on Follow up of Auditors Recommendation was not complete but they were captured in subsequent financial statements.

398) **Committee Observations and Findings**

There is no commitment by the National Treasury for timely addressing of the recommendation by the Auditor-General and PAC recommendations as resolved by the House.

399) **Committee Recommendations**

Within three months of adoption of this report, the Cabinet Secretary for the National Treasury provide to the Auditor-General a verifiable framework for addressing all audit recommendations and PAC recommendations on the National Treasury and other national government votes. The Auditor-General provide a report to the National Assembly in the subsequent audit reporting cycle

67. Under Collection of Receipts

400) The statement of comparison of budget and actual amounts reflects total non-tax receipts budget of Kshs.309,398,233 compared to actual receipts of Kshs.262,019,303 resulting in an under collection of Kshs.47,378,924 or 15% of the budget. A significant proportion of the variance is attributed to the shortfall in 31% contribution receipts from the parastatals. This could be indicative of parastatals not remitting contributions in a timely manner. It is true that the Statement of comparison of budget and actual amounts reflects a total budget of Ksh.309,398,233 compared to actual receipts of Ksh.262,019,303 leading to an under collection of Ksh.47,378,924 or 15% of the budget. The under collection was due to delays in remittance by parastatals.

Submission by the Accounting Officer

401) The Accounting Officer submitted that it was true that the Statement of comparison of budget and actual amounts reflects a total budget of Ksh.309,398,233 compared to actual receipts of Ksh.262,019,303 leading to an under collection of Ksh.47,378,924 or 155of the budget. The under collection was due to delays in remittance by parastatals.

402) **Committee observations and findings**

The Statement of comparison of budget and actual amounts reflects a total budget of Ksh.309,398,233 compared to actual receipts of Ksh.262,019,303 leading to an under collection of Ksh.47,378,924 or 155of the budget. The under collection was due to delays in remittance by parastatals.

403) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer provide to the Auditor-General a verifiable action taken against all parastatals that either delay or fail to make remittance of revenues collected. The Auditor-General provide a report to the National Assembly in the subsequent audit reporting cycle

68. Unresolved Prior Years Matters

68.1 Misstatement of Revenue Balance

404) As reported in the 2017/18 financial year, the statement of revenue reflected total revenue collected and transferred to the Exchequer amounting to Kshs.308,019,086. However, the bank statements indicated the total receipts and transfers thereof to the Exchequer of Kshs.309,398,233 resulting to an unexplained difference of Kshs.1,379,147 as tabulated below:

Sub-item	**Revenue Statement Balance (Kshs.)**	**Bank Statement Balance (Kshs.)**	**Difference (Kshs.)**
31% Contributions	193,408,326.00	212,592,761.20	(19,184,435.20)
2% WCPS Contributions	71,886,557.05	60,077,565.85	11,808,991.20
Abatement	34,769,053.05	30,422,753.90	4,346,299.15
CAP Deductions	7,955,149.55	6,305,151.95	1,649,997.60
Total	**308,019,085.65**	**309,398,232.90**	**1,379,147.25**

405) Further, the total collection of Kshs.308,019,086 had been recorded under 31% contributions in the ledger as opposed to the respective sub item accounts classification as reflected in the Notes to the Revenue Statements. The statement of revenue continues to be misstated and does not reflect a true and fair view of the operations of the Pensions Department.

Submission by the Accounting Officer

406) The Accounting Officer submitted that both the accounts and the ledger were restated as per the attached journals.

407) **Committee observations and findings**

The statement of revenue reflected total revenue collected and transferred to the Exchequer amounting to Kshs.308,019,086. However, the bank statements indicated the total receipts and transfers thereof to the Exchequer of Kshs.309,398,233 resulting to an unexplained difference of Kshs.1,379,147 Both the accounts and the ledger were restated as per the attached journals.

408) **Committee Recommendation**

The Committee reprimands the Accounting Officer for violation of the provisions of Article 229 (4) (h) of the Constitution and Section 81(4)(a) of the Public Finance Management Act 2012.

68.2 Revenue Balances

409) In the audit of the prior year's revenue statements, there were various classes of revenue reflected in the statements of revenue but the cashbook reflected different amounts as analyzed below:

Revenue Class	Notes to the Revenue Statement (Kshs.)	Electronic Cashbook Balance (Kshs.)
31% Contributions	356,715,202.00	0
2% WCPS	0	65,265,348.10
Abatement	0	49,072,014.90
Cap Deductions	0	2,403,645.05

410) Consequently, the accuracy of the balances in the statement of revenue could not be ascertained as there were no reconciliations in support of the discrepancies.

Submission by the Accounting Officer

411) The Accounting Officer submitted that by the time of audit, the classification of revenue was incomplete, the reconciliation has since been done and adjusted as below**.**

Revenue Class	Amount (kshs)
31% Contribution	239,974,194
2% WCPS	65,265,348
Abatement	49,072,015
Cap Deduction	2,403,645
	356,715,202

412) **Committee Observation and Findings**

The Committee observed that the query was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued therein.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

413) **Conclusion**

69. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

414) **Conclusion**

70. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECTS

FINANCIAL SECTOR SUPPORT PROJECT IDA CREDIT NO. 5627-KE

REPORT ON THE FINANCIAL STATEMENTS

415) **Unqualified Opinion**

71. There were no material issues noted during the audit of the financial statements of the Project.

72. Pending Bills

416) Note 9 to the financial statements reflects pending bills amounting to Kshs.45,997,305 as at 30 June, 2019. Management has explained that the bills represented invoices locked out of procurement system before being paid. Although Management has committed to adhere to the Public Procurement and Asset Disposal Act, 2015, the Project is at risk of incurring additional costs in case of a legal dispute due to non-payment for services rendered.

Submission by the Accounting Officer

417) The Accounting Officer submitted that the pending bills were due to late submission of invoices by service providers and therefore, they were not processed. However, they were all paid as they formed first charge to the FY 2019/2020 budget.

418) **Committee Observations and Findings**

The pending bills were due to late submission of invoices by service providers and therefore, they were not processed. However, they were all paid as they formed first charge to the FY 2019/2020 budget.

419) **Committee Recommendation**

Accounting officers must at all times ensure that pending bills are listed as first charge in subsequent financial year when preparing estimates of expenditure and revenues of the entity in conformity with the strategic plan pursuant to the provisions of section 68(2) (h) of the Public Finance Management Act, 2012.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

420) **Conclusion**

73. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

74. Lack of Internal Audit Services

421) Section 73 of the Public Finance Management Act, 2012, requires all government entities to make appropriate arrangements for an internal audit function. Further, Sections 13 and 14 of the Project Appraisal Document (Finance and Markets Global Practice) provides for Internal Audit and the Audit Committee of The National Treasury to provide internal audit services and oversee the adequacy of internal control mechanisms over the Project. During the year under review, there is no evidence of the Project having been reviewed by The National Treasury internal audit function.

422) Consequently, the Project management is in contravention of the Public Finance Management Act, 2012 and Project Appraisal Agreement.

Submission by the Accounting Officer

423) The Accounting Officer submitted that it was true that during the year under review, that projects had not been reviewed by the National Treasury`s internal audit function. National Treasury had a serious shortage of audit staff and this that affected a number of activities including projects. However, more staff were recruited after the approval by the Public Service Commission and projects including Financial Sector Support Project were assigned auditors

424) **Committee Observations and Findings**

i) During the year under review, that projects had not been reviewed by the National Treasury`s internal audit function. National Treasury had a serious shortage of audit staff and this that affected a number of activities including projects
ii) The Committee observed that although the internal audit function was established later, the Accounting Officer was in breach of Section 73 of the PFM Act, 2012 at the time of audit. Further, monitoring and review of the effectiveness of the internal audit process, review of internal controls, risk management systems and financial statements had not taken place in the absence of audit function

425) **Committee Recommendations**

The Committee reprimands the Accounting Officer for violation of the Section 73 of the PFM Act, 2012 at the time of audit.

GLOBAL FUND PROGRAM - TO ACCELERATE THE REDUCTION OF TB, LEPROSY AND LUNG DISEASE BURDEN THROUGH PROVISION OF PEOPLE CENTERED, UNIVERSALLY ACCESSIBLE, ACCEPTABLE AND AFFORDABLE QUALITY SERVICES IN KENYA (GRANT NO. KEN-T-TNT-1548)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

75. Non-Disclosure of Counterpart Contribution

426) The statement of receipts and payments does not disclose the counterpart funding from The National Treasury. Further the Government of Kenya contribution for the financial year and cumulatively cannot be established. The Project Management is in breach of paragraph 5.1 of the Grant Agreement which provides for a 15% counterpart contribution. The Project is also in breach of Section 72 (6) of the Public Finance Management Act, 2012, which requires the National Government to factor grants in the budgets with counterpart Funds being appropriated in accordance with the signed agreement. Consequently, the accuracy and completeness of the reported receipts balance of Kshs.260,083,350 cannot be ascertained.

Submission by the Accounting Officer

427) The Accounting Officer submitted that the during the financial year 2018/2019 the budget for the Government of Kenya counterpart funding for both old and new TB Grants was budgeted under the new grant. Grant number: KEN-M-TNT, GA 1546, item: 1078 -01- 2640503

428) **Committee Observations and Findings**

During the financial year 2018/2019 the budget for the Government of Kenya counterpart funding for both old and new TB Grants was budgeted under the new grant. Grant number: KEN-M-TNT, GA 1546, item: 1078 -01- 2640503. The explanation was satisfactory to the Committee and the auditor

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

76. Failure to Maintain Fixed Asset Register

429) Contrary to the provisions of Section 139(1) and Section 143(1) of the Public Finance Management (National Government) Regulations, 2015, the Program did not maintain a fixed asset register and also did not disclose the balances in the financial statements under the summary of fixed assets section. This is despite the statement of receipts and payments indicating cumulative expenditure on nonfinancial assets of Kshs.250,473,804 as at 30 June, 2019. To this extent, the Program Management is in breach of law.

Submission by the Accounting Officer

430) The Accounting Officer submitted this was because procurement was being done by procuring unit (entity) of the National Treasury. However, The National Treasury is in the process of procuring the services of a consultant to develop one for the project.

431) **Committee observations and Findings**

i) The Committee observed that there were no proper records in terms of an Asset register listing all those assets, their location and the core details regarding them.

ii) Further, the Committee observed that there was no system of identification e.g. tagging/coding, to cost, disposals, depreciation, accumulated depreciation, location of the asset of the assets had been done, thus putting the assets at risk of getting lost through theft and misplacement; And

432) **Committee Recommendations**

Within three months of adoption of this report, the Accounting Officer provide to the Auditor-General a verifiable progress in the development of asset register for the project.

The Auditor-General undertake a review and report to the National Assembly in the subsequent audit reporting cycle

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

433) **Conclusion**

77. There were no material issues relating to effectiveness of internal controls, risk management and governance.

INFRASTRUCTURE FINANCE AND PUBLIC PRIVATE PARTNERSHIP PROJECT - IDA CREDIT NO. 5157-KE

REPORT ON THE FINANCIAL STATEMENTS

434) **Unqualified Opinion**

78. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

435) **Conclusion**

79. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

80. Lack of Internal Audit Services

436) Contrary to the provisions of Section 16 of the Project Appraisal Document that requires the Project Implementation Unit to be audited by internal auditors seconded by The National Treasury, the Project was not subjected to an internal audit review during the year under review. The Project is not in compliance with the signed financing agreement

Submission by the Accounting Officer

437) The Accounting Officer submitted that it was true that during the year under review, that projects had not been reviewed by the National Treasury`s internal audit function. National Treasury had a serious shortage of audit staff and this that affected a number of activities including projects. However, more staff were recruited after the approval by the

Public Service Commission and projects including Financial Sector Support Project were assigned auditors. The matter to be reviewed for compliance with the Public Finance Management Act, 2012 since the recruitment of additional staff.

438) **Committee Observations and Findings**

i) During the year under review, that projects had not been reviewed by the National Treasury`s internal audit function. National Treasury had a serious shortage of audit staff and this that affected a number of activities including projects

ii) The Committee observed that although the internal audit function was established later, the Accounting Officer was in breach of Section 73 of the PFM Act, 2012 at the time of audit. Further, monitoring and review of the effectiveness of the internal audit process, review of internal controls, risk management systems and financial statements had not taken place in the absence of audit function.

439) **Committee Recommendations**

The Committee reprimands the Accounting Officer for violation of the Section 73 of the PFM Act, 2012 at the time of audit.

PUBLIC FINANCIAL MANAGEMENT REFORMS PROGRAM (CREDIT NO.6133-KE)

REPORT ON THE FINANCIAL STATEMENTS

440) **Unqualified Opinion**

81. There were no material issues noted during the audit of the financial statements of the Program.

Other Matter

82. Budget Control and Performance

441) The statement of comparative budget and actual amounts for the year ended 30 June, 2019 reflects actual receipts of Kshs.258,458,458 against budgeted receipts of Kshs.1,172,265,090 resulting in a shortfall of Kshs.913,806,632 or 78% of the total budget. The shortfall was mainly recorded under transfer from Government entities where actual receipts amounted to Kshs.32,427,451 against the budgeted receipts of Kshs.901,265,090 resulting in a shortfall of Kshs.868,837,639 or 96% of the budgeted receipts. Further, actual expenditure for the year amounted to Kshs.951,062,733 against the actual receipts of Kshs.258,458,458 resulting to unfunded expenditure totaling Kshs.692,604,275, which was financed from the previous years' budget surplus. As a result of the large budget deficit,

the Program may not have implemented all programmes and work plans fully as approved in the budget thus delaying provision of services to the Kenyan citizens.

Submission by the Accounting Officer

442) The Accounting Officer submitted that it was true that the budgeted receipts were Kshs.1,172,265,090.00 while the actual amount received on comparable basis was Ksh.258,458,457.95 or 22% of the budgeted receipts. The budget under absorption of Ksh.221,202,356.85 which represents 19% was due to late submission of work plans by the MDAs

443) **Committee Observations and Findings**

The budgeted receipts were Kshs.1,172,265,090.00 while the actual amount received on comparable basis was Ksh.258,458,457.95 or 22% of the budgeted receipts. The budget under absorption of Ksh.221,202,356.85 representing 19% was due to late submission of work plans by the MDAs. The explanation was satisfactory and therefore the matter was resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

444) **Conclusion**

83. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

84. Human Capacity Shortfalls

445) A review of the Program's organizational structure revealed that the positions of communication specialist, human resource specialist and legal specialist remained vacant during the financial year under review. The Program requires a well empowered and appropriately skilled Secretariat in all the areas spelt out in its staff establishment. Due to the human capacity shortfalls, the Program faces challenges in meeting its mandate, objectives and service delivery to the citizens. Officers holding positions in acting capacity may not have the necessary skills, competencies or motivation to achieve the desired goals of the Program

Submission by the Accounting Officer

446) The Accounting Officer submitted that it was true that a review of the approved establishment revealed that the positions of communication specialist, human resource specialist and legal specialist remained vacant during the year under review. However, the

process of filling the vacant posts has been initiated. Further, additional officers were seconded from the National Treasury to the project.

447) **Committee Observations and Findings**

Review of the approved establishment revealed that the positions of communication specialist, human resource specialist and legal specialist remained vacant during the year under review. However, the process of filling the vacant posts has been initiated**.** The explanation was satisfactory and therefore the matter was resolved.

GLOBAL FUND PROGRAM – SCALING UP MALARIA CONTROL INTERVENTIONS FOR IMPACT GRANT NO. KEN-M-TNT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

85. Non-Disclosure of Counterpart Contribution

448) The statement of receipts and payments does not disclose the counterpart funding from The National Treasury. Further the Government of Kenya contribution for the financial year and cumulatively cannot be established. The Project Management is in breach of paragraph 5.1 of the Grant Agreement which provides for a 15% counterpart contribution. The project is also in breach of Section 72(6) of the Public Finance Management Act, 2012, which requires the National Government to factor grants in the budgets with counterpart Funds being appropriated in accordance with the signed agreement. Consequently, the accuracy and completeness of the reported receipts balance of Kshs.3,910,591 cannot be ascertained.

Submission by the Accounting Officer

449) The Accounting Officer submitted that the during the financial year 2018/2019 the budget for the Government of Kenya counterpart funding for both old and new Malaria Grants was budgeted under the new grant. Grant number: KEN-M-TNT, GA 1546, item: 1076 -01- 2640503**.**

Committee Observations and Findings

450) During the financial year 2018/2019, the budget for the Government of Kenya counterpart funding for both old and new Malaria Grants was budgeted under the new grant. Grant number: KEN-M-TNT, GA 1546, item: 1076 -01- 2640503**.** The explanation was satisfactory and therefore the matter was resolved.

86. Payment of Undisclosed Pending Bills

451) The statement of receipts and payments reflects an expenditure of Kshs.3,077,582 incurred on purchase of goods and services during the year under review. However, information available indicate that the payments related to expenditure incurred in the prior year but had not been disclosed as pending bills in the 2017/2018 financial statements as required by International Public Sector Accounting Standards (Cash Basis) method of accounting. Consequently, the restatements necessary to incorporate the omitted disclosures in the financial statements has not been done.

Submission by the Accounting Officer

452) The Accounting Officer submitted that it was true a payment of Ksh.3,077,582 relates to pending bills for Financial Year 2017/2018 which were not disclosed in the financial statements. This was an omission but the same will not recur.

Committee observations and findings

453) The statement of receipts and payments reflects an expenditure of Kshs.3,077,582 incurred on purchase of goods and services during the year under review. However, information available indicate that the payments related to expenditure incurred in the prior year but had not been disclosed as pending bills in the 2017/2018 financial statements. The explanation was satisfactory and therefore the matter was resolved.

87. Failure to Maintain Fixed Asset Register

454) Scrutiny of the procurement records reflect assets worth Kshs.10,500,852 that were procured during the first year of the project implementation. However, contrary to the provisions of Section 139(1) and Section 143(1) of the Public Finance Management (National Government) Regulations, 2015, the program did not maintain a fixed asset register and also did not disclose the balances in the financial statements under summary of fixed assets section.

Submission by the Accounting Officer

455) The Accounting Officer submitted that it was true that there was no asset register for the assets procured during FY 2018/2019 of Program implementation. This was because procurement was being done by procuring unit (entity) of the National Treasury. However, The National Treasury is in the process of procuring the services of a consultant to develop one for the project.

456) The matter is recommended to be kept in view and reviewed in subsequent audit when the consultancy contract is effective

457) **Committee observations and Findings**

i) The Committee observed that there were no proper records in terms of an Asset register listing all those assets, their location and the core details regarding them;

ii) The Committee observed that there was no system of identification e.g. tagging/coding, to cost, disposals, depreciation, accumulated depreciation, location of the asset of the assets had been done, thus putting the assets at risk of getting lost through theft and misplacement; And

458) **Committee Recommendations**

Within three months of adoption of this report, the Accounting Officer provide to the Auditor-General a verifiable progress on maintaining assets register. The Auditor-General undertake a review and report to the National Assembly in the subsequent audit reporting cycle

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

459) **Conclusion**

88. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STUDY AND CAPACITY BUILDING FUND PROJECT (CREDIT NO. CKE 6015 01K)

REPORT ON THE FINANCIAL STATEMENTS

460) **Unqualified Opinion**

89. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

90. Non-compliance with the Public Procurement and Asset Disposal Act, 2015

90.1 Procurement of Individual Consultancy Services

461) Contrary to the provisions of Section 124(1) and (2) of the Public Procurement and Asset Disposal Act, 2015, the Project Management single sourced and contracted for an amount of Kshs.3,135,000 for the provision of services of an individual consultant. The

procurement of the consultant, who previously served in the line Ministry, was based on the bids submitted in 2012 instead of fresh bids as prescribed by the law.

Submission by the Accounting Officer

462) The Accounting Officer submitted that the individual consultant was single sourced based on his previous assignments and experience under Aid Effectiveness Program that was under AFD. This Contract was subsequently cancelled in January 2020 as recommended in the Audit Report of FY 2018-2019 and re-advertised according to the Development Partners procurement guidelines. Interviews were held between 29th April and 4th May 2020 as per the attached copy of National Treasury letter MOF/ERD/20/148/78/01 'B' (25) of 29th May 2020, and other supporting documents.

463) **Committee Observations and Findings**

i) The individual consultant was single sourced based on his previous assignments and experience under Aid Effectiveness Program (AFD) Programme. The contract was later cancelled in January 2020 as recommended in the Audit Report of FY 2018-2019 and re-advertised.

ii) Interviews were held between 29th April and 4th May 2020 as per the attached copy of National Treasury letter MOF/ERD/20/148/78/01 'B' (25) of 29th May 2020. The explanation was satisfactory and therefore the matter was resolved.

90.2 Procurement of Unplanned Assets

464) During the year under review, instances of procurement made but not provided for in the procurement plan were noted contrary to Section 73 of the Public Procurement and Asset Disposal Act, 2015. The Project Management purchased office furniture and printer at its French Desk Support at the Resource Mobilization Department at a cost of Kshs.249,220. Consequently, the Project Management was in breach of the Public Procurement and Asset Disposal Act, 2015.

Submission by the Accounting Officer

465) The Accounting Officer submitted that the Procurement of assets to support the French Desk was done subject to a 'No Objection' from the Development Partner. These items had not been included in the Procurement Plan of the National Treasury and the omission is noted. The items have however been entered in the Asset Register as attached.

Committee Observations and Findings

466) The Procurement of assets to support the French Desk was done subject to a 'No Objection' from the Development Partner. These items had not been included in the Procurement Plan of the National Treasury and the omission is noted. The explanation was satisfactory and therefore the matter was resolved.

91. Lack of an Asset Register

467) Contrary to Section 143(1) of the Public Finance Management (National Government) Regulations, 2015, the Project Management has not maintained an asset register for assets procured and owned. The risk of pilferage of the Project assets in absence of a register is high.

Submission by the Accounting Officer

468) The Accounting Officer submitted that the Project procured assets to support the French Desk as approved by the Development Partner. These items have been entered in the Asset Register as observed during the audit.

469) **Committee observations and findings**

Contrary to Section 143(1) of the Public Finance Management (National Government) Regulations, 2015, the Project Management has not maintained an asset register for assets procured and owned.

470) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should provide to the Auditor-General verifiable steps taken by the National Treasury to maintain asset register for the project. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

471) **Conclusion**

92. There were no material issues relating to effectiveness of internal controls, risk management and governance.

TECHNICAL SUPPORT PROGRAMME AGREEMENT NO. KE/FED/2009/021421; NO. KE/FED/023-733 AND NO. KE/FED/037-941

REPORT ON THE FINANCIAL STATEMENTS

472) **Unqualified Opinion**

93. There were no material issues noted during the audit of the financial statements of the Programme.

Emphasis of Matter

94. Unbudgeted Receipts and Expenditures

473) The statement of comparative budget and actual amounts reflects nil receipts from proceeds of domestic and foreign grants (grant revenue) against estimated receipts of Kshs.30,000,000. The statement also reflects actual receipts of Kshs.26,457,440 from proceeds of domestic and foreign grants (grant A-I-A) against nil estimated receipts an indication of the project being funded without a budgetary provision. Similarly, payments of Kshs.3,392,021 were incurred on purchase of goods and services without an approved budget in place. Management has however, indicated that the supplementary budget reallocations were effected after the expenditure had been incurred

Submission by the Accounting Officer

474) The Accounting Officer submitted that in the printed estimates the project was budgeted under Grants (AIA) Ksh.150,000,000 However, during the Supplementary Estimates No 2, the budget was reduced to Ksh.30,000,000 and captured as Grants Revenue. It is further true that Ksh.26,457,440 were actual receipts of domestic and foreign grants (grants AIA). It was later realized that an expenditure of Ksh.3,392,021 had been incurred under AIA but the donor had delayed in submitting expenditure documents for capture in the Vote book. The national Treasury has held various meetings with development partners and agreed on fast tracking of submission of expenditure returns especially where they make direct payments to facilitate the capturing of the same by MDAs.

475) **Committee observations and findings**

i) The project was budgeted under Grants (AIA) Ksh.150,000,000 but during the Supplementary Estimates No 2, the budget was captured as Grants Revenue and reduced to Ksh.30,000,000. This realized actual receipt of Kshs.26,457,440 from proceeds of domestic and foreign grants (grant A-I-A).

ii) The project incurred payment of Kshs.3,392,021 on purchase of goods and services under AIA but the donor had delayed in submitting expenditure documents for capture in the Vote book. The National Treasury has held various meetings with development partners and agreed on fast tracking of submission of expenditure returns especially where they make direct payments to facilitate the capturing of the same by MDAs.

476) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Office ensures a system is in place on fast tracking of submission of expenditure returns especially where they make direct payments to facilitate the capturing of the same by MDAs.

95. Unresolved Prior Year Matters

95.1 Co-operative Dormant Bank Accounts

477) The Management continues to maintain two local currency Accounts No. 01141419783101 and No. 01141419783100 with Co-operative Bank with bank balances

of Kshs.1,136,902 and Kshs.359 respectively as at 30 June, 2019. No deposits or withdrawals have been made for the last three financial years. The explanation that the balance of Kshs.1,136,902 on account No. 01141419783101 was insufficient to be paid back to the European Commission owing to ineligible expenditure was not supported by way of documentary evidence. No cashbooks are maintained for these accounts hence the accuracy of the cash and cash equivalents balance of Kshs.1,137,262 reflected in the financial statements could not be ascertained. The continued maintenance of the dormant account may expose the Programme Account to risk of loss of funds.

Submission by the Accounting Officer

478) The Accounting Officer submitted that the EU is seeking to be refunded an amount of Kshs.2,408,000.70 (Kshs.2,386,522.00 plus interest of Kshs.21,478.70) as at 27th March,2017 as unspent balance and ineligible Expenditure. The alleged ineligible expenditure refers to an amount of Kshs.1,078,0800.00 that was used on production of the Blue Book and Video Documentary whose expenditure was incurred and supervised by the EU delegation. The National Treasury however in various communications to EU has disputed the declaration of the expenditure as ineligible. The National Treasury will conclude the transfer only after this matter is agreed between the two parties. Therefore, the account will remain in open until the issues are resolved. The correspondence between the EU and the National Treasury on the issue is attached.

479) **Committee Observations and Findings**

i) The EU is seeking to be refunded an amount of Kshs.2,408,000.70 (Kshs.2,386,522.00 plus interest of Kshs.21,478.70) as at 27th March,2017 as unspent balance and ineligible Expenditure. The alleged ineligible expenditure refers to an amount of Kshs.1,078,0800 that was used on production of the Blue Book and Video Documentary whose expenditure was incurred and supervised by the EU delegation.

ii) The National Treasury will conclude the transfer only after this matter is agreed between the two parties. Therefore, the account will remain in open until the issues are resolved.

480) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should provide to the Auditor-General verifiable steps taken by the National Treasury to finalize this matter with the EU and closing of the accounts. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

95.2 Non-disclosure of Pending Bills

481) The statement of receipts and payments as at 30 June 2018 reflected an expenditure of Kshs.48,832,274 under use of goods and services. Examination of records maintained by the Management revealed the expenditure related to a single payment to a vendor, which appeared to have been processed in June, 2017 during the 2016/2017 financial year, but the

same had not been disclosed as a pending bill as at 30 June, 2017. Failure to disclose the expenditure as pending bills contravenes the Public Finance Management Regulations, 2015 and may expose the Programme to incurring ineligible expenditure.

Submission by the Accounting Officer

482) The Accounting Officer submitted that the payment to M/S Proman, whose Service Contract was for the period 1st March 2012 to 6th September, 2016 was to be paid during the 2016/17 Financial Year but was delayed and processed in July 2017. The omission to declare it as a pending bill in FY 2016-2017 was noted and this will not recur. The bill was settled in the following FY 2017-2018, in the month of July 2017.

483) **Committee Observations and Findings**

i) The payment to M/S Proman, whose Service Contract was for the period 1st March 2012 to 6th September, 2016 was to be paid during the 2016/17 Financial Year but was delayed and processed in July 2017.
ii) The omission to declare it as a pending bill in FY 2016-2017 was noted and this will not recur. The bill was settled in the following FY 2017-2018, in the month of July 2017.

484) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date, reconciled financial and accounting records that fully discloses pending bills and in compliance with provisions of Section 68(2) of the PFM Act 2012

95.3 Unsupported Transfer to the Donor

485) During the prior year, the Programme transferred an amount of Kshs.13,257,502 to the European Commission without details. Further, no transmittal documentation or acknowledgement from the European Commission were availed for verification in support of the transaction. In absence of sufficient and relevant supporting documents, it has not been possible to determine whether the amount in question was received or not.

Submission by the Accounting Officer

486) The Accounting Officer submitted that the National Treasury transferred Kshs.13,257,502 to the EU as per the supporting documents provided to the Committee. The EU however has not yet acknowledged receipt.

487) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued therein

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

488) **Conclusion**

96. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

489) **Conclusion**

97. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA PETROLEUM TECHNICAL ASSISTANCE PROJECT (IDA CREDIT NO. 5526-KE)

REPORT ON THE FINANCIAL STATEMENTS

490) **Unqualified Opinion**

98. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

99. Failure to Undertake Internal Audits on the Project

491) Section 73 of Public Finance Management Act, 2012 requires all Government entities to make appropriate internal audit arrangements for the functions that are being undertaken by an entity. Further, Sections 13 and 14 of the Project Appraisal Document (PAD) on finance and markets global practice requires The National Treasury to provide internal audit services and to oversee the adequacy of internal control mechanisms on the project vide its internal audit and the audit committee functions respectively. However, during the year under review, Internal Audit Services were not rendered despite The National Treasury having a well-staffed Internal Audit department.

Submission by the Accounting Officer

492) The Accounting Officer submitted that it was true that during the year under review, that projects had not been reviewed by the National Treasury`s internal audit function.

National Treasury had a serious shortage of audit staff and this that affected a number of activities including projects. However, more staff were recruited after the approval by the Public Service Commission and projects including Financial Sector Support Project were assigned auditors.

493) **Committee Observations and Findings**

i) The Committee observed that although the intern audit function was established later, the Accounting Officer was in breach of Section 73 of the Public Finance Management Act, 2012 at the time of audit;

ii) The Committee further observed that Monitoring and review of the effectiveness of the internal audit process, review of internal controls, risk management systems and financial statements has not taken place in the absence of audit committee; And

494) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should provide to the Auditor-General a verifiable internal control system for the funds. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

495) **Conclusion**

100. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MICRO FINANCE SECTOR SUPPORT CREDIT PROJECT (CREDIT NO. CKE 3004 01E AND CKE 6010 01E)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

101. Amount Withdrawn but Unclaimed

496) Part B of the Statement of Special (Designated) Account reconciliation for the Project reflects Euros.3,643,675 or Kshs.419,678,486 at the then exchange rate of 1 Euro at Kshs.115.18 as withdrawn, but unclaimed as at 30 June, 2019. This represents cumulative funds transfers to the local Project bank account but whose expenditure returns have not been submitted to The National Treasury by the close of the financial year. Furthermore, the amount has not been reported nor disclosed in the Project financial statements.

Consequently, the accuracy and completeness of the financial statements cannot be confirmed.

Submission by the Accounting Officer

497) The Accounting Officer submitted that the it was true that by the time of audit Part b of the statement of special account reconciliation for the Project reflects Ksh.419,678,486 as withdrawn but unclaimed as at 30th June,2019. These represents cumulative transfers to the local Project Bank account. The expenditure returns were availed at the time of audits were later availed for audit review.

Committee Observations and Findings

498) Statement of Special (Designated) Account reconciliation for the Project reflects Euros.3,643,675 or Kshs.419,678,486 at the then exchange rate of 1 Euro at Kshs.115.18 as withdrawn, but unclaimed as at 30 June, 2019**.** These represents cumulative transfers to the local Project Bank account. The explanation by the Accounting was satisfactory to both the auditors and the Committee.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

102. Failure to Close Project

499) As per Clause 10 of the financing agreement, the Project was to close on 31 October, 2010 but the closing date was later extended to 31 December, 2014. However, the Project Management is yet to formally prepare and submit the Project closure report. Consequently, the Project is in breach of the agreement with Agence Francaise Development (AFD) with its continued operation without a formal extension.

Submission by the Accounting Officer

500) As per the clause 10 of the financing agreement, the project was to close on 31st October,2010 but it was extended to 31st December, 2014. It has taken sometime to close the project but a consultant has been hired to facilitate the preparation of final audit report.

501) **Committee observations and findings**

As per the clause 10 of the financing agreement, the project was to close on 31st October, 2010 but it was extended to 31st December, 2014. The National Treasury has hired a consultant to facilitate the preparation of the final audit report

502) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should provide to the Auditor-General a final audit closure report for the project. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

503) **Conclusion**

103. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PROGRAMME FOR RURAL OUTREACH OF FINANCIAL INNOVATIONS AND TECHNOLOGIES (PROFIT) (IFAD LOAN NO. 814-KE AND GRANT NO. 1218KE)

REPORT ON THE FINANCIAL STATEMENTS

504) **Unqualified Opinion**

104. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

505) **Conclusion**

105. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

506) **Conclusion**

106. There were no material issues relating to effectiveness of internal controls, risk management and governance.

GLOBAL FUND PROGRAM – TO REDUCE MORBIDITY AND MORTALITY CAUSED BY MALARIA IN THE VARIOUS EPIDEMIOLOGICAL ZONES BY TWO THIRDS OF THE 2015 LEVEL BY 2020-GRANT AGREEMENT-KEN-M-TNT NO.1546

REPORT ON THE FINANCIAL STATEMENTS

507) **Unqualified Opinion**

107. There were no material issues noted during the audit of the financial statements of the Program.

Emphasis of Matter

108. Non-disclosures of Counterpart Funds

508) The statement of receipts and payments for the year ended 30 June, 2019 indicates that, as in the previous year, no funds were received by the Program from the Government of Kenya (GoK). However, Paragraph 6.3(2) of the Grant Agreement provides that the GoK shall provide counterpart funding equivalent to 20% of the Program's aggregate disbursements. With the Program's duration set to end in 2020, all its expected outputs and outcomes may not be attained if the GoK fails to contribute its portion of funding. My opinion is not qualified in respect to this matter.

Submission by the Accounting Officer

509) The Accounting Officer submitted that the during the financial year 2018/2019 the budget for the Government of Kenya counterpart funding for both old and new Malaria Grants was budgeted under the new grant. Special Global Fund – Malaria Grant: KEN-M item: 1076 -01- 2640503 – Ksh.280,000,000.

510) **Committee Observations and Findings**

During the financial year 2018/2019, the budget for the Government of Kenya counterpart funding for both old and new Malaria Grants was budgeted under the new grant. Special Global Fund – Malaria Grant: KEN-M item: 1076 -01- 2640503 – Ksh.280,000,000. The explanation by the Accounting Officer was satisfactory to both the auditors and the Committee.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

511) **Conclusion**

109. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

512) **Conclusion**

110. There were no material issues relating to effectiveness of internal controls, risk management and governance.

GLOBAL FUND PROGRAM - TO CONTRIBUTE TO ACHIEVING VISION 2030 THROUGH UNIVERSAL ACCESS TO COMPREHENSIVE HIV PREVENTION, TREATMENT AND CARE PROJECT - GA NO. 1547

REPORT ON THE FINANCIAL STATEMENTS

Basis of Qualified Opinion

111. Non-Disclosure of Counterpart Contribution

513) The statement of receipts and payments does not disclose the counterpart funding from The National Treasury. Further the Government of Kenya contribution for the financial year and cumulatively cannot be established. The Project Management is in breach of paragraph 5.1 of the Grant Agreement, which provides for a 15% counterpart contribution. The Project Management is also in breach of Section 72(6) of the Public Finance Management Act, 2012, which requires the National Government to factor grants in the budgets with counterpart Funds being appropriated in accordance with the signed agreement. Consequently, the accuracy and completeness of the reported receipts balance of Kshs.383,527,873 cannot be ascertained.

Submission by the Accounting Officer

514) The Accounting Officer submitted that the during the financial year 2018/2019 the budget for the Government of Kenya counterpart funding for both old and new HIV and Aids Grants was budgeted under the new grant. Special Global Fund – HIV – AIDSS GRANT KEN-H, item: 1077 -01- 2640503 Ksh.1,679,271,881. This was because the old grant closed on 3lst December 2018.

Committee Observations and Findings

515) During the financial year 2018/2019, the budget for the Government of Kenya counterpart funding for both old and new HIV and Aids Grants was budgeted under the new grant. Special Global Fund – HIV – AIDSS GRANT KEN-H, item: 1077 -01- 2640503 Ksh.1,679,271,881. This was because the old grant closed on 3lst December 2018. The explanation by the Accounting Officer was satisfactory to the auditor and the Committee.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

112. Failure to Update the Fixed Asset Register

516) Contrary to the provisions of Section 139(1) and Section 143(1) of the Public Finance Management (National Government) Regulations, 2015, the Project did not update the fixed asset register by way of disclosures under summary of fixed assets. The reported

balance of Kshs.4,920,000 relates to balances brought forward only despite the Project having spent Kshs.1,424,507 on the acquisition of non-financial assets during the year.

Submission by the Accounting Officer

517) It was true that there was no asset register for the assets procured during FY 2018/2019 of Program implementation. This was because procurement was being done by procuring unit (entity) of the National Treasury. However, The National Treasury is in the process of procuring the services of a consultant to develop one for the project.

518) **Committee observations and Findings**

i) The Committee observed that there were no proper records in terms of an Asset register listing all those assets, their location and the core details regarding them;

ii) The Committee observed that there was no system of identification e.g. tagging/coding, to cost, disposals, depreciation, accumulated depreciation, location of the asset of the assets had been done, thus putting the assets at risk of getting lost through theft and misplacement; And

519) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should provide to the Auditor-General a verifiable progress on maintaining assets register. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

520) **Conclusion**

113. There were no material issues relating to effectiveness of internal controls, risk management and governance**.**

GLOBAL FUND PROGRAM - TO STEER THE COUNTRY TOWARDS ACHIEVEMENT OF TB MILLENNIUM DEVELOPMENT GOALS IN LINE WITH THE GLOBAL STOP TB STRATEGY (GRANT NO. KEN-T-TNT)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

114. Non-Disclosure of Counterpart Contribution

521) The statement of receipts and payments does not disclose the counterpart funding from The National Treasury. Further the Government of Kenya contribution for the financial

year and cumulatively cannot be established. The Program Management is in breach of paragraph 5.1 of the Grant Agreement which provides for a 15% counterpart contribution. The Program is also in breach of Section 72 (6) of the Public Finance Management Act, 2012, which requires the National Government to factor grants in the budgets with counterpart Funds being appropriated in accordance with the signed agreement. Consequently, the accuracy and completeness of the reported receipts balance of Kshs.883,256,532 cannot be ascertained.

Submission by the Accounting Officer

522) The Accounting Officer submitted that during the financial year 2018/2019 the budget for the Government of Kenya counterpart funding for both old and new TB Grants was budgeted under the new grant. Special Global Fund – TB GRANT KEN-T, item: 1078 -01- 2640503 Ksh.280million. This was because the old grant closed on 31st December, 2018**.**

523) **Committee Observations and Findings**

The Committee marked the matter as resolved

115. Delay in Construction of Warehouse

524) On 13 March, 2018, the Program Management, entered into a contract for construction of a flammable goods store warehouse and an office block with an expected completion period of fifty-two (52) weeks and one hundred and thirty (130) weeks respectively. By the end of fifty-two (52) weeks, the construction of the warehouse was not complete and the project period was extended to 12 September 2019. A physical verification carried out on 9 September 2019 indicated a project completion status of approximately 50% even though the status report of August 2019 indicated 59% completion. Discussions with Program Management indicated a new estimated completion date of March 2020 an indication of 100% delay from the original estimated contract period. Under the circumstances, the Program may not realize its intended objectives and its value for money

Submission by the Accounting Officer

525) The Accounting Officer submitted that it was true that there were some delays in construction of Warehouse due to delay in procurement by KEMSA.

526) **Committee Observations and Findings**

i) The Program management entered into a contract for construction of a flammable goods store warehouse and an office block with an expected completion period of fifty-two weeks and one hundred and thirty (130) weeks respectively. By the end of fifty-two (52) weeks, the construction of the warehouse was not complete and the project period was extended to 12 September 2019.
ii) A physical verification carried out on 9 September 2019 indicated a project completion status of approximately 50% even though the status report of August 2019 indicated

59% completion. The program management has set a new estimated completion date of March 2020, which is double the initial estimated period of completion.

527) **Committee Recommendation**

1) **Within three months of adoption of this report, the Accounting Officer should provide to the Auditor-General a verifiable progress on construction of a flammable goods store warehouse and an office block for KEMSA.**
2) **The Auditor-General to undertake a special audit on the construction of a flammable goods store warehouse and an office block for KEMSA and report to the National Assembly in the subsequent audit reporting cycle**

116. Failure to Maintain Fixed Asset Register

528) Contrary to the provisions of Section 139(1) and Section 143(1) of the Public Finance Management (National Government) Regulations, 2015, the Program did not maintain a fixed asset register and also did not disclose the balances in the financial statements under the summary of fixed assets section. This is despite the statement of receipts and payments indicating cumulative expenditure on nonfinancial assets of Kshs.778,695,872 as of 30 June, 2019. To this extent, the Program Management is in breach of law.

Submission by the Accounting Officer

529) The Accounting Officer submitted that it was true that there was no asset register for the assets procured during FY 2018/2019 of Program implementation. This was because procurement was being done by procuring unit (entity) of the National Treasury. However, The National Treasury is in the process of procuring the services of a consultant to develop one for the project.

530) The matter is recommended to be kept in view and reviewed in subsequent audit when the consultancy contract is effective.

531) **Committee observations and Findings**

i) The Committee observed that there were no proper records in terms of an Asset register listing all those assets, their location and the core details regarding them;
ii) The Committee observed that there was no system of identification e.g. tagging/coding, to cost, disposals, depreciation, accumulated depreciation, location of the asset of the assets had been done, thus putting the assets at risk of getting lost through theft and misplacement.

532) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should provide to the Auditor-General a verifiable progress on maintaining assets register. The Auditor-

General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

533) **Conclusion**

117. There were no material issues relating to effectiveness of internal controls, risk management and governance.

ADDITIONAL FINANCING FOR THE INFRASTRUCTURE FINANCE AND PUBLIC PRIVATE PARTNERSHIP PROJECT - IDA CREDIT NO. 6121-KE

REPORT ON THE FINANCIAL STATEMENTS

534) **Unqualified Opinion**

118. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

119. Underutilization of Budgeted Amounts

535) The comparative statement of budget and actual amounts reflects approved budget and actual on comparable basis of Kshs.50,000,000 and Kshs.1,711,170 respectively resulting in an under-expenditure of Kshs.48,288,830 or 97%. The management attributed the under expenditure to: -

i. Suspension of the procurement of capacity building consultants to review the procurement method used;
ii. Non-availability of Public Private Partnership (PPP) trainers for provision of the capacity building services; and
iii. Delays in finalization of contract for disbursement linked verifications.

536) Because of the delay in implementing the planned activities, the Project under-absorbed the budget. Further, the Project special account maintained at the Central Bank of Kenya (CBK) reflects an opening bank account balance of EUR 10,000,000 with an amount of EUR 310,000 having been withdrawn during the year leaving a closing balance as at year end of EUR 9,690,000 as unutilized.

Submission by the Accounting Officer

537) The Accounting Officer submitted that it was true that the comparable statement of budget and actual reflects approved budget and actual on comparable basis of Ksh.50,000,000 and Ksh.1,711,170 respectively resulting to under expenditure of

Ksh.48,288,830 or 97%. Further the Project special account at Central Bank reflects an opening bank account balance of EUR10,000,000 with an amount of EUR310,000 having been withdrawn leaving a balance of EUR9,690,000 as unutilized. This was a new project that was introduced in Supplementary Estimates no 2. The Supplementary Estimates were approved very late in June causing low utilization of funds.

538) **Committee observations and Findings**

This new project was introduced in Supplementary Estimates No. 2 of FY 2018/2019 approved very late in June 2019 causing low utilization of funds.

539) **Committee Recommendation**

The Cabinet Secretary for the National Treasury should ensure that no supplementary budget estimates is submitted to Parliament later than two months before the close of the financial year. Further the Committee reiterates its proposal to amend Section 44 of the PFM Act, 2012 to provide that supplementary budget estimates is submitted to Parliament not later than two months (60) days before the close of the financial year

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

540) **Conclusion**

120. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND OVERALL GOVERNANCE

Basis for Conclusion

121. Lack of Internal Audit Services

541) Contrary to the provisions of Section 16 of the Project Appraisal Document that requires the Project Implementation Unit to be audited by internal auditors seconded by The National Treasury, the Project was not subjected to an internal audit review during the year under review. To this extent, the Project is not in compliance with the signed financing agreement.

Submission by the Accounting Officer

542) The Accounting Officer submitted that it was true that during the year under review, that projects had not been reviewed by the National Treasury`s internal audit function. National Treasury had a serious shortage of audit staff and this that affected a number of activities including projects. However, more staff were recruited after the approval by the

Public Service Commission and projects including Financial Sector Support Project were assigned auditors.

543) **Committee Observations and Findings**

i) The Committee observed that although the intern audit function was established later, the Accounting Officer was in breach of Section 73 of the Public Finance Management Act, 2012 at the time of audit; and

ii) The Committee further observed that monitoring and review of the effectiveness of the internal audit process, review of internal controls, risk management systems and financial statements has not taken place in the absence of internal audit service.

544) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should provide to the Auditor-General a verifiable internal control system for the funds. The Auditor-General undertake a review and report to the National Assembly in the subsequent audit reporting cycle.

GLOBAL FUND PROGRAM- EXPANDING HIV PREVENTION, CARE AND TREATMENT SERVICES TO REACH UNIVERSAL ACCESS (80% COVERAGE) TO REDUCE BOTH INCIDENCE AND ASSOCIATED IMPACT PROJECT (GRANT NO. KEN-H-TNT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

122. Non-Disclosure of Counterpart Contribution

545) The statement of receipts and payments does not disclose the counterpart funding from The National Treasury. Consequently, the accuracy and completeness of the reported receipts balance of Kshs.3,926,315,501 cannot be ascertained. Further, the Government of Kenya contribution for the financial year and cumulatively

Submission by the Accounting Officer

546) During the financial year 2018/2019 the budget for the Government of Kenya counterpart funding for both old and new HIV and Aids Grants was budgeted under the new grant. Special Global Fund – HIV – AIDSS GRANT KEN-H, item: 1077 -01- 2640503 Ksh.1,679,271,881. This was because the old grant closed on 31st December, 2018.

547) **Committee Observations and Findings**

The Committee marked the matter as resolved

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

123. Failure to Update the Fixed Asset Register

548) Contrary to the provisions of Section 139(1) and Section 143(1) of the Public Finance Management (National Government) Regulations, 2015, the Management of the Program did not update the Fixed Asset Register. The summary of fixed assets under Annex 3 to the financial statements reflects a balance of Kshs.4,923,645 brought forward from the previous year. However, the statement of receipts and payments reflects an expenditure of Kshs.191,377,450 on nonfinancial assets incurred during the year under review. The assets acquired during the year are, therefore, not reflected in the summary of fixed assets. To this extent, the Management of the Program is in breach of law.

Submission by the Accounting Officer

549) The Accounting Officer submitted that it was true that there was no asset register for the assets procured during FY 2018/2019 of Program implementation. This was because procurement was being done by procuring unit (entity) of the National Treasury. However, The National Treasury is in the process of procuring the services of a consultant to develop one for the project.

550) **Committee Observations and Findings**

i) The Committee observed that there were no proper records in terms of an Asset register listing all those assets, their location and the core details regarding them;

ii) The Committee observed that there was no system of identification e.g. tagging/coding, to cost, disposals, depreciation, accumulated depreciation, location of the asset of the assets had been done, thus putting the assets at risk of getting lost through theft and misplacement; And

551) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should provide to the Auditor-General a verifiable progress on maintaining assets register. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

552) **Conclusion**

124. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCIES UNDER THE NATIONAL TREASURY

EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT (IDA CREDIT NO. 5638-KE) – KENYA REVENUE AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

125. Non-Compliance with the Reporting Template

553) The financial statements presented for audit did not comply with the annual reports and financial statements reporting template for Projects prescribed by the Public Sector Accounting Standards Board of Kenya. The financial statements did not include Part 3 – "report of the independent auditors, Part 7 – "statement of comparative budget and actual amounts", Part 9 – "other important disclosures" and Part 10 – "progress on follow up of auditor recommendations". Further, Annex 1 -variance explanation on comparative budget and actual amounts, Annex 2 - analysis of pending bills, Annex 3 - summary of fixed assets register and other appendices specified in the reporting template were also not included. In the circumstances, the financial statements do not comply with International Public Sector Accounting Standards -1 on presentation of financial statements.

Submission by the Accounting Officer

554) The Accounting Officer submitted that it was true the financial statements of Eastern African Regional Transport, trade and development facilitation project have been prepared on IPSAS Cash - basis as per the advice of the Public Sector Accounting Standards Board Kenya Gazette Notice no 5440 of 8 August 2014. There has been no revision to the project-reporting standard but this will be done from F/Y 2019/2020.

555) **Committee observations and findings**

i) The Financial statements of Eastern African Regional Transport, trade and development facilitation project have been prepared on IPSAS Cash - basis as per the advice of the Public Sector Accounting Standards Board Kenya Gazette Notice no 5440 of August 8, 2014.

ii) The financial statements did not include report of the independent auditors, statement of comparative budget and actual amounts, other important disclosures and progress on follow up of auditor recommendation. Further, the annexes did not include variance explanation on comparative budget and actual amounts, analysis of pending bills, summary of fixed assets register and other appendices specified in the reporting template.

556) **Committee Recommendation**

The Accounting Officer should ensure that the project keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

557) **Conclusion**

126. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

558) **Conclusion**

127. There were no material issues relating to effectiveness of internal controls, risk management and governance.

EQUALISATION FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

128. Cash and Bank Balances

559) As disclosed under Note 3 to the financial statements, the statement of assets and liabilities reflects a balance of Kshs.2,283,426,949 under cash and cash equivalents. However, Note XIII to the financial statements discloses cash and bank balances of Kshs.3,759,753,043;(2018-Kshs.5,061,282,195) held by implementing institutions that were unutilized as at 30 June, 2019. However, the status and value of implemented projects as at 30 June, 2019 is not disclosed in the Notes to the financial statements, contrary to the provisions for preparing Fund accounts. Consequently, Management did not adhere to the reporting framework.

Submission by the Accounting Officer

560) The Accounting Officer submitted that under note 3 of the Financial statements the cash and cash equivalent of Kshs.2,283,426,949.00 reflect the amount held in the main Fund account and the Fund secretariat, however, in the note XIII we included bank balances held by respective Equalization Fund implementing agencies for disclosure purpose.

561) **Committee observations and findings**

The status and value of implemented projects as at 30 June, 2019 is not disclosed in the Notes to the financial statements, contrary to the provisions for preparing Fund accounts

562) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should provide to the Auditor-General the status and value of all the projects implemented under the Equalization Fund from inception to date. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

Emphasis of Matter

129. Low Absorption of Funds and Slow Implementation of Projects

563) The Equalization Fund Information and Management Report indicates Fund entitlement of Kshs.32,555,888,665 over the last seven (7) years (2011/2012 – 2017/2018) based on 0.5% of most recent audited and approved revenues. However, only Kshs.12,400,000,000 or 38% of the entitlement had been appropriated and transferred to the Fund account contrary to the provisions of Article 204 of the Constitution of Kenya.

564) Further, out of the appropriated and available funds of Kshs.12,400,000,000, only an amount of Kshs.10,116,573,051 or 82% has been disbursed to the implementing Ministries, Departments and Agencies (MDAs) to fund projects in the beneficiary Counties. However, only Kshs.6,479,068,908 or 64% of the disbursed amount had been spent as 30 June, 2019 leaving out a balance of Kshs.3,637,504,143. The expenditure translates to only 20% of the entitled appropriation funds to date of Kshs.32,555,888,66 despite seven (7) of the maximum period of twenty (20) years existence post the first disbursement to the Fund in 2011/2012.

565) This is indicative of low funding and absorption which could slow down the implementation of the planned projects. Field visits to sample project implementation sites revealed that a significant number of projects had stalled due to huge pending bills despite the MDAs holding cash balances of Kshs.3,759,753,043 in their respective bank accounts inclusive of Kshs.122,248,900 held by the Fund secretariat.

566) From the foregoing, the Fund may not realize its intended objectives of providing basic services to the marginalized areas to achieve equality and equity in the provision of basic services with other regions.

Submission by the Accounting Officer

567) The Accounting Officer submitted that as reported in the Financial Statement, an amount of Kshs.2,466,411,814.45 was released during the financial year 2018/2019. The low levels of disbursement were due to low level of absorption by the projects implementers. It should be noted that disbursements of funds for the projects is triggered

by the requests from MDAs. Therefore, the absence of request from MDAs led to low level of disbursements.

568) **Committee Observations and findings**

i) The Equalization Fund entitlement is approximately Kshs.32,555,888,665 over the last seven (7) years (2011/2012 – 2017/2018) based on 0.5% of most recent audited and approved revenues.

ii) The total appropriation for the Fund as at FY 2018/19 was only Kshs.12,400,000,000 out of which only an amount of Kshs.10,116,573,051 to the implementing the MDAs to fund projects in the beneficiary Counties. However, only Kshs.6,479,068,908 or 64% of the disbursed amount had been spent as 30 June, 2019 leaving out a balance of Kshs.3,637,504,143.

569) **Committee Recommendation**

The National Treasury work closely with the now constituted Equalization Fund Board to ensure timely appropriation and release of the Fund's entitlement for without any further delay.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

130. Project Implementation

570) Sixty-three (63) projects from nine (9) of the fourteen (14) implementing Counties were sampled for physical verification. The total budget allocation for the projects was Kshs.1,808,349,807. The verification revealed that the projects being implemented by various agencies were at different levels of completion as detailed below;

		Project Status		**Disbursed**
Sector	**Project Count**	**Complete**	**Incomplete**	**Amount (Kshs.)**
Education	4	1	3*	63,000,000
Energy	1	1	-	1,000,000
Water and Irrigation	23	16	7	890,410,408
		Project Status		Disbursed
Sector	Project Count	Complete	Incomplete	Amount (Kshs.)
Health	12	3	9	265,280,862
Roads	23	16	7	588,658,627
Total	63	37	26	1,808,349,807

* Projects were yet to start

From the foregoing, it is not clear if and when the nine (9) Counties will realize value for money from the twenty-six (26) incomplete projects as at 30 June, 2019.

Submission by the Accounting Officer

571) The Accounting Officer submitted that it was true that the report on the project implementation was not included in the Equalization Fund financial statement since the project implementation report is prepared by the Equalization Fund implementing agencies.

572) **Committee observations and findings**

The report on the project implementation was not included in the Equalization Fund financial statement

573) **Committee Recommendation**

The National Treasury work closely with the now constituted Equalization Fund Board to ensure timely appropriation and release of the Fund's entitlement for without any further delay.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

131. Fund Governance Weaknesses

574) The Administrator of the Fund is also the Secretary to the Board with the responsibilities of planning for Board meetings, keeping records of the proceedings of the meetings, and performing such other duties as the Board may direct. During the year under review, no evidence of the Board having met in form of Board minutes were availed for audit review. Further, the Board administrative activities budget of Kshs.122,248,900 remained unutilized as at 30 June 2019. Consequently, oversight over the activities of the Fund may be inadequate and ineffective.

575) **Committee Observation and Findings**

The legal and institutional governance for the Fund has been a litigation issue for but it has now been resolved and a Board constituted. The examination of the Fund accounts is now under the mandate of the Special Funds Accounts Committee (SFAC) as per Standing Order No 205A of the National Assembly Standing Orders, 5th Edition.

CONTINGENCIES FUND

REPORT ON THE FINANCIAL STATEMENTS

576) **Unqualified Opinion**

132. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

577) **Conclusion**

133. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

578) **Conclusion**

134. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PETROLEUM DEVELOPMENT LEVY FUND HOLDING ACCOUNT

REPORT ON THE FINANCIAL STATEMENTS

579) **Unqualified Opinion**

135. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

580) **Conclusion**

136. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

581) **Conclusion**

137. There were no material issues relating to effectiveness of internal controls, risk management and governance.

RAILWAY DEVELOPMENT LEVY FUND HOLDING ACCOUNT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

138. Discrepancies in Reported Receipts

582) The statement of receipts and payments reflects total receipts of Kshs.21,613,544,290;(2018 – Kshs.20,693,095,047) and as disclosed under Note 10.2 to the financial statements. This differs with the total receipts as per the summary of budget versus actual performance figure of Kshs.5,815,007,463 resulting in an unexplained and unreconciled variance of Kshs.15,798,536,827. Consequently, the accuracy of the reported receipts of Kshs.5,815,007,463 in the summary of budget versus actual performance cannot be confirmed.

Submission by the Accounting Officer

583) The Accounting Officer submitted that it was true that statement of receipts and payments reflects total receipts of Kshs.21,613,544,290;(2018 – Kshs.20,693,095,047) and as disclosed under Note 10.2 to the financial statements. The total figure of Kshs.21,613,544,290 agrees with the total receipts as per the summary of budget versus actual performance. The accuracy of the reported receipts of Kshs.21,613,544,290.00 can be confirmed by all the revenue that was received in the Fund holding account. A copy of analysis was availed for perusal by the Committee.

584) **Committee observations and findings**

The Committee observed that the reconciliation attached do not explain the variance of Kshs.15,798,536.

585) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should prepare and resubmit to the Auditor-General a new financial statement with reconciliation explaining the variance of Kshs.15,798,536.The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

139. Budget Over Expenditure

586) The summary of budget versus actual performance reflects an approved budget and actual expenditure of Kshs.24,718,591,835 and Kshs.31,999,674,958 resulting in an over expenditure of Kshs.7,281,083,123 or 29.5% of the budget. This is indicative of unauthorized spending and failure to adhere to the set budgetary controls. Management has not rendered satisfactory explanations for the spending without authorization.

Submission by the Accounting Officer

587) The Accounting Officer submitted that it was true that the summary of budget versus actual performance reflects an approved budget and actual expenditure of Kshs.24,718,591,835 and Kshs.31,999,674,958 resulting in an over expenditure of Kshs.7,281,083,123 or 29.5% of the budget. Please note that the budget is usually under Transport and transfers were made based on the requests submitted by State Department of Transport on approval by the Advisory Committee.

588) **Committee Observations and Findings**

i) The summary of budget versus actual performance reflects an approved budget and actual expenditure of Kshs.24,718,591,835 and Kshs.31,999,674,958 resulting in an over expenditure of Kshs.7,281,083,123

ii) The Committee further observed that the response provided by the Accounting Officer does explain reasons for disbursement to State Department of transport an amount exceeding its budget as approved by Parliament.

iii) The examination of the Fund accounts is now under the mandate of the Special Funds Accounts Committee (SFAC) as per Standing Order No 205A of the National Assembly Standing Orders, 5th Edition.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

589) **Conclusion**

141. There were no material issues relating to effectiveness of internal controls, risk management and governance.

RURAL ENTERPRISE FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

142. Unbanked Cash

590) As disclosed under Note 1 to the financial statements, the statement of assets and liabilities reflects bank balances totaling Kshs.3,348,895 which relates to balances brought forward from 2012/2013 and prior years. The balances comprise cash with District Commissioners on account of loans repaid, interest on loans and balances held in miscellaneous deposit accounts amounting to Kshs.1,951,921, Kshs.108,840 and Kshs.1,288,135 respectively. However, evidence to confirm actual existence of the balance of Kshs.3,348,895 was not provided. Further, the balance of Kshs.1,951,921 relating to District Commissioners (Loans Repaid) included advances amounting to Kshs.207,344 in form of IOUs issued from the Fund to five (5) officers working at the District Commissioner's Office, Kisumu in 1997/1998. The IOUs had not been surrendered as at

30 June, 2019. In the circumstances, the accuracy and validity of the reported bank balances of Kshs.3,348,895 could not be confirmed.

Submission by the Accounting Officer

591) The Accounting Officer submitted that this was a dormant fund and it was in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds including Rural Enterprise Fund. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II(5) of 17th May 2019.

592) A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.

593) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/(18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General`s Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly. With the conclusion of the winding up, the issues raised by the Auditor under Para 157 to Para 142 will be fully addressed.

594) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

595) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

143. Unreconciled Balances

596) As was reported in the previous year, the statement of assets and liabilities for deposits as at 30 June, 2013 reflected a debit balance of Kshs.1,828,388 in respect of the Fund while the Fund account for the same year reflected a balance of Kshs.397,908,774. The significant difference of Kshs.396,080,387 between the two sets of records had not been reconciled or explained as at 30 June, 2019.

Submission by the Accounting Officer

597) The Accounting Officer submitted the Funds Statements reflects unbanked cash balance totaling Kshs.3,348,895/- brought forward from F/Y 2012/2013 and earlier years which is made up of balances of Kshs.1,951,920.60, Kshs.108,839.70, and Kshs.1,288,134.70 against Account Receivables-Loanee's, Cash with D.C. (Loans Repaid), Cash with D.C. (Interest on Loans) and Cash in the DC'S Miscellaneous Deposit Account respectively. Also included is an amount of Kshs.207,304/- in form of IOU's issued to five officers working at the District Commissioners office Kisumu in F/Y 1997/1998 and which had not been surrendered as at 30th June 2014. Also the Fund`` financial statement as at 30 June 2019 presented for audit continue to reflect a total amount of Kshs.397,908,774.30 under financial assets made up of balances of Kshs.394,559,879.30, Kshs.1,951,920.60, Kshs.108,839.70, and Kshs.1,288,134.70 respectively

598) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

599) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

144. Winding Up of the Fund

600) As was reported in the previous year, the statement of assets and liabilities for deposits as at 30 June, 2013 reflected a debit balance of Kshs.1,828,388 in respect of the Fund while the Fund account for the same year reflected a balance of Kshs.397,908,774. The significant difference of Kshs.396,080,387 between the two sets of records had not been reconciled or explained as at 30 June, 2019.

Submission by the Accounting Officer

601) The Accounting Officer submitted that the National Treasury has not yet closed Funds Books of Account despite the winding up of the Fund vide Legal Notice No.97 dated 14th September 2012 and has continued to prepare and submit the Funds Financial Statements for audit.

602) This is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds including Rural Enterprise Fund. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019.

603) A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.

604) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/(18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General`s Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.

605) With the conclusion of the winding up, the issues raised by the Auditor under Para 157 to Para 143 will be fully addressed.

606) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

607) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

608) **Basis for Conclusion**

145. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE OFFICERS AND PUBLIC OFFICERS MOTOR CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

609) **Unqualified Opinion**

146. There were no material issues noted during the audit of the financial statements of the Fund.

147. Failure to Operationalize the Fund

610) Section 4(a) and (b) of the Public Finance Management (National Government) Regulations, 2015, provides for the object and purpose of the Fund as provision of car loans facility to State and Public Officers of the National Government. Contrary to the provisions, the Fund Management has not undertaken the requisite activities since inception in 2015 to operationalize the Fund. Consequently, the Fund's allocation totaling Kshs.3,847,507,790 as at 30 June, 2019 continues to remain idle. Although management has indicated having commenced processing of loan applications, only four (4) requests valued at Kshs.17,320,000 had been processed but remained undisbursed as at 30 June, 2019. The Fund is therefore, in breach of law and is not fulfilling the mandate for which it was established.

Submission by the Accounting Officer

611) The Accounting Officer submitted that the State Officers and Public Officers Motor Car Loan Scheme Fund was established in 2015 through the legal notice no. 195 of 25th September 2015 and pursuant to guidelines provided by the Salaries and Remuneration Commission on Car Loan Benefits for state officers and the Public Servants in December 2014. As at 30th June, 2019 the Fund Account at Central Bank of Kenya stood at Kshs3,847,507,790/= which had not been utilized.

612) It took some time to establish an Advisory Board to run the fund and to procure the financial institution to manage the funds accounts. The advisory Board is currently in office and Kenya Commercial Bank was procured to manage the Car Loan Scheme vide authority letter Ref. AG.3/88/1Vol.21/ (40) dated 3rd October 2018.

613) The advisory Board started with a pilot scheme targeting 50 applicants and eighteen (18) officers applied for loans totaling Kshs.48,534,586/-. The applications were received, verified and approved by the Board and eventually forwarded to Kenya Commercial Bank. As at 31st March 2021 the scheme received 61 applications totaling Kshs.137,622,300/- and has been able to approve and disbursed 49 applications totaling Kshs.111,661,800/-

614) **Committee Observations and findings**

i) The Committee strongly reprimands the Accounting Officer for failure to implement the House resolution on the Fund as per the PAC report for the FY 2016/2017.

ii) There is low disbursement of the Fund. As at 31st March 2021 the scheme received 61 applications totaling Kshs.137,622,300/- and has been able to approve and disbursed 49 applications totaling Kshs.111,661,800/-

615) **Committee Recommendation**

1) **Within three months of adoption of this report, the Accounting Officer should prepare a viable roll-out framework that ensures that all deserving civil servants benefits from the Fund. Auditor-General a final audit closure report for the**

project. The Auditor-General undertake a review and report to the National Assembly in the subsequent audit reporting cycle.

2) **The Committee reiterates its recommendation that in the FY 2016/2017 that the Accounting provide to the Auditor-General, a comprehensive statement including interest earned from the Kshs.2,835,000,000 deposited at KCB**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

616) **Conclusion**

148. There were no material issues relating to effectiveness of internal controls, risk management and governance.

GOVERNMENT CLEARING AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

149. Receipts from Government Agencies

617) As disclosed under Note 1 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.2,174,171; (2018-53,586,330) under receipts from Government Agencies. However, the receipts have not been supported by way of ledgers and other primary source documents. The significant decrease in the receipts in comparison to the prior year has also not been explained. Further, the Agency has not maintained proper financial records as required under Section 68(2) of the Public Finance Management Act, 2012.

Submission by the Accounting Officer

618) The Accounting Officer submitted that the Government Clearing Agency was responsible for receiving of clearance/shipping documents, preparation and processing of imports/exports, warehousing and transporting of goods for other Government Ministries/Departments/Agencies (MDAs) who seek its services. This is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds including Government Clearing Agency.

619) The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation

orders be prepared on the fund. The revocation orders 2020 were submitted to the cabinet for consideration and approval.

620) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/ (18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General`s Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.

621) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

622) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status to the Auditor-General. The Auditor-General undertake a review and report to the National Assembly in the subsequent audit reporting cycle

150. Long Outstanding Accounts Receivable

623) The statement of assets and liabilities reflects a balance of Kshs.300,931,776;(2018-Kshs.300,931,776) under debtors-old account. There was no movement during the year casting doubt on recoverability of the debts. Further, the balance has not been supported by a detailed ledger indicating the debtors. Consequently, the accuracy and the fair statement of the reported receivables debtors-old account balances of Kshs.300,931,776 as at 30 June, 2019 could not be ascertained.

624) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

625) Committee Recommendation

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

151. Cash and Cash Equivalents

626) The statement of assets and liabilities reflects an amount of Kshs.2,174,171;(2018-Kshs.72,435,965) under bank balance. However, a bank balance of Kshs.27,351,785 held in the Agency's National Bank of Kenya Mombasa branch bank account

No.01001007625100 has been excluded from the bank balance of Kshs.2,174,171 reflected in the financial statements.

627) Consequently, the accuracy and fair statement of the reported bank balance of Kshs.2,174,171 as at 30 June, 2019 could not be confirmed.

628) **Submission by the Accounting Officer**

The Accounting Officer submitted that the matter relates to paragraphs relates to paragraph 149 and awaits National Assembly approval to wind up the Fund.

629) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

630) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status to the Auditor-General .The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

152. Fund Balance

631) As previously reported, the statement of assets and liabilities reflects a fund balance brought forward (old account) of Kshs.247,957,879;(2018-Kshs.247,957,879) which was not supported. Consequently, the accuracy and validity of the reported fund balance brought forward (old account) of Kshs.247,957,879 as at 30 June, 2019 cannot be confirmed.

Submission by the Accounting Officer

632) The Accounting Officer submitted that the matter relates to paragraphs relates to paragraph 149 and awaits National Assembly approval to wind up the Fund.

633) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

634) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

153. Unreported Expenditure

635) During the year under review, the Agency made a cash payment of Kshs.2,006,357 towards the repair and maintenance works of its Mombasa offices. However, there is no evidence of the amounts having been applied for the intended use as the roofs for some of the offices were leaking and in bad state. The payment has also not been incorporated in the financial statements prepared and presented for audit while the expenditure returns were not appropriately supported with some amounts having been posted into inappropriate accounts.

Submission by the Accounting Officer

636) The Accounting Officer submitted that the matter relates to paragraphs relates to paragraph 149 and awaits National Assembly approval to wind up the Fund.

637) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

638) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status to the Auditor-General. The Auditor-General undertake a review and report to the National Assembly in the subsequent audit reporting cycle

154. Failure to Execute Mandate

639) The Agency's operations manual indicates that some of the functions of the Agency are receiving of clearance/shipping documents from Government Ministries, Departments and State Corporations; preparation and processing of the imports/exports, warehousing and transportation documents through customs, port authorities, shipping, transport, insurance agents - (underwriters) including banks and cargo surveillance agents among other services. Examinations of records of the Agency indicated that limited businesses of government agencies are cleared by the Agency as the bulk of the importation business is being undertaken by the private sector. No explanations have been rendered for failure to deliver on its mandate.

Submission by the Accounting Officer

640) The Accounting Officer submitted that the matter relates to paragraphs relates to paragraph 149 and awaits National Assembly approval to wind up the Fund.

641) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

642) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status to the Auditor-General .The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

155. Lack of Oversight

643) The Agency has no Board of Directors to oversight the organization's operations. Further, the internal audit function that ought to check on governance, internal controls and risk management is not in place. In addition, there is no formal organizational structure thus compounding the weaknesses over its internal controls.

Submission by the Accounting Officer

644) The Accounting Officer submitted that the matter relates to paragraphs relates to paragraph 149 and awaits National Assembly approval to wind up the Fund.

645) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

646) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status to the Auditor-General .The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

647) **Conclusion**

156. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

648) **Conclusion**

157. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

TREASURY MAIN CLEARANCE FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified of Opinion

158. Long Outstanding Accounts Receivables – Debtors

649) As reported previously, the statement of assets and liabilities reflects accounts receivables-debtors balance of Kshs.12,503,607,446 as at 30 June, 2019. The balance has been outstanding for a long period of time with no movement which is indicative of nil recoveries. Further, an amount of Kshs.2,332,170,394 of the debtor's balance has not been analyzed into the individual debtors and what it relates to. This is indicative of likely impairment, but the necessary adjustments to fairly state the balance by way of provisions for bad and doubtful debts have not been made.

650) Consequently, the recoverability of the long outstanding accounts receivables - debtors balance of Kshs.12,503,607,446 could not be confirmed.

Submission by the Accounting Officer

651) The Accounting Officer submitted that the matter was discussed during the examination of the State Department account for financial year 2017/18 and awaits National Assembly approval to wind up the Fund.

652) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

653) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

159. Unsupported Accounts Payables – Creditors

654) As previously reported, the statement of assets and liabilities reflects accounts payables – creditors balance of Kshs.12,490,478,941 as at 30 June, 2019. However, detailed listings in support of the balances were not availed for audit review. Consequently, the accuracy

and completeness of the accounts payables - creditors balance of Kshs.12,490,478,941 as at 30 June, 2019 could not be ascertained.

Submission by the Accounting Officer

655) The Accounting Officer submitted that the matter was discussed during the examination of the State Department account for financial year 2017/18 and awaits National Assembly approval to wind up the Fund.

656) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

657) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General undertake a review and report to the National Assembly in the subsequent audit reporting cycle

160. Unsupported Deficit Balance Brought Forward

658) As reported previously, the statement of assets and liabilities reflects a net financial position (closing fund balance) of Kshs.13,128,505 which consists of a Fund balance and deficit brought forward of Kshs.14,000,000 and Kshs.871,495 respectively. However, the balances were not supported by any reconciliation. Consequently, the accuracy of the closing Fund balance of Kshs.13,128,505 could not be confirmed.

Submission by the Accounting Officer

659) The Accounting Officer submitted that the matter was discussed during the examination of the State Department account for financial year 2017/18 and awaits National Assembly approval to wind up the Fund.

660) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

661) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

Other Matter

161. Prior Year Matter

161.1Failure to Wind Up the Fund

662) As reported previously, the Fund has been dormant for a significant duration. Pursuant to the recommendations of the Public Accounts Committee and instructions of The National Treasury to wind up all dormant funds, the Fund continues to subsist. As at the time of finalizing this audit, the process was yet to be completed.

Submission by the Accounting Officer

663) The Accounting Officer submitted that the matter was discussed during the examination of the State Department account for financial year 2017/18 and awaits National Assembly approval to wind up the Fund.

664) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

665) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

666) **Conclusion**

162. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

667) **Conclusion**

163. There were no material issues relating to effectiveness of internal controls, risk management and governance

KENYA LOCAL LOANS SUPPORT FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

164. Unsupported Balances

668) The financial statements presented for audit are unsupported by a trial balance and ledgers in support of the balances. ln the circumstances it is not possible to ascertain the accuracy of the reported balances in the financial statements. Further, accrued interest yet to be received and investments at a cost of Kshs.71,595,406; (2018- Kshs.71,595,406) and Kshs.6,364,973; (2018-Kshs.10,410,373.50) respectively, have not been appropriately disclosed in the details in the Notes to the financial statements.

669) The accuracy of the balances cannot therefore be ascertained.

Submission by the Accounting Officer

670) The Accounting Officer submitted that the matter was discussed during the examination of the State Department account for financial year 2017/18 and awaits National Assembly approval to wind up the Fund.

Committee Observations and Findings

671) The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

672) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

165. Winding Up of the Fund

673) As reported previously, the Fund is dormant in spite of the recommendations of the Public Accounts Committee and instructions of The National Treasury vide Treasury Circular No.15/2009 dated 7 August, 2009 which directed Accounting Officers to start the process of winding up all dormant Funds. As at the time of finalizing this audit, the winding up process was yet to be completed.

Submission by the Accounting Officer

674) The Accounting Officer submitted that the matter was discussed during the examination of the State Department account for financial year 2017/18 and awaits National Assembly approval to wind up the Fund.

675) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

676) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

166. Failure to Redeem Stocks

677) Similarly, as reported previously, stocks valued at Kshs.10,430,700 which were past their redemption date of 6 February, 2010 and cost Kshs.17,400 had not been redeemed. Although The National Treasury has explained that the stocks were redeemed some years back but erroneously accounted for as revenue, records to confirm the erroneous accounting for receipts and subsequent correction in the books of account have not been availed for audit review.

Submission by the Accounting Officer

678) Central Bank of Kenya gave notice to redeem (1981) 10 ¾% Kenya Stock 2003, Ksh.3,600.00 vide their letter dated 8th October, 1997 among others and 6% Kenya Stock 1997 of Ksh.5,680,000 vide their letter dated 7th October, 1997. Following the early redemption of small stock holdings of Ksh.10,000.00 and less as per C.B.K. letter dated 8th October, 1997, (1981) 10¾% Kenya Stock 2003, 10¾% Kenya Stock 2000, 8¼% Kenya Stock 1992, 8½% Kenya Stock 1991/92, 6% Kenya Stock 'A' 1990 and 8% Kenya Stock 1992 have nil balances in the books of Central Bank of Kenya. This implies that the stocks were redeemed and fully paid. However, stocks worth Ksh.6,364,973.50 appear to be outstanding due to lack on records on their redemption. The National Treasury has been in contact with Central Bank of Kenya to provide details of redemptions for the stocks worth Ksh.6,364,973.50 to facilitate updating of records

679) **Committee Observations and Findings**

i. The Committee observed that the Accounting Officer is yet to redeem the stock; And
ii. The query remained unresolved

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

680) **Conclusion**

167. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

681) **Conclusion**

168. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

PROVIDENT FUND ACCOUNT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

169. Inaccuracies in the Financial Statements

169.1Misstated Comparative Balances and Inconsistencies in Notes to the Financial Statements

682) The statement of financial position reflects balances of Kshs.752,556,522 and Kshs.742,841,111 being the comparative balances for total financial assets and net assets respectively. However, the audited 2017/2018 financial statements reflected amounts of Kshs. 815,305,312 and Kshs.805,590,201 respectively for the balances. Further, inconsistencies were also noted between the referenced notes for bank balances and other receivables as reflected in the statement of financial position and the actual notes to the financial statements. In the circumstances, the financial statements are not in compliance with paragraph 53 of IPSAS 1 which requires comparative information to be disclosed in respect of the previous period for all amounts reported in the financial statements.

Submission by the Accounting officer

683) The Accounting Officer submitted that it was true that the Statement of financial position reflects balances of Ksh.752,556,522 and Ksh.742,841,111 being comparable balances for total financial assets and net asset respectively while the audited 2017/2018 financial statements reflected amounts of Ksh.815,305,312 and 805,590,201 respectively. The inconsistency was noted and corrected in the revised statement attached.

684) **Committee Observations and Findings**

i) The Committee observed that the changes will be effected in the financial statements for 2021/2021 as prior year adjustments for audit review;
ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
iii) In addition, The Committee observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012; And

685) **Committee Recommendation**

The Committee reprimands the then Accounting Officer for failure to ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012.

169.2Variance Between the Trial Balance and the Financial Statements

686) The 2018/2019 Trial Balance submitted for audit revealed items and balances which were not reflected in the financial statements as indicated below:

Account	Description	Dr. Amount (Kshs.)	Cr. Amount (Kshs.)
4-867-0903-7310224	Interest on Investment Provident Fund	430,316,536	
4-867-0903-7310224	Interest on Investment Provident Fund		1,230,081,880
4-867-0903-7310227	Profit/ loss on Realization of Investment		7,163,992
4-867-0903-7310230	Interest Credit to Deposit	113,114	
4-867-0903-7310231	Accumulative Income & Expenditure A/C		1,372,274
4-867-0903-7310235	Recovery of Interest due from GOK	1,448,783	1,448,783
4-867-0903-7310236	Annual Account		883,162
4-867-0903-7310237	Bonus paid to Depositors	1,296,168	
4-867-0903-7310238	Annuity payment (Charles	50,696	
	Kombo- Agri.)		
	Total	**433,225,297**	**1,240,950,091**

687) No explanation was provided on what the items related to, and the reasons for exclusion in the financial statements. Similarly, the following balances reflected in the financial statements were not traced to the Trial Balance:

Item Description	Amount (Kshs.)
Dividend Income	60,327,313
Other Receivables	6,176,372
Bank Balance	819,799,550
Other Pending Payables	9,715,111

688) Further, the Trial Balance presented for audit had its debits and credits not balancing at Kshs.482,912,920 and Kshs.2,122,512,019 respectively. In the circumstances, the accuracy of the balances reflected in the financial statements could not be ascertained.

Submission by the Accounting Officer

689) The Accounting Officer submitted that the matter was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued therein.

Committee Observation and Finding

690) The Committee discussed the matter in the report for the FY 2017/2018 and the explanation by the Accounting Officer was satisfactory.

170. Doubtful Other Receivables

691) As previously reported, and as disclosed in Note 11.4 to the financial statements, the statement of financial position reflects a balance of Kshs.9,972,598 under other receivables which comprised a cash deposit balance held at the insolvent Cereals and Sugar Corporation and dividends receivable from Kenya Power and Lighting Company (KPLC) of Kshs.3,796,226 and Kshs.6,176,372 respectively. However, Management did not provide any evidence of the measures put in place to recover the debts in full.

Submission by the Accounting officer

692) The National Treasury wrote to KPLC requesting for payment of the dividends of Ksh.6,176,372 from KPLC vide letter reference number EPN/167/025/Vol.XV(5) of June, 2021. The amount was credited by the KPLC in our account July 2, 2021. The balance of Kshs.3,796,226 is being handled by the old balance committee and when the process of winding up the Fund is concluded; the issue will be addressed. Confirmation of receipt of dividend from KPLC has been verified.

693) **Committee Observations and Findings**

(i) Committee observed that the fund is among other funds proposed to be wound up hence awaiting National Assembly approval. The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012.

(ii) The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

694) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

171. Unsupported Payables Balance

695) The statement of financial position reflects other pending payables balance of Kshs.9,715,111 (2018: Kshs.9,715,111) which as disclosed in Note 11.6 to the financial statements related to amounts due to National Government entities. However, as previously reported, Management has not supported the balances by way of a detailed listing and invoices indicating the specific entities to which the amounts are owed. Consequently, it

has not been possible to confirm the accuracy, validity and completeness of other pending payables balance of Kshs.9,715,111 as at 30 June, 2019.

Submission by the Accounting Officer

696) The Accounting Officer submitted that the matter was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued therein

Committee Observation and Finding

697) The Committee discussed the matter in the report for the FY 2017/2018 and the explanation by the Accounting Officer was satisfactory.

Other Matter

172. Budget Control and Performance

698) The statement of comparison of budget and actual amounts does not reflect the approved budget amounts for revenue and expenditure. However, during the year under review, the Fund received revenue of Kshs.60,327,313 and had a nil expenditure. The explanatory note indicates that there was no budget despite the Fund having investments in Kenya Power and Lighting Company and East African Breweries Limited for which dividend income was expected.

Submission by the Accounting officer

699) The Fund is not active and budget was not provided. However, a budget will be prepared for the same in future.

700) **Committee Observation and Findings**

i) The Committee observed that the fund is in the process of wound up and awaits the National Assembly approval;
ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012; And

701) **Committee Recommendation**

The Committee reprimands the Accounting Officer for violation of the provisions of Article 229 (4) (h) of the Constitution and Section 68 (2) of the Public Finance Management Act 2012.

173. Idle Resources

702) As previously reported, the Fund has carried out minimal operations where only dividends from investments in KPLC and EABL are recorded. The Fund continued to accumulate idle bank balances which stood at Kshs.819,799,550 as at 30 June, 2019 contrary to the guiding principles for cash management which include avoiding accumulation of idle balances as provided under Regulation 83 (2)(c) of the Public Finance Management Regulations, 2015 and Section 3(3) of Provident Fund Act, 2012 which provides that moneys paid into the Fund shall, so far as practicable, be invested in interest

yielding securities. Alternatively, if the mandate of the Fund ceased or lapsed, the Fund ought to have been wound up and the assets reverted to the Government.

Submission by the Accounting Officer

703) The Accounting Officer submitted that the National Treasury wrote to Central Bank of Keya seeking advice on how to invest vide letter ref. no.EPN/167/025 Vol.XI/34 dated 14th March 2016 and the Central Bank advised vide letter ref. no. EPN/167/025 Vol.XI/34 dated 13th January, 2017 on the requirements and conditions to be met before investing. Two of the conditions were that the Fund should have Fund Manager and Board of Trustees. The Fund has no remaining beneficiaries and it would not be viable to engage a Fund manager and Board of trustees. The fund is in process of being wound up. He

704) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

705) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

706) **Conclusion**

174. There were no material issues relating to effectiveness of internal controls, risk management and governance.

EUROPEAN WIDOWS AND ORPHANS PENSION FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

175. Inaccuracies in the Financial Statements

175.1Unreconciled Cash and Cash Equivalents Balances

707) As disclosed in Note 11.5 to the financial statements, the statement of financial position reflects an amount of Kshs.172,752,669; (2018-Kshs.172,853,169) under cash balances. However, the audited comparative figure reflects a balance of Kshs.175,505,995 resulting to an unexplained variance of Kshs.2,652,826. Consequently, the accuracy of the reported cash and cash equivalents balance of Kshs.172,752,669 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

708) The Accounting Officer submitted that the observation of the auditor is correct, and the bank balance was restated as per the accounts signed on 31 December 2018, and the correct balance of cash and cash equivalent is shown as Ksh.172,853,168.35. A amount of Kshs.6,953,601.35 was amount erroneously paid in our account by Laikipia County and out of it an amount totaling to Kshs.2,652,646.00 was captured and received in the books as dividend. The error has since been corrected by J.E no.0092 of 30th June, 2018 and the balance of Kshs.4,300,776.00 was captured in the cash book. Attached herewith find ledger and bank reconciliation statement to confirm bank balance.

709) **Committee Observations and Recommendations**

The Accounting Officer provided a satisfactory explanation to both the auditor and the Committee. The Committee therefore marked the matter as resolved.

710) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012.

175.2Unconfirmed Receivables

711) The statement of financial position reflects a receivables balance of Kshs.21,221,715; (2018-Kshs.21,221,715). The balance comprises of Kshs.16,900,000 owed by the Cereals and Sugar Finance Corporation and Kshs.4,321,715 ordinary dividends receivable from the Kenya Power and Lighting Company respectively. However, there has been no movement during the year under review indicative of likely impairment of the balance. No adjustments by way of provisions have been made to ensure fair statement of the receivables amount. Consequently, the fair statement of the receivables balance of Kshs.21,221,715 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

712) The Accounting Officer submitted that the CSFC is being wound up and the fate of Kshs.16,900,000 invested will be determined at the end of the process while the dividend receivable of Kshs.4,321,715 was credited in our account on July 2, 2021 by KPLC. The National Treasury established a Taskforce on winding up of Dormant Funds. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019.

713) A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.

714) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/(18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General`s Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.

715) With the conclusion of the winding up, the issues raised by the Auditor will be fully addressed.

716) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

717) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

176. Unconfirmed Investments

718) The statement of financial position further reflects an investments balance of Kshs.21,608,573 (2018-Kshs.21,608,573). However, proof of ownership and existence of the investments in shares of the Kenya Power and Lighting Company could not be confirmed as the share certificates were not availed for audit review. In the circumstances, the existence and validity of the investments balance of Kshs.21,608,573 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

719) The Accounting Officer submitted that copies of share certificates and deposit certificate supporting the investment balance were provided for audit verification and review as follows:

a) Share certificates total	Kshs, 21,608,573.
b) Deposit certificate form Cereals and Sugar	
Finance Corporation	Kshs. 16,900,000.
Total	**Kshs. 38,508,573**

720) The same copies of share certificates were attached for perusal by the Committee.

721) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

722) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

177. Unexplained Adjustments

723) As reported previously, the Fund adjusted its investments balance of Kshs.25,516,933 downwards in the financial year 2017/2018 by Kshs.3,908,360 for which no explanation has been provided. Further, the audited comparative accumulated surplus balance figure brought forward of Kshs.92,500,404 has been adjusted downwards to Kshs.89,847,579 with no disclosures by way of Notes to the financial statements.

724) In the circumstances, the validity of the adjustments on the investment and Fund balances brought forward could not be confirmed.

Submission by the Accounting Officer

725) The Accounting Officer submitted that the PMIS system has a challenge in capturing certain prior year adjustments, receivables and producing financial reports. The challenge will be addressed by procuring a new system. The adjustment of Capital account by Kshs.3,908,360.00 was effected through debiting the Capital account balance and crediting the investment account balance brought forward with a similar amount. The two accounts were adjusted in 2011/2012 financial year with an amount of Kshs.17,364,820 in recognition of bonus shares.

726) Further, the bank balance was restated as per the accounts signed on 31 December 2018, and the correct balance of cash and cash equivalent is shown as Ksh.172,853,168.35. Amount of Kshs.6,953,601.35 was erroneously paid in our account and out of it an amount totaling to Kshs.2,652,646.00 was captured and received in the books as dividend. The error has since been corrected by J.E no.0092 of 30th June, 2018. The balance of Kshs.4,300,776.00 was captured in the cash book.

727) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

728) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

178. Unreconciled Ledgers and Trial Balance

729) The balances in the financial statements are at variance with the Trial Balance. The Trial Balance debit and credit balances have variances totalling to Kshs.172,752,669. Further, the receivables balance of Kshs.21,221,715 has not been incorporated in the ledgers.

Submission by the Accounting Officer

730) The PIMS deposit ledger consist of five funds a) the Provident fund, b) the Asian officers' family fund, c) the Asiatic, d) the revenue Statement and e) the European Widows and Orphans Pension Fund. The balance of Kshs.172,752,669 is the PMG figure for the European Widows and Orphans Fund.

731) PMIS system was not fully developed to capture certain receivables and produce financial reports, the same will be addressed by the System re-engineering process The ledger availed was manually prepared and not generated from PMIS which ought to be the source document of balances reflected in the financial statements.

732) **Committee Observation and Findings**

i) The Committee observed that the system used in capturing data has not been configured to produce accurate financial statements;
ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012; And

733) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

734) **Conclusion**

179. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

735) **Conclusion**

180. There were no material issues relating to effectiveness of internal controls, risk management and governance.

ASIAN OFFICERS FAMILY PENSION FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

181. Accuracy of the Financial Statements

736) The Trial Balance prepared and presented for audit reflected some balances which were omitted from the financial statements as detailed below:

Account Description	Debit (Kshs.)	Credit (Kshs.)
Other Admin - Contributions A.O.F.P. F	81,932	
Pension Increase A.O.F.P. F	81,932	
Pension Payment (excluding pension increase)	-	1,023,072
Income and Expenditure Account	50,554	
Interest on Investments Asian	592,085,315	
Expenses of Management	10,613,702	
Appreciation/Depreciation Account	337,703	

737) Further, the Trial Balance reflected total debits and credits of Kshs.788,352,089 and Kshs.1,236,837,608 respectively resulting to a difference of Kshs.448,485,519. Although Management explained that the difference was as a result of failure by the system to capture Pay Master General items, no adjustments or reconciliation for the difference was provided for audit. In addition, other receipts in the statement of cash flows is referenced to Note 11.9 instead of Note11.10.

738) Consequently, the accuracy and fair statement of the financial statements could not be confirmed.

Submission by the Accounting Officer

739) The Accounting Officer submitted that the PMIS system is configured in a way that it doesn’t knock off expenditures against income received hence the ledger accumulates expenditures and income as shown in the Ledger. The above items brought forward as expenditures/income are attributed to the current state of the system`s configuration which will be addressed when a new system will be procured. Therefore, these expenditures/incomes brought forward don’t relate to Financial Year 2018/2019 as shown

in the Ledger but are historical expenditures/income incurred on the Fund. To get the current year income/ expenditure, opening balance is subtracted from the closing balance.

740) The ledger availed is manually prepared and not generated from PMIS which ought to be the source document of balances reflected in the financial statements. The matter is recommended for review since the system used in capturing data has not been configured to produce accurate financial statements. When will management upgrade the ICT system used by Pensions Department to capture accurate data?

741) **Committee Observation and Findings**

i) The Committee observed that the system used in capturing data has not been configured to produce accurate financial statements;

ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012.

742) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

182. Unsupported Balances

743) The statement of assets and liabilities reflects a receivables and cash equivalent balances of Kshs.20,491,730 and Kshs.448,485,519 respectively. However, Management has not supported the balances by way of detailed schedules. Further, and as previously reported, included in the receivables balance is an amount of Kshs.15,200,000 relating to cash owed to the Fund by the defunct Cereals and Sugar Finance Corporation (CSFC) under winding up process. The balance is however unsupported by way of deposit certificates or other documentary evidence confirming the ownership. In the circumstance, the accuracy and recoverability of the reported receivables balance of Kshs.20,491,730 and the accuracy of the cash equivalent balance of Kshs.448,485,519 could not be confirmed.

Submission by the Accounting Officer

744) The Accounting Officer submitted that the breakdown and supporting documents for cash and cash equivalent tabulated below are hereby attached for audit verification.

Dividend receivable	Kshs. 5,291,730.00
Investment in CSFC	Kshs. 15,200,000.00
Cash at hand/Bank	Kshs. 448,485,519.00

745) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

746) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

Other Matter

183. Wrong Presentation of Financial Statements

747) Although the cover page states that the financial statements have been prepared in accordance with the Accrual Basis of accounting method under the International Public Sector Accounting Standards (IPSAS), there is a mix up on the elements. The financial statements contain the statement of assets and liabilities in place of the statement of financial position; and the statement of receipts and payments in place of the statement of financial performance.

748) The original financial statements had a mix up but this was adjusted, revised statement is attached on the audit certificate.

Submission by the Accounting Officer

749) The Accounting Officer submitted that the original financial statements had a mix up but this was adjusted, revised statement is attached on the audit certificate.

750) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

751) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

184. Incomplete Statement of Comparison of Budget and Actual Amounts

752) The statement of comparison of budget and actual amounts reflects total actual revenue and expenditure on comparable basis of Kshs.5,998 and Kshs.1,601,196 respectively. However, the budgeted revenue and expenditure is not reflected.

Submission by the Accounting officer

753) The Accounting Officer submitted that the year under review no budget was prepared for the Fund in the National Budget Estimates. This anomaly was noted and the budget statement will be included in future.

754) **Committee Observations and Findings**
The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

755) **Committee Recommendation**
Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

185. Unresolved Prior Year Issues

756) As disclosed in Note 12 to the financial statements on progress on follow up of auditor's recommendations, various prior year's audit issues remained unresolved as at 30 June, 2019. Management has not provided reasons for the delay in resolving the prior year's audit issues.

Submission by the Accounting officer
757) The Accounting Officer submitted that the two unresolved prior year issues were:
a) Irregular pension payment of Kshs.519,800/=
The National Bank credited our CFS account with Kshs.112,120 on 1st July,2021, and provided us with schedules of verifying the how the balance of Kshs.30,970 was deposited to our accounts. We have since done the reconciliation and submitted for audit review. Failure to capture ledger figures in Financial statement the Financial statements were revised and captured the ledger figures.

758) **Committee Observations and Findings**
The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

759) **Committee Recommendation**
Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

760) **Conclusion**

186. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

761) **Conclusion**

187. There were no material issues relating to effectiveness of internal controls, risk management and governance.

ASIATIC WIDOWS AND ORPHANS PENSION FUND

REPORT ON THE FINANCIAL STATEMENTS

762) **Unqualified Opinion**

188. There were no material issues noted during the audit of the financial statements of the Fund.

Emphasis of Matter

189. Failure to Wind Up the Fund

763) As reported previously, the Fund has been dormant since June, 2002 since the death of the only surviving beneficiary. The Cabinet through memorandum dated 26 June, 2012 authorized the Attorney General, the Minister of State for Public Service and The National Treasury to commence the winding up process of the Fund. Subsequently, a task force was appointed by The National Treasury to wind up dormant funds in August, 2015, which prepared a draft legal notice for the de-gazettement of the Fund. As at the time of finalizing this audit, the process was yet to be completed.

764) My opinion is not qualified in respect of this matter.

Submission by the Accounting officer

765) The Accounting Officer submitted that the as reported previously, the Fund has been dormant since June, 2002 since the death of the only surviving beneficiary. The National Treasury established a Taskforce on winding up of Dormant Funds. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II(5) of 17th May 2019.

766) A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.

767) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/(18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General`s Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.

768) With the conclusion of the winding up, the issues raised by the Auditor will be fully addressed.

769) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

770) Committee Recommendation

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

771) **Conclusion**

190. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

772) **Conclusion**

191. There were no material issues relating to effectiveness of internal controls, risk management and governance.

AFRICAN UNION AND OTHER INTERNATIONAL ORGANIZATIONS SUBSCRIPTION FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse of Opinion

192. Lack of Proper Books of Accounts

773) The Fund did not maintain proper books of accounts including receipt vouchers, cash books, ledgers, and bank reconciliation statements. Further, the summary of budget versus actual performance reflects budgeted revenue estimates of Kshs.2,650,892,952 based on 10% of total estimated import declaration fee. However, supporting documents showing how the amount was arrived at were not availed for audit review. In addition, the statement did not indicate the estimated expenditure for the year contrary to Section 2 of the Appropriation Act, 2016.

774) Consequently, the validity, accuracy and completeness of the financial statements for the year ended 30 June, 2019 as prepared and presented for audit could not be established.

Submission by the Accounting officer

775) The Accounting Officer submitted that the by the time of audit, books were not availed but were later availed. Further, it true that the summary of budget and actual performance reflect a budgeted revenue estimates of Ksh.2,650,892,952. The expenditure was budgeted at Ksh.4,144,040,778 under head 1071000100 - subhead 16- Subscriptions to Local and International Organizations. The expenditure is based on the agreements/memoranda between the government and the institutions Kenya subscribes too. The expenditures were funded though exchequer and not through the Fund. The documents were not availed at the time of but were later provided.

776) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

777) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

193. Non-Payment of Government Subscription to African Union

778) Regulation 4 of Public Finance Management (African Union and Other International Organizations Subscription Fund) Regulations, 2017 provides that the object and purpose of the Fund shall be to make Kenya's contribution to the African Union and other international organizations to which Kenya has a financial obligation. However, the Fund did not pay the Government of Kenya's contribution to the African Union and Other International Organizations in the financial year despite availability of substantial funds for the purpose.

779) Management is in breach of the law to this extent.

Submission by the Accounting officer

780) The Accounting Officer submitted that the Subscriptions were budgeted under head 1071000100, subhead 16- Subscriptions to Local and International Organizations.

781) As indicated in Paragraph 190 above, there was no expenditure from the Fund but the subscriptions were paid from Exchequer. Therefore, the Government met its obligations of paying subscriptions that were due.

782) The Fund had not started operating because the fund administrator had not been appointed.

783) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

784) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

194. Non-Operationalization of the Fund

785) The secretariat necessary to operationalize the Fund had not been set up as at 30 June, 2019. This is contrary to Section 7(2) of the Public Finance Management (African Union and Other International Organizations Subscription Fund) Regulations, 2017. The Fund did not therefore, utilize the approved budget for the period.

Submission by the Accounting officer

786) The Accounting Officer submitted that it was true that by the time of audit the Fund was not operational. This was due to the fact that there was no Fund administrator. However, the Fund is currently operational after the Administrator was appointed.

787) **Committee Observations and Findings**

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

788) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

195. Limited Segregation of Duties

789) Contrary to the provisions of Section 68 (1) (e) of the Public Finance Management Act, 2012 which requires accounting officers to ensure that all applicable accounting and financial controls and systems are followed, the financial transactions for the Fund were processed by one officer without segregation of duties. Consequently, internal controls were inadequate.

Submission by the Accounting officer

790) The Accounting Officer submitted that it was true that by the time of audit, the Fund administrator and secretariat had not been fully constituted but currently they have all been established.

791) Committee Observations and Findings

The Committee observed that the matter is awaiting National Assembly approval to wind up the Fund.

792) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer should follow up the revocation order and provide status report to the Auditor-General. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle.

4. STATE DEPARTMENT FOR PLANNING

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1072

Mr. Saitoti Torome, the Accounting Officer for the State Department of Planning (Vote 1072) appeared before the Committee on 14th September 2021 and 23rd November 2021 to adduce evidence on the Audited Financial Statements for the State Department of Planning (Vote 1072) for the Financial Year 2017/2018. He was accompanied by the following officers:

1.	Mr. Sammy Naporos	-	MD – Kerio Valley Development Authority KVDA
2.	Ms. Veronica Kamau	-	Assist. Accountant General
3.	Mr. Titus Chemursoi	-	Finance and Accounts Manager KVDA
4.	Mr. Joshua Musoti	-	Finance Manager KVDA
5.	Mr. Anthony M. Nduthu	-	Finance Officer
6.	Mr. Peterson Njenga	-	Principal Economist
7.	Mr. Elias N. Njoroge	-	Finance Manager – KNBS
8.	Mr. John Munywoki	-	Snr. Chief Finance Officer
9.	Mr. Pinto O. Omuga	-	Accountant
10.	Mr. James Mungai	-	Principal Accountant
11.	Ms. Emma M. Kinatu	-	Finance Officer
12.	Ms. Priscilla Njuguna	-	Accountant

Basis for Adverse Opinion

196. Unsupported District Suspense

793) As disclosed in Note 11 to the financial statements, the statement of assets and liabilities as at 30 June 2019 reflects accounts receivables balance of Kshs.45,758,389, which includes a district suspense figure of Kshs.45,008,684. The district suspense figure has been explained as the balance outstanding from Kshs.700,500,000 disbursed to various Regional Authorities in the financial year 2016/2017 for drought intervention measures out of which Kshs.655,691,316 had been converted to expenditure as at 30 June 2019. However, a review of expenditure returns from the Regional Authorities showed that out of the total indicated as converted expenditure of Kshs.655,691,316 only Kshs.430,451,134 had relevant supporting documents, leaving unsupported balance of Kshs.225,040,182.

794) Further, even though the funds disbursed in 2016/2017 financial year were to be utilized in the same year in accordance with the approved work plans that were used in disbursing the funds, the Regional Authorities have continued to utilize the funds for over three years without approvals of the activities being executed after the expiry of the execution work plan time lines. Consequently, the accuracy and completeness of the accounts receivables balance of Kshs.45,758,389 as at 30 June, 2019 cannot be confirmed.

Submission by the Accounting Officer

795) The Accounting Officer agreed with the audit findings on review of expenditure returns from the Regional Authorities that out of the total indicated as converted to expenditure of Kshs 655,691.316 only Kshs 430,451,134 had relevant supporting documents leaving unsupported balance of Kshs 225,040,182 as at 30th June 2019. The Regional Authorities have accounted for Kshs 632,905,707 out of the Kshs. 700,500,000 issued to them leaving a balance of Kshs 67,594,293 as unsupported. Further, the State Department has written several letters to the Accounting Officer where the Regional Authorities are domiciled with the most recent being letter ref TNTP/SDP/17/05(01) dated 6TH September 2021 requesting the accounting officer to recover the money from the respective Regional Authority's budgetary allocations and forwarded the recoveries to the state Department for onward transmission to the consolidated fund.

796) **Committee Observations**

(i) The Regional Authorities have accounted for Kshs 632,905,707 out of the Kshs. 700,500,000 issued to them leaving a balance of Kshs 67,594,293 as unsupported; and

(ii) The State Department has written several letters to the Accounting Officer where the Regional Authorities are domiciled with the most recent being letter ref TNTP/SDP/17/05(01) dated 6TH September 2021 requesting the accounting officer to recover the money from the respective Regional Authority's budgetary allocation.

797) **Committee Recommendation**

Within three months of adoption of this report, the Accounting Officer responsible for the Regional Development Authorities should ensure that the outstanding balance of Kshs. Kshs 67,594,293 is fully recovered and a report submitted to the Auditor-General for review.

197. Prior Year Adjustments

798) As disclosed in Note 14 to the financial statements, the statement of assets and liabilities reflects prior year adjustments totaling Kshs.30,798,591. However, the adjustments have not been done in line with Paragraph 47(a) of the International Public Sector Accounting Standards (IPSAS) Number 3, which require restatement of all affected prior year balances in the financial statements unless it is impracticable to do so. Consequently, the statement of assets and liabilities for the year ended 30 June,2019 do not comply with International Public Sector Accounting Standard (Cash basis)

Submission by the Accounting Officer

799) The Accounting Officer submitted that it was true that in Note 14 to the financial statements the statement of Assets and Liabilities reflects a prior year adjustment totaling Kshs. 30,798,591. The state Department did not need to restate the prior balances since there was no change in the balances. Note 14 to the financial statements was just explaining the movement in the figures as shown on the table below:

			Prior Year Adjustments	
SNO	**Description**	**2017/2018**	**Prior Year Adjusted 2018-2019**	**Remarks**
1	Bank Accounts Recurrent Recurrent(cash) Development Deposits	 12,191,814	 63,173 - 94,172 8,333,772	 Being amounts surrendered to the Exchequer as at 30th June 2018 Being Bank balance as at 30th June 2018
2	Accounts Receivables Imprest Salary Advance District Suspense		2,209,680 117,590 28,313,976	Being Imprest surrendered in the year 2018/2019 relating to 2017/2018 Being Salary advance recovered in the year 2018/2019 relating to 2017/2018. Being drought AIE amounts converted to expenditure in the year 2018/2019 relating to 2016/2017.
3	Accounts Payables Deposits		 (8,833,772)	Being recognition of the Deposit bank balance as at 30th June 2018 funds.
			30,798,591.00	

800) **Committee Observations and Findings**

(i) The financial statements the statement of Assets and Liabilities reflects a prior year adjustment totaling Kshs. 30,798,591

(ii) The state Department did not need to restate the prior balances since there was no change in the balances

801) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

198. Variances between Amount of Appropriations-In-Aid (AIA) Presented and Amount Collected

802) As disclosed in Note 3 to the financial statements, the statement of Receipts and payments, reflects a balance of Kshs.71,000,000 under other revenues, being Appropriations-In-Aid collected during the year. However, documents in support of other revenue earned, received, confirmed and reported in the financial statements of

the Kenya National Bureau of Statistics (KNBS) amounted to Kshs.279,195,885 against a budget of Kshs.71,000,000. The accounting treatment of the resultant variance of Kshs.208,195,885 has not been explained. Under the circumstances, it has not been possible to confirm the accuracy of the other revenues balance of Kshs.71,000,000 reported in the financial statements as at 30 June, 2019.

Submission by the Accounting Officer

803) It is true that note 3 to the financial statement, under the statement of Receipts and Payment reflected a balance of Kshs 71,000,000 as AIA. This figure was based on the approved budget.

804) The Kenya National Bureau of Statistics collected excess AIA of Kshs 208,195,885 which they were expected to surrender to the Accounting Officer for onward transmission to the consolidated fund as guided by Regulation 43 (c) of the PFM (National Government) Regulations 2015. The state Department through letter Ref TNTP/SDP/17/82 VOL11(20) has requested the Kenya National Bureau of Statistics to surrender the excess AIA that they collected.

805) **Committee Observations and Findings**

The Kenya National Bureau of Statistics collected excess AIA of Kshs. 208,195,885 that they were expected to surrender to the Accounting Officer for onward transmission to the consolidated fund as guided by Regulation 43 (c) of the PFM (National Government) Regulations 2015.

806) **Committee Recommendations**

(i) Within three months of adoption of this report, the Accounting Officer ensures the Director-General for KNBS surrenders to the National Treasury excess AIA of Kshs. 208,195,885.

(ii) Within three months of adoption of this report, the Accounting Officer submits to the Auditor-General the confirmation of surrender of the excess AIA to the National Treasury.

199. Acquisition of Assets

199.1 Unsupported Participants and Other Allowances on MTP III

807) As disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.320,844,976 under acquisition of assets that includes an amount of Kshs.297,981,180 incurred under research, studies, project preparation, design and supervision. The latter balance includes an amount of Kshs.79,016,000 paid as imprests to various officers to facilitate forums in the Counties. The imprests were for the officer's daily subsistence allowances, hire of venue, transport reimbursement to the participants, accommodation allowances to participants in Counties, facilitation for report writing, facilitation for presenters, hire of LCD projectors and public address systems, stationery, security, fuel and other contingency expenses.

808) However, even though a listing indicating participants' signatures for monies received from the paying officers was produced, details of the venues for the meetings including

how the venues were procured and paid for were not availed for audit verifications. In addition, no details based on identification of the participating citizens was availed for audit verification and confirmation as the listing provided had no telephone contacts of the participants. Consequently, the propriety and accuracy of this expenditure of Kshs.79,016,000 under acquisition of assets could not be confirmed.

Submission by the Accounting Officer

809) The Third MTP was officially launched by H.E. the Deputy President on 23rd November 2018. The Third Medium Term Plan 2018-2022 succeeds the Second MTP 2013-2017 and outlines policies, programmes and projects for implementation over the Plan period with particular focus on achieving the Governments "Big Four" Agenda. The MTP III also incorporates programmes and projects aimed at achieving the Sustainable Development Goals (SDGs), Africa's Agenda 2063 and other regional and international development frameworks.

810) In order to ensure successful implementation of the Third MTP and its 28 Sector Plans, and, The National Treasury and Planning through the State Department for Planning disseminated the Plan in all Counties to ensure that all stakeholders are conversant with the Government's medium term development priorities. The Dissemination forums were in line with Constitutional requirement of informing the public on Government policy decisions. The dissemination forums were held concurrently in all counties between 24th February and 5th March 2019.

811) The State Department prepared a detailed proposal on dissemination of Medium-Term Plan (MTP 2018-2022). The dissemination proposal was shared with Head of Public Service for information, concurrence and communication to all Principal Secretaries for their participation. The dissemination proposal was approved by Principal Secretary State Department for Planning upon receiving concurrence from Head of Public Services vide letter OP/CAB.6/1A of 12th February 2019. The approval was done on 18th February 2019 to facilitate necessary preparations for the dissemination forums.

2.1.1 Identification of Venues and Participants

812) The dissemination forums were organised by State Department for Planning and since it involved holding the forums in the counties, there was appropriate to involve offices of County Commissioners and offices of Governors. In view of this, the State Department for Planning officially wrote to Principal Secretary for Interior informing him of the forums and requesting him to issue a circular to all County Commissioners informing them of the forums. The Circular directed County Commissioners to:

i. Identify and book **a suitable venue for 150 participants** preferably Government Institutions where appropriate. As noted in Annex I of Proposal, the cost of venue included teas, snacks, water and lunch. It is important to note that in counties such as Kisumu, Mombasa, Nairobi and Baringo, forum venues were in Government institutions. In most of the other Counties, Government venues ware not adequate to host 150 participants or were not available during the Forum dates hence the alternative venues sought from private institutions to host the forums. It is also observed that apart from Nairobi and Mombasa, the cost of venue and meals was Kshs. 3,000 per participant (Kshs.450,000 per county). The cost incurred were paid in cash to institutions as per receipts.

ii. Identify **150 participants** from all segments of society in consultation with County Government. It is important to note that proper guidance was provided to County Commissioners in identifying participants to ensure that diverse groups are represented. The participants identification guide included the following categories; Governors, Senators, County Commissioners, Members of National Assembly, County Executive Committee Members, Government Departmental Heads, Ward representatives, Youth Representatives, Women Representatives, Religious organisations, Private sector, Development partners, Civil society, Media and village elders. The State Department for Planning had the view that, County Commissioners had better structures of administration that could effectively be utilised in identification of targeted participants. It is appreciated that the Public Participation Guidelines strongly calls for representation of all segment of the population. The State Department for Planning conducted the exercise based on the participants availed in the identified venue by the County Commissioners in consultation with County Governments guided. Requisite payments were made to individuals who attended the dissemination forums at the end of the event.

iii. Provide security in all the Forum venues.

iv. Similarly, the State Department officially wrote to Chief Executive Officer, Council of Governors informing her of the Forums and requesting her to officially communicate the same to Offices of the Governors. The Office of the Governors though County Secretaries liaised with County Commissioners in identifying participants for the Forums within the spirit of inclusivity.

813) **Committee Observations and Findings**

(i) of the venues for the meetings including how the venues were procured and paid Details for were not availed for during the audit verification

(ii) The dissemination forums were organised by State Department for Planning and since it involved holding the forums in the counties, it was appropriate to involve offices of County Commissioners and offices of Governors.

814) **Committee Recommendations**

The Cabinet Secretary for the National Treasury should within three (3) months of tabling this report, reprimand the Accounting Officer for failure to provide documents at the time of audit contrary to the provisions of Section 9(1e) of the Public Audit Act 2015.

199.2 Irregular Expenditure on Refurbishment of Buildings

815) Further, the acquisition of assets figure of Kshs.320,844,976 as reported in the statement of receipts and payments includes an amount of Kshs.20,802,795 in respect of refurbishment of buildings. However, the latter balance includes incorrectly classified payments for internet totaling Kshs.20,000,000 from a supplier whose details of how they were identified and procured were not availed for audit verification. There was also no certificate of inspection and acceptance to show that the service was received as detailed in the contract. Additionally, included in the refurbishment expense is an amount of Kshs.478,885 in respect of payment for retention monies for which the contract under which it accrued and the opening balance was not provided.

Submission by the Accounting Officer

816) The State Department states that there was a pending bill owed to M/s Telkom Kenya Ltd of Kshs.23,653,841.10 for the supply, delivery and installation of internet services (WI-FI) adapters and related accessories in the 107 sub-counties. The expenditure of Kshs.20,000,000 was part payment of the outstanding bill leaving a balance of Kshs.3,653,841.10. We agree with the observation that the expenditure of Kshs.20,000,000 was wrongly charged to refurbishment of buildings. However, the budget allocation for clearance of this pending bill was provided for under the charged budget item.

817) The Accounting Officer clarified that M/s Telkom Kenya Ltd was awarded the contract through open tendering procurement method under tender No. MODP/CEISP8/34/2013/2014 as evidenced by minutes of the Tender Committee. The user department vide memo Ref TNTP/SDP/3/30 dated 15th February 2019 confirmed that the services had been rendered and the outstanding payable amount to M/s Telkom Kenya Ltd.

199.3 Irregular Charging of Printing Expenses on Refurbishment of Building

818) As disclosed under Note 9 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.320,844,976 under acquisition of assets which includes an amount of Kshs.297,981,180 incurred on research, studies, project preparation, design and supervision. The latter balance includes an amount of Kshs.28,354,504 paid to the Government Printer for printing 15,000 copies of the MTP III 2018-2022 and 28,000 copies of the 28 MTP III Sector Plans. No explanation has been provided for charging printing expenses under refurbishment of buildings. Under the circumstances, the propriety and accuracy of the acquisition of asset figure of Kshs.320,844,976 could not be ascertained.

Submission by the Accounting Officer

819) The Accounting Officer submitted that Kshs.28,354 504 was paid to the Government Printer for printing of 15,000 copies of MTP III 2018-2022 and 28,000 copies of the MTP III Sector Plans was charged under economic item 3111401-Prefeasiability, feasibility and appraisal Studies from which the cost of the printing was budgeted for. An accounts analysis report from IFMIS showing that the expenditure was charged to item 3111401 is attached.

820) **Committee Observations Findings**

The State Department paid Kshs.28,354 504 to the Government Printer for printing of 15,000 copies of MTP III 2018-2022 and 28,000 copies of the MTP III Sector Plans. The payment was charged under economic item 3111401-Prefeasiability, feasibility and appraisal Studies

821) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year in line with Article 229 of the Constitution.

200. Supplies and Services

822) As disclosed on Note 5 to the financial statements, the statement of receipts and payments reflect a balance of Kshs.431,275,096 under use of goods and services that includes an amount of Kshs.15,034,290 incurred under communication supplies and services. Included in the communication supplies and service figure of Kshs.15,034,290 is an amount of Kshs.1,173,996 relating to purchase of eight (8) smart phones which were purchased at a cost above the approved limit of Kshs.30,000 each. Four (4) phones were procured at a cost of Kshs.159,999 each which was higher than the market survey figure of Kshs.119,999 and the other four (4) at a cost of Kshs.133,500 each while the market survey priced them at Kshs.95,000 each. As a result, the State Department incurred unwarranted expenditure of Kshs.314,000 on procurement of phones above the market price and unjustified expenditure of Kshs.933,996 due to exceeding the set limits of Kshs.30,000 per phone. Further, the communication, supplies and services figures include Kshs.3,653,841 in respect of procurement of internet services. However, documents in support of the method used to identify the supplier and the procurement process of the services were not availed for audit review. Consequently, the communication supplies and service figure of Kshs.15,034,290 for the year ended 30 June 2019 could not be ascertained.

Submission by the Accounting Officer

823) The expenditure relates to payment of Internet Services and acquisition of mobile phones for State Department Staff. The State Department wish to clarify that while Circular Ref No. OP/CAB/15 dated 5th March 2010 sets a limit of Kshs.30,000 per phone, Paragraph C(v) of the same circular provides that to ensure sustainability of efficient and quality telephone services, procuring entities should embrace emerging technologies. The State Department considered this provision and the dynamic nature of the telecommunication industry in providing Senior Staff with mobile phones which would support latest technology and service delivery. In this regard, the State Department purchased a total of Eight (8) phones through Request for Quotation (RFQ) Procurement method from firms registered with the National Treasury under the Reservation Scheme.

824) The market surveys were provided from phone dealers (i.e M/s Safaricom Limited & M/s Ebrahim Electronics Limited) and the terms of payment were cash on delivery. However, taking into consideration that this procurement was reserved for special groups who are not dealers; that they were to be charged applicable taxes and that payment was not on cash basis, the quoted prices were considered to be within the market range. The quotation documents are herewith attached.

825) Further, the expenditure of Kshs.3,653,841.00 was the final payment in regard to the pending bill of Kshs.23,653,841.10 owed to M/s Telcom Kenya Ltd for provision of internet services to facilities constructed through the CEISP Project in 107 sub-counties.

The contract was awarded through contract No. NCB: MODP/CEISP8/34/2013/2014 entered into on 27th November 2014 for the supply, delivery and installation of internet services (WI-FI) adapters and related accessories in the 107 sub-counties as per the notification of award and as stated in paragraph 199.2 of this document.

826) Committee Observations and Findings

i. The State Department incurred unwarranted expenditure of Kshs.314,000 on procurement of phones above the market price and unjustified expenditure of Kshs.933,996 due to exceeding the set limits of Kshs.30,000 per phone.

ii. The expenditure of Kshs.3,653,841.00 was the final payment concerning the pending bill of Kshs.23,653,841.10 owed to M/s Telcom Kenya Ltd for provision of internet services to facilities constructed through the CEISP Project in 107 sub-counties.

827) **Committee Recommendation**

1) **Within three months of adoption of this report, the Accounting Officer recover and ensure refunds of unwarranted expenditure of Kshs.314,000 on procurement of phones above the market price and unjustified expenditure of Kshs.933,996 due to exceeding the set limits of Kshs.30,000 per phone.**
2) **Within three months of adoption of this report, the Accounting Officer submit to the Auditor-General the confirmation of recovery of the unwarranted expenditure of Kshs.314,000 on procurement of phones above the market price and unjustified expenditure of Kshs.933,996.00.**

201. Unresolved Prior Year Matters

201.1 A ccuracy and Completeness of the Financial Statements

201.1.1A ccuracy of Financial Statements

828) The Trial Balance as at 30 June 2018 reflected balances against various account items, which differed from corresponding balances, reflected in the financial statements for the year then ended. The differences totaling Kshs.100,481,828,741 (under) and Kshs.8,910,155,414 (over) between the two sets of records have not been reconciled. Further, grants and transfers to other Government entities for development in the financial statements stood at Kshs.36,725,628,366 while Note 6 to the financial statements casted to a total of Kshs.36,765,553,336 resulting to unexplained variance of Kshs.39,925,000 which clearly indicated that some receipts during the financial year were not captured in the accounting records and the financial statements contain a suspense account.

Submission by the Accounting Officer

829) The Accounting Officer submitted that the Committee resolved the matter in its report tabled on 23rd March 2021 and adopted by the House on 24th June, 2021.

830) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled

financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

201.1.2Unsupported Adjustments

831) Management submitted for audit financial statements on 28 September 2018, which was revised, and another set of financial statements submitted on 27 February 2019. However, the movements in the balances noted in some of the components as detailed below were not supported by any documentation or adjustment journals:

Component	**2nd Financial Statements (Kshs.)**	**Revised Financial Statements (Kshs.**	**Variance (Kshs.)**
District Clearance Suspense	0	73,322,660	73,322,660
Prior Year Adjustments	(563,400,307)	(488,660,397)	(74,739,910)

832) Under the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

833) The Accounting Officer submitted that the District Suspense of Kshs.73,322,660 had been recognized as cleared and reported under prior year adjustments hence affecting the district suspense and the prior year adjustment figures in the financial statements. Upon further reconciliation, it was noted that the amount had remained unaccounted for and thus had to be recognized as outstanding district suspense balance through journal entries. The journal entries and analyses of the outstanding district suspense figure is attached. The committee in their report tabled on 23/3/2021 observed and found that the movements in the balances noted in the District Clearance Suspense balances had now been supported by adjustment journals.

834) **Committee Observations and Findings**

The Committee observed that it resolved the matter in its report tabled on 23rd March 2021 and adopted by the House on 24th June, 2021.

835) **Committee Recommendations**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

201.2 Receipts

201.2.1Proceeds from foreign borrowing

201.2.1.1 Unsupported Advance Payment for Arror Multipurpose Dam Development Project

836) The statement of receipts and payments reflected proceeds from foreign borrowings of Kshs.4,526,966,879 as at 30 June, 2018 which included an amount of Kshs.4,292,651,060 paid as advance payment to CMC Di Ravenna-Itinery JV as advance payment for Arror Multipurpose Dam Development project. However, the following observations were noted about this payment:

i. The report on feasibility was submitted on 31 May, 2012. No Environmental Impact Assessment report was provided for audit review.
ii. The advertisement requesting for proposals was made on 19 December, 2014 and 24 December, 2014 and closed on 18 March, 2015
iii. A second stage request for proposal (which was not in line with procurement regulations) with closure date of 30 October 2015 under tender No. KVDA/RFP/36/2014/2015 without appropriate budgetary provisions or a financier for the project.
iv. The letter of bid was prepared on 26 October 2015 and letter of acceptance by Kerio Valley Development Authority prepared on 14 December, 2015.
v. Kerio Valley Development Authority signed a Memorandum of Understanding on 18 December 2015 committing to exclusively contract the bidder as and when they obtained funding from some stated financiers. The memorandum had a validity period of eight months which then expired on 18 August, 2016. There was no evidence of extension provided for audit verification.
vi. The credit/finance was obtained in 2017 and financing agreement for the loan signed on 18 April 2017 amounting USD $224,442,163.92 equivalent to Kshs.23,153,700,510 for a period of fifteen (15) years and a floating interest rate to be determined from time to time by the agent.
vii. The contract awarding the works was signed on 5 April, 2017 seven months outside the validity period of the Memorandum of Understanding but no fresh bids were sought.
viii. Advance claim certificate of USD 41,611,140.83 (representing 15% of the contract sum) equivalent to Kshs.4,292,651,060 which was used for payment was not dated, had not been recommended by the KVDA General Manager, Technical Services, and was not approved by the Chief Executive Officer- KVDA.
ix. No evidence of the payee, the date of payment or the authority to pay was availed for audit examination.
x. No evidence or correspondence to show that the payment was made to the contractor by the financier upon obtaining the necessary approvals or to ensure there was delivery and compliance with contract terms was availed.
xi. An inspection carried out by the audit team on 5 April, 2019 revealed that;

a. Even though the advance payment was made through a memorandum payment voucher dated 7 December, 2017, no work had been done on the ground to cover the payment.
b. No compensation had been made for the affected community members.

c. Kenya Forest Service had not ceded the forest portion required for utilization in the dam construction.

d. The agreement between the affected community and the Kerio Valley Development Authority had not been confirmed and therefore viability of the project is in doubt.

Submission by the Accounting Officer

837) The matter be stayed under sub-judice rule as recommended by the Committee, a report on the status of the chief magistrates' court, anti-corruption case No 18 of 2019.

838) **Committee Recommendation**

The Committee resolved that since the matter falls under the National Assembly Standing Order 89, the Accounting Officer should, within three months after the tabling and adoption of this report, submit a brief on the status of the Court case to the National Assembly.

201.2.1.2Unsupported Payment for Sigor Wei Wei Integrated Development Project

839) The statement of receipts and payments reflect proceeds from foreign borrowings of Kshs.4,526,966,879 which includes an amount of Kshs.234,315,819 made on behalf of Kerio Valley Development Authority in respect of Sigor Wei Wei Integrated Development Project. However, the following observations were noted about this payment:

i) The financing agreement availed for audit was made on 28 January, 2007 and a further endorsement made on 18 September, 2009.
ii) The project was having a lifespan of four years beginning 18 September, 2009 and had detailed deliverables for each phase of the project and therefore the agreement lapsed on 18 September, 2013.
iii) The memorandum payment voucher for capturing the payment consultants were prepared by KVDA in July, 2017 which was more than three years outside agreement timelines for implementation.

iv) No further endorsement of financing loan agreement was provided in support of the validity of expenditure being captured in the financial statement.

v) Payments totaling Kshs.41,259,819 out of Kshs.234,315,819 did not have certificate of completion from the inspection and acceptance committees hence not adequately supported for payment.

Submission by the Accounting Officer

840) The Accounting Officer submitted that the financing agreement availed for audit was made on 28 January 2007 and a further endorsement made on 18 September 2009. The

Payment of Ksh.41,259,819.00 which is Euro 372,435.55 multiplied by 110.78 (The prevailing conversion rate) was supported by an inspection and acceptance certificate of works dated 13th January 2017.

841) **Committee Observations and Findings**

842) The State Department did not provide at the time of audit certificate of completion to support payments totaling Kshs.41,259,819 out of Kshs.234,315,819.

843) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

201.2.1.3 Unrecorded and Unsupported Retention Money

844) The statement of receipts and payments reflected proceeds from foreign borrowings of Kshs.4,526,966,879 which excluded retentions totaling Kshs.11,472,805 in respect of payments to contractors and consultants for Sigor Wei Wei Integrated Development Project Phase III. In consequence, the authenticity of proceeds from foreign borrowings and the propriety of the payments therefore amounting to Kshs.4,526,966,879 could not be confirmed.

Submission by the Accounting Officer

845) The Accounting Officer submitted that the committee marked the matter as resolved in its report for the financial year 2017/2018.

846) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

201.3 Other Revenues

847) The statement of receipts and payments reflected other revenues of Kshs.294,587,507 being Appropriations-in-Aid collected in 2017/2018 financial year. However, the supporting documents availed to confirm other revenue earned, received, confirmed and reported in the financial statement of the respective SAGAs amounted to Kshs.668,322,928 against a budget of Kshs.296,000,000. The accounting treatment of the amounts that are above the recorded balances has not been explained as analyzed below:

SAGAs	Budgeted AIA (Kshs.)	Amount Collected (Kshs.)	Excess AIA	Excess AIA surrendered/ Utilized
Kenya National Bureau of	71,000,000	288,345,947	217,345,947	121,150,771

Statistics				
Kerio Valley Development Authority	75,000,000	226,521,478	151,521,478	151,521,478
Tana & Athi Rivers Development Authority	157,000,000	130,222,079	-	-
Lake Basin Development Authority	21,500,000	18,365,424	-	-
Ewaso Ngiro South Development Authority	1,500,000	4,868,000	3,368,000	-
Total	**326,000,000**	**668,322,928**	**372,235,425**	**272,672,249**

848) Under the circumstances, it has not been possible to confirm the accuracy of the other revenue balance of Kshs.294,587,503 reported in the financial statements as at 30 June, 2018.

Submission by the Accounting Officer

849) The Accounting Officer submitted that it was true that the statement of receipts and payments as at 30th June 2018 reflect other revenues of KSh.294, 587,503 being Appropriation -in- Aid collected during the year. I wish to clarify that the budgeted AIA for Kerio Valley Development Authority was Ksh.75,000,000 and not Ksh.45,000,000 as indicated in the report.

850) This was guided by the budget figures, which sets the limit of how much the entity is authorized to collect and spend. In cases where the entity collects less than the budgeted figure, then the actual collection is reported. In cases where the collection is more than the budget, the entity is required to surrender the excess A.I.A to the National treasury or seek authority to utilize the A.I.A from the National treasury. Treasury Authority to utilize the excess A.I.A was granted to Kerio Valley Development Authority through letter Ref. No. DV/ES1222/18/01/ (8) dated 11th February 2019. Further, the State Department has written to the various SAGAs to surrender the excess AIA as guided by Regulation 43(c) of the PFM (National Government) Regulations 2015. The Accounting Officer confirmed that Kenya National Bureau of Statistics has surrendered Kshs.126,150,771 to the National Exchequer Account.

851) **Committee Observations and Findings**

(i) Kenya National Bureau of Statistics has surrendered fully Kshs.126,150,771 to the National Exchequer Account

(ii) Kerio Valley Development Authority is yet to surrender the excess AI151,521,478A of Kshs.151,521,478 to the National Treasury

852) **Committee Recommendation**

1) **Within three months of adoption of this report, the Accounting Officer ensures the Kerio Development Valley Authority should surrender to the National Treasury the excess AIA of Kshs.151,521,478.**
2) **Within three months of adoption of this report, the Accounting Officer should submit to the Auditor-General the confirmation of surrender of the excess AIA**

to the National Treasury.

201.4 Use of Goods and Services

201.4.1Specialized Materials

853) The statement of receipts and payments reflected a balance of Kshs.304,669,023 in respect of use of goods and services, which included an amount of Kshs.16,613,364 in respect of specialized materials and supplies. The latter balance included payments totaling Kshs.7,778,730 made in respect of tuition fee expenses. No evidence was availed to support the approval of the over expenditure by the National Assembly contrary to Section 113(1) of the Public Finance Management (National Government) Regulations, 2015. This anomaly has not been satisfactorily explained. Consequently, the accuracy and propriety of specialized materials expenditure of Kshs.16,613,364 as reflected on Note 5 of the financial statements could not be confirmed.

Submission by the Accounting Officer

854) The Accounting Officer submitted that the Committee had marked the matter as resolved in its report of 2017/2018.

855) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

201.5 Grants and Transfers to Other Government Entities

856) The statement of receipts and payments for the year ended 30 June, 2018 reflected transfers to other Government entities amounting to Kshs.40,336,190,128. However, there were differences amounting to Kshs.8,177,413,627 between the amounts reported as disbursed by the State Department for Planning and the amounts reflected in the financial statements of the respective SAGAS which is as detailed below: -

Entity	Amount Disbursed by the State Department (Kshs.)	Amount Received by Entity (Kshs.)	Difference Kshs.
Kenya National Bureau of Statistics	2,628,666,648	2,410,805,540	217,861,108
National Constituency Development Fund	29,800,000,000	21,875,000,000	7,925,000,000

Lake Basin Development Authority	356,087,141	337,721,717	18,365,424
Ewaso Ngiro North Development Authority	268,379,281	333,222,674.00	(64,843,393)
Tana and Athi Rivers Development Authority	476,030,488	345,000,000	131,030,488
Ewaso Ngiro south Development Authority	522,366,291	572,366,291	(50,000,000)
Sub-Total	**34,051,529,849**	**25,874,116,222**	**8,177,413,627**

857) As a result, the accuracy of the grants and transfer figure of Kshs.40,336,190,128 for the year ended 30 June, 2018 could not be confirmed.

Submission by the Accounting Officer

858) The Accounting Office stated that the State Department is guided by the approved budget in its disbursement of grants and transfers to other Government entities. During the year ended 30th June 2018, the state department disbursed a total of kshs 34,051,529,849 which includes the Appropriations in Aid amounts as per the attached expenditure vote book status returns from IFMIS and a breakdown of how the disbursements were made to the respective entities. The differences between grants disbursed by the State Department and amount reported by the SAGAs in their financial statements is as explained below:

Entity	Difference (Kshs)	Remarks
Kenya National Bureau of Statistics	217,861,108	Kshs.87,500,000 received by the SAGA on 6th July,2018. Ksh 59,361,108 Received by the SAGA on 6th July,2018. Ksh 71,000,000 AIA not recorded by the entity as a recurrent grant though it was budgeted for.
National Constituency Development Fund	7,925,000,000	Ksh 2,125,000,000.00 Received by the Fund on 4th July,2018. Kshs 5,800,000,000.00 Received by Fund on 9th July ,2018. The entity did not report the amounts though was related to the F/Y 2017/18
Lake Basin Development		Kshs 18,365,424; AIA collected by the

Authority	18,365,424	Authority but not recorded in their books as grants but recorded by the State Department. See letter Ref LBDA/ADM/39 dated 15th February 2019.
Ewaso Ngiro North Development Authority	(64,843,393)	The Budgetary allocation for the year under review was: Recurrent Kshs 217,879,281 Development Kshs 50,500,000 totaling to Kshs 268,379,281 as reported by the State Department. See budget extracts and a disbursement schedule. Ksh.78,000,000 was received in July 2017 but related to FY 2016/17 while an amount of Ksh.13,156,607 was received in July 2018 but related to FY 2017/18.This led to a difference of Kshs.64,843,393.
Tana and Athi Rivers Development Authority	131,030,488	Kshs 131,030,488 is composed of - Kshs 808,409 Recurrent grants disbursed but not recorded by the Authority. - Kshs 130,222,079 AIA collected by the authority but not recorded in their books. while the amount was recorded by the State Department as a disbursement see letter Ref TARDA/5/2 VOL.XV(60) dated 26TH February 2019.
Ewaso Ngiro South Development Authority	(50,000,000)	Kshs 50,000,000 related to grants disbursed in F/Y 2016/2017 but recorded by the Authority in F/Y 2017/2018 .

859) Through letters Ref;TNTP/SDP/I7/82VOLII(20),TNTP/SDP/17/90(08) and Ref TNTP/SDP/17/90/(10) to Kenya National Bureau of Statistics, National Government-Constituency Development Fund and Principal Secretary State Department for Regional and Northern Corridor Development respectively, the statement Department has requested for confirmation of the above facts in order to reconcile the two sets of records.

860) Further, he stated that;

- The National Government- Constituency Development Fund confirmed receipt of the Ksh.7,925,000,000 relating to FY 2017/2018 in July 2018 and accounted for it in the

Financial Year 2018/2019 as per the audited financial statements attached**.**

- Ewaso Ngiro North Development Authority confirmed that Ksh.78,000,000 was in July 2017 but related to FY 2016/17 while an amount of Ksh.13,156,607 was received in July 2018 but related to FY 2017/18.This led to a difference of Kshs.64,843,393.

861) **Committee Observations and Findings**

(i) The National Government- Constituency Development Fund confirmed receipt of the Ksh.7,925,000,000 relating to FY 2017/2018 in July 2018 and accounted for it in the Financial Year 2018/2019.

(ii) Ewaso Ngiro North Development Authority confirmed that Ksh.78,000,000 was in July 2017 but related to FY 2016/17 while an amount of Ksh.13,156,607 was received in July 2018 but related to FY 2017/18.This led to a difference of Kshs.64,843,393.

862) **Committee Recommendations**

1) **The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution**
2) **The Committee reiterates its previous recommendations that the Cabinet Secretary for the National Treasury fast track the migration from IPSAS Cash basis to IPSAS Accrual basis of reporting to address the issue of timing differences.**

201.6 Acquisition of Assets

201.6.1Unsupported Construction of Civil Works

863) The statement of receipts and payments for the year ended 30 June, 2018 reflected a balance of Kshs.1,169,062,004 under acquisition of assets which included an amount of Kshs.424,524,403 paid in respect of construction and civil works. However, documents availed in support of the amount showed the following:

(i) Payment of Kshs.109,406,979 to M/s Egis International Consortium related to billing in respect of a consultant's invoice for a feasibility study and design of a high grand falls dam along River Tana in Tana River County, dated 30 June, 2012 which purportedly had been outstanding ever since. The payments were made to an insurance company in respect of a claim settled to the consultant against a policy covering risk of non-ppayment. However, no documentation was provided to show that the bill was actually outstanding as at the time of payment since the amount was not included in the pending bills for the financial year 2016/2017 and no documentation in support of inspection and acceptance of work done by consultant, if any, in respect of the contract dated 30 January, 2010.

(ii) Payment of Kshs.277,793,123 to M/s Teenica Y Proyectos,S.A related to consultancy services for feasibility study and design for Lower Ewaso Ngiro South Multipurpose Dam contracted in May, 2012 and billed on 17 December, 2013. However, no documentation was provided to show the bill was actually outstanding as at the time of payment since the amount was not included in the pending bills for the financial year 2016/2017 and no documentation was provided in support of inspection and acceptance of work done by the consultant, if any. In addition, the payment voucher provided in support of the payment had been voided and hence not valid for payment.

864) Consequently, the accuracy, validity and propriety of construction of civil works expenditure of Kshs.424,524,403 as reported in Note 9 of the financial statements cannot be confirmed.

Submissions by the Accounting Officer

865) The Accounting Officer submitted that:-

(i) Payment of Kshs.109,406,979 which related to billing in respect of a consultant's invoice for a feasibility study and design of a high grand falls dam along River Tana in Tana River County, dated 30 June, 2012 was reflected as a pending bill in the Audited financial statements of The State Department of Regional and Northern Corridor Development for the year ended 30th June 2019. See Appendix 10(a). Through letter ref. RNCD/ACC/PB/01/VOL.1/73, The Principal Secretary, State Department for Regional Authorities confirmed that the bill was a historical pending bill.

(ii) Further, I wish to state that a report ref no. MRD/TARDA/5/7/11(104) certifying that the consultant services were undertaken by the consultant is here by attached.

(iii) The Payment of Kshs.277,793,123 related to consultancy services for feasibility study and design for Lower Ewaso Ngiro South Multipurpose Dam contracted in May, 2012 and billed on 17 December, 2013 was reflected as a pending bill in the Audited financial statements of The State Department of Regional and Northern Corridor Development for the year ended 30th June 2019**.**

(iv) I further wish to clarify that the payment voucher was not voided as evidenced by the IFMIS account analysis report which indicates that the expenditure was properly captured**.**

866) **Committee Observations and Findings**

(i) Payment of Kshs.109,406,979 relating to billing in respect of a consultant's invoice for a feasibility study and design of a high grand falls dam along River Tana in Tana River County, dated 30 June, 2012 was reflected as a pending bill in the Audited financial statements of The State Department of Regional and Northern Corridor Development for the year ended 30th June 2019; and

(ii) The Payment of Kshs.277,793,123 related to consultancy services for feasibility study and design for Lower Ewaso Ngiro South Multipurpose Dam contracted in May, 2012 and billed on 17 December, 2013 was reflected as a pending bill in the Audited financial statements of The State Department of Regional and Northern Corridor Development for the year ended 30th June 2019

867) **Committee Recommendations**

Within three months of adoption of this report, the Cabinet Secretary for the National Treasury, should develop guidelines for smooth handing and taking over of financial statements and financial obligations during re-organization of government.

201.7 Cash and Cash Equivalents - Bank Balance

868) As disclosed in Note 10 A of the financial statements, the statement of assets and liabilities reflected a bank balance of Kshs.8,991,117 as at 30 June 2018. However, a review of the bank reconciliation statement for the Central Bank of Kenya recurrent bank account No.100302216 had the following unsatisfactory issues:

(i) The reconciliation included cheques totaling Kshs.38,940,201 which had not been presented to the bank for payment as at the time of audit and which were more than six months old therefore, not payable.

(ii) Payments in cashbook not in bank statement for the recurrent bank account included three payments totaling Kshs.24,495,961 paid on 26 June 2018, which had been recorded twice in the cashbook on 27 June 2018, effectively understating the cash balance by a similar amount and overstating unidentified expenditure by the same.

(iii)Receipts in cash book not in bank statement for the recurrent bank balance included an unexplained reversal in the cash book of Kshs.2,747,896.

869) In view of the foregoing, it was not possible to confirm that the cash-and-cash equivalent balance of Kshs.8,991,117 was fairly stated as at 30 June, 2018.

870) **Submission by the Accounting Officer**

(i) The payments amounting to Kshs.38,940,201 consists of Ksh.14,500,000, Ksh.21,790,201, Ksh.350,000 and Ksh.2,300,000 payable to New Partnership for Africa's Development-NEPAD, African Caribbean and Pacific Group of States Secretariat, Group of 77 Development Bank and Institute of Development and Economic Planning-IDEP respectively. As at 30th June 2018, the amounts were unpresented but they were cleared on 02 July 2018 as per the bank statement attached. He clarified that the payments were prepared in June 2018 and paid on 02nd July 2018 thus they were not more than six months old.

(ii) The payment amounting to Kshs.24,495,961 related to Payment Advices done to Group 77 Development Bank, African Caribbean and Pacific Group of States Secretariat and African Institute for Economic Development and Planning being Kenya's contribution to the Secretariats. The amounts captured on 26 June 2018 under Folio 58 i.e Ksh.21,790,210 and Ksh.2,300,000 were the actual amounts paid by the State Department. On 27 June 2018 under Folio 74, the amount captured was the exchange rate difference and the bank charges as analysed below.

Cash Book Dates	Amounts paid in Bank Statements	Amounts entered Kshs (cashbook)	Folio No.	Exchange rate difference and Bank Charges	Folio No.	Total Amounts Recorded in the Cashbook
26/06/2018	21,809,267.45	21,790,201.00	58	19,516.45	74	21,809,717.45
26/06/2018	2,331,849.35	2,300,000.00	58	32,299.35	74	2,331,849.35
26/06/2018	354,844.75	0	0	0	74	354,844.75
	24,495,961.55					**24,495,411.55**

871) I also wish to confirm that the payments were only transmitted once to the bank as Kshs.21,809,267.45, Kshs.2,331,849.35 and Ksh.354,844.75 as per the attached bank statements. The difference of Ksh.450 between the amount entered in the cashbook and the bank statement amount was bank charges. The bank statement reflects the net amount and the bank charges as two separate figures but the cashbook combined the two.

iii) The unexplained reversal of Kshs.2,747,896 in the cashbook was a cashbook adjustment as a result of an omission on 13 October 2017.

872) **Committee Observation and Findings**
The explanation by the Accounting Officer was satisfactory.

873) **Committee Recommendation**
The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

201.8 Unsupported Prior Year Adjustment

874) As disclosed in Note 14 to the financial statements, the statement of assets and liabilities reflected prior year adjustments totaling Kshs.488,660,397. However, justification for the prior year adjustments and the documentary evidence to support the figures have not been provided for audit verification. In addition, the prior year adjustments have not been done in line with the International Public Sector Accounting Standards which requires restatement of all affected prior year balances in the financial statements unless it is impracticable to do so. Consequently, the accuracy of the financial statements for the year ended 30 June, 2018 could not be ascertained.

Submission by the Accounting Officer
875) The committee marked the matter resolved in its report for the financial year 2017/2018

876) **Committee Observations and Findings**

The Committee in its report for the financial year 2017/2018 resolved the matter.

877) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

201.9 Accounts Payable – Deposits and Retentions

878) The statement of assets and Note 12 to the financial statements reflected a balance of Kshs.8,833,772 under accounts payables-deposits and retention as at 30 June, 2018. However, a review of retention money outstanding at the close of 2016/2017 indicated that a contractor listed as having a retention balance of Kshs.4,857,9334 then, was not listed in the retention schedule for 2017/2018, yet no documentation was provided to show how retention money was paid. Consequently, the completeness and accuracy of the deposit and retentions balance of Kshs.8,833,772 reported in the financial statements could not be confirmed.

Submission by the Accounting Officer

879) The committee marked the matter resolved in its report for the financial year 2017/2018

880) **Committee Observations and Findings**

881) The Committee in its report for the financial year 2017/2018 resolved the matter.

882) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

Other Matter

202. Unsupported Pending Bills

883) Annex 1 to the financial statements reflects pending bills amounting to Kshs.22,517,023/-. As reported in the 2017/2018 financial year, the State Department for Planning had an outstanding pending bill amount of Kshs.340,632,037/- as at 30 June, 2018 out of which Kshs. 22,517,023/- remained outstanding as at 30 June, 2019. These bills have not been presented for payment as they lacked vital supporting documents such as purchase orders, delivery notes, and inspection and acceptance certificates among others. Failure to

settle bills in the year they relate to distorts the financial statements for the subsequent years as they form a first charge of the budget provisions.

Submission by the Accounting Officer

884) The State Department agrees with the audit findings on the outstanding historical pending bill of Kshs. 22,517,023.00 as at 30th June 2019. The State Department obtained the relevant supporting documentation and processed pending bills amounting to Ksh.18,789,500.50, leaving an outstanding bill of Kshs. 3,728,022.00 as at 30th June 2020. In 2020/2021 financial year the state department verified and paid a further kshs 700,085 leaving a balance of kshs 3,027,937. The Department continues to engage the concerned stakeholders (service providers, user sections/directorates etc.) to ensure the issue is sorted and closed. The various correspondences are hereby attached.

885) **Committee Observations and Findings**

The State Department obtained the relevant supporting documentation and processed pending bills amounting to Ksh. 18,789,500.50, leaving an outstanding bill of Kshs. 3,728,022.00 as at 30 June 2020. In 2020/2021 financial year, the State Department verified and paid a further Kshs 700,085 leaving a balance of Kshs 3,027,937.

886) **Committee Recommendation**

The Accounting Officer should ensure verification of the pending bill balance of Kshs. 3,027,937 before settlement and supporting documents are submitted to the audit for review and reporting in the subsequent audit cycle.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

203. Non-Compliance with Procurement Laws

203.1 Education Enhancement Centre Limited

887) Procurement of rapporteur services for the annual National Monitoring and Evaluation week (M&E) in Mombasa from 11 to 17 November, 2018 cost Kshs.1,852,800 for the year ended 30 June, 2019. The procurement process was initiated in March, 2019 after the event had taken place. No satisfactory explanation has been provided for this anomaly.

Submission by the Accounting Officer

888) The State Department wish to clarify that at the time when the 6th Monitoring and Evaluation Week was being held, the full budget for the event could not be accessed due to the constraints in IFMIS. A memo Ref. TNTP/SDP/24/33 dated 9th November 2018 was written to the National Treasury requesting for access of the full budget in respect to this activity. Since this was a national event, which was being launched by the President, the State Department undertook a manual process to identify a service provider to ensure the event succeeded. The process was later captured in IFMIS when the funds were made available.

889) **Committee Observations and Findings**

(i) Education Enhancement Centre Limited was procured as the rapporteur for the 6th Monitoring & Evaluation Week in March, 2019 after the event had taken place.

(ii) The State Department undertook single source the entity as a service provider and paid Kshs.1,852,800.

890) **Committee Recommendation**

Within three months after tabling of this report, the EACC should initiate an investigation into the procurement of Education Enhancement Centre Limited as the rapporteur for the 6th Monitoring & Evaluation Week

203.2 Purchase of Smart Phones

891) Purchase of smart phones totaling Kshs.1,173,996 exceeded the approved limits of Kshs.30,000 for cash purchases. The phones were overpriced and the State Department had no policy on the purchase and issuance of the personal devices such as smart phones hence the existence and security of the same cannot be confirmed.

Submission by the Accounting Officer

892) As indicated in paragraph 203.2, the State Department wish to clarify that the smart phones were bought competitively. The phones were delivered and taken on charge as the delivery notes and counter receipt vouchers (S13 cards) provided in Appendix 13. The State Department in guided by Circular Ref. OP/CAB/15 of 15th March 2010, on purchase of phones.

893) **Committee Observations and Findings**

The State Department incurred unwarranted unjustified expenditure of Kshs. 1,173,996 due to exceeding the set limits of Kshs. 30,000 per phone.

894) **Committee Recommendation**

1) **Within three months of adoption of this report, the Accounting Officer recover and ensure refunds of unwarranted and unjustified expenditure of Kshs. 1,173,996 due to exceeding the set limits of Kshs. 30,000 per phone.**
2) **Within three months of adoption of this report, the Accounting Officer should submit to the Auditor-General the confirmation of recovery of of unwarranted and unjustified expenditure of Kshs. 1,173,996**

203.3 Purchase of ICT Equipment

895) An examination of payment vouchers revealed that the State Department for Planning procured computer related equipment amounting to Kshs. 6,982,000 in October 2018. However, there was no authority from the State Department for ICT before the procurements were made as authority was sought on March 2019 and granted in April 2019. Hence the procurement was not authorized at the time of purchase. No explanation was given for this anomaly.

Submission by the Accounting Officer

896) The State Department wishes to clarity that out of the total of Kshs. 6,982,000 for procurement of computer related items only Kshs 595,660.00 related to procurement of laptop computers. Authority to procure the laptops was granted by the MOICT vide letter Ref. MICT/CONF/18/30 dated 1st April 2019 before commencement of the procurement process. The difference relates to procurement of computer related consumables and accessories (such as toners, periodic maintenance and service, laser papers etc.) which did not require approvals from the Ministry of ICT.

897) **Committee Observations and Findings**
The State Department spent a total of Kshs. 6,982,000 for procurement of computer related items out of which Kshs 595,660.00 was related to procurement of laptop computers.

898) **Committee Recommendation**
The Accounting Officer should ensure that there is an authority granted from MOICT before procurement of ICT equipment

204. Irregular Award of Contracts

204.1 Provision and Maintenance of Fresh Cut Flowers

899) Tender evaluation for provision and maintenance of fresh cut flowers was conducted on 14 September, 2018 and the committee awarded a florist (Second lowest bidder) to supply flowers to various offices at a cost of Kshs.1,068,000 per annum instead of awarding to the lowest bidder at Kshs.497,676 for a similar period, resulting to a loss of Kshs.570,324 of public funds.

Submission by the Accounting Officer
900) The Evaluation Committee recommended award to M/s Viviennes Super Florists who was the lowest evaluated bidder. The lowest bidder, in cost, was not awarded because they did not comply with all the mandatory requirements of the tender. From the tender evaluation analysis report, the bidder did not submit the required bid securing declaration form. Therefore, M/s Viviennes Super Florists was found to be lowest responsive to the State Department's requirements and was therefore awarded the tender

901) **Committee Observations and Findings**
The Evaluation Committee recommended award to M/s Viviennes Super Florists who was the lowest evaluated bidder and not to the lowest bidder.

902) **Committee Recommendation**
Within three months after adoption of this report, the EACC should initiate an investigation into possible bid rigging in the procurement of M/s Viviennes Super Florists at a cost of cost of Kshs.1,068,000 per annum instead of awarding it to the lowest bidder at Kshs.497,676.

204.2 Provision of Professional Cleaning Service
903) A company was awarded the tender for cleaning services at a total cost of Kshs.3,921,120 per annum without a clear award criterion. Although the evaluation

committee recommended four firms to be subjected to further interrogations and interviews, proceedings of the interviews were not documented thus it was not possible to establish if the tender was fairly awarded.

Submission by the Accounting Officer

904) The Evaluation Committee recommended the four firms which were technically responsive for further interrogation to gain clarification on the unit of measurement and specifications, prices quoted by the bidders, frequency of the provision of the services and the total cost of the services as per their quotes. The firms were subjected to the recommended interviews and M/s Courier International Limited was awarded the tender for provision of cleaning services.

905) **Committee Observations and Findings**

The evaluation committee recommended four firms to be subjected to further interrogations and interviews, proceedings of the interviews were not documented thus it was not possible to establish if the tender was fairly awarded.

906) **Committee Recommendation**

Within three months after adoption of this report, the EACC should initiate an investigation into possible bid rigging in the procurement of M/s Courier International Limited at a cost of Kshs. 3,921,120 per annum without a clear award criterion

205. Irregular Advance Payments

907) During the year under audit, advance payments of Kshs. 303,000, Kshs. 441,075 and Kshs. 653,520 for supply of flowers, newspapers and cleaning services were made. However, the goods were not delivered. No delivery notes were attached to these payments. No appropriate explanation was given for this anomaly.

Submission by the Accounting Officer

908) The State Department agrees with the audit findings that advance payments were made for supply of fresh cut flowers, newspapers and cleaning services.

909) The payments were made to M/s Vivienes Super Florists, M/s Rex Kiosk and M/s Courier International Limited for the supply of fresh cut flowers, newspapers and provision of cleaning services respectively who had been contracted to offer the services for a period of two years with effect from 9th November 2018. The State Department wishes to confirm that all the firms performed the services for the period for which the payments were made as evidenced by the relevant delivery notes and job cards.

910) **Committee Observations and Findings**

(i) The State Department made advance payments for supply of fresh cut flowers, newspapers and cleaning services to M/s Vivienes Super Florists, M/s Rex Kiosk and M/s Courier International Limited respectively.

(ii) The firms performed the services for the period for which the payments were made as evidenced by the relevant delivery notes and job cards.

911) **Committee Recommendation**

The Accounting Officer ensure that all payments are settled after the delivery of goods and services and no supplier is advanced any payment without compliance with the law

206. Direct Procurement Expenditure

912) The State Department for planning procured air tickets from various service providers amounting to Kshs. 21,296,171 through direct procurement contrary to Section 103 (2) of the Public Procurement and Asset Disposal Act, 2015. Further, the State Department also, procured 4000 copies of the 6th National Monitoring and Evaluation Week Report at Kshs.3,400,000 through direct procurement contrary to the requirements of Section 91 of the Public Procurement and Asset Disposal Act, 2015. No appropriate explanation has been provided for these anomalies. Under the circumstances, the value for money for the above expenditure totaling Kshs. 24,696,171 could not be confirmed.

Submission by the Accounting Officer

913) It is true that the department purchased some air tickets through direct procurement method. However, these services were bought from several travel agents who were registered with the State Department for provision of air ticketing services on a rotational basis thus ensuring fairness to all registered firms. Due to the nature of the services, and sometimes the short period between the approval and the travel dates, it was practically impossible to use any other procurement method.

914) On the issue of printing of additional 4000 copies of the 6th National M&E week reports through direct procurement, the State Department agrees with the audit finding on the use of the direct procurement method. However, this was done in full compliance with the Public Procurement and Asset Disposal Act 2015. The Department had earlier procured the same services had been procured through a competitive tendering procurement process. The use of Direct procurement method was in accordance with Section 91(2) which allows for use of alternative procurement methods if it satisfies the conditions for use of the alternative method being used. Further, it complied with 103(2)(d) of the Public Procurement and Asset Disposal Act 2015 which provides that direct procurement may be used if having procured goods, equipment or services from a supplier, it is determined that additional goods, equipment or services are required for purposes of standardization... In undertaking this procurement, the Management fully complied with the procedures for use of direct procurement as stipulated in Section 104 of the PPADA, 2015. The statutory report in regard to direct procurement was submitted to the Public Procurement Regulatory Authority (PPRA) as required.

915) **Committee Observations and Findings**

(i) The State Department for Planning procured air tickets from various service providers amounting to Kshs. 21,296,171 through direct procurement

(ii) The State Department procured 4000 copies of the 6th National Monitoring and Evaluation Week Report at Kshs. 3,400,000 through direct procurement.

(iii) The procurement for the air tickets and additional copies of 4,000 6th M&E week reports were done in line with the procurement procedures

916) **Committee Recommendation**

The Accounting Officer should ensure all procurement complies with the PPAD Act 2015 at all times

207. Double Imprests

917) Various staff received imprest advances amounting to Kshs.1,025,759 while still on other imprest, contrary to Section 93 (4)(b) of the Public Finance Management (National Government) Regulations, 2015. No satisfactory explanation has been provided for this anomaly.

Submission by the Accounting Officer

918) The outstanding imprests of Kshs 1,025,759 which were outstanding as at 30th June, 2018 were surrendered and the State Department did not have any outstanding imprests as at 30th June,2020. Further the State Department has enhanced controls in issuance of impresto to officers that ensure officers are not issued with overlapping imprests by developing an imprest clearance/application form.

919) **Committee Observations and Findings**

(i) Various staff received imprest advances amounting to Kshs.1,025,759 while still on other imprests, contrary to Regulation 93 (4)(b) of the PFM (National Government) Regulations, 2015.
(ii) The imprests of Kshs 1,025,759 outstanding as at 30th June, 2018 were surrendered and the State Department did not have any outstanding imprests as at 30th June,2020.

920) **Committee Recommendation**

The Accounting Officer should ensure that all issuance of imprest complies with the PFM (National Government) Regulations 2015 at all times

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

921) **Conclusion**

208. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER

DATA COLLECTION AND DATABASE DEVELOPMENT PROJECT (UNFPA KEN7P32A) – KENYA NATIONAL BUREAU OF STATISTICS

922) **Unqualified Opinion**

209. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

210. Lack of the Country Programme Agreement

923) As reported in the 2017/2018 Audit Report and earlier years, Management did not provide the Country Programme Agreement between the Government of Kenya and United Nations Population Fund, UNFPA. Further, the Project remained dormant throughout the year with opening cash in bank balance of Kshs.2,170,918 and bank charges of Kshs.4,260 (2018 – Kshs.3,960) resulting to closing cash in bank balance of Kshs.2,166,658 as reflected in the statement of financial assets and liabilities as at 30 June, 2019. Consequently, in absence of any activity, attainment of Project goals and objectives cannot be confirmed.

Submission by the Accounting Officer

924) The Bureau did not receive funds during the period for this project. There were expectations for the continued financial support from UNFPA, and the Bureau has maintained the bank account. The funds carried forward were in support of 2019 census preparatory activities and training on Integrated Multi-sectoral Information System (IMIS) that had been received during the prior period. The contract signed by the PS, Ministry of Devolution and Planning together with the UNFPA Country Representative in April 2016 is attached per Appendix 210

925) **Committee Observations and Findings**

The Accounting Officer failed to provide at the time of audit the Country Programme Agreement between the Government of Kenya and United Nations Population Fund (UNFPA).

926) **Committee Recommendation**

The Cabinet Secretary for the National Treasury should within three (3) months of adoption of this report, reprimand the Accounting Officer for failure to provide Country Programme agreement contrary to the provisions of Section 9(1)(e) of the Public Audit Act, 2015.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

927) **Conclusion**

211. There were no material issues relating to effectiveness of internal controls, risk management and governance.

COORDINATION OF POPULATION POLICY IMPLEMENTATION PROJECT (UNFPA CREDIT NO. KEN08POP)-NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT REPORT ON THE FINANCIAL STATEMENTS AS AT 30 JUNE, 2019

Basis for Qualified Opinion

212. Unreconciled Cash and Cash Balances

928) The statement of Financial assets and liabilities as at 30th June ,2019 reflected a cash and cash equivalents balance totalling Kshs.1,697,679 which includes Ksh.1,603,431 and Kshs.94,248 in respect to cash in bank at the Council's Head Office and cash on hand at the five of its regional stations respectively. However, records at the stations in Mombasa, Kisumu, Eldoret, Machakos and Garissa reflect bank balances totalling Kshs. 499,833 which is the sum was ,however, not reconciled to aggregate bank balance totalling Kshs.94,248 reflected at the Head Office against these stations. No plausible explanation has been provided for the difference amounting to Ksh. 405,585 between the two sets of records. As a result, the accuracy and completeness of the cash and bank balances totalling Kshs. 1,697,679 reported in the statement of financial assets and liabilities as at 30 June 2019 cannot be confirmed.

Submission by the Accounting Officer

929) The council finds it costly to open and maintain various bank accounts in each region every time we receipt funds from various donors. Therefore, the council operates one bank account for each region for both the UNFPA and GOK funds. Bearing in mind the Donor funds are not regularly received. The regional offices maintain Cash account/Cash book as the control account and monthly bank reconciliations are carried out to ensure donor funds are prudently spent according to the approved activities and the balances accounted for and surrendered. The analysis of the said amount for the regional offices and head office is hereby attached for your review and confirmation (Kshs. 405,585.)

UNFPA-Regional Bank Balance Analysis For Audit Response Paragraph No. 212 As At 30 June 2019 As Per NCPD Regional Bank Book

Regions	Total Certificate Balance	GoK-Funds(In One Account)	UNFPA-Funds	Comments
Kisii	67,858	54,858	13,000	
Machakos	104,411	102,011	2,400	
Mombasa	97,863.30	94,223.30	3,640	
Kisumu	191,790	134,033	57,757	
Eldoret	-	(1,160)	1,160	Utilized by bank charges
Garissa	37,911.35	21,620.35	16,291	
TOTAL	**499,833.65**	**405,585.65**	**94,248**	

930) **NOTE: -**The Regional offices has only one bank account each in which all funds are deposited with the following annexes

(i) Are the 5 regions bank certificates balances as at 30th June 2019.

(ii) Regional Cashbooks as at 30th June 2019.

(iii) Regional bank reconciliations as at 30th June 2019.

931) **Committee Observations and Findings**
The council finds it costly to open and maintain various bank accounts in each region every time we receipt funds from various donors. Therefore, the council operates one bank account for each region for both the UNFPA and GOK funds.

932) **Committee Recommendation**
The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

213. Unauthorized and Inadequately Disclosed Goods and Services Expenditure

933) The statement of receipts and Payments for the year ended 30 June, 2019 reflects purchase of goods and services expenditure totalling Kshs.143,633 disclosed under Note 8.8 to the financial statements. However, the budget for the expenditure has not been made available for audit verification. As a result, it is not possible to confirm the regularity of the expenditure. Further, Note 8.8 to financial statements reflects opening and closing purchase of goods and services account balances totalling Kshs. 24,781,975 and Kshs. 351,361,672 respectively. However, the Note does not disclose the composite balances as at 30 June 2018 as required by the International Public Sector Accounting Standards and the format prescribed for the presentation of such information by Public Sector Accounting Standards Board. Therefore, Disclosure made on the previous Year's balance totalling Kshs. 24,781,975 is inadequate.

Submission by the Accounting Officer

934) The total payments of Kshs.143,633 reflected in the statement of receipts and payments is a combination of expenditure outstanding brought forward from financial year 2017/2018 audited financial records, a financial cost incurred and a round table expenditure paid out of un-expended funds brought forward from the project. A break down is shown below of various components constituting the expenditure.

a) Kshs.19,600 and Kshs.30,000 were outstanding imprest for the year 2017/2018 audited financial accounts and records and therefore expensed.
b) Bank charges of Kshs.12,032 for the financial year 2017/2018
c) The Expenditure incurred of Kshs.82,000 was for donor round tables (rolled over from the previous year) paid out of un-expended project funds.

935) The financial year 2018, the annual work plan was not executed for various technicalities already explained to the auditors. The components for the budget are usually different year to year therefore making it difficult to include them individually in Note 8.8. This is brought about by the annual work plan having different activities for each year. However, the totals for the prior year are included as a comparative as required by IPSAS and hence the reason for the disclosure. Thus, necessitating disclosure of only the total previous year purchase of goods and services of Kshs. 24,781,975 and the cumulative total brought forward from when the project began.

936) **Committee Observations and Findings**

The total payments of Kshs. 143,633 reflected in the statement of receipts and payments is a combination of expenditure outstanding brought forward from financial year 2017/2018 audited financial records.

937) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

938) **Conclusion**

214. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

939) **Conclusion**

215. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MULTIPLE INDICATOR CLUSTER SURVEY PROJECT - UNICEF - KENYA NATIONAL BUREAU OF STATISTICS

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

216. Unsupported Purchase of Goods and Services

940) As disclosed under Note 9 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs. 8,940,966 under purchase of goods and services. Included in this figure is Kshs. 2,727,295 in respect of payments made to Government Administration Officers hired to assist in mapping verification exercises in four (4) Counties. However, the Management did not avail supporting documents for audit verification such as the official list indicating the name, location and identification numbers of the invited officers or the basis of determining the imprest details. Further, an amount of Kshs. 1,088,280 was not utilized but was surrendered in cash, three (3) months after the conclusion of the exercise. Consequently, the validity, accuracy and completeness of the purchase of goods and services expenditure of Kshs. 8,940,966 reflected in the statement of receipts and payments for the year ended 30 June 2019 could not be confirmed.

Submission by the Accounting Officer

941) The use of services from the National Government Administrative Officers (NGAOs) was stipulated in the census proposal with various cadres and approved rates which was approved by The Cabinet. Prior to teams visiting counties for the verification exercise, the Bureau wrote to the county commissioners of the respective counties notifying them of the exercise and requesting for their support. Sample letter to the County Commissioners were attached for perusal by the Committee.

942) The letter indicated that the Chiefs and Assistant Chiefs would be part of the verification. Chief and Assistant Chiefs are government officers in the Ministry of Interior and Coordination of National Government. The 2019 Census was being implemented in collaboration with the Ministry of Interior and Coordination of National Government. The Permanent Secretary in the Ministry was the co-chair of the National Census Steering Committee. This was due to the fact that the involvement of the NGAOs from the Ministry was key to the success of the census. Attached were letters to the County Commissioners on the exercise. Attached also was a letter from the Head of Public Service communicating the decision of the Cabinet in which the Ministry of Interior and Coordination of National Government was directed to avail the NGAOs to chair the census committees.

943) During the verification exercise, all the NGAOs in attendance signed attendance schedules showing their respective location, contact details and National Identification numbers which were stamped. All payment schedules for NGAOs were also fully signed and stamped. These documents formed part of the surrender documents that was availed to the auditors. The breakdown of the 1,088,280, per Note 6 in the financial statements, arose due to the following:

944) Allowances for NGAOs: This included the County commissioners, deputy county commissioners, chiefs and village elders. The expenditures were slightly below the budgeted amount. This was due to the fact that a number of officers who were scheduled to attend ended up not making it since they did not have issues with draft maps in their respective areas while others were committed to other official duties and hence could not make it to attend the entire maps verification exercise.

945) Transport and fare refunds: A number of the officers who were allocated official vehicles during the exercise did not qualify for fare refunds, and hence the difference.

946) Fuel funds: The variance was due to the minimal reported errors with the draft maps from the NGAOs, most of which were corrected at the meeting venues. There were therefore few cases where the verification officers had to travel to the specific locations and rectify the drafted maps. The distance covered in some areas were slightly lower compared to the budgeted estimates. The Ksh.1,088,280 was refunded to UNICEF on 19th March 2019.

947) **Committee Observations and Findings**

The State Department paid Kshs. 2,727,295 to Government Administration Officers hired to assist in mapping verification exercises in four (4) Counties. Further, an amount of Kshs. 1,088,280 was not utilized but was surrendered in cash, three (3) months after the conclusion of the exercise.

948) **Committee Recommendation**

The Cabinet Secretary for the National Treasury should within three (3) months of adoption of this report, reprimand the Accounting Officer for failure to provide at the time of audit, supporting documents contrary to the provisions of Section 9(1e) of the Public Audit Act, 2015.

Other Matter

217. Unresolved Prior Year Issues

949) During the current year audit review, it was established that the following issue raised during the 2017/2018 financial year audit remained unresolved: -

217.1 Unaccounted for Cash Equivalents

950) The statement of financial assets and liabilities had indicated cash and cash equivalents balance of Kshs. 2,511,405 as at 30 June 2018. However, included in the balance was cash in project account of Kshs.1,876,334 which included cash receipts of Kshs.43,500 that have never been captured in the bank account since 2009. Review of this matter in the year 2017/2018 indicates that the matter has not been resolved.

Submission by the Accounting Officer

951) The Bureau followed up on the issue with the Coop Bank, Kimathi Street branch. In a scheduled meeting with the Relationship Manager in September 2018, the bank agreed to sort out the issue, by way of refund of the cash to the Bureau. The bank refunded and credited back the amount of Ksh. 43,500 to the account on 18.10.2018 see Appendix 217.1

952) **Committee Observations and Findings**

The Bureau followed up on the issue with the Coop Bank, Kimathi Street branch in September 2018 and the bank agreed to sort out the issue, by way of refund which was credited back the account.

953) **Committee Recommendation**

The Accounting Officer must ensure that the banking arrangements and monthly bank reconciliation is done in line with PFM (National Government) Regulations 2015

217.2 Mapping Verification Exercise

954) Review of the work plan for November, 2016 to June, 2018 had indicated approved areas for mapping verification as Kakamega, Bungoma, Tana River, Garissa, Kilifi and Mombasa. However, it was revealed that, mapping verification was undertaken in the month of June, 2018 in the following areas; Kisumu, Kisii, Siaya, Kilifi, Nairobi, Kwale, Kericho, Tharaka Nithi, West Pokot, Nyeri and Makueni at a cost of Kshs.5,558,578. No Board or donor approvals justifying the changes, or a revised approved work plan, were provided for audit verification.

955) Further, a draft mapping report for Kisumu, Kisii and Siaya counties presented for audit review was not signed and no evidence existed that it had been discussed in the board and implemented. In addition, there was no indication that the implementation of the activities had been approved by the donor.

Submission by the Accounting Officer

956) The support for the 2019 Census activities had been approved by the Donor through GOK/UNICEF Country support programme work plan for November, 2016 to June 2018 section 1.1.2 per Appendix 217.2A. In the work plan under activity 1.1.2, the donor had committed to provide technical and financial support to KNBS and County Governments to plan and conduct national and county surveys (KDHS, Census and MICS6). The location for the implementation of these activities was to be at national level (countrywide). This was informed by the fact that Census is a national exercise and is implemented in all the counties across the country. In the referred work-plan, the donor was to support MED under activity 1.1.1 and 1.1.3 and the location where MED was to undertake the supported activities included Kakamega, Tana River, Bungoma, Garissa, Kilifi and Mombasa.

957) Map verification is the process of confirming that the information presented on the census maps conforms to the real situation on the ground and hence determine their accuracy for use during actual census enumeration. It is therefore only carried out in counties where field cartographic mapping has been completed and draft maps produced. The schedule of counties where verification was to be done was informed by the schedule of Cartographic Mapping. Among the factors that were considered when determining the counties to be mapped included the weather patterns. For example, During Cartographic Mapping in Makueni County, the area experienced a lot of rain to the extent that the roads became impassable and the teams had to move to another county awaiting the rains to subside.

Approval for Verification

958) The Donor had committed to provide funds to support implementation of the Mapping verification activity vide the letter of ref. KCO/PME/02-2018 and dated 23rd February 2018. It is for undertaking the verification exercise that the donor remitted the funds to KNBS. Prior to the verification the Director General approved the exercise in the referred counties vide Memo Ref. No. KNBS/STAT/73/3 on 4th June 2018 which is attached.

Verification Report

959) The signed EA map verification report for the activity is attached per Appendix 217.2B Following the coordinator's report, the KNBS Board in its 36th regular meeting, was briefed about the verification exercise in Kisumu and Kisii counties and the selected sub-locations in other pilot counties.

960) **Committee Observations and Findings**

The explanation by the Accounting Officer was satisfactory and therefore the matter is resolved.

217.3 Hiring the Services of National Government Officers

961) The statement of receipts and payments for the year ended 30 June, 2018 had reflected purchase of goods and services balance of Kshs.6,464,177 which included a balance of Kshs.1,455,828 used to hire the services of National Government Officers who assisted in mapping verification. However, letters requesting the services of these officers, appointment letters and service contracts indicating the terms of engagement have not been

made available for audit scrutiny hence the propriety on the utilization of Kshs.1,455,828 could not be confirmed.

Submission by the Accounting Officer

962) The use of services from the National Government Administrative Officers (NGAOs) was stipulated in the census proposal with various cadres and rates, which was approved by the Cabinet on 29th May 2017. Prior to teams visiting counties for the verification exercise, the Bureau wrote to the county commissioners of the respective counties notifying them of the exercise and requesting for their support. The letter indicated that the Chiefs and Assistant Chiefs would be part of the verification exercise. Chiefs and Assistant Chiefs are Government Officers in the Ministry of Interior and Coordination of National Government (MICNG).

963) The 2019 Census was being implemented in collaboration with MICNG. The Principal Secretary in MICNG was the co-chair of the National Census Steering Committee. This was due to the fact that the involvement of the NGAOs from the Ministry was key to the success of the census. Once the information was passed to the County Commissioners, they would in turn pass it to the relevant officers who were required to work with KNBS officers in the verification exercise.

964) The County Commissioners oversaw the exercise at the County level. The letter from the Head of Public Service communicated the decision of the Cabinet in which the Ministry of Interior and Coordination of National Government was directed to avail the NGAOs to support the census exercise at all levels.

965) **Committee Observations and Findings**

The explanation by the Accounting Officer was satisfactory and therefore the matter is resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

218. Compliance with the Reporting Template

966) Whereas The National Treasury in conjunction with the Public Sector Accounting Standards Board of Kenya have issued the format of the reporting template for the Donor Funded Projects, the Management did not prepare the statement of comparative budget and actuals correctly as provided. The statement does not include the adjustment or the supplementary budget column but instead reflects only the original budget and actual performance. The statement has also failed to separate the receipts and payments as provided and does not compare to the statement of receipts and payments. It has not disclosed the various items on receipts or of expenditure. In addition, Management did not include under Annexure I or any other, the explanation for material deviation between the budget and actual amounts contrary to the International Public Sector Accounting Standards, IPSAS 24. The Management is therefore in breach of the law.

Submission by the Accounting Officer

967) The adjusted statement of comparative budget and actuals was re-prepared correctly as provided in the prescribed template. The statement includes the adjustments column and reflects the original budget and actual performance. The statement has also separated the receipts and payments as provided, to compare receipts and payments. The statement was therefore realigned and corrected.

968) **Committee Observations and Findings**
The explanation by the Accounting Officer was satisfactory and therefore the matter is resolved.

219. Lack of Financing Agreement

969) During the year under review, the Management did not provide the Financing Agreement and approved annual work plan between the Bureau and UNICEF in respect of the 2019 Kenya Population and Housing Census (KPHC) Enumeration Area (EA) map verification in four (4) Counties. Consequently, the completeness and validity of the receipts of Kshs.6,911,720 and payments of Kshs.9,361,177 for the year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

970) One of the key objectives of the 2019 census exercise was to provide accurate data on women and children that would facilitate planning in areas of education, health and basic protection for all. It is in this spirit that UNICEF agreed to join hands with the Bureau in funding this exercise. UNICEF has been funding some of the Bureau's activities, based on a specific work plan for each activity. During the period under review, an amount of Sh.8 million was received to fund the 2019 Kenya Population and Housing Census preparatory activities. The funds were accounted for based on the approved activity budget to the Bureau and Kshs.6,911,720.00 was spent. The unutilized balance of Kshs.1,088,280.00 was refunded to UNICEF. There was a general financing memorandum of understanding signed between the Bureau and UNICEF.

971) **Committee Observations and Findings**
The Management did not provide the Financing Agreement and approved annual work plan between the Bureau and UNICEF in respect of the 2019 Kenya Population and Housing Census (KPHC) Enumeration Area (EA) map verification in four (4) Counties

972) **Committee Recommendation**
The Cabinet Secretary for the National Treasury should within three (3) months of adoption of this report, reprimand the Accounting Officer for failure to provide at the time of audit, supporting documents contrary to the provisions of Section 9(1e) of the Public Audit Act, 2015.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

973) **Conclusion**

220. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - CENTRAL BANK OF KENYA ACCOUNT

REPORT ON THE FINANCIAL STATEMENTS

974) **Unqualified Opinion**

221. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

975) **Conclusion**

222. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

976) **Conclusion**

223. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PARAGRAPHS 224 TO 264 ON WOMEN ENTERPRISE FUND, NATIONAL GOVERNMENT AFFIRMATIVE ACTION FUND AND NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND WERE TO BE EXAMINED BY THE SPECIAL FUNDS ACCOUNTS COMMITTEE.

5. THE PRESIDENCY

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1011

Mr. Kinuthia Mbugua, the Accounting Officer for the State Department of Interior (Vote 1011) appeared before the Committee on 31st August, 2021 to adduce evidence on the audited financial statement for the State Department of Interior (Vote 1011) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. **Mr. Kang'ethe Thuku - Deputy Director General**
2. **Mr. David W. Waweru - Chief Finance Officer**
3. **Mr. Joel K. Langatt - Senior Deputy Accountant General**
4. **Mr. Samuel T. Maina - Deputy Accountant General**
5. **Mr. Amos Nyakundi - Deputy Director Finance**

And submitted as follows

977) **Unqualified Opinion**

264. There were no material issues noted during the audit of the financial statements of the Presidency.

Other Matter

265. Pending bills

978) As disclosed under the Notes 17.1 and 18.1 to the financial statements, The Presidency had pending bills totalling to Kshs.342,081,809 as at 30th June 2019, that were not settled during the year 2018/19 but were instead carried forward to 2019/20. Failure to settle bills during the year in which they relate to adversely affects the provision of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

979) The Accounting Officer submitted that it was true that the Presidency disclosed pending bills totalling to Kshs.342,081,809 during FY 2018/2019 as disclosed in notes to Financial Reports, which were not settled during the year but were carried forward to subsequent Financial Year 2019/20.These bills emanated from inadequate exchequer releases due to prevailing economic conditions and tight fiscal frameworks. However, the Pending Bills were subsequently paid during FY 2019/2020. A list of all the pending bills as settled was provided for the Committee.

980) Further, the Office has continued to liaise with The National Treasury in pursuit of release of full exchequer so as to minimise accumulation of pending bills in future.

981) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Pending Bills was satisfactory; and
(ii) The Committee therefore marked the matter as resolved.

982) **Committee Recommendation**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

983) **Conclusion**

266. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

984) **Conclusion**

267. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECTS

KENYA DEVELOPMENT RESPONSE TO DISPLACEMENT IMPACTS PROJECT (IDA CREDIT NO.6021-KE)

REPORT ON THE FINANCIAL STATEMENTS

985) **Unqualified Opinion**

268. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCESS

986) **Conclusion**

269. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

987) **Conclusion**

270. There were no material issues relating to effectiveness of internal controls, risk management and governance.

TECHNICAL ASSISTANCE TO ENHANCE THE CAPACITY OF THE PRESIDENT'S DELIVERY UNIT (ADB GRANT NO.5500155012902)

REPORT ON THE FINANCIAL STATEMENTS

988) **Unqualified Opinion**

271. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCESS

989) **Conclusion**

272. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

990) **Conclusion**

273. There were no material issues relating to effectiveness of internal controls, risk management and governance.

6. STATE DEPARTMENT FOR INTERIOR

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1021

Dr. Eng. Karanja Kibicho, the Accounting Officer for the State Department of Interior (Vote 1021) appeared before the Committee on 10th May, 2021 to adduce evidence on the audited financial statement for the State Department of Interior (Vote 1021) for the Financial Year 2018/2019. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Alex Muteshi - Director General Citizen Services & Immigration
2. Ms. Alice W. Gichu - Senior Chief Finance Officer
3. Ms. Loise Kibicho - Assistant Accountant General
4. Mr. James K. Karori - Director AG
5. Mr. David Mutia - Senior Principal Finance Officer
6. Ms. Elizabeth W. Kiano - DIAG
7. Mr. Peter N. Muita - Chief Finance Officer
8. Mr. Joseph Macharia - Finance Officer
9. Ms. Catherine Njeri - Finance Officer

Basis for Qualified Opinion

274. Unreconciled variances between the financial statements and the integrated financial management information system (IFMIS) trial balance

991) The audit of the financial statements and IFMIS Trial Balance revealed the following variances:

Account	Financial Statements (Kshs.)	IFMIS Trial Balance (Kshs.)	Variance (Kshs.)
Recurrent	2,478,224,900	101,171,731,035	(98,693,506,135)
Development	900,195,787	23,885,771,501	(22,985,575,714)
Deposits	605,551,629	362,816,658	242,734,971
Cash in Hand/Transit	152,156,097	346,542,329,253	(346,390,173,156)

992) No reconciliation was provided to explain the above variances. In the circumstances, it was not possible to ascertain the completeness and accuracy of the account balances affected by the differences between the financial statements and the IFMIS Trial Balance.

Submission by the Accounting Officer

993) The Accounting Officer submitted that it was true that the Financial statement of bank and cash balances differs from the one in the trial balance as follows:-

Account	Financial Statements (Ksh)	IFMIS Trial Balance (Ksh)	Variance (Ksh)
Recurrent	2,478,224,900.00	101,171,731,034.60	98,693,506,134.60
Development	900,195,787.00	23,885,771,501.20	22,985,575,714.20
Deposit	605,551,629.00	362,816,657.90	242,734,971.10
Cash in hand/transit	152,156,097.00	346,542,329,252.90	346,390,173,155.90

994) This was occasioned by challenges in the IFMIS bank auto-reconciliation particularly missing bank statements in the IFMIS system. The Accounting Officer had engaged the IFMIS department and financial reporting unit of the National Treasury and was in the process of clearing the variances.

Committee Observations and Findings

995) The Committee observed and found that:

(i) The IFMIS bank auto-reconciliation challenge was recurrent across state departments and agencies and requires urgent attention and action by the National Treasury

(ii) The Committee further observed that the reconciliation of the outstanding variances was in progress; and

(iii) The matter, therefore, remains unresolved.

Committee Recommendation

996) The Committee recommended that:

1) **The National Treasury must, once and for all, address the challenges facing the operations of IFMIS and should specifically ensure the full functionality of IFMIS.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that hey provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

275. Unreconciled Cash and Cash Equivalents Balances

997) The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.4,136,128,414 which includes bank balances of Kshs.3,983,972,316 as analyzed in Note 22 to the financial statements. However, included in the bank reconciliation statements were payments in the cash book not in the bank statements amounting to

Kshs.609,496,111 which have been outstanding since the year 2015. Further, receipts in the bank statements not in the cash book of Kshs.1,615,928,444 had also been outstanding since the year 2015.

998) In addition, payments in the bank statements not in the cash book included long outstanding items totalling Kshs.7,389,999,277 and relating to the period between 2016 and 2018. Further, receipts in the cash book not in the bank statements totalling Kshs.418,173,050 have also been outstanding for long and they relate to the period between 2015 and 2018. No satisfactory reason was provided for failure to clear the long outstanding bank reconciliation items from the books of account.

999) Consequently, the completeness and accuracy of bank balances of Kshs.3,983,972,316 included in the cash and cash equivalents as at 30 June, 2019 could not be ascertained.

Submission by the Accounting Officer

1000) The Accounting Officer submitted that it was true that the bank reconciliation statement has long outstanding balances relating to the period between 2015 to December 2018. We have been able to clear some items as analyzed below.

	Outstanding amount	Reconciled Amount
Payment in cash book not in bank	609,496,111.00	609,496,111.00
Receipt in bank not in cash book	1,615,928,444.00	1,151,815,775.25
Payment in bank not in cashbook	7,389,999,277.00	4,068,393,121.80
Receipt in cash book not in bank	418,173,050.00	404,460,867.15

1001) The reconciled items have been adjusted in the cash book accordingly and we are in the process of reconciling the remaining outstanding items.

1002) **Committee Observations and Findings**

The Committee observed that:

(i) That reconciled items have since been adjusted in the cash book accordingly;

(ii) That the reconciliation of the outstanding items was progressing well;

(iii) The matter is, therefore, marked as unresolved.

Committee Recommendation

1003) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they prepare and keep**
2) **proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate**
4) **records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

Other Matter

276. Pending Bills

1004) Note 28 to the financial statements reflects pending bills totalling Kshs.4,374,388,259 as at 30 June, 2019 which were not settled during the year under review but were instead carried forward to the financial year 2019/2020. Had the bills been paid and the expenditure charged to the account for 2018/2019, the statement of receipts and payments for the year under review would have reflected a deficit of Ksh.4,137,340,968 instead of the surplus of Kshs.237,047,291 shown. Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form the first expenditure to be charged.

Submission by the Accounting Officer

1005) The Accounting Officer submitted that it was true that the State Department of Interior had Pending Bills amounting to Ksh.4,374,388,258.85 during the period under review. The State Department had an approved budget of Ksh.140,655,911,515.00 while the Exchequer released during the period was Ksh.136,443,011,066.00. Had the State Department received all the Exchequer as per the budget, all the payments would have been cleared.

1006) **Committee Observations and Findings**

The Committee observed that:

(i) The pending bills were occasioned by inadequate exchequer release by the National Treasury.

(ii) The Committee further observed that the Pending Bills Committee was still working on the verification of documents to recommend payments and clearance of the said bills; and

(iii) The matter, therefore, remains unresolved.

Committee Recommendation

1007) The Committee recommended that:

Accounting Officers should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

277. Lack of A Fixed Assets Register

1008) Disclosed in Annex 2 to the financial statements for the year ended 30 June, 2019 is a summary of fixed assets register. However, contrary to the reporting guidelines issued by the Public Sector Accounting Standards Board (PSASB), the summary of fixed assets register attached reflects nil balances instead of actual figures relating to the historical costs brought forward, additions and disposals during the financial year 2018/2019, and the historical costs as at 30 June, 2019.

1009) The audit also revealed that the State Department for Interior did not maintain a fixed assets register during the year under review contrary to the requirements under Regulations 139 and 143 of the Public Finance Management (National Government) Regulations, 2015. As a result, the existence, movement, conditions, completeness, valuation and book balances of the fixed assets owned by the State Department for Interior as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

1010) The Accounting Officer submitted that it was true that the State department of Interior had no fixed assets register in the year under review hence the nil disclosure in the financial statements. The State Department has since put together a comprehensive asset register which covers both assets at the head office and at the field offices.

1011) **Committee Observations and Findings**

The Committee observed and found that:

(i) The Committee observed that the fixed asset register had been availed for audit verification; and

(ii) The Committee therefore marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

278. Provision of Comprehensive Medical Cover

1012) The National Police Service procured a comprehensive medical cover for a period of two years commencing on 1 October, 2017 to 30 September, 2019 through direct procurement method. The tender was awarded to the National Hospital Insurance Fund on 26 September, 2017 at a contract sum of Kshs.4,785,805,560.

1013) Included in the contract sum of Kshs.4,785,805,560 was an amount of Kshs.200,000,000 for excess of loss cover to cushion members who might exhaust their limit. This amount was refundable at the end of the contract but was not refunded when the contract came to an end. Further, no documentary evidence was provided for audit verification to show how the amount refundable was applied.

1014) Consequently, it was not possible to determine whether the National Police Service got value for money from the amount of Kshs.200,000,000 that was due for refund at the end of the comprehensive medical cover contract.

Submission by the Accounting Officer

1015) The Accounting Officer submitted that it was true that there was a sum of Kshs.200,000,000.00 for excess of loss cover paid to the National Hospital Insurance Fund (NHIF). However, despite several telephone calls and letters demanding an account of the Kshs.200,000,000.00 from NHIF, they are yet to respond. The Department has decided to withhold Ksh.200,000,000.00 from outstanding bills under the current contract until NHIF accounts for the excess of loss cover.

Further information by the National Hospital Insurance Fund - NHIF

Dr. Peter Kagunyo the Chief Executive Officer and the Accounting Officer for the National Hospital Insurance Fund appeared before the Committee on 3rd June, 2021 accompanied by the following officers.

1. Ms. Hazel Koitaba - Director NHIF
2. Mr. Simon Kariuki - Acting Director Finance
3. Dr. Samson Kuhora - Head, BDTCM
4. Mr. Joseph Kirubi - Secretary Administration
5. Ms. Mary Mbau - Director Probation & aftercare Services
6. Mr. David Muriithi - ASS. Comm. Prisons
7. Mr. Shadrack Kavuthi - Ass. Director Probation & Aftercare Services
8. Mr. Silas Mutwiri - Chief Insp. Prisons
9. Mr. Wyclife Muturi - Head of Internal Audit
10. Ms. Wairimu Thang'ate - SACGP
11. Mr. Joseph N. Mutevesi - SACGP
12. Mr. Samfantony Kyalo - SP – KPS
13. Mr. David Njoroge - Principal Supply Chain Management Officer
14. Ms. Nelly Njoroge - PS Office

And submitted as follows

1. **Details of claims and expenses incurred under the said medical cover for the entire contract**

1016) On 1st January 2012, NHIF was contracted by Government of Kenya through the State Department of Public Service to administer comprehensive medical Scheme for Civil Servants and Disciplined Forces. The principal members were drawn from both Civil Service and Disciplined Services and the beneficiaries were the principal member, spouse and three declared children (M+4). The initial benefit package included out-patient, Inpatient, dental, optical, Last expense and Group Life.

1017) In 2016, the Disciplined Forces exited the Civil Servants and Disciplined Services medical scheme offered by the Fund and procured the cover from a private insurer.

1018) The government to government (G-to-G) medical scheme has subsequently been negotiated on an yearly contractual basis and gradually expanded to include the principal, a spouse and 5 children (M+6). In addition, the benefit package has been enhanced to cover the entire spectrum of health needs and services to incorporate preventive, promotive, curative, rehabilitative, palliative, Work Injury Benefits, Last expense and Group life and Excess of Loss provisions.

1019) On 29th September 2017, the National Police Service (NPS) and the Kenya Prisons Service (KPS) re-engaged the Fund and entered into a Contract to provide a medical cover. The period of insurance was from 1st October 2017 to 30th September 2019, (both days inclusive) with a provision for renewal at the end of the first 12 months, subject to satisfactory performance. The premium payable was KES 4,585,805,560 annually and an additional Excess of Loss fund of KES 200,000,000. The contracted number of insured persons was 122,708 principal members and their dependants which translated to up-to 858,956 lives. This contract was implemented with 13,142 new principal members being added within the period of implementation. This translated to additional premiums of KES 592,295,968 of which Debit notes were issued by the Fund.

1020) At the end of the contract period, the Employer (NPS and KPS) requested for a 3-month contract extension, on the same contract terms, and at an additional premium of KES1,201,744,566 for 131,245 principal members. Two other extensions were requested from 1st January 2020 – 31st March 2020 and 1st April 2020 – 30th June 2020, on the same terms. On the three extensions, the NPS/KPS owes the Fund KES 80,633,496 in un-remitted premiums.

1021) This Financial year, the NPS/KPS bought a medical cover for 127,439 principal members at a premium of KES 4,585,805,560, and an additional KES 200,000,000 for the Excess of Loss Fund. A partial payment of KES 2,650,000,000 has been remitted thus far. To respond to the query on details of claims and expenses incurred under the medical cover for the entire contract, a summary is given in the table below:

Table 1: Utilization Report for NPS/KPS in 2017-2019 period:

	Variable	**Amount_17-18**	**Amount_18-19**
A	Premium Payable - Enhanced Scheme	4,785,805,560	4,785,805,560
B1	Premium Paid- Enhanced Scheme	4,585,805,560	4,585,805,560
B2	Ex-gratia allocation paid	200,000,000	200,000,000
C	Statutory Contributions	1,828,983,000	2,138,814,763
D= B1+B2+C	**Total Received Amount (premiums)**	**6,414,788,560**	**6,724,620,323**
E	Incurred Claims	4,885,594,408	5,548,231,947
F	Other Scheme Expenditure (Last Expense, Evacuation & Admin)	862,307,810	635,804,796
G = E+F	Total Pay-Out	5,747,902,218	6,184,036,743
H1 = G/D	Overall pay-out Ratio	89.60	91.96
H2 = E/(B1+C)	Medical Loss Ratio	76.16	82.51

1022) In addition, I would like to bring to the attention of the committee the following:

- The total amount received of KES 4,785,805,560 was paid annually is inclusive of a premium of KES 4,585,805,560 for the medical cover and a Fund of KES 200,000,000 for Excess of Loss.
- As at 30th September 2019, there were 135,850 principal members covered in the scheme against the initial cover for 122,708 principal members.
- The Pay-out ratios for the policy years ending 30th September 2018 and 30th September 2019 were 89.6% and 92.0% respectively.
- The utilisation reports submitted to the employer (NPS/KPS) were provided

2. The total number of Officers who exhausted their cover limits if any and by how much,

1023) Reference is made to Contractual agreement between the "Board of Management of NHIF" and the "Principal Secretary, Ministry of Interior and Coordination of Government on behalf of the NPS and KPS"; Endorsement 1 Clause xlvii that states "excess of loss cover of KES 200,000,000 will be paid by NPS to cushion members who may exhaust the limits".

1024) In the period 1st October 2017 to 30th September 2019, 1,832 officers and their dependants exhausted their medical cover limits, amounting to KES 394,673,573 of the Excess of Loss Funds utilized. These covers beyond limits are profiled as:

a) Reference is made to Endorsement 1 clause xxx that states "Emergency caesarean section will be covered up to a limit of KES 200,000 as a stand- alone benefit".
b) Reference is made to Endorsement 1 clause xxiv and xxv on the limits of liability of KES 60,000 and KES 100,000 for the Dental and Optical services covers respectively.
c) Reference is also made Endorsement 1 clause xxxv that states "Facilities to be visited for out and in-patient will be categorized and availed depending on Job Groups as hereunder:
    - Category 1: JG A - L; PG 1 – 7 for Police and PG 1 – 8 for Prisons
    - Category 2: JG M – Q; PG 8 – 10 for Police and PG 9 – 12 for Prisons
    - Category 3: JG R – T; PG 11 – 12 for police and PG 13 – 15 for prisons

1025) Within the contract period, the employer (NPS/KPS) requested for services at additional non-comprehensively contracted providers for category 1 beneficiaries. These are excluded from (c) above. Table 2 outlines Limits of liability on the contract for the provision of comprehensive medical cover for National Police Service and Kenya Prisons Service signed on 29th September 2017.

Table 2: Limits of liability on the Excess of Loss

	FY 2017/18	**FY 2018/19**	**Cumulative Amount**
	KES	**KES**	**KES**

Excess of Loss Funds received	200,000,000	200,000,000	400,000,000
Balance b/f	-	42,565,325	
Total funds	**200,000,000**	**242,565,325**	**400,000,000**
Incurred Claims			
Inpatient care (lower JG High-end HCP)	139,721,107	205,554,081	345,275,188
C/Section	2,570,930	9,642,567	12,213,497
Optical	10,283,336	12,179,202	22,462,538
Dental	2,674,006	8,319,324	10,993,330
Higher JG who have exceeded limits	2,185,296	1,543,724	3,729,020
Total Funds utilization	**157,434,675**	**237,238,898**	**394,673,573**
Balance c/f	**42,565,325**	**5,326,427**	**5,326,427**

1026) In the period under review, the NPS/KPS Scheme added 13,142 principal members to the cover as outlined below. These accrued an additional premium of KES 592,295,968, as at 30th September 2019. These amounts have been billed but the premiums have not been received.

Table 3: Statement on receivables

Cover Period	Population	Premiums Payable	Premium received (Excess of Loss Fund)	Balance	Remarks
1st Oct 2017 - 30th Sept 2018	122,708	4,785,805,560	4,585,805,560 (200,000,000)	0	Annual cover & excess of loss
1st Oct 2018 - 30th Sept 2019	122,708	4,785,805,560	4,585,805,560 (200,000,000)	0	Annual cover & excess of loss
1st June 2018 - 30th Sept 2018	3,197	36,021,348	0	36,021,348	Additional members for KPS
1st Oct 2018 - 30th Sept 2019	3,197	108,064,044	0	108,064,044	Additional members for KPS

1st June 2018 - 30th Sept 2018	9,945	112,052,644	0	112,052,644	Additional members for NPS
1st Oct 2018 - 30th Sept 2019	9,945	336,157,932	0	336,157,932	Additional members for NPS
TOTAL		10,163,907,088	9,571,611,120	592,295,968	

Debit notes for additional premiums were also provided.

3. Any other information that may be relevant to the matter.

1027) In recognition of the unique challenges in accessing and controlling the cost of medical services for the National Police Service and the Kenya Prisons Services, the Fund has endeavoured to model benefits on value-based financing models, including, a unique provider payment mechanism to ensure portability of Medical Outpatient services due to the nature of work for the NPS/KPS officers.

1028) The Fund endeavours to transform into a sustainable strategic purchaser of healthcare benefits for all beneficiaries. The current and future plans towards these are:

i. The recently rolled out biometric registration and identification of beneficiaries to reduce the incidences of beneficiary impersonation;
ii. The full automation of the empanelment, contracting and claims management processes at the Fund;
iii. For this scheme, reconciliation of the accounts (premiums and excess of loss Funds) at the close of the current contract period;
iv. Yearly reconciliations for all managed schemes; both premiums and Excess of loss Funds;
v. Adopting a triennial national stakeholder forum on costing of benefits and adjustment of premiums and reimbursements based on prevailing medical and market inflation rates.

1029) Further, the Fund wishes to enhance absorption of the G-to-G medical covers by improving medical benefits design and procurement in cognizance of the uniqueness of the beneficiary categories.

1030) Finally, the Fund wishes to assure the National Assembly of its commitment to fulfil its mandate of securing financial risk protection against the catastrophic effect of out-of-pocket spending on healthcare services for all Kenyan residents through prudent financial management of members' contributions and other resources.

1031) **Committee Observations and Findings**

The Committee observed and found that:

(i) The Committee observed that the explanation given by the Chief Executive Officer with regard to the provision of comprehensive medical cover to the National Police Service and the Kenya Prison Service was satisfactory;

(ii) The Committee also observed that the Chief Executive Officer provided all the supporting documents including bank slips, bank statements and payment vouchers for audit verification;
(iii) The Committee further observed that the expenditure of Ksh. 200,000,000.00 was well explained with supporting documents availed; and
(iv) The Committee therefore marked the matter as resolved.

279. Proposed Nyamarambe Police Post Residential Houses Phase 11

1032) The tender for construction of the Proposed Nyamarambe Police Post Residential Houses Phase II was awarded to a local construction company at a contract sum of Kshs.9,740,635. The contract agreement was signed on 20 May, 2019. The duration of the contract was 20 weeks commencing on 18 May, 2019 to 18 November, 2019. The scope of works entailed among others; construction of superstructure concrete framing with both external local bearing and infill wall partitions; and roof structure (frame) cover and rain water gutters.

1033) From an audit inspection conducted on 30 August, 2019, it was observed that the contractor was required to use 16mm high yield square twisted reinforcement bars to BS cut, bent and placed in position for reinforcement in line with the Bill of Quantities. However, the contractor used 12mm ditto high yield square reinforcement bars on the second floor.

1034) Further, the contractor was required to use "Kedowa" or "Oloolunga" natural dressed stones costing Kshs.1,094,000 for internal walling. However, the contractor used clay bricks and natural dressed stones which were of poor quality.

1035) In the circumstances, it was not possible to determine whether Kenya Police Service got value for money from the Kshs.9,740,635 spent on the project.

Submission by the Accounting Officer

1036) The Accounting Officer submitted that it was true that the contractor was required to use 16mm ditto High yield square twisted reinforcement bars to BS cut. It is however not true that 12mm ditto high yield square reinforcement bars were used in the second floor. The Project manager confirmed in his report dated January 2020 that D16 was indeed used.

1037) It was also true that the Contractor was required to use natural dressed stone as 'Kedowa' or 'Oloolunga' for internal walling coating. He was however, given a site instruction by the Project Manager to use clay bricks for internal walling (Partitioning). The resultant saving was used in fixing external kitchen balcony grills which were not provided for in the BQS.

1038) **Committee Observations and Findings**

The Committee observed and found that:
(i) The Committee observed that the submission given by the Accounting Officer was satisfactory; and
(ii) The Committee therefore marked the matter as resolved.

280. Completion of Kamukunji Police Lines

1039) The tender for completion of Kamukunji Police Lines was awarded to a local construction company at a contract sum of Kshs.151,190,254. The contract agreement was signed on 18th October, 2018. The project was scheduled to take 52 weeks from 18 October, 2017 but the project completion date was further extended by 24 weeks.

1040) The scope of work included; fencing and perimeter wall; supply, installation, testing and commissioning of electrical installations; plumbing, drainage, fire protection and water reticulation services; and supply, delivery and installation of high-level and low-level water tanks and booster pumps.

1041) An audit inspection conducted on 6 January, 2020 revealed the following deficiencies:

i. The roof tops that had been constructed using galvanized iron sheets were leaking in all the three blocks while the white PVC T&G ceiling boards fitted were loose and, in some houses, had fallen off.
ii. The Bill of Quantities provided for three aluminium coated steel ladders not less than 9000mm long. However, the contractor did not fit the same.
iii. The Bills of Quantities provided for 48 sets of 5 lever mortice locks for doors fitting. The contractor instead used latches. Further, the contractor did not fit 40mm diameter rubber door steps as provided for in the Bill of Quantities.
iv. The windows were not fitted with grills as per the Bill of Quantities.
v. The heavy gauge chain-link perimeter wall fence above ground was not constructed as per specifications of the Bill of Quantities.
vi. The Bill of Quantities provided for two steel gates of 4500mm x 2400mm comprising of 25 x 25 x 3mm RHS vertical members at 100 mm welded to 25 x 25mm horizontal members at 400mm centers complete with gateposts wheels and guiding rails. However, only one gate was constructed according to the foregoing specifications but the wheels and guiding rails were not functional. Further, the second gate did not meet the above specifications while the culvert and head walls were not constructed as provided for in the Bill of Quantities.

1042) The Bill of Quantities provided for provisional sums of Kshs.20,000,000 and contingencies of Kshs.5,000,000 for additions required to complete Kamukunji Lines Police Station and for provision for fluctuations in prices, respectively. However, documentary evidence on how the total amount of Ksh.25,000,000 was utilized was not availed for audit review.

1043) The Bill of Quantities under preliminaries included provisions for the following services/items: prevention of accidents, damage or loss-Kshs.260,000; working conditions-Kshs.120,000; labour camp - Kshs,200,000; demolitions and alterations-Kshs.200,000; materials from demolitions-Kshs.100,000; existing services-Kshs.150,000; performance bond-Kshs.300,000; delivery of tender-Kshs.25,000; project managers expenses-Kshs.1,538,240; desktop computer-Kshs.400,000; training-Kshs.1,000,000; area to be occupied by contractor-Kshs.200,000; protection of works-Kshs.500,000; training levy-Kshs.500,000 and hoarding-Kshs.500,000. However, no documents were provided for audit to confirm how the foregoing preliminaries amounting to Kshs.5,993,240 were accounted for.

1044) Consequently, it was not possible to determine whether value for money was obtained in respect of the expenditure of Kshs.151,190,254 incurred on the contract for completion of Kamukunji Lines Police Station.

Submission by the Accounting Officer

1045) The Accounting Officer submitted as follows:

ii) **Main works - Roofing**

1046) It was true that the approved concrete roofing tiles were not used as provided for in the BQs but instead IT 5 roofing sheets were used and was approved by the project manager. This was necessitated by the fact that the tender documents were prepared in the year 2013 and the work executed in the year 2017 when the specified concrete roofing tiles were out of market.

iii) **Leaking roofs due to poor workmanship**

1047) It was true that the roofs were leaking. This was later captured in the snag list and made good by the contractor.

iv) **Aluminium Coated Steel Ladder**

1048) This item was not done by the contractor and has not been paid for. This will be omitted from the final account.

v) **Doors**

1049) This was captured in the snag list and made good by the contractor.

vi) **Windows**

1050) The windows were not fixed by the contractor and will be omitted from the final account.

vii) **Perimeter wall**

1051) It is true that chain link fence was not constructed as per the bill of quantities' specifications. This was requested by the client due to security concerns since the section was exposing the station building to the Ring Road side. In its place, a masonry wall of 4m high was done.

viii) **Provisional sums - Kshs. 25,000,000.00**

1052) The Bill of quantities provided for a provisional sum of Kshs.20,000,000.00 and Kshs.5,000,000.00 in respect of contingencies for repairs required to complete Central and Pangani police stations and provision for fluctuations respectively. The provisional sum of Kshs.20,000,000.00 and Kshs.5,000,000.00 was for Kamukunji project only. Some of the items taken care of by the Provisional sums are;

- Pedestrian gate

- Gate house
- Pump house
- Additional civil works
- Extended preliminaries.

1053) Final Account is being prepared by the Project Manager. The project is complete and the buildings are in use. All the defects were made good and a handing over certificate issued accordingly.

1054) **Committee Observations and Findings**

(i) The Committee however observed that the submission made by the Accounting Officer was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

281. Proposed Completion of Pangani Police Station Civil Works

1055) The tender for the proposed completion of Pangani Police Station Civil Works was awarded to a local construction company at a contract sum of Kshs.10, 839,488. The contract agreement was signed on 10 April, 2018. The works were to be executed for a period of 52 weeks from 10 April, 2018. The scope of works included access road and parking areas. An audit inspection conducted on 6 January, 2020 revealed that the contractor had abandoned the site and the work had not been completed.

1056) Further, the compact 25mm premix dense bituminous wearing course, the joint precast concrete channel 250x125mm including 100mm thick concrete bed and haunch, the footpaths, storm water drainage both open and slotted work, headwalls and culverts, foul water drainage works and the pipe and the manhole constructions had not been done as per the Bill of Quantities. In addition, the contractor left the manholes dangerously open and exposed.

1057) Consequently, it was not possible to ascertain whether value for money was obtained regarding the expenditure of Kshs.7,741,580 incurred on the contract for the completion of Pangani Police Station civil works.

Submission by the Accounting Officer

1058) The Accounting Officer submitted that it was true that:

- The Contractor abandoned the site in July, 2019 and works had not been completed. A warning letter was subsequently issued to the Contractor on 10th January, 2020 by the project manager to resume work which he failed to do.
- The Ministry is in the process of terminating the contract in accordance with the termination clause of the contract.

1059) I also wish to state that By the time Contractor abandoned site, the Works were at 85% completion while the certified amount was about 71% (Ksh.7,741,580.00) of the contract sum of Ksh.10,839,488.00 as per Project Manager's letter Ref: SD/DO1/PAN-POL/82/6956BVOL.II/5 dated 18th August 2020.

1060) **Committee Observations and Findings**

(i) The Committee observed that the submission made by the Accounting Officer was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1061) **Conclusion**

282. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REVENUE STATEMENTS – STATE DEPARTMENT FOR INTERIOR

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

283. Fees on Use of Goods and Services

1062) The statement of receipts and transfers reflects an amount of Kshs.4,838,182,626 as having been received during the year under fees on use of goods and services. However, the audit revealed the following anomalies:

283.1 Under-Charge of Licenses at Betting Control and Licensing Board

1063) Examination of revenue records maintained at Betting Control and Licensing Board revealed that the Board did not use the recommended revenue collection rates during the issue and renewal of various classes of licenses. This resulted in the revenue undercharge of Kshs.1,500,000 which is yet to be accounted for.

Submission by the Accounting Officer

1064) The Accounting Officer submitted that it was true that:

a) Kshs 1,000,000.00 (under receipt)

The under receipt of Kshs. 1,000,000.00 relates to Gamcode Ltd. The Betting Control & Licensing Board communicated to the company informing them of the outstanding receipt for Public Gaming License of 2018/2019 Financial Year. The company responded on 4/6/2019. Since there was no evidence of the receipt, the BCLB declined renewal of their License for 2019/2020 as per attached letter Ref: BCLB 11/13 VOL.IV. Dated 1st July 2019.

It has emerged that the company has since closed gaming business and some of its promoters have left the country.

b) MR. B5245718 - (under receipt)

The undercharge of Kshs.500,000.00 indicated by our Auditors was subsequently paid vide receipt No. MRB5245718. Renewal Application fee is paid on application to unlock the License process. The application was paid vide receipt No. MRB5246186. Proper rates were applied in both cases.

1065) **Committee Observations and Findings**

(i) The Committee observed that the explanation provided by the Accounting Officer was satisfactory;

(ii) The Committee therefore marked the matter as resolved.

283.2 Uncollected Revenue For Hire of Security Services

1066) Examination of records maintained at Security of Government Buildings Unit revealed that an amount of Kshs.143,233,000 in respect of security services offered to Kenya Revenue Authority from January, 2016 to October, 2019 had not been received or collected. This is contrary to Section 57(6)(1) of the National Police Service Standing Orders which requires payments to be made before security services are deployed or offered.

1067) Further, a review of Nairobi Area Police records revealed that various banks were offered security services from July, 2018 to June, 2019 in respect of which an amount of Kshs.8,526,033 had not been received or collected for the security services rendered. In addition, the Critical Infrastructure Police Unit (CIPU) also rendered security services to various Machakos County clients for which an amount of Kshs.911,450 had not been received or collected. The Memorandum of Understanding (MoU) between the CIPU and the clients requesting for hire of security services was not provided for audit review.

1068) Under the circumstances, the accuracy and completeness of the reported fees on use of goods and services receipts of Kshs.4,838,182,626 for the year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

1069) The Accounting Officer submitted as follows:

1070) Security of Government Buildings

1071) The cumulative figure of Ksh.143,233,000.00 (One Hundred and forty three Million, two Hundred and thirty three Thousand) which was in arrears from January, 2016 to October,2019 was due to non-payment by KRA for security services rendered to them. Several demand notes and invoices have been sent to them before and after this audit query but they have not been able to pay to date; Refer to SGB/KRA/20/VOL.VI/50 dated 13th November 2020 and SGB/QM/009/VOL.VIII/79 dated 25TH March, 2019 attached herewith for ease of reference.

1072) The KRA management agreed on the receipt of all correspondences to them Ref: KRA/CSSD/24/7/Vol. IV/128 dated 10th April,2019 acknowledging that they received the services and have factored the debt in the funding request made to the National Treasury. They promised to clear the debt when funds are made available by the Treasury.

Further submission by the Kenya Revenue Authority – KRA

Mr. James Githii Mburu, the Commissioner General Accounting Officer for the Kenya Revenue Authority – KRA appeared before the Committee on 9th June, 2021 accompanied by the following officers.

1. Ms. Lilian Nyawanda - Commissioner Customs
2. Mr. Joseph Kaguru - Deputy Commissioner Customs
3. Ms. Grace Wandeu - Deputy Commissioner Customs
4. Mr. Andrew Osiang - Chief Manager

1073) **On why KRA had not paid Revenue for Security Services**

- The authority was underfunded and could not raise enough money pay debtors
- The authority was also unable to meet the budgetary needs of the organization.

1074) On further deliberations by Members on this matter, it was resolved that the KRA should engage with the Principal Secretary Interior and other concerned parties to settle this matter.

1075) The Committee would also engage the Principal Secretary of the National Treasury to ensure adequate budgetary allocation is made to critical institutions such as KRA to meet their financial obligations.

Nairobi Area Police

1076) It is true Nairobi Area Police offered security services to various Banks from July 2018 to June 2019 in respect of which an amount accrued of Kshs.8,008,433.00 and not Kshs.8,526,033.00 as indicated by the Auditors.

1077) There has been a follow up by the sub Counties concerned and payments had been effected to the tune of Kshs.6,043,233.00, hence the outstanding amount is Kshs.1,965,200.00 which follow up is being done by the various sub- counties.

Critical Infrastructure Police Unit

1078) All the outstanding Revenue in arrears amounting to Kshs.911,450.00 has been paid as indicated on the table and copies of cheques which were attached.

S/NO	INSTITUTION	AMOUNT
1	Family Bank	84,600.00
2	Barclays Bank	122,800.00
3	National Bank	35,000.00
4	Universal Traders Sacco	35,500.00
5	G4S	103,950.00
6	Wells Fargo	28,500.00
7	Credit Bank	69,900.00
8	Sidian Bank	107,200.00
9	Landmark Holdings Ltd	108,000.00
10	Benchmark Distributors Ltd	216,000.00
	Total arrears	911,450.00

1079) **Committee Observations and Findings**

(i) The Committee observed that the explanation by the Accounting Officer was satisfactory.

(ii) The Committee further observed that the Kenya Revenue Authority - KRA was yet to clear security services amounting to Ksh.143,233,000.00 as a result of lack of budget for the same;

1080) **The Committee recommended that:**

1) **Within three months upon adoption of this report, the KRA be gazette as a strategic national institution/installation.**
2) **The Head of Public Service should, within three months upon adoption of this report, establish a common multi-agency approach towards treatment of costs related to security of strategic government institutions and installations.**

284 Banking of Revenue in Undesignated Accounts

1081) On 20 November, 2018 and again on 14 June, 2019, the Accounting Officer for the State Department for Interior, directed that all revenue collected by all departments under the State Department for Interior directly and through Huduma Centres, County registrars, Sub-County registrars and all regional coordinators should always be banked immediately and directly into the Central Bank of Kenya Account No.1000209585 and Kenya Commercial Bank, Account No.1119750730 for the Ministry of Interior and Coordination of National Government. However, examination of revenue records revealed that despite the Accounting Officer's instructions, the Kenya Police Service and the Security of Government Buildings Unit have continued to bank the revenue collected in undesignated accounts at the National Bank of Kenya Account No.01001005016300 and Account No.01001000904600, respectively.

1082) Further, during the year under review, revenue transfers were done quarterly to the account maintained at the Central Bank of Kenya rather than immediately contrary to the Accounting Officer's instructions, which also required revenue returns to be submitted to the State Department for Interior Headquarters by the 5th of every month. No explanation has been provided for the noncompliance.

Submission by the Accounting Officer

1083) The Accounting Officer submitted the Principal Secretary directive Ref No. AC: 10/5/1 VOL1/16 dated 14th June, 2019 has been largely adhered to by the two Departments i.e. Kenya Police Service and Administration Police Service. For instance, in Security of Government Buildings and VIP protection Unit the letter was relayed to the institutions through circular letter Ref no. NPS/APS/FIN/2/10 VOL.1 (35) dated 6th January, 2020. The only institution that had failed to do so was Kenya School of Law which has since been directed to conform through attached invoices. As demonstrated above, the directives have been followed except a few cases where action and follow up is being done.

1084) **Committee Observations and Findings**

(i) The Committee observed that the explanation provided by the Accounting Officer was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1085) **Conclusion**

285 There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL COHESION AND INTEGRATION COMMISSION

REPORT ON THE FINANCIAL STATEMENTS

1086) **Unqualified Opinion**

286 There were no material issues noted during the audit of the financial statements of the Commission.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1087) **Conclusion**

287 There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1088) **Conclusion**

288 There were no material issues relating to effectiveness of internal controls, risk management and governance.

GOVERNMENT PRESS FUND

REPORT ON THE FINANCIAL STATEMENTS

1089) **Unqualified Opinion**

289 There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1090) **Conclusion**

290 There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1091) **Conclusion**

291 There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL HUMANITARIAN FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

292 Unsupported Payments To Internally Displaced Persons

1092) As disclosed in Note 4 to the financial statements, the National Humanitarian Fund made payments totaling Kshs.176,600,319.00 to Internally Displaced Persons (IDPs) under cash payments programme in 2018/2019 financial year. However, supporting schedules for the payments were not provided for audit review with Management indicating that the banks requested for more time to collect the data from various branches that paid the IDPs.

1093) In the circumstances, it has not been possible to ascertain the propriety of the expenditure of Kshs.176,600,319.00 included under other grants and transfers and payments in the statement of receipts and payments for the year ended 30 June, 2019.

Submission by the Accounting Officer

1094) The Accounting Officer submitted it was true that Note 4 to the financial statements for the National Humanitarian Fund disclosed payments totaling to Kshs.176,600,319.00 to Internally Displaced Persons (IDP'S) under cash payment programme in 2018/19 financial year. The banks requested for more time to collect data from various branches that paid the IDPs. A 500 page soft copy was forwarded to your office for verification.

1095) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer had availed payment schedules and bank statements which were verified and found to be satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

293 Unaccounted for Advances

1096) The statement of financial assets and liabilities reflects outstanding imprests and advances totaling Kshs.71,960,000.00 as at 30 June, 2019. As disclosed in Note 5B to the financial statements, the outstanding advances of Kshs.68,960,000.00, Kshs.2,000,000.00 and Kshs.1,000,000.00 were issued to County Commissioners of Mandera, Nakuru and Bomet respectively in 2014/2015 financial year for onward transmission to the beneficiaries (IDPs). However, no evidence has been provided as a proof that the funds reached the intended beneficiaries.

1097) In the circumstances, it has not been possible to ascertain the completeness, existence and accuracy of the imprests and advances balance of Kshs.71,960,000 as at 30 June, 2019.

Submission by the Accounting Officer

1098) The Accounting Officer submitted that the outstanding advances relate to Authority to Incur Expenditures (AIEs) issued to County Commissioners of Mandera, Nakuru and Bomet in 2014/2015 financial year by the Ministry of Devolution and Planning. Detailed findings are as below:

a. Nakuru

1099) The County Commissioner Nakuru received Kshs.2, 000,000.00 on 7th April 2016 vide AIE no. 172760 being funds for construction of classrooms in two schools, Chebugen primary school and Governor Secondary for supporting Internally Displaced Persons. (IDPs). Kshs.1000,000.00 was spent on construction of classrooms at Governor Secondary School, Naivasha. The balance of Kshs.1,000,000.00 was returned to the Ministry of Devolution and Planning because the funds were for Chebugen School which is in Bomet.

b. Bomet

1100) The County Commissioner Bomet received Kshs.1,000,000.00 on 26th May 2016 Vide AIE no. 631876 and a letter Ref: MDP/314/VOL.III/42 dated 16th April 2016 being funds for construction of classrooms in Chebugen Primary School for support of Internally Displaced Persons (IDPS).

c. **Mandera**

1101) The County Commissioner Mandera received Kshs.68,690,000.00 vide AIE No. A172757 for construction of 104 No. IDP housing units at Rhamu. A team of internal auditors confirmed that the tendering process was in accordance with the procurement laws and that the 104 housing units were actually constructed.

1102) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer had availed copies of payment vouchers with other supporting documents for audit verification and found to be satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

294 Long Outstanding Bank Reconciliation Items

1103) As disclosed in Note 5A to the financial statements, the statement of financial assets and liabilities reflects cash and cash equivalent balance of Kshs.567,652,452.60 as at 30 June, 2019. A review of the bank reconciliation statements as at 30 June, 2019 revealed payments totaling Kshs.582,888.00 in the cash book not yet recorded in the bank statement and which includes Pay As You Earn (PAYE) amounting to Kshs.438,000.00 which has been outstanding since 2017. The bank reconciliation statements also reflect payments totalling Kshs.6,912,100.70 in the bank statement not yet recorded in the cash book which have also been outstanding since 2017.

1104) No satisfactory explanation has been given for failure to clear the long outstanding balances.

Submission by the Accounting Officer

1105) The Accounting Officer submitted that the long outstanding bank reconciliation items have been identified and cleared.

1106) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer had availed copies of bank reconciliation documents for audit verification and found to be satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1107) **Conclusion**

295 There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1108) **Conclusion**

296 There were no material issues relating to effectiveness of internal controls, risk management and governance.

7. THE STATE DEPARTMENT FOR CORRECTIONAL SERVICES

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1023

Ms. Zainabu Hussein, the Accounting Officer for State Department of Correctional Services (Vote 1023) appeared before the Committee on 2nd June, 2021, to adduce evidence on the Audited Financial Statements for State Department of Correctional Services (Vote 1023) for the Financial Year 2018/2019. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

1. Mr. Wycliffe O. Ogalo - Commissioner General, Prisons
2. Mr. Mwangi Daniel - Audit & Accounting Manager
3. Mr. Philip Mwangi - Senior Chief Finance Officer
4. Mr. Joseph Kirubi - Secretary Administration
5. Ms. Mary Mbau - Director Probation & aftercare Services
6. Mr. David Muriithi - ASS. Comm. Prisons
7. Mr. Shadrack Kavuthi - Ass. Director Probation & Aftercare Services
8. Mr. Silas Mutwiri - Chief Insp. Prisons
9. Mr. Wyclife Muturi - Head of Internal Audit
10. Ms. Wairimu Thang'ate - SACGP
11. Mr. Joseph N. Mutevesi - SACGP
12. Mr. Samfantony Kyalo - SP – KPS
13. Mr. David Njoroge - Principal Supply Chain Management Officer
14. Ms. Nelly Njoroge - PS Office

And submitted as follows:

297. Unsupported Transfers from Development Vote to Deposits Account

1109) The statement of assets and liabilities reflects a balance of Kshs.130,469,777 under accounts payables – deposits which includes an amount of Kshs.56,588,053 that was transferred from the State Department's Development Account to Deposits Account. According to Management, the transfer was in relation to retention money withheld from various contractors. However, no documentary evidence was provided for audit review to confirm the contracts in respect of which the retention money was withheld, and the amount deducted and withheld for each contract.

1110) In these circumstances, it was not possible to confirm the validity and accuracy of the account payables – deposits balance of Kshs.130,469,777 as at 30 June, 2019.

Submission by the Accounting Officer

1111) The Accounting Officer submitted that it was true that the State Department Transferred from Development Vote to Deposits Account an amount of Ksh.56,588,053.00. This amount related to retention monies held by the Defunct Office of the Vice President and Ministry of Home affair as at June, 2013. The amount held at the Central Bank of Kenya vide account number 1000122099 was transferred to the exchequer account on 06 October, 2014 and the bank account closed. The State Department was advised vide National treasury letter REF:AG. 3/176 Vol.1/24 dated 31st March, 2017 to request for budgetary allocation.

1112) The balance after five years will be surrendered to the Exchequer as per the PFM Act Regulation 2015 which started from the financial year 2018/2019.

1113) **Committee Observations and Findings**

The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the unsupported transfers from development vote to deposits account was satisfactory;
2) The Accounting Officer had provided all the supporting documents including bank slips, bank statements and letters of authority for audit verification; and
3) **The Committee marked the matter as resolved.**

Other Matters

298. Pending Bills

1114) Note 14 to the financial statements reflects pending bills amounting to Kshs.6,278,208,687 as at 30 June, 2019 which were not settled in the year under review but carried forward to 2019/2020 financial year. As further disclosed in Annex I to the financial statements, the pending bills balance includes long outstanding unpaid bills totalling to Kshs.6,212,289,160 and relating to 2017/2018 and earlier years. Failure to settle bills in the year to which they relate adversely affects the subsequent year`s provisions to which they have to be charged.

Submission by the Accounting Officer

1115) The Accounting Officer submitted that it was true that the State Department's pending bills as at 30th June, 2018 amounted to Kes.6, 204,906,533.85. The pending bills are a carryover from various financial years.

1116) Owing to the audit reports that declared the pending bills as non-payable due to the internal weaknesses inherent in the claims, the State Department sort advice from the National Treasury-Pending Bills Multi-Agency Task force. The amount of Kes.6,204,906,533 was forwarded to the National Treasury pending bills closing committee for further guidance vide the State Department's letter to the National Treasury Ref No: SDC/SEC/PRIS/11/40 dated 28th June 2019.

1117) The National Treasury Pending Bills Multi Agency team observed that as the bills do not meet the criteria for payment as observed by the auditor. However since most of the claims were lacking supporting documents that were supposed to be internally generated, the PB- MAT advised that those lapses were due to internal weaknesses and therefore the need to waive some of the requirements as per the Public Finance Management Act (PFMA), Public Procurement and Disposal Act (PPDA) and other laws and regulations.

1118) The bills are to be paid subject to the criteria as below;

1. Evidence that the suppliers were qualified in the financial year of the purported supplies.
2. Evidence that the prices quoted were the same as in the prequalification.
3. Evidence that goods and services supplied were ordered for by the Officer In Charge at the time.
4. Evidence that the goods and services were duly received by a competent officer at the receiving station.

1119) The state department constituted teams under the direction of the PB-MAT for purposes of vetting of suppliers, signing of indemnity form by the supplier, verification and collection of the pending bills documents from Prison Stations countrywide.

1120) Funds amounting to Ksh.5,724,820,121.00 were allocated in the 2019/2020 supplementary 2 budget with Ksh.5,625,320,121.00 for payment of pending bills and Ksh.99,500,000.00 for operations. The funds were transferred from the voted provision under recurrent to the Pending bills Deposit account on 29th June 2020 since it was at the closure of the financial year 2019/2020.

1121) The National Treasury granted the authority to process the pending bills vide letter ref TNT/IFMIS/MIN/094 (35) dated 13TH August 2020.

1122) The State Department started processing of the pending bills based on regions and has made payments as below;

REGION	TREASURY LIST Kshs	TOTAL PROCESSED Kshs	LIST LESS PROCESSED Kshs	PAID Kshs
NORTH EASTERN	118,320,682.40	106,901,790.00	11,418,892.40	79,260,919.65

LOWER EASTERN	214,966,113.90	120,365,404.00	94,600,709.90	53,434,984.55
UPPER EASTERN	406,917,863.50	330,221,562.00	76,696,301.50	245,670,263.50
CENTRAL	436,517,122.50	369,213,561.80	67,303,560.70	205,652,176.80
SOUTH RIFT	883,733,320.65	565,145,878.15	318,587,442.50	272,231,558.65
NYANZA	1,049,039,285.45	791,741,094.00	257,298,191.45	488,105,146.10
NAIROBI	996,537,046.85	654,303,720.75	342,233,326.10	308,525,188.20
NORTH RIFT	452,769,909.25	200,522,811.50	252,247,097.75	66,791,084.00
WESTERN	473,377,049.25	319,975,511.85	153,401,537.40	-
COAST	1,168,651,754.10	-	1,168,651,754.10	-
TOTAL HISTORICAL BILLS PAID	6,200,830,147.85	3,458,391,334.05	2,742,438,813.80	1,719,671,321.45

1123) **Challenges in implementation of the payment process**

1. The suppliers in the stations countrywide were not on IFMIS and upon registration, information gaps relating to PIN became evident. The suppliers have to comply with the Kenya Revenue Authority to updates the supplier PIN numbers thus taking time.
2. Information gaps in supplier bank account details as some of the supplier bank accounts were dormant and had to be activated by the suppliers.
3. Supplier invoices that were partly paid and therefore taking time to reconcile.
4. Bulky documents supporting the claims on perishables which are supplied frequently in small quantities but invoiced periodically thus taking time to reconcile.
5. The State Department verified 20,000 claims from the stations countrywide.

1124) The state Department is committed to resolving all the historical pending bills that meet the set criteria by the PB-MAT and approved by the Cabinet. The Department cleared its pending bills incurred in the financial years 2018/2019 and 2019/2020 in the following financial year's budget allocations in both cases.

Committee Observations and Findings

1125) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the settlement of the pending bills was satisfactory;

2) The bills were being settled progressively on clearance by the Taskforce on Pending Bills and in line with the Cabinet Memo; and
3) The matter therefore remained unresolved.

1126) The Committee recommended that:
The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

299. Irregular Procurement Process

1127) Contracts records and tender evaluation reports for various construction projects maintained at the State Department for Correctional Services show that contracts worth Kshs.170,721,762 were awarded to various contractors during the year under review. However, an audit review of the Tender Opening and Evaluation Committees appointment letter dated 22 November, 2017 revealed that nine members were appointed to participate in both the Opening and Evaluation Committees contrary to Section 78(1) of the Public Procurement and Asset Disposal Act, 2015, which require that at least one of the members shall not be directly involved in the processing or evaluation of the tenders. Further, audit review of the bid documents submitted by the bidders revealed that some of the contractors did not have the technical specifications and structural designs for the buildings. In the absence of the architectural designs and other technical specifications, the bidders could not compete openly, fairly and effectively with the other bidders contrary to the requirements of Section 60(1) and (2) of the Public Procurement and Asset Disposal Act, 2015. In addition, examination of the proposed construction contract records and tender documents revealed that the contractors did not submit performance security bond or tender securities as prescribed in the tender documents.

1128) In the circumstances, the provisions of Public Procurement and Asset Disposal Act, 2015 were not fully complied with as regards the contracts worth Kshs.170,721,762.

Submission by the Accounting Officer
1129) The Accounting Officer submitted that it in reference to the appointment letter of opening and evaluation committee for Restricted Tenders dated 22nd November, 2017 the appointment of the same members to carry out the opening and evaluation was an oversight. The State Department has ensured adherence to the Public Procurement and Disposal Act 2015, by appointing separate tender opening and evaluation committee members from 2018/2019 financial year onward.

1130) It was true that the records maintained at the State Department show that contracts amounting to Kes.170,721,762 were awarded to various contractors. During the audit the bid documents were at the site stations. The technical specification and structural designs for the missing contractors were later issued to the auditors for verification.

1131) In reference to performance security bond or tender security as prescribed in the tender document the procuring entity did not request the winning firm to provide a performance bond as prescribed in the bid document which was an oversight and has since been corrected.

1132) **Committee Observations and Findings**

The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the irregular procurement process was satisfactory;
2) All procurement processes have been centralized and streamlined for all the 129 centres across the Country; and
3) **The Committee therefore marked the matter as resolved.**

1133) **The Committee recommended that:**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1134) **Conclusion**

300. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PRISON INDUSTRIES REVOLVING FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

301. Pay Master General (P.M.G) Account

1135) The statement of financial position reflects a balance of Kshs.175,987,430 under Pay Master General (P.M.G) Account. The balance represents amounts held on behalf of the Fund in the former Ministry of Home Affairs Deposits Account which was yet to be transferred to the Fund's new account as at 30 June, 2019. In addition, documentary evidence including bank certificates and bank reconciliation statements for the said deposits account have not been provided to support this balance.

1136) In the circumstances, the existence, completeness and accuracy of the P.M.G Account balance of Kshs.175,987,430 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

1137) The Accounting Officer submitted that it was true that Prison Industries Fund PMG had a closing account balance of Kshs.175,987,430.00 as at 30th June, 2019 which includes funds not yet transferred from former Ministry Of Home Affairs (MOHA) deposit account to the Ministry of Interior and Co-ordination. Moreover, it's important to note that both Farms and Industries operate one bank account where all the revenues collected are deposited.

PMG BALANCES				
		INDUSTRIES	**FARMS**	**TOTAL PMG BAL**
2013/2014	Bal B/F 1st July 2013	119,965,675.51	56,021,755.07	175,987,430.58
2013/2014	Add revenue for (1st July - 30th Oct)	155,336,405.00	18,634,357.35	173,970,762.35
		275,302,080.51	74,656,112.42	349,958,192.93
Less: amounts transferred to Ministry of Interior & Coord fund account from MOHA.		(92,135,930.55)	(26,589,743.85)	(118,725,674.40)
Bal. as at 30th Oct 2013		175,987,430.00	56,021,755.07	231,232,518.53

1138) During the financial year 2012-2013, books of account for both Prison Industries and Farms reflected the balance in the PMG as follows: -

Prison Industries	Kshs. 119,965,675.51
Prison Farms	Kshs. 56,021,755.00
Total	**Kshs. 175,987,430.51**

1139) This balance was not reconciled by the then Ministry of Home Affairs who was the administrator of the account. During the financial year 2013-14 the management of the fund was transferred to the Ministry of Interior and Co-ordination of National Government where KPS is currently domiciled. The deposit account was put on suspension between 1st July – 30th October, 2013. During this period, prison farms and industries were depositing revenue at the suspended deposits account. A separate bank account under the name Prison Industries Fund (PIF) was opened by the Ministry of Interior and Co-ordination of National Government on 3rd October, 2013.

1140) As from 1st July, 2013 to 31st October, 2013 both prison industries and prison farms had generated and deposited revenue in the suspended MOHA Deposit Account as follows: -

Prison Industries	Kshs. 155,336,405.00
Prison Farms	Kshs. 18,634,357.35
Total	**Kshs. 173, 970,762.35**

1141) During the transfer of Prison farms and industries funds from MOHA to Interior and Co-ordination of National Government, reconciliation of the deposit account for the period July – October 2013 confirmed that both Prison Industries and Farms had deposited Kshs.**173,970,762.35**. The amount transferred to the new prison industries fund account was Kshs.**118,725,674.40** only as tabulated below, leaving a balance of Kshs.**55,245,087.95.**

Prison Industries	Kshs. 92,135,930.55
Prison Farms	Kshs. 26,589,743.85
Total	**Kshs. 118,725,674.40**

1142) The remaining balance not transferred to the new PIF Account is as below:

Balance of revenue raised during 2013/2014	Kshs. 55,245,087.95
PMG balance b/f 1st July, 2013	Kshs. 175,987,430.51
Total	**Kshs. 231, 232,518.46**

1143) During the transfer of funds from MOHA to the Ministry of Interior and Co-ordination only Kshs.118,725,674.40 was transferred to the new deposit account leaving balance of Kshs.55,245,087.95 and the closing balance of Kshs.175,987,430.51 as at 30th June, 2013 totaling to Kshs.231,232,518.46 which was not transferred to the new Industries Fund account.

1144) **Committee Observations and Findings**

The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the Pay Master General (P.M.G) Account was not satisfactory;
2) No evidence of correspondences was provided for any verification whatsoever; and
3) The matter therefore remained unresolved.

1145) **The Committee recommended that:**

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

302. Cash In Transit

1146) As disclosed in Note 12 to the financial statements, the statement of financial position reflects a balance of Kshs.30,318,827 in respect of cash in transit as at 30 June, 2019. Although the same amount was also reflected in the previous year's financial statements, no documentary evidence has been provided to support the balance of Kshs.30,318,827.

1147) Consequently, the existence, validity and accuracy of the cash in transit balance of Kshs.30,318,327 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

1148) The Accounting Officer submitted that it was true that the Statement of Financial position reflects a balance of Ksh.30,318,827.00 against cash in transit as at 30 June 2019. This is revenue collected from sale of manufactured products receipted but not yet deposited to the fund account. The cash is being held up in unpaid recurrent payment vouchers which form part of the historical pending bills that are currently being processed.

1149) **Committee Observations and Findings**

The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the cash in transit was satisfactory;
2) Documents in support of the cash in transit were provided for audit verification; and
3) **The Committee therefore marked the matter as resolved.**

Other Matter

303. Budget Control and Performance

1150) The statement of comparison of budget and actual amounts reveals that the Prison Industries Revolving Fund realized an actual revenue amount of Kshs.444,535,245 or 86% against budgeted revenues of Kshs.517,092,226. Further, the statement indicates that the Fund utilized an amount of Kshs.251,351,321 which represents 51% of the budget expenditure figure of Kshs.493,797,982, resulting to an under expenditure of Kshs.242,446,661 which represents 49% of the budgeted expenditure. Consequently, the Fund may not have implemented all programs and work plans fully as approved in the budget.

Submission by the Accounting Officer

1151) The Accounting Officer submitted that it was true the statement of comparison of budget and actual amounts revealed that the prison industries budget for 2018/2019 financial year was Kshs.493,797,981.84 and the total expenditure as at 30th June 2019 was Kshs.251,351,321.00 which was an under expenditure.

1152) Prison Industries revolving fund rely on cash collected from the revolving fund income generating activities.

1153) **Committee Observations and Findings**

The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the Budget Control and Performance was satisfactory;
2) There was no under expenditure as the funds were not received; and
3) The Committee therefore marked the matter as resolved.

1154) **The Committee recommended that:**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

304. Stalled Project for Production of Modern Motorized Vehicle Number Plates and Supply and Delivery of Motorized Vehicle Number Plate Blanks

1155) An audit inspection done on 25 September, 2019 and a review of records at Kamiti Main Prison Industry revealed that machines for producing modern motorized vehicle number plates which were supplied and delivered in the year 2016 at a cost of Kshs.15,295,500 had never been used for the intended purpose and remained idle. In addition, a three-year contract for supply and delivery of motorized vehicle number plate blanks was signed on 7 November, 2017 and executed. However, the raw materials (motorized vehicle number plate blanks) delivered, were still held at the Kamiti Main Prison Industry stores.

1156) In the circumstances, and although the Fund's Management indicated that the matter is under investigation, value for money has not been achieved owing to the delay in implementing the project.

Submission by the Accounting Officer

1157) The Accounting Officer submitted that the State Department started the process of modernizing number plate production in 2014 but the process has faced various challenges including securing funds and unending litigation.

1158) Indeed, some of the machines were procured and installed in 2016 at a cost of Kshs.15,295,500.00. However, the process was not completed due to lack of the laser marking machine used for final validation of number plates.

1159) Currently, the matter is under litigation in the High Court vide case No. HCCOMM/E321/2020.

1160) **Committee Observations and Findings**

The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the Stalled Project for Production of Modern Motorized Vehicle Number Plates and Supply and Delivery of Motorized Vehicle Number Plate Blanks was satisfactory;
2) Evidence of claims and the copy of the defense by the Attorney General was provided for audit verification; and
3) **The Committee therefore marked the matter as resolved.**

1161) **The Committee recommended that:**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

305. Unequal treatment of Suppliers

1162) A review of payments registers at the Prisons Headquarters for the financial year 2018/2019 revealed that out of invoices totalling Kshs.238,601,175 submitted to the State Department of Correctional Services Headquarters for payment, invoices amounting to only Kshs.102,671,940 were paid during the year, leaving pending bills of Kshs.135,929,235.

1163) Further, out of the seventy-four (74) suppliers, only twelve (12) suppliers were paid during the year. However, reasons for prioritizing the payments of Kshs.102,671,940 to the twelve (12) suppliers were not clearly explained by Management. It would, therefore, appear that there was unequal treatment of suppliers contrary to the provisions of Article 227(1) of the Constitution which requires a state organ or any other public entity that enters into a contract for supply of goods or provision of services to ensure that the system used is fair, equitable, transparent, competitive and cost- effective.

Submission by the Accounting Officer

1164) The Accounting Officer submitted that it was true that during the financial year 2018/19, Prison Industries forwarded for payment invoices amounting to Ksh.238,601,175.00 to the State Department Headquarters. Payments amounting to Kshs.102,671,940.00 were made and reflected in the Prison Fund's bank account statement. The unpaid invoices amounting to Kshs.135,929,235.00 were processed late and therefore could not be settled before 30th June 2019. Management has managed to settle Kshs.97,782,135.00 leaving a balance of Kshs.38,147,100.00. The State Department is carrying out due diligence before the balance is settled.

1165) **Committee Observations and Findings**

The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the unequal treatment of suppliers was satisfactory;
2) The Accounting Officer provided all the supporting documents including bank slips, bank statements and payment vouchers for audit verification; and
3) **The Committee therefore marked the matter as resolved.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1166) **Conclusion**

306. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PRISON FARMS REVOLVING FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

307. Unsupported and unreconciled Pay Master General (PMG) account balance.

1167) The statement of financial position as at 30 June, 2019 reflects a Pay Master General (P.M.G.) Account balance of Kshs.56,021,755 while the corresponding Note 11 to the financial statements show a P.M.G. balance of Kshs.95,825,187. The resulting difference of Kshs.39,803,432 has not been supported, reconciled or explained.

1168) Further, Note 11 to the financial statements indicates that the P.M.G. Account represents the amount held in the Ministry's Deposit Account on behalf of the Fund. However, the Ministry`s Deposit Bank Account had a balance of Kshs.65,939,663 instead of Kshs.56,021,755 as at 30 June, 2019. The resulting difference of Kshs.9,917,908 has not been analyzed or explained.

1169) Under the circumstances, the completeness and accuracy of the P.M.G. Account balance of Kshs.56,021,755 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

1170) The Accounting Officer submitted that the statement of financial position as at 30th June 2019 reflects an amount of Ksh.56,021,755. This figure has been disclosed in the notes attached to the financial statements as the amount that is held in the Ministry's Deposits account on behalf of the fund. However, note 11 to the financial statements reflect a balance of Ksh.95,825,096.70 which is the balance of cash and cash equivalents.

1171) PMG Account represents the amount held in the State Department's Fund Account. It represents the unspent income from all stations and deposited with the Ministry of Home Affairs as show below;

1172) **Cash And Cash Equivalents**

Description	**30th June 2018**	**30th June 2019**
Opening balance	57,504,034.00	2,112,235.70
sales (cash)	147,729,111.80	120,108,202.00
Total Cash & Cash Equivalents	**205,233,145.80**	**122,220,437.70**
Less: General Expenditures	130,699,065.00	26,395,341.00
Payment to creditors	16,400,000.00	-
Total payments	**147,099,065.00**	**26,395,341.00**
Net cash	**58,134,080.80**	**95,825,096.70**

Committee Observations and Findings

1173) The Committee observed and found that:

(i) The explanation given by the Accounting Officer with regard to the Pay Master General (P.M.G) Account was not satisfactory;

(ii) No evidence of correspondences was provided for any verification whatsoever; and (iii)The matter therefore remained unresolved.

1174) **The Committee recommended that:**

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

308. Suspense Account

1175) The statement of financial position as at 30 June, 2019 also reflects a balance of Kshs.5,809,155 under suspense account, which has not been analysed or supported by verifiable source documents as required under Regulation 107 of the Public Finance Management (National Government) Regulations, 2015.

1176) Consequently, the completeness and accuracy of the suspense account balance of Kshs.5,809,155 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

1177) The Accounting Officer submitted that it was true Fund's annual report and financial statement for the year ended 30th June, 2019 reflected a suspense account of Ksh.5, 809,155.33. The suspense account balance had been created by imperfect stock valuation records from field stations.

1178) The stock valuation of growing crops was overstated by Ksh.5, 809,155.33 resulting to a difference of Ksh.5,809,155.33 which has been corrected in the 2019/2020 financial statements as below.

	Debit	Credit
Suspense account	Kshs.5, 809,155.33.	
Growing crops		Kshs.5, 809,155.33.

1179) Management has embraced stringent measures to ensure accurate stock taking procedures are adhered to.

Committee Observations and Findings

1180) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the suspense account was satisfactory;
2) The Accounting Officer had provided all the supporting documents including bank slips, bank statements and trial balances for audit verification; and
3) **The Committee therefore marked the matter as resolved.**

1181) **The Committee recommended that:**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

Other Matter

309. Pending Bills (Debtors)

1182) The statement of financial position and Note 8 to the financial statements reflects debtors (pending bills) totalling Kshs.156,459,707 as at 30 June, 2019, an increase of Kshs.8,445,486 from Kshs.148,014,221 as at 30 June, 2018. These bills were not settled in the year under review but were instead carried forward to 2019/2020 financial year. Failure to settle bills during the year to which they relate distorts the financial statements for that year and adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

1183) The Accounting Officer submitted that it was true that the state department's financial statements of prison Farms had pending bill payable amounting to Kshs.156,459,706.77 as at 30th June 2019 that were not settled in 2018/2019 financial year but were instead carried forward to 2019/2020.

1184) The debts were incurred and due diligence had to be exercised before settlement of the historical pending bills which had not been completed by 30th June 2019. Currently the bills are under consideration for settlement in the ongoing payment of pending bills for food and ration.

Committee Observations and Findings

1185) The Committee observed and found that:

(i) The explanation given by the Accounting Officer with regard to the pending bills (Debtors) was satisfactory;

(ii) The Accounting Officer provided all the supporting documents including minutes of the taskforce on pending bills for audit verification; and

(iii) **The Committee therefore marked the matter as resolved.**

1186) **The Committee recommended that:**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

310. Budget Control and Performance

1187) The statement of comparison of budget and actual amounts for the year ended 30 June, 2019 reflects the Fund`s projected sundry revenue of Kshs.252,300,000. However, the actual sundry revenue collected in 2018/2019 financial year amounted to Kshs.120,108,202, resulting in an under-collection of Kshs.132,191,798 or a 52.4% shortfall. Further, the Fund's projected expenditure for the year 2018/2019 was Kshs.201,750,000 while the actual expenditure was Kshs.26,297,241, resulting in an under-expenditure of Kshs.175,452,759 or 87% of the budgeted expenditure.

1188) The Fund did not therefore, fully implement its programs and work plans as approved in the budget.

Submission by the Accounting Officer

1189) The Accounting Officer submitted that Prison farm revolving fund budget does not depend on exchequer from National Treasury. It is funded from income raised by prison farms country wide. The budgeted expenditure of Kshs.201,750,000.00 was projected to raise budgeted revenue of Kshs.252,300,000.00 which was not realized to uncertain weather conditions in the country. This led to the actual expenditure being Kshs.26,297,241.00 against an actual collection of Kshs.120,108,202.79 in revenue.

Committee Observations and Findings

1190) The Committee observed and found that:

(i) The explanation given by the Accounting Officer with regard to the Budget Control and Performance for the Prison farm revolving fund was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

1191) **The Committee recommended that:**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1192) **Conclusion**

311. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1193) **Conclusion**

312. There were no material issues relating to effectiveness of internal controls, risk management and governance.

8. STATE DEPARTEMNT FOR IMMIGRATION AND CITIZEN SERVICES

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE - 1024

Dr. Eng. Karanja Kibicho, the Accounting Officer for the State Department of Interior (Vote 1021) appeared before the Committee on 10th May, 2021 to adduce evidence on the audited financial statement for the State Department of Interior (Vote 1021) for the Financial Year 2018/2019. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	Mr. Alex Muteshi	-	Director General Citizen Services & Immigration
2.	Ms. Alice W. Gichu	-	Senior Chief Finance Officer
3.	Ms. Loise Kibicho	-	Assistant Accountant General
4.	Mr. James K. Karori	-	Director AG
5.	Mr. David Mutia	-	Senior Principal Finance Officer
6.	Ms. Elizabeth W. Kiano	-	DIAG
7.	Mr. Peter N. Muita	-	Chief Finance Officer
8.	Mr. Joseph Macharia	-	Finance Officer
9.	Ms. Catherine Njeri	-	Finance Officer

Basis for Qualified Opinion

313. Unsupported Confidential Expenditure

1194) During the financial year, the State Department for Immigration and Citizen Services incurred a confidential expenditure under item 2211312, totalling Kshs.29,450,750. However, the expenditure was not supported by a certificate or a declaration by the Cabinet Secretary and Accounting Officer, contrary to the requirements under Regulation 101 (5) of the Public Finance Management (National Government) Regulations, 2015. Further, no documentary evidence was provided to support an expenditure of Kshs.722,500 out of the total confidential expenditure of Kshs.29,450,750.

1195) Consequently, it has not been possible to ascertain the propriety of the confidential expenditure of Kshs.29,450,750 incurred during the year ended 30 June, 2019.

Submission by the Accounting Officer

1196) The Accounting Officer submitted that the certificates were subsequently prepared and submitted to auditors for verification.

1197) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer had availed copies of payment vouchers with other supporting documents for audit verification and found to be satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

Other Matter

314. Pending Bills

1198) Disclosed in Note 11.1 to the financial statements are pending bills totalling Kshs.210,887,020 which were not settled during the year but were carried forward to 2019/2020 financial year. Had these bills been settled and the expenditure charged to the relevant accounts for 2018/2019, the statement of receipts and payments for the year would have reflected a deficit of Kshs.177,032,944 instead of the surplus of Kshs.33,854,076 now shown.

Submission by the Accounting Officer

1199) The Accounting Officer submitted that the department received Ksh.3,368,295,653.00 exchequer instead of Ksh.3,714,083,698.00 approved budget hence the reason for pending bills.

1200) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer had cleared all the pending Bills and availed supporting documents for audit verification and found to be satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1201) **Conclusion**

315. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

316. Lack of ICT Policy Documents

1202) The State Department for Immigration and Citizen Services did not have an approved ICT Policy, ICT strategic plan and a disaster recovery plan during the year under review. This is contrary to Treasury Circular No. 03/2009; Ref: MOF/IAG/033(75) requires that government entities/agencies to, among other things, develop and establish Risk

Management Policy and Framework (RMPF) to guide its strategic and operational activities.

Submission by the Accounting Officer

1203) The Accounting Officer submitted that it was true the State Department for Immigration did not have an approved ICT policy, strategic plan and disaster recovery plan during the year under review. It was assumed that the document containing the above policies is maintained at the ICT Ministry as the funds to facilitate their actualization are domiciled there. However, after the importance of the policy document was raised by the auditor, an ICT Steering committee whose terms of reference (TOR) are and not limited to coming up with a document addressing the above policies was constituted. As a result the team come up with the ICT Policy document which was approved on 30th September 2020.

1204) **Committee Observations and Findings**

(i) The Committee observed that the ICT policy document had been approved and subsequently availed for audit verification; and

(ii) The Committee therefore marked the matter as resolved.

REVENUE STATEMENTS - STATE DEPARTMENT FOR IMMIGRATION AND CITIZEN SERVICES

REPORT ON THE REVENUE STATEMENTS

1205) **Unqualified Opinion**

317. There were no material issues noted during the audit of the revenue statements of the State Department.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1206) **Conclusion**

318. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1207) **Conclusion**

319. There were no material issues relating to effectiveness of internal controls, risk management and governance.

9. STATE DEPARTMENT FOR DEVOLUTION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1032

Mr. Julius Korir, the Principal Secretary and Accounting Officer for State Department of Devolution (Vote 1032) appeared before the Committee on 25th May, 2021 to adduce evidence on the Audited Financial Statements for State Department of Devolution (Vote 1032) for the Financial Year 2018/2019. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Ms. Kula H. Hache - Secretary Administration
2. Mr. Kerandi Sarah - Chief Finance Officer
3. Mr. Moses Mwang Macharia - Senior Accountant
4. Mr. Johnson Njuguna - Deputy Accountant General
5. Ms. Lisa Nkatha - Ass. Director Supply Chain
6. Mr. Isaac Githui - Secretary Relief & Rehabilitation
7. Mr. Nyambati Kenedy - Director CB
8. Ms. Emmy M'mbwanga - Project Manager PPEAS

320. Use of Goods and Services

320.1 Printing and Advertising

1208) The statement of receipts and payments for the year ended 30 June, 2019 reflects a figure of Ksh.1,511,465,264 in respect of use of goods and services during the year ended 30 June, 2019. Included in this figure is Ksh.2,321,300 relating to printing, advertising and information supplies and services. However, Expenditure in relation to domestic travel and staff welfare amounting to Ksh.217,000 and Kshs.50,000 were wrongly classified under printing, advertising and information supplies leading to wrong classification and overstatement of the expense.

1209) Further Printing, advertising and information supplies and service expenditure includes a payment of Ksh.252,100 in respect of cancellation of tenders for an activity that was not included in the approved annual procurement plan for the year 2018/2019. The purchase order for procurement of the cancellation of advertisement was dated 26 October, 2018 while the services had been procured and rendered in September, 2018.

1210) In addition, the State Department did not utilize the services of the Government Advertising Agency in breach of Circular Ref. No. OP/CAB.58/4A dated 8 February, 2017 from the Executive Office of the President which provides that any officer found violating this requirement will be liable to a surcharge of the amount spent besides other disciplinary action.

1211) Consequently, the propriety, and accuracy of expenditure of Ksh.2,321,300 incurred on printing advertising and information and supplies services could not be confirmed.

1212) **Submission by the Accounting Officer**

i. The Accounting Officer admitted that the two payment vouchers of Ksh.217,000 (PV No 4870) and Ksh.50,000 (PV NO 4806) being refund of DSA and reimbursement of Burial Expense respectively were erroneously charged to printing and advertising account. The expenditure has since been adjusted and charged to the correct expenditure items through journal voucher (JE). The adjustment was effected in the amended financial statements. The relevant support documents were availed for perusal by the Committee.

ii. Printing and advertising –Ksh.252,100

a) The activity was approved in the Procurement plan for the year 2018/19 FY. This was done through the procurement plan IFMIS Item code for advertising (S000000068) which is general in nature and caters for all adverts that the ministry had planned for the Financial Year. This included adverts for relief interventions. The Procurement plan is usually updated as and when required based on budgetary provisions and/or adjustments.

b) The cancellation of tenders and failure to utilize the Government Advertising Agency (GAA) was occasioned by;

- Reorganization of government via Executive Order No. 1 of 2018 (dated 5th June, 2018) which transferred the Mandate for Special Programmes, Food Relief Management and Humanitarian Emergency response from State Department for ASAL to the State Department for Devolution. Consequently, the accounting officer directed the cancellation the advertisement to enable the full implementation of the Executive Order and also comply with the Executive Order on Procurement of Public Goods, Works and Services by Public Entities issued on 13th June, 2018.
- The Government Advertising Agency (GAA) pull out is normally printed weekly and on Tuesdays only. Humanitarian Emergency response was required as per NDMA report.

1213) This informed the decision to advertise outside the GAA. However, necessary approval was sought from the Accounting Officer and the advertisement appeared on Wednesday, 27th June, 2018.

c) The issue of disparity of the dates on the purchase order was occasioned by frequent IFMIS downtimes and due to the urgency of this procurement, provisional manual LSO was issued that was later regularized online when the IFMIS challenges were addressed. Annex 320.1c

1214) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Printing and Advertisement was satisfactory;

(ii) The Committee further observed that the expenditure had been adjusted and charged to the correct expenditure item through journal voucher (JE) and adjustment was equally effected in the amended financial statement;

(iii) The Committee also observed that the IFIMIS procurement plan, the Executive Order and NDMA report were availed for audit verification and found satisfactory; and

(iv) The Committee marked the matter as resolved.

1215) **The Committee Recommended that:**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

320.2 Foreign Travel and Subsistence Allowance

1216) The statement of receipts and payments reflects a balance of Kshs.1,511,465,264 under use of goods and services which includes an amount of Kshs.3,409,006 relating to foreign travel and subsistence, out of which payments totaling Kshs.2,481,400 related to activities within the Country and were therefore, misclassified.

1217) Under the circumstances, the accuracy and validity of foreign travel and subsistence expenditure of Ksh.3,409,006 could not be confirmed.

Submission by the Accounting Officer

1218) The Accounting Officer admitted that payments relating to domestic travel of Ksh.2,481,400 was erroneously charged and misclassified as foreign travel. This erroneous posting was corrected through a Journal voucher and posted to the appropriate expenditure item for domestic travel account. This anomaly was subsequently adjusted in the revised Financial Statements.

1219) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Printing and Advertisement was satisfactory;

(ii) The Committee further observed that the expenditure has since been adjusted and charged to the correct expenditure item through journal voucher (JE) and adjustment was equally effected in the amended financial statement

(iii) The Committee marked the matter as resolved.

1220) **The Committee Recommended that:**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

320.3 Rental of Produced Assets

1221) As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.1,511,465,264 under use of goods and services which includes an amount of Kshs.71,935,923 relating to rentals of produced assets. However, an examination of the account revealed that an amount of Kshs.17,473,411 was charged to acquisition of assets leading to understatement of the expenditure and misclassification of the same. Further, the State Department for Devolution paid a total of Kshs.14,789,215 in respect of 20th floor offices at Teleposta Towers occupied by the National Consultative Coordination Committee (NCCC) that is not part of the State Department.

1222) Consequently, the accuracy and propriety of rental of produced assets expenditure of Ksh.71,953,923 could not be confirmed.

Submission by the Accounting Officer

(i) The Accounting Officer admitted that an amount of Ksh.17,473,411.45 was erroneously paid under acquisition of Assets. The expenditure was subsequently adjusted and charged to the account 2210603 under Rentals of produced assets

(ii) Appropriate account under other operating expenses. These changes were subsequently incorporated in the revised Financial Statements. The support documents, including a journal voucher was availed for perusal by the Committee

(iii) The National Consultative Coordination Committee (NCCC) who occupy a portion of 20th floor was until the issuance of Executive Order NO 1 of 2016 a Department within the State Department of Devolution in the then Ministry of Devolution and Planning. However, following release of the aforementioned Order NCCC was moved to the State Department of Interior and Coordination of National Government.

1223) In spite of this reorganization NCCC continued to occupy 20th Floor offices. It is worth noting that the State Department for devolution had entered into a lease agreement with the landlord (teleposta Pension Scheme) on 1st February, 2015. The lease was to run from 1st may 2016 to 31st January 2021.

Legal obligation on the 20th Floor rent and service charge

1224) The State Department of Housing and the Ministry's legal unit vide letter ref PW/1/1/1/209/16954/94 dated 8th June 2018, advised that our Department is legally bound to pay rent and service charge for the leased area on 20th floor (3993 sqft) in accordance with the terms of lease agreement. Payment of Ksh.14,789,215.85by the state Department for Devolution in respect of rent and service charge was therefore a legal obligation that had to be settled.

Current status of the 20th Floor

1225) The Accounting Officer submitted that the office space in 20th floor is currently occupied by

- State department for devolution- department for relief and special programs
- National Consultative Coordination Committee (under ministry of interior)
- Ministry of interior and coordination of national government

1226) The State Department has continued to engage the state department for Interior to release the office space for use by the Department. The Accounting Officer confirmed that all the offices have now been released to the state department for devolution.

1227) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards Rental of Produced Asset was persuasive;

(ii) The Committee marked the matter as resolved.

1228) **The Committee Recommended that:**

The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

320.4 Specialized Materials and Services

1229) The statement of receipts and payments reflects an expenditure of Kshs.1,511,465,264 in respect of use of goods and services, out of which Kshs.6,192,400 related to purchase of specialized materials and services. However, expenditure totaling to Kshs.5,596,200 was not supported. The unsupported expenditure includes AIE amounting to Kshs.5,000,000 indicated as transfer of funds to the State Department for Crops for onward transmission to Strategic Food Reserve (SFR). The amount was expensed upon transfer as no returns were availed from the State Department for Crops showing how the funds were utilized. As a result, it could not be confirmed that the funds were used for the desired purpose. Further, there was no confirmation of receipt of Kshs.5,000,000 from the State Department for Crops

Submission by the Accounting Officer

1230) The Accounting Officer admitted that Ksh.5,000,000 relate an AIE issued to the State department of Crop Development to facilitate funds transfer to Strategic Food Reserve (SFR). This amount was a part of SFR 2018/2019 FY total budget of Kshs1,533,966,822.00. Executive Order No. 1 of June 2018 placed SFR under the State Department for Devolution.

1231) However, following reorganization of the Government vide Executive Order No.1 of June 2018(revised) SFR was moved to State Department of Crop Development. It was expected that SFR funds would be transferred to the Parent state department for Crop Development in 2018/2019 FY supplementary Estimates NO1, but this was not effected. Under the circumstances the state department for Devolution released the funds through an A.I.E to ensure that the funds were available to SFR to carry out its mandate and functions.

1232) The State Department of Crop Development received and confirmed receipt of the funds

1233) The Accounting Officer submitted that no goods or services was procured by the state department using SFR funds. The total budget was transferred to the state department of crops development. The ministry has written to the state department for crops development to submit the resultant expenditure returns. The ministry has since written a reminder letter on the same.

1234) It is worth noting that SFR is a self-reporting fund that presents its set of Financial Statements through its line Ministry and submits to the office of the auditor general.

1235) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Committee further observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

(iii) The Committee Also observed that the returns have not been availed by Accounting Officer to date two years later; and

(iv) The matter therefore remained unresolved.

1236) **The Committee Recommended that:**

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

321. Account Receivables

1237) As disclosed in Note 12 to the financial statements, the statement of assets and liabilities reflects a balance of Kshs.22,083,520 under accounts receivables which includes an amount of Kshs.21,964,820 relating to district suspense. However, the breakdown of the district suspense was not availed for audit review. In addition, AIEs totaling Ksh.16,200,000 issued to various Counties more than two months before the year end, had not been surrendered.

1238) As such, the accuracy of the receivables balance of Kshs.22,964,820 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

1239) The Accounting Officer admitted that an amount totaling Kshs.21,964,820 included in the amount receivable of Kshs.22,083,520 relate to district suspense. Included in the district suspense is an amount of Kshs.16,200,000 being AIEs issued to the county commissioners in various counties for transportation of relief food. The break down was availed for perusal by the Committee.

1240) The State Department of Devolution has undertaken the following action

- On 3rd June 2019 the principal secretary ASAL wrote to the county commissioners to submit returns for food allocated and AIES given for transport.
- On 13th august 2019 the cabinet secretary devolution wrote to the cabinet secretary ministry of interior requesting for the ministry of interior to submit the returns to the ministry to account for the food allocated and funds provided for transportation of food.
- The ministry wrote a second reminder to the accounting officer principal sectary state department of interior seeking his intervention for the submission of the AIE returns

1241) In order to mitigate against this challenge, the ministry has decided that an AIE will be issued to the principal secretary ministry of interior who will be given a breakdown of the amount to distribute to the County Commissioners.

1242) **Committee Observation and Findings**

(i) The Committee observed that the breakdown of Ksh.21,420,000 has been provided, however the amount does not tally with the queried amount of Ksh.21964,820;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) The Committee also observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and

(iv) The matter therefore remained unresolved.

1243) **The Committee Recommended that:**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

322. Proceeds from Domestic and Foreign Grants-IDEAS (EU) Direct Payments

322.1 European Union -Instrument for Devolution Advice and Support Project

1244) The statement of receipts and payments reflects proceeds from domestic and foreign grants totaling Kshs.938,102,713 which includes direct payments of Kshs.931,175,313 under IDEAS (EU). However, the donor (European Union) had made payments of Kshs.941,287,026 to 15 Counties which acknowledged receipt of the same and another amount of Kshs.38,653,540 was disbursed to the State Department for administrative purposes making a total of Kshs.979,922,566 disbursed during the year. The difference of Kshs.48,747,253 between the reported figure of Kshs.931,175,313 and the actual disbursement Kshs.979,922,566 has not been reconciled or explained.

Submission by the Accounting Officer

1245) The Accounting Officer submitted that Kshs.48,747,253 was received by Makueni County on 17th July 2018. However, ministry had processed and given instructions to transfer the funds on 31st may 2018 and was received in national treasury on 5th June 2018. The delay between processing and transfer of funds was due to bank transfer time lag. The funds were in the ministry's approved budget for FY 2017/2018. The grant was processed and captured in the financial statement for FY 2017/2018.

1246) The national treasury through circular ref: AG 4/16/2 VOL.2 (90) of 5TH October 2018 instructed counties and ministries to recognize disbursements received in July as part of funds to be accounted in FY 2017/2018. The funds were reported in the ministry financial statement of FY 2017/2018 as per the extract of financial statement.

1247) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Committee further observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the

Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

(iii) However, the Committee observed that the explanation given by the Accounting Officer with regard to European Union -Instrument for Devolution Advice and Support Project was satisfactory; and

(iv) The Committee marked the matter as resolved.

1248) **The Committee Recommended that:**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

322.2 Proceeds from Domestic and Foreign Grants -Grants Received from Multilateral Donors (International Organizations)-UNDP

1249) The statement of receipts and payments reflects proceeds from domestic and foreign borrowings amounting to Kshs.938,102,713 which includes Kshs.931,175,313 from the European Union (EU) and Kshs.6,927,400 from UNDP.

1250) However, an amount of Kshs.892,251,773 from the European Union has not been audited in line with the financing agreement between the European Union and the County Governments. Over 80% of the cash was unutilized and is still being held in the designated project accounts.

1251) In addition, the transfers to Counties in respect of the IDEAS Project have not been reported in the financial statements as well as the expenditure in respect of Kenya Symbiocity Project and the Administrative expenditure in relation to IDEAS Project.

Submission by the Accounting Officer

1252) The Accounting Officer submitted that the delay in spending the grants by the counties was caused by the following factors

- Delay in opening Special Purpose accounts (SPA). This was a requirement in the financing agreement that all counties to open special accounts in commercial banks for the project and to get the relevant authority from National Treasury.
- Delay in procuring contractors for the projects. The procurement process in the counties could only commence after all counties had signed the grant contract and received the grants in their respective County Revenue Fund.
- Some counties had not appropriated the grants in their budgets.

1253) The Accounting Officer further submitted that Instruments for Devolution Advise and Support (IDEAS) is a program funded by EU anchored in the State Department and of which the ministry prepares separate financial statements for the project as per the project financing agreement, and which were submitted to office of Auditor as per the requirement of the law.

1254) The Kenya Symbiocity project is a program anchored under the Council of Governors (COG). The program is run by the COG who are responsible for financial reporting.

1255) However, the state department reports the amount sent to COG as grants and transfers to other government units in its financial statement.

1256) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Proceeds from Domestic and Foreign Grants -Grants Received from Multilateral Donors (International Organizations)-UNDP was satisfactory; and

(ii) The Committee marked the matter as resolved.

1257) **The Committee Recommended that:**

The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

323. Compensation of Employees

1258) As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.247,437,832 under compensation of employees which includes an amount of Ksh.152,464,095 paid as basic salaries of permanent employees. However, the budgeted amount of basic salaries of permanent employees amounted to Ksh.146,619,509 resulting to unexplained and unsupported over expenditure of Ksh.5,844,586. In addition, examination of the twelve (12) months payroll data for the State Department for Devolution indicates that a total of Ksh.133,299,494.75 was paid as basic salaries to permanent employees while the statement of receipts and payment shows an amount of Kshs.152,464,095 resulting into an unexplained difference of Kshs.19,164,590.25 or 14.4%. No reconciliations have been provided for the difference.

1259) Further, the compensation of employees 'balance of Ksh.247,437,832 includes Ksh.94,973,737 being personnel allowances paid as part of salaries that further includes an unexplained adjustment of Kshs.4,956,093 re-classified from basic wages of temporary employees. Examination of documents revealed that during the financial year 2018/2019, the State Department for Devolution did not hire any casual workers. No documentary evidence has been provided to show the workers hired, paid and payment vouchers used. Without this information it has not been possible to confirm the accuracy and occurrence of the figure of Kshs.4,956,093.

1260) Under the circumstances, the accuracy and completeness of the expenditure in respect of compensation of employees of Kshs.247,437,832 could not be ascertained.

Submission by the Accounting Officer

(i) The difference of Kshs.5,844,586 between the amount reported as paid for the basic salaries and the budget was due to mismatch on the line items under personnel emoluments. There was under budgeting in the basic salaries and personnel allowances. However, the overall expenditure for salaries was within the budget. An analysis of the budget expenditure and allocation for salaries was availed for perusal by the Committee.

(ii) The difference of kshs19,164,590.25 between the budgeted amount for basic salaries and the amount reported in the financial statement was as a result of the mismatch between the allocation for basic salaries and the actual expenditure. The budget allocation for basic salaries was inadequate to cover the total expenditure hence some part of basic salaries was charged to personal allowances.

(iii) The figure of Ksh.4,956,093, was erroneously charged under basic salary for temporary employees (casuals). The error has since been corrected in the Financial statements through a JE to charge it to the correct account of basic salary for permanent employees. The Accounting Officer submitted that the department did not have any casual or temporary employees in the year financial year 2018/19 under review.

1261) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
(ii) The Committee further observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
(iii) However, the Committee observed that the explanation given by the Accounting Officer with regard to Compensation of Employees was persuasive; and
(iv) The Committee marked the matter as resolved.

1262) **The Committee Recommended that:**

1) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

2) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article**

229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

324. Acquisition of Assets

1263) The statement of receipts and payments reflects a balance of Kshs.1,428,194,349 under acquisition of assets which includes purchase of strategic stocks and commodities of Kshs.1,419,479,759 and purchase of certified seeds, breeding stocks and live animals worth Kshs.5,198,310. However, a breakdown of the items procured, the quantities, values, and details of where each of the stocks were received including the acknowledgement of receipt by the various stores together with details showing to whom and when the commodities were issued have not been availed for audit verification.

1264) Consequently, the accuracy and propriety of acquisition of assets payments totaling Kshs.1,428,194,349 could not be confirmed.

Submission by the Accounting Officer

1265) The budget of Kshs1,428,194,349 In the F/Y 2018/19 was provided under strategic food reserve for purchase of various food commodities by the fund. The Strategic Food Reserve (SFR) was placed under the state department for devolution vide Executive Order No. 1 of June 2018.

1266) However, before the expenditure was incurred under the state department for devolution, SFR vide Executive Order No. 2 of September 2018 was moved to State Department of Crop Development in the ministry of agriculture. Since the budget had already been put under State Department for Devolution at the time, the funds were transferred to the Department of Crop through an AIE where the mandate and function had been moved.

1267) The AIEs were transferred to state department of crops in three batches as follows as follows:

AIE No A885253	Kshs 96,032,144
AIE No A885254	Kshs 18,454,919
AIE No A885255	Kshs 1,419,479,759
TOTAL	Kshs 1,533,966,822

1268) The Accounting Officer submitted that the state department for devolution therefore did not procure any goods or services under the budget. Therefore, procurement against the budget was undertaken by SFR. The Accounting Officer however wrote to state department for crops development for confirmation of receipt of the funds Ksh.1,428,194,349. Confirmation from the State Department of Crop Development was availed for perusal by the Committee.

1269) It is worth noting that SFR is a self-reporting fund that presents its set of Financial Statements through its line Ministry and submits to the office of the auditor general. However, the ministry wrote to the state department for crop development under which SFR fall to provide returns for the expenditure returns which have not been availed.

1270) **Committee Observations and Findings**

(i) The Committee observed that the returns have not been availed to date for audit verification;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) The Committee also observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and

(iv) The matter therefore remained unresolved.

1271) The Committee Recommended that:

1) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **Within three (3) months upon adoption of this report, the then Accounting Officer responsible at the time of audit for the State Department for Crop Development under which Strategic Food Reserve (SFR) fall should provide returns for the expenditure returns of Ksh.1,428,194,349.00.**
4) **Where no returns and documents are provided to the CS National Treasury and Auditor General within the stipulated time, the erstwhile Accounting Officer should be prosecuted for financial misconduct relating to failure to provide information under the officer's control pursuant to section 198(1)(k) of the Public Finance Management Act, 2012.**

325. Other Grants and Transfers

1272) As disclosed in Note 8 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.808,216,937 in relation to other grants and transfers in respect of emergency relief and refugee assistance. Included in this amount is

Kshs.1,479,210 incurred on printing and stationeries wrongly charged to this account, overstating the expenditure on other grants and transfers.

1273) In addition, the documentation for distribution of the relief commodities valued at Ksh.808,216,937 to beneficiaries, and the basis of selection of beneficiaries were not availed for audit examination. Consequently, the accuracy and completeness of other grants and transfer of Ksh.808,216,937 could not be confirmed.

Submission by the Accounting Officer

1274) The Accounting Officer admitted that expenditure incurred on printing and stationery amounting (Ksh.1,479,210) was wrongly charged to emergency relief and refugee assistance account. The error was adjusted using a journal voucher and subsequently amended in the revised financial Statement.

1275) Assistance for vulnerable populations affected by disasters and emergencies in particular drought is triggered by the Long and Short Rains Assessments Reports of the Multi-Agency stakeholders. Twice a year, the stakeholders undertake an assessment to determine the performance of the short and long rains and how they predispose populations in ASAL Counties to the consequences of the drought. The assessment determines the number of people in each ASAL County who will be vulnerable and will require assistance with relief food.

1276) The County Steering Groups chaired by County Commissioners and whose members include the office of the Governor, relevant Ministries and humanitarian organizations in each county then compile the names of the vulnerable population based on the numbers of the assessment report for each sub county who are then targeted for relief food assistance.

1277) An Inter-Ministerial Relief Food Distribution Committee has been constituted comprising members from the following MDAs: State Department Interior and Coordination of National Government, Ministry of Education, State Department for Planning, Ministry of Agriculture, National Drought Management Authority, Ministry of Devolution & ASAL.

1278) The Committee meets and recommends the quantities of relief food to be availed to the vulnerable populations in each Sub County as per the Multi Agency Stake Holders Assessment Reports. Relief food quantities are then allocated to each sub county as recommended by the Committee. Minutes of Relief Food Distribution Committee done in 2018/2019 was availed for perusal by the Committee.

1279) Distribution of relief food should comply with best practice where each vulnerable person in a family of five (5) persons is supposed to be given 13.8 Kgs of cereals (maize or rice), 2kgs of legumes (beans or ndengu) and 0.75 liters of oil each month as relief food.

The sick, old, pregnant and lactating mothers and children under 5 years of age are also to be provided with nutrition health food. However, due to limited resources allocated, it has not been possible to attain this standard. Therefore, utilizing the little resources available, the Ministry allocates uniform quantities of relief food to ASAL counties to ameliorate the suffering of those affected by the drought.

1280) The relief food allocated to each sub county is transported by the State Department to the sub counties. Waybills are issued to deputy county commissioners receiving the food. Each Waybill contains the following information- (1) date of issue, (2) transporter's name, (3) vehicle registration number, (4) quantity (number of bags, Kgs, bales and cartons) of each food item allocated.

1281) On receipt of the food, each deputy county commissioner is required to ascertain that the quantities recorded in the way bill agree with the actual food delivered and are in good condition.

1282) Targeting of the vulnerable beneficiaries and distribution is undertaken by Deputy County Commissioners. Upon completion of the distribution deputy county commissioners are required to file returns on the distribution to the state department. In the returns they are required to indicate the following- (1) the name of the recipient, (2) their Identify Card Number, (3) the type of relief food received and the (4) quantity received and their (5) signature confirming receipt.

1283) During the period under review the following sub counties submitted returns on recipients of relief food.

- Taita Sub County
- Baringo Sub County
- Taveta Sub County
- Kathonzweni Sub County
- Embu Sub County

1284) Other sub counties have not submitted the returns. The Cabinet secretary for Devolution consequently wrote a letter on 13th August 2019 to the Cabinet Secretary Interior requesting the Cabinet Secretary Interior to intervene and ensure that Deputy County Commissioners submit the returns. The Principal Secretary also addressed a letter to all concerned county commissioners to submit the returns. A breakdown of all relief food quantities delivered to each sub county was availed for perusal by the Committee.

1285) **Committee Observations and Findings**

(i) The Committee observed that the wrong charging has been adjusted through Journal Voucher JE;

(ii) The Committee also observed that only five counties availed returns for audit verification despite many reminders;

(iii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iv) In addition, the Committee observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and

(v) The matter therefore remained unresolved.

1286) The Committee Recommended that:

1) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **Within one (1) month upon adoption of this report, the Inter-Ministerial Relief Food Distribution Committee should provide the documentation for distribution of the relief commodities valued at Ksh.808,216,937.00.**
4) **Where no returns and documents are provided to the CS National Treasury and Auditor General within the stipulated time, the erstwhile Accounting Officer for the State department for Devolution and members of the Inter-Ministerial Relief Food Distribution Committee should be prosecuted for financial misconduct relating to failure to provide information under the officer's control pursuant to section 198(1)(k) of the Public Finance Management Act, 2012.**

326. Grants and Transfers to Other Government Entities

1287) The statement of receipts and payments reflects a balance of Ksh.38, 823,570,187 in respect of transfers to other Government units which includes an amount of Ksh.4,000,000,000 that was disbursement by The National Treasury directly to Counties under the Kenya Devolution Support Programme (KDSP). However, there were no confirmations for these receipts by the respective Counties and therefore, it was not possible to confirm whether the funds were received by the Counties.

Submission by the Accounting Officer

1288) The Accounting Officer submitted that the State Department wrote a letter to the counties to confirm receipt of the funds under KDSP. Only 15 counties out of the 47 have responded. The Confirmation letters from the treasury for the transfers had been attached as annex 8 to the financial statements. The 15 confirmations from the counties under KDSP were availed for perusal by the Committees.

1289) The Committee heard that the State Department acted as a conveyor belt in transfer of this funds. The use and supervision was performed by respective County Government.

1290) **Committee Observations and Findings**

(i) The Committee observed that the only 15 out of 47 Counties availed their returns for audit verification;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) The Committee also observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and

(iv) The matter therefore remained unresolved.

1291) The Committee Recommended that:

1) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **Within one (1) month upon adoption of this report, the 32 Counties that had not provided returns under the Kenya Devolution Support Programme (KDSP) should avail the respective returns to the Cabinet Secretary of the National Treasury.**
4) **Where no returns and documents are provided to the CS National Treasury and Auditor General within the stipulated time, the erstwhile Accounting Officer for the State Department for Devolution together with members of the the Inter-Ministerial Relief Food Distribution Committee should be prosecuted for financial misconduct relating to failure to provide information under the officer's control pursuant to section 198(1)(k) of the Public Finance Management Act, 2012.**

327. Variance between Financial Statement and IFMIS Ledger.

1292) The figures reported in the financial statements do not tally with the figures in the IFMIS statement as tabulated below:

Details	Amounts per Financial Statements (Kshs.)	Amounts Per IFMIS Reports (Kshs.)	Difference (Kshs.)
Financial Assets	75,860,088	8,214,863,419	(8,139,003,331)
Financial Liabilities	52,658,544	(567,673,381)	620,331,925
Opening Balances	2,034,746	(567,673,381)	569,708,127

1293) The differences between the two sets of records have not been explained or reconciled.

Submission by the Accounting Officer

1294) The Accounting Officer admitted that at the time of reporting the statement of assets and liabilities in IFMIS and as per actuals in the financial statements did not agree. The statement of assets and liabilities generated from IFMIS had unreconciled carried forward balances from the year FY2013/2014. This was due to backlog of bank statement that had not been uploaded in the cash management module in IFMIS system. This affected the figures reported in IFMIS statement of assets and liabilities. The State Department has however continued to carry out the clean-up exercise with the support of IFMIS team of The National Treasury.

1295) The Accounting Officer submitted that the reconciliation and clean-up exercise is ongoing and is expected to be completed by the end of the current financial year.

1296) **Committee Observations and Findings**

(i) The Committee observed that the uploading of the bank statements the cash management module in IFMIS system is ongoing;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) The Committee further observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012; and

(iv) The Committee marked the matter as unresolved.

1297) The Committee Recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

Other Matters

328. Pending Bills

1298) Note 17.1 and Note 17.2 to the financial statements reflect pending bills totaling Kshs.6,735,297,709 comprised of pending accounts payables of Kshs.3,467,119,693 and other pending payables of Kshs.3,268,178,016 respectively. Management has not provided an explanation for non-payment of the pending bills. Failure to settle bills during the year to which they relate distorts the financial statements for the year and adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

1299) The Accounting Officer Submitted that the correct position of pending bills in the FY 2018-2019 was Kshs.3,467,119, 693.and not 6,735,297,709. The figure of Kshs.3,268,178,016 refers to the total of the historical pending bills carried forward from the previous year of 2017-2018.

Item	**Amount-Kshs**
Historical pending bills b/f from 2017/2018	3,268,178,016
Pending bills added in the yr 2018/2019	198,941,677
Total	3,467,119,693

1300) The historical pending bills indicated relate to historical bills which were inherited from the defunct ministry of local government, analyzed as follows.

Payee	**Amount Ksh**	**Description**	**Current status**
Various County Governments	2,929,909,303.00	CILOR(Contribution In Leu of Rates)	In the process of write off
Kenya Railways Corporation	105,000,000.00	Sale of Land for Muthurwa open air market	allocated budget in FY 2021/2022
Taib Ali Taib	10,171,941.00	Legal case on Dismissal	Paid in FY 2018-2019
Spencon Kenya Limited	233,268,713.00	Laying of sewerage line in Mombasa municipality in the year 2010	awaiting budget allocation
David Mereka	8,115,834.49	NBI CMCC NO.3919 of 2012.DAVID Mereka VS John Ngaruiya, Ministry of Local Government and others.	Paid in FY 2018-2019
Total	**3,286,465,791.49**		
Balance of historical pending bills	**338,268,713.00**		

1301) The national treasury has advised that the amount of Kshs.2,929,909,303.00 which relate to CILOR owed to former local authorities be written off due to inadequate documentation to support it.

1302) **Committee Observations and Findings**

(i) The Committee observed that the processes of writing off historical bills amounting to Kshs.2,929,909,303 was ongoing; and
(ii) The matter therefore remained unresolved.

1303) The Committee Recommended that:

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

329. Unresolved Prior Year Audit Issues.

1304) Several audit issues reported in the Auditor-General's report for the financial year ended 30 June, 2018 remained unresolved as at 30 June, 2019. These issues are captured under progress on follow up of auditor's recommendations.

Submission by the Accounting Officer

1305) The ministry appeared before PAC on 6th June 2020 where the audit issues for financial year 2017-2018 were discussed. The ministry was awaiting report and recommendations of PAC.

Committee Observations and Findings

1306) The Committee observed that the issues was discussed under the 2017/2018 report and that the Committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1307) **Conclusion**

330. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1308) **Conclusion**

331. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECT

INSTRUMENTS FOR DEVOLUTION ADVICE AND SUPPORT PROJECT (CREDIT NO.KE/FED/024/230)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

332. Unsupported Transfers to Other Government Entities

1309) As disclosed under Note 8.10 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.938,849,773 as receipts under proceeds from domestic and foreign grants and controlled by third parties as direct payments. The statement also reflects an amount of Kshs.938,849,773 as payments under other grants and transfers and payments controlled by third parties. This balance relates to amounts transferred to National Government entities and County Governments directly by the financier. However, included in this figure is an amount of Kshs.46,382,000 transferred to the Kenya School of Government out of which only an amount of Kshs.2,400,000 was supported with sufficient and verifiable documents leaving a balance of Kshs.43,982,000 unsupported.

1310) Further, an amount of Kshs.50,014,226 indicated as having been transferred to the County Government of Kwale differed with Kshs.45,000,000 acknowledged by the County, as received resulting to unreconciled variance of Kshs.5,014,226.

1311) Under the circumstances, the accuracy and completeness of receipts and other grants and transfers and payments of Kshs.938,849,773 controlled by third parties reflected in the statement of receipts and payments for the year ended 30 June, 2019 could not be ascertained.

Submission by the Accounting Officer

1. **Kenya School of Government - KSG**

1312) The State Department of Devolution is implementing a Service Contract with Kenya School of Government on "Capacity Building of 15 Counties in Local Economic Development (LED)" for a period of 30 months with effect from 23rd of September 2018 – 24th March 2021. As per Article 29 of the Contract, a pre- financing advance of Ksh.46,384,000 was paid in October 2018.

1313) The Accounting Officer submitted that this was a disbursement of grant by EU directly to KSG for training. The ministry only reported on the grants in the financial statement as transfers to other government units while the expenditure and documentation was done by the KSG.

1314) During the audit period, KSG had only undertaken the preparation of Inception Report, Training Needs Assessment (TNA) and Development of Training materials hence the low expenditure reported.

1315) The grant service contract between KSG the ministry was availed for perusal by the Committee. KSG has also confirmed receipt of Kshs.46,383,000.

1316) The final report showing the trainings conducted and the number of officers trained using the advance payment received has now been availed.

2. KSG Kwale County

1317) The EU transferred Kshs.50,014,226 received by the County through the CRF Account on 4th October 2018, however the County instead transferred a total of KShs.45,000,000 to the IDEAS Special Purpose Account (SPA). This difference arose because the County had budgeted KShs.45,000,000 for EU IDEAS Project for the financial year 2018/2019 instead of the full 1st tranche disbursement of KShs.50,014,226 and couldn't transfer more than had been budgeted. The County has since transferred the remaining amount after the appropriation of the supplementary budget for FY2018/2019.

1318) The Grant Contracts signed between the Ministry and the County Governments gives the County Governments administrative autonomy of the grants, however to make sure that there is easy tracing of the funds and obtain accountability by the Counties, transfers to the counties are made through the Counties Revenue Fund Account (CRF). The Project financial statements are subject to audit by the Auditor General at county level as per government provisions as it relates to audit of County Governments.

1319) Transfers to the County governments are reflected as transfers to other governments. The Ministry, for the purposes of grant oversight and accountability receives implementation interim reports including financial statements which were due in December 2019. Actual expenditures are verifiable at the County Level by the review of the financial statements & supporting documents.

1320) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Unsupported Transfer to Other Government entity was persuasive; and

(ii) The Committee marked the matter as resolved.

1321) The Committee Recommended that:

1) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

2) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**

333. Unsupported Training Expenditure

1322) As disclosed under Note 8.5 to the financial statements, the statement of receipts and payments reflects payments under training of Kshs.2,643,893 made by the entity. The amount relates to payment of subsistence allowance paid to staff who attended training in South Africa. However, supporting documents such as attendance register, boarding passes, invitation for training, work plan, and budget were not availed for audit verification.

1323) In the circumstances, it has not been possible to confirm the propriety and validity of the expenditure of Kshs.2,643,893 in respect of training reflected in the statement of receipts and payments for the year ended 30 June, 2019.

Submission by the Accounting Officer

1324) The Training in Local Economic Development (LED) in South Africa is provided under the approved IDEAS Programme Estimate no 2 - budget line no 1.8 and subsequent revisions.

1325) The Accounting Officer Submitted that the, invitation letter, approval memo, boarding passes, training program and training report for training has since been provided.

1326) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Committee further observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

(iii) However, the Committee observed that the explanation given by the Accounting Officer with regard to Unsupported Training Expenditure was persuasive; and

(iv) The Committee marked the matter as resolved.

1327) The Committee Recommended that:

1) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

Other Matter

334. Prior Year Unresolved Issues 334.1 Unsupported Balances

1328) The Management has not included in the annual reports, progress on follow up of audit issues reported during 2017/2018 audit. The issues remain unresolved as follows;

334.1 Unsupported Balances

1329) The statement of receipts and payments for the year ended 30 June, 2018 reflects an amount of Kshs.66,307,652 under Cumulative Proceeds from domestic and foreign grants out of which Kshs.48,819,253 were direct payments made by third parties on behalf of the project. However, the documentation that was provided revealed that the payment was made by the European Union but the money was received by the County Government in July, 2018.

Submission by the Accounting Officer

1330) The Accounting Officer submitted that the above paragraphs were discussed during the examination of the State Department account for financial year 2017/18 and recommendations made.

334.2 Other Grants and Transfers and Payments

1331) The statement of receipts and payments for the year ended 30 June 2018 reflects an amount of Kshs.48,819,253 under other grants and transfers and payments which relates to payments made by third parties directly to the beneficiary Counties. However, no accountable documentation was provided for audit review.

1332) Consequently, it has not been possible to ascertain whether the amounts were utilized for the intended purposes at the Counties.

Submission by the Accounting Officer

1333) The Accounting Officer submitted that the above paragraphs were discussed during the examination of the State Department account for financial year 2017/18 and recommendations made.

334.3 Proceeds from Domestic and Foreign Grants

1334) The statement of receipts and payments reflects an amount of Kshs.48,819,253 as proceeds from domestic and foreign grants payment made by third parties. However, no supporting documentation to demonstrate that this payment was actually made by the third party, neither was there an acknowledgement by the recipient that the amount was received. Information available for audit indicated that the amount was disbursed by the donor on 17 July, 2018 and therefore should not have been a receipt during the year.

1335) Consequently, the accuracy and completeness of proceeds from domestic and foreign grants totaling Kshs.66,307,652 for the financial year ended 30 June, 2018 could not be ascertained.

Submission by the Accounting Officer

1336) The Accounting Officer submitted that the above paragraphs were discussed during the examination of the State Department account for financial year 2017/18 and recommendations made.

334.4 Unauthorized Expenditure

1337) Further, the statement of receipts and payments for the year ended 30 June, 2018 had reflected an amount of Kshs.6,636,184 under purchase of goods and services. The figure included an amount of Kshs.3,466,584 in respect of printing, advertising and information supplies and services out of which an amount of Kshs.1,475,000 related to purchase of polo t-shirts and caps that were not included in the approved project work plan. The balance of Kshs.1,991,584 was paid in respect of banners, brochures and branded note books an item which had an approved budget of Kshs.1,000,000 resulting to an over expenditure of Kshs.991,584.

1338) Consequently, the accuracy of the receipt of Kshs.48,819,253 and propriety in the utilization of Kshs.1,475,000 could not be confirmed.

Submission by the Accounting Officer

1339) The Accounting Officer submitted that the above paragraphs were discussed during the examination of the State Department account for financial year 2017/18 and recommendations made.

335. Budget Control and Performance

1340) The statement of comparative budget and actual amounts reflects a budget and actual receipts on a comparable basis of Kshs.173,000,000 and Kshs. 977,503,313 respectively resulting to over funding of Kshs.804,503,013 or 465% of the budget. Similarly, the Project spent Kshs.949,018,566 which is 97% of the receipts but Kshs.711,594,166 over and above the approve budget of Kshs.237,424,400.

1341) Management has not given any plausible explanation for the over funding or whether the payments in excess of the approved budget were authorized.

Submission by the Accounting Officer

1342) The Accounting Officer submitted that the above paragraphs were discussed during the examination of the State Department account for financial year 2017/18 and recommendations made.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

336. Irregular Recruitment of Project Manager

1343) As disclosed under Note 8.5 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.6,067,500 under compensation of employees. Included in this figure is Kshs.5,827,500 paid to the Project manager who had earlier been recruited through the Public Service Commission for a different World Bank project that had come to an end. Her services were transferred to the Instruments for Devolution Advice and Support Project after 'a Letter of No Objection' was granted by the European Union (the donor). However, the Management has not availed supporting documents, for audit review, showing the terms of engagement and whether relevant tax obligations were deducted and remitted to the Kenya Revenue Authority.

Submission by the Accounting Officer

1344) The Accounting Officer submitted that the above paragraphs were discussed during the examination of the State Department account for financial year 2017/18 and recommendations made.

337. Lack of Contract Agreements

1345) As disclosed in Note 8.3 to the financial statements, the statement of receipts and payments reflected an amount of Kshs.938,849,773 being direct payments from the donor (European Union) made as 1st tranche of funds to all 15 counties who have acknowledged receipt of the funds. However, the contract agreements between the County Governments and the donor have not been availed for audit purposes.

1346) In absence of such undertakings, value for money in the use of public funds could not be confirmed. 129

Submission by the Accounting Officer

1347) The Accounting Officer submitted that the above paragraphs were discussed during the examination of the State Department account for financial year 2017/18 and recommendations made.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1348) **Conclusion**

338. There were no material issues relating to effectiveness of internal controls, risk management and governance.

10. STATE DEPARTMENT FOR STATE DEPARTMENT FOR DEVELOPMENT OF ARID AND SEMI-ARID LANDS (ASALS)

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1035

Mr. Micah Pkopus Powon, the Principal Secretary and Accounting Officer for State Department for Development of Arid and Semi-Arid Lands (ASALS) (Vote 1035) appeared before the Committee on 27th September, 2021 to adduce evidence on the Audited Financial Statements for State Department for Development of Arid and Semi-Arid Lands (ASALS) (Vote 1035) for the Financial Year 2018/2019. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Isaac Githui - Secretary Special Programmes
2. Mr. Joseph Maina - Senior Principal Finance Officer
3. Mr. Joseph Yamo - Principal Accountant

353 Unreconciled Financial Statement Figures

1349) The statement of assets and liabilities as at 30th June, 2019 reflects balances under financial assets and financial liabilities which do not tally with figures reflected in the Integrated Financial Management System (IFMIS) reports as shown below:

Details	Balance as per Financial Statements	Balance as Per IFMIS Reports	Difference
	(Kshs.)	(Kshs.)	(Kshs.)
Financial Assets	10,203,062	1,198,840,688	(1,118,638,626)
Financial Liabilities	10,174,387	1,198,812,013	(1,188,637,626)

1350) The differences between the two sets of figures have not been explained or reconciled. This is a pointer to preparation of financial statements outside IFMIS.

1351) As such, it has not been possible to confirm the accuracy and presentation of the financial statement for the year ended 30th June, 2020.

Submission by the Accounting Officer

1352) The Accounting Officer submitted that it was true that the figures reported in the financial statements do not tally with the figures in IFMIS statement as tabulated. This was due to auto bank reconciliations which were not yet complete due to missing bank statements in the system. Some of the bank statements have been uploaded and we have done the reconciliations and the figures have balanced as per the statement of financial position.

1353) **Committee Observations and Findings**

(i) The Committee observed that some bank statements had been uploaded and auto bank reconciliations which were not yet complete due to missing bank statements in the system had been done and the figures balanced as per the statement of financial position.

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) In addition, the Committee observed that the Accounting Officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit ; And

(iv) The Committee also observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

1354) **Committee Recommendations**

The Cabinet Secretary National Treasury should reprimand the Accounting Officer during the period under review for failure to ensure that the records are reconciled and analyzed with necessary supporting documents and submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

354 Irregular Payment of Allowances

1355) The statement of receipts and payments reflects a balance of Kshs.154,331,256 under compensation of employees which includes an amount of Kshs.60,021,848 in respect of Personal allowances paid as part of salary. The latter balance includes an amount of Kshs.5,150,000 paid as extraneous allowances without the authority of the Salaries and Remuneration Commission (SRC) contrary to Part III, Section C.13 of the Human Resource Policies and Procedures Manual for Public Service, 2016. No explanation has been provided for this anomaly.

1356) In the circumstances, the accuracy and propriety of the personal allowances paid as part of salary amount of Kshs.5,150,000 could not be ascertained.

Submission by the Accounting Officer

1357) The Accounting Officer submitted that it was true that the Kshs.5,150,000 was paid as extraneous allowance. The payments were occasioned by Public Service Commission circular directing MDAs to undertake skill audit for their staffs, in line with that circular series of exercises such as analysis of staff establishment per cadre, staff profiling, staff stagnation, training need analysis and organizational structure were carried out and all the relevant reports prepared and submitted to the Public Service Commission. These tasks were undertaken through appointed committees and required officers to work beyond the normal working hours to meet the Public Service Commission deadline and as a result the officers were paid the allowances as per SRC circular no SCR/ADM/CIR/1/13/ (122).

1358) **Committee Observations and Findings**

(i) The Committee observed that the Public Service Commission directed MDAs to undertake skill audit for their staff, where analysis of staff establishment per cadre, staff profiling, staff stagnation, training need analysis and organizational structure were performed and officers performing the task were paid in line with SRC Circular Ref: SCR/ADM/CIR/1/13/ (122).

(ii) The Accounting Officer was in breach of Sections 9 (1) (e) and 21 (1) of the Public Audit Act, 2015.

1359) **Committee Recommendations**

1) **The Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Also, ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) and 21 (1) of the Public Audit Act, 2015.**

355 Unauthorized Reallocation of Funds.

1360) As disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects an expenditure of amount of Kshs.48, 565,862 under acquisition of assets which includes Kshs.11, 956,700 in respect of daily subsistence allowance paid to officers for undertaking activities not related to acquisition of assets. No documentation was provided for audit verification in support of the reallocation of the expenditure.

1361) Consequently, the propriety and accuracy of the acquisition of assets payments of Kshs.48,565,862 for the year ended 30th June, 2019 could not be confirmed.

Submission by the Accounting Officer

1362) The Accounting Officer submitted that it was true that the statement of receipts and payments reflects an expenditure of amount of Kshs.48, 565,862 under acquisition of assets which includes Kshs.11, 956,700 in respect of daily subsistence allowance paid to officers under the development vote. The Financial Statements were prepared based on the Government Financial Statistics Classification (GFS) which classifies expenditure into

Chapters, sub-chapters, items and sub-items in that order. Government expenditures are broadly classified under GFS as indicated below:

- 2100000 Compensation Of Employees
- 2200000 Use Of Goods And Services
- 2600000 Grants And Other Transfers
- 3100000 Acquisition Of Non-Financial Assets

1363) Under the broad classification of Acquisition of Non-Financial Assets is expenditure of item “3111400: Research, Feasibility Studies, Project preparation and Design, Project Sustainability” that comprises sub-items 3111401: Pre-feasibility and appraisal studies, 3111499: Research Feasibility Studies” in the development vote.

1364) These budget sub-items were to cater for daily subsistence among other expenditure/activities related to the capital programmes. Therefore, the funds were utilized as per the intended development activities factored in the Program Based Budget (PBB) and Performance Contract for FY 2018/19. The specific activities entailed:

i. Convening consultative workshops with county officials and other development partners and stakeholders in the respective counties. The exercise was undertaken in Baringo, West Pokot, Marsabit, Samburu, Isiolo and Elgeyo-Marakwet counties.
ii. Prioritization and documentation of required sectoral interventions for each county in line with the county CIDP for project identification, design and implementation to reduce vulnerabilities through pastoral livelihoods diversification and improved resilience and socio-economic status.
iii. Preparation of county specific priority needs reports

1365) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer breached section 68 (2) (k) of the PFM Act 2012 by failing to provide supporting documents for audit verification;
(ii) The Committee also observed that the authority to reallocate funds was not provided to support expenditure charge to the unrelated accounts.

Committee Recommendation

1366) The Committee recommended that –

1) **The Cabinet Secretary for the National Treasury & Planning should within three (3) months of tabling and adoption of this report, issue a written reprimand to the Accounting Officer for failure to comply with Section 43 of Public Finance Management Act, 2012 which prohibits reallocation of funds appropriated for capital expenditure to recurrent expenditure and Regulation 43 (b) of Public Finance Management (National Government) Regulations, 2015.**
2) **The Accounting Officer should ensure compliance with Section 43 of Public Finance Management Act, 2012 which prohibits reallocation of funds appropriated for**

capital expenditure to recurrent expenditure and Regulation 43 (b) of Public Finance Management (National Government) Regulations, 2015

356 Unsupported Adjustment - Communication, Supplies and Services

1367) As disclosed in note 5 to the financial statements, the statement of receipts and payments reflects an expenditure of Ksh.256, 887,800 in respect of use of use of goods and services. The amount includes an amount of Ksh.10, 438,117 incurred under communication, supplies and services. The later balance includes amount of Ksh.1000, 000 and Ksh.34,918 described as adjustments but have not been supported or explained.

1368) Consequently, the validity and accuracy of communication, supplies and services expenditure of Ksh.10,438,117 could not be confirmed.

Submission by the Accounting Officer

1369) The Accounting Officer submitted that it was true that included in the expenditure for communication, supplies and services of Ksh.10, 438,117 is an amount of ksh.100.000 and kshs.34, 918.25 being adjustments as at 30/6/2019. The adjustments for Ksh.100,000 and Ksh,34,918.25 were done through journal adjustments. These were done to correct entries which were done wrongly in the IFMIS system and did not capture the expenditure in the receipts and payments report.

1370) **Committee Observations and Findings**

(i) The Committee observed that, the explanation given by the Accounting Officer and the supporting documents (including the journal vouchers) provided to the Auditor-General was satisfactory;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012; And

(iii) The Committee also observed that the Accounting Officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit.

1371) **Committee Recommendations**

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Also, ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012;**
2) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

357 Cash and Cash Equivalent

1372) The statement of assets and liabilities reflects a balance of Kshs.10,203,062 under cash and cash equivalents comprised of Kshs.626, Kshs.28,049 and Kshs.10,174,387 for recurrent, development and deposit accounts respectively. The following observations were noted.

357.1 Receipts and Payments in the Recurrent Cash Book without Supporting Documents

1373) This bank reconciliation for the recurrent account reflects receipts of Kshs.57, 702,404 in the cash book not in the bank statement out of which receipts amounting to Kshs.1, 907,664 have not been explained what they relate to and when they were captured in the cash book. Further payments in the cash book not reflected in the bank statement of Kshs.58,438,786 made on 30th June, 2019 includes an amount of Kshs.11,723,534 paid to officers but was not included in the outstanding imp rest balance as at 30th June,2019 and a further Kshs.46,715,252.20 paid to suppliers. The supporting documents for the above payments were not availed for audit verification.

Submission by the Accounting Officer

1374) The Accounting Officer submitted that it was true that the bank reconciliation in the Recurrent A/C had receipts of recorded in cash Book not recorded in Bank statement totaling to Kshs.57,702,404.00 and payments in cash Book not recorded in Bank statement of Ksh.58, 438,785.70 as at 30.06.2019.The receipts amounting to Kshs.1, 907,664 were returned payments which were wrongly done. They were captured on the cashbook as per the attached F.O 17 -Bank Reconciliation and F.O 17

1375) The recurrent account bank reconciliation as at 30 June 2019 reflects payments in cashbook not reflected in the bank statement of Ksh.58, 438,785.70 paid on 30 June 2019. Included in this payment was an amount of Kshs.11, 723,534 paid to officers as outstanding voucher claims and not imprest and therefore could not have appeared as imprest at year end. The payment vouchers have now been availed for audit verification.

1376) **Committee Observations and Findings**

i) The Committee observed that, the explanation given by the Accounting Officer that the bank reconciliations have been prepared and reconciled to the cashbooks.
ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
iii) In addition, the Committee observed that the Accounting Officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit ; And
iv) The Committee also observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

1377) **Committee Recommendations**

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Further, the Accounting Officer should ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **In addition, the Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

357.2 Payments in the Development Cash Book without Supporting Documents.

1378) The bank reconciliation for the development account reflects payments in the cash book not in the bank statement amounting to Kshs.522,612,498 out of which an amount of Kshs.1,3 83,913 was paid to staff as at 30th June, 2019 but supporting documents were not availed for audit verification. The amount has not been reflected as outstanding imp rests from staff under receivables and no explanation has been provided for the anomaly.

1379) Under the circumstances, the accuracy of cash and cash equivalent of balance of Kshs.10,203,062 as at 30th June, 2019 could not be confirmed.

Submission by the Accounting Officer

1380) The Accounting Officer submitted that it was true that the bank reconciliation for the development account reflected payments in the cash book not in the bank statement amounting to Kshs.522,612,498 out of which an amount of Kshs.1,3 83,913 was paid to staff as at 30th June, 2019. The amount of Kshs.1, 383,913 comprised of Kshs.645,300 paid as allowances to staff and Kshs.738,613 being returned payments.

1381) The amount of Kshs.645,300 paid to staff members could not have been reflect under receivables in the financial statements for the following reason;

1382) The payments reflected in the cash book at 30th June 2019 were paid in July 2019, the period which the exchequer relating to FY 2018/19 was released to our account at Central Bank of Kenya. The actual dates for payment in the bank indicated July 2019, though they related to the budget for FY 2018/19. If the actual dates of payment in the bank were to be the actual dates of the cash book, this cash book would invariably be the cashbook for FY 2019/20. This would distort the financial statement for FY 2018/19 since the budget concerned, upon which the payments and exchequer releases were made, was for FY 2018/19.

1383) Finally, the payment vouchers totaling to Ksh.738,613 was for returned payments which were wrongly paid by recurrent account and were returned to development account and captured in the cashbook. The payment vouchers have now been availed for audit verification.

1384) **Committee Observations and Findings**

i) The Committee observed that, the explanation given by the Accounting Officer that the amount of Kshs.645,300 paid to staff members could not have been reflect under receivables in the financial statements to avoid misrepresentation of accounting facts.

ii) The Committee further observed that the Accounting Officer during the audit failed to provide the returned payments which were wrongly paid by recurrent account and were returned to development account in contravention of Section 68 (2) (b) of the PFM Act, 2012;

iii) In addition, the Committee observed that the Accounting Officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit ; And

iv) The Committee also observed that the Accounting Officer failed to ensure that complete financial statements were submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

1385) **Committee Recommendations**

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Further, the Accounting Officer should ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

2) **In addition, the Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

358 Accounts Payable Deposit and Retentions

1386) As disclosed in Note 12 to the financial statements, the statement of assets and liabilities reflects a balance of Ksh.10, 174,387 under accounts payable-deposits and retentions. Although lists of deposits totalling to Ksh.10,174,387 were availed, details of the contractors and constructions undertaken that would form the basis of settlement were not provided for audit verification.

1387) Without this information, the accuracy and validity of the deposits and retentions amount of Ksh.10, 174,389 as at June 2019 could not be confirmed.

Submission by the Accounting Officer

1388) The Accounting Officer submitted that it was true that the deposits have not been supported by the details of the constructions that were carried out as indicated in the list of the claimants availed. This is because the payments for the construction work were done by state department for devolution and the payment vouchers are still kept there for their documentation and accountability. The retention money was transferred to state department for Special programmes and later to state department of ASAL for payment to the contractors under Western Kenya Community Driven development/Flood Mitigation Project, when they fall due. All the source documents for the works are with the state department for devolution for verification.

1389) **Committee Observations and Findings**

i) The Committee observed that, the deposits had not been supported by the details of the constructions carried out and that the payment vouchers were kept in devolution department for their documentation and accountability.
ii) The Committee further observed that the retention money was transferred to state department for Special programmes and later to state department of ASAL for payment to the contractors under Western Kenya Community Driven development/Flood Mitigation Project, when they fell due.
iii) In addition, the Committee observed that the Accounting officer did not provide any evidence of payment of the retention money.

1390) **Committee Recommendations**

1) **Within three (3) months upon adoption of this report, the Accounting Officer should submit for audit review the status report of the contracts and Deposit and Retentions.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Further, the Accounting Officer should ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012**.

Other Matter

359 Pending Bills

1391) As disclosed in Notes 16.1 to the financial statements, the state department for Development of the ASALs had an outstanding pending of Kshs.15,172,530 as at 30th June, 2019, that was not settled during the year 2018/19 but was instead carried forward to 2019/20. Failure to settle pending bills during the year to which they relate distorts the financial statements for the year and adversely affects the provisions of the subsequent year to which they are charged.

Submission by the Accounting Officer

1392) The Accounting Officer submitted that it was true that the state department for Development of the ASALs had outstanding pending bills of Kshs.15,172,530 as at 30th June, 2019. The pending bills arose due to lack of exchequer, as at the close of the FY 2018/19. These bills became first charge in FY 2019/20 and were paid during the first half of FY 2019/20. We secured an additional funding of Kshs.13,928,980 in FY 2019/20 Supplementary Estimates to help settle the claims.

1393) **The Committee observed and found that**:
The Committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

1394) The Committee recommended that:
The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

360 Unresolved Prior Year Issues

360.1 Other Grants and Transfers - Emergency Relief and Refugee Assistance

1395) As previously reported, the statement of receipts and payments reflects KSh.3, 401,423,681 (2016/2017 – KSh.7, 097,995,969) in relation to Other Grants and Transfers as at 30 June 2018. The amount includes KSh.3, 289,532,111 (2016/2017 – KSh.7, 097,393,359) in respect of Emergency Relief and Refugee Assistance. However, although the documentation in respect of procurement of the relief commodities were made available, the documentation for distribution to beneficiaries and the basis of selection of beneficiaries were not provided for audit scrutiny. Consequently, the validity of the expenditure and value for money to the citizens could not be confirmed.

Submission by the Accounting Officer

1396) The Accounting Officer submitted that it was true that the documentation in respect of procurement of the relief commodities were made available, the documentation for distribution to beneficiaries and the basis of selection of beneficiaries were not provided for audit scrutiny. However, the Ministry had two-stage processes for the Identification of beneficiaries described below;

a) **Identification of beneficiary Counties/Sub-Counties and estimated aggregate numbers of individuals at the Ministry Headquarters**

1397) Relief food beneficiaries for each county/sub county were done by a multi-Agency stakeholders chaired by the National Drought Management Authority on the Long and Short Rains Assessments. The stakeholders undertake two assessments in Arid and Semi-Arid Counties to determine the performance of the short and long rains and how it predisposes populations to the consequences of drought. After the assessment, they come up with needy population in each sub county.

1398) It was the identified needy population that Ministerial Relief Food Distribution Committee recommends the quantities of relief food to be availed. Relief and Rehabilitation consequently issues out relief food quantities as recommended by the Committee. Leaders including Members of Parliament also make requests for relief food depending on disasters that have affected the counties and sub counties. Copy of the long rains and short rains assessment reports for the year 2017/2018.

Relief food distribution committee

1399) The Ministry had the Ministerial Relief Food Distribution Committee with members drawn from the ministries of: Interior and Coordination of National Government, Planning, Agriculture, National Drought Management Authority and officers of the State Department.

1400) The committee met every month or when necessary to receive, analyze and recommend to the Principal Secretary for approval of allocation of relief food requests from Counties and Sub Counties. Approval of distribution plans was done through minutes indicating the amount of food allocated to counties, sub counties for needy population and amounts allocated for logistics of the same.

Food quantities to counties and sub counties

1401) The Ministry allocated food to counties based on the vulnerable populations assessed and identified during the long and the short rains assessments as provided in the reports. It is worth noting that, as per the World Food Programme, Kenya Guidelines person in a family of five (5) is supposed to be given 12 kgs of cereals (maize or rice), 4kgs of legumes (beans or ndengu) and 0.75 litres of oil each month as relief food in situations of severe drought. However, due to little resources allocated, it was not possible to attain this standard. Therefore, utilizing the little resources available, the Ministry allocated uniform quantities of relief food to ASAL counties just to ameliorate the suffering of those affected by the drought.

b) Identification of Individual beneficiaries.

1402) The Ministry send relief food to County Commissioners/Deputy County Commissioners who then coordinated the targeting of individual beneficiaries and further distributed the food.

1403) The County Commissioners/Deputy County Commissioners were expected to file in returns after distribution at any given point. This is indicated in the Ministry's relief food allocation letter which is also copied to Principal Secretary Interior, County Commissioner, Governor, Women Representative, and the Member of Parliament.

1404) The Accounting Officer also stated that further documentation for the distribution of relief foodstuff to beneficiaries and relief foodstuff returns from Counties/Sub-Counties, is further explained under paragraph 2.2 below, since this paragraph 2.1 and paragraph 2.2 are intertwined.

1405) **The Committee observed and found that:**

i) The committee observed that the documentation for distribution to beneficiaries and the basis of selection of beneficiaries were not provided for audit scrutiny thus the validity of the expenditure and value for money to the citizens could not be confirmed;

ii) The Cabinet Secretary Ministry of Devolution and ASALs and, the Accounting Officer for State Department for ASALs had however written to the Cabinet Secretary of Interior and Coordination of National Government vide letters Ref: MDP/DD/ADM/6/77 dated 13th August 2019 and Ref:MDP/DSP/5/1 Vol.III dated 3rd June 2019 respectively over, accounting for food and funds under relief programme for the year ended 30th June 2018, and no response has been given to date; and the matter was therefore unresolved.

iii) The Accounting Officer has taken too long to provide the necessary documentation and therefore validity of the expenditure and value for money to the citizens could not be confirmed

1406) **The Committee recommended that:**

1) **Within three (3) months upon adoption of this report, the Accounting Officer provide the relief food beneficiary identification and distribution records to the Auditor-General for further audit review.**

2) **Further, the Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

360.2 Discrepancies in Relief Foodstuff Receipts and Distribution to Beneficiaries

1407) As reported previously, an audit inspection in five (5) Sub Counties namely Mwatate, Kilifi North, Baringo Central, Kitui Central and Makueni revealed the following anomalies in relief receipts and distribution to vulnerable populations:

i) The state department of Special Programmes did not follow up to ensure whether relief food stuff sent to the Counties was received by the intended beneficiaries. This was evident from the discrepancies in the dispatch records and the receiving records by the Sub-Counties.

ii) The distribution of the relief food is undertaken by the State Department for Interior who made no report of the quantities received and quantities distributed to the State Department of Special Programmes and therefore there is no evidence that the foodstuff was received by the beneficiaries.

iii) In all the Sub-Counties visited, there were no comprehensive distribution records to indicate how the foodstuff received was distributed.

iv) There were no documentation on how the needy persons were identified and hence no support of how the quantities of various destinations were determined.

v) The management at the State Department of Special Programmes is not involved in ensuring smooth logistics for transportation and distribution of the relief support to the beneficiaries.

vi) There was no accountability for AIEs sent to the County Commissioners for transport as evidenced in the Counties which did not fully account for KSh.1,700,000 AIEs sent to them.

vii) Although the Department had no vehicles at the Sub-Counties, the AIEs disbursed to Sub-Counties were being used for motor vehicles repairs.

1408) In view of the foregoing, the accuracy, completeness, validity and accountability of Other Grants and Transfers balance of KSh.3,401,423,681 could not be confirmed as at 30 June 2018.

Submission by the Accounting Officer

1409) The Accounting Officer submitted that the distribution of relief food was done by State Department of Interior because the State Department of Special Programmes had no field officers in any of the 133 sub counties in the ASALs. In our last engagement with this Committee regarding this very same matter, we submitted that the state department distributed emergency relief food up to County or Sub-County Commissioners level, after which they distributed to targeted beneficiaries. We therefore relied on the staff of the Ministry of Interior and Coordination of National Government to oversee distribution of food to targeted beneficiaries due to lack of our personnel in the regions.

1410) The State department further submitted that we requested the Ministry of Interior and Coordination of National Government to provide us with returns with respect to the emergency relied food distributed to them for FY 2017/18 without success

1411) The Committee therefore requested for the relevant correspondences, after which the Committee was to further follow up with the State department of interior. We submitted copies of the above letters, the same day, via our letter ref MDA/ASAL/2/10/ (86) dated 10th June, 2020. We hereby resubmit copies of the letters described below:

a) Letter by the Cabinet Secretary/Devolution & ASALs to Cabinet Secretary/Interior & Coordination of National Government, Ref MDP/DD/ADM/6/77 dated 13th August 2019 on accounting for food relief and funds under relief programme

b) Letter by the Principal Secretary/Devolution & ASALs to County Commissioners, Ref MDP/DSP/5/1 Vol. III dated 3rd June, 2019 on returns on relief food distribution for the FY 2017/18

1412) (iv) As explained in audit issue 2.1, quantities of various destinations were based on the long and short rains assessment reports. The assessment was undertaken by the Multi Agency stakeholders who determined the number of vulnerable persons in each sub county who required relief food assistance. Based on such reports, the Ministerial Relief Food Distribution Committee recommended the quantities to be sent to each sub county.

However, due to limited resources it was not possible to provide enough food per person per month as per the best practice. Therefore, some small ratios were sent to sub counties to ensure that populations affected by drought can at least survive.

1413) Relief food beneficiaries for each county/sub county were done by a multi-Agency stakeholder chaired by the National Drought Management Authority on the Long and Short Rains Assessments undertakes. The stakeholders undertook two assessments in Arid and Semi-Arid Counties to determine the performance of the short and long rains and how it predisposes populations to the consequences of drought. After the assessment, they come up with needy population in each sub county. It is the identified needy population that Ministerial Relief Food Distribution Committee recommended the quantities of relief food to be availed. Relief and Rehabilitation consequently issued out relief food quantities as recommended by the Committee.

1414) (v) The Management of Special programmes involved itself in the logistics of transportation of relief food from one central store in Nairobi up to Counties and Sub Counties headquarters. There were four transporters who were being assigned to transport food from Nairobi where our stores were based to sub counties. The Ministry also availed AIEs to Deputy County Commissioners for distribution logistics in the regions. Each Sub County in ASAL Area was allocated ksh.200, 000, Semi-Arid Sub Counties were allocated kshs.100,000 and none ASAL Counties were allocated ksh70,000 for relief food transportation logistics. These included; (1) hire of secondary transport to ferry food from sub county headquarters to food distribution points, (2) payment of persons tasked with loading and offloading of food, (3) fueling and repair of GK Lorries used in food transportation in the sub counties.

1415) (vi)Accounting for the AIEs issued to County Commissioners/Sub-County Commissioners totalling to kshs 1,700,000 was done at the Counties/Sub-County district Treasury where the expenditure was incurred and where public financial management field officers of the National Treasury are domiciled. This matter was affirmed by the representative of the National Treasury during the previous hearing of this Committee.

1416) And due to lack of officers on the ground to undertake food distribution logistics, AIEs were disbursed to the County/Sub-County Commissioners to cater for relief foodstuff distribution transport and logistics. These included; (1) hire of secondary transport to ferry food from sub county headquarters to food distribution points, (2) payment of persons tasked with loading and offloading of food, (3) fueling and repair of GK Lorries used in food transportation in the sub counties.

1417) The Committee observed and found that:

i) The committee observed that the documentation for distribution to beneficiaries and the basis of selection of beneficiaries were not provided for audit scrutiny thus the validity of the expenditure and value for money to the citizens could not be confirmed;
ii) The Cabinet Secretary Ministry of Devolution and ASALs and, the Accounting Officer for State Department for ASALs had however written to the Cabinet Secretary of Interior and Coordination of National Government vide letters Ref: MDP/DD/ADM/6/77 dated 13th August 2019 and Ref:MDP/DSP/5/1 Vol.III dated 3rd June 2019 respectively over, accounting for food and funds under relief programme for the year ended 30th June 2018, and no response has been given to date; and the matter was therefore unresolved.
iii) The Accounting Officer has taken too long to provide the necessary documentation and therefore validity of the expenditure and value for money to the citizens could not be confirmed.

1418) **The Committee recommended that:**

1) **Within three (3) upon adoption of this report, the Accounting Officer should provide the relief food beneficiary identification and distribution records to the Auditor-General for audit review.**
2) **Further, the Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

361 Use of Goods and Services - Other Operating Expenses

1419) The statement of receipts and payments shows a figure of kshs.256, 887,800 for Use of goods and services for the year ended 30 June 2019. Included in this balance is an amount of kshs.51, 788,815 relating to other operating expenses which include a payment of kshs.2,716,616 to a transporter in respect of transportation of relief food to various destinations. The payment was supported by a contract of relief food supplies that expired on 5th October, 2015. However, the contract was extended as indicated in the minute No.10/2015-16 of the Ministerial Tender Committee held on 17 December, 2015 for a period of four (4) months from 5 October 2015 to 5 February 2016. An audit scrutiny of records revealed the following anomalies:

i) The extended contract was signed on 8 June, 2016, which was four (4) months after the lapse of the extension period and hence invalidating any works done after the lapse of the contract on 5 October 2015;
ii) There was no evidence of fresh tendering having been done to select a new or renew the contract of the existing supplier and hence the management was in breach of the Public Procurement and Assets Disposal Act 2015.
iii) On waybill No. 07795 dated 11.05.2016 for kshs.191,426.90 the transporter was loaded with 200 bags of rice 50Kgs each and 50 bags of beans on reaching the destination 199 bags of rice and 49 bags of beans were received in the stores with a short delivery of one (1) bag of rice and one (1) bag of beans as indicated in the waybill. This anomaly was not addressed.

iv) Waybill No.086246 for Kshs.80,486.85 the lorry was loaded with 300 bags rice 50 kgs each and 50 bags of beans weighing 50 kgs each on arriving at the destination and upon offloading the bags were found weighing between 41-45kgs each.
v) Waybill No.08625 Kshs.71,475 200 bags of rice weighing 50kgs each were loaded on the lorry but upon reaching the intended destination they were found to be weighing between 41-50kg.

1420) No explanation or documentary evidence were provided for audit verification to show what action was taken against the transporter for short delivery of relief food.

Submission by the Accounting Officer

1421) The contract for transportation of relief food supplies expired on 5.10.2015 and through Minutes of Ministerial Tender Committee No.10/2015-16 held on 17 December 2015 approved the extension of the contracts for a period of four (4) months from 5 October 2015 to 5 February 2016. Thereafter there were emergency floods experienced in the coastal and parts of the rift valley which led to destruction of houses and displacement of households. As a department in charge of relief assistance, we were left with the option of utilizing the transporters whose contract had expired but who had worked with the ministry previously to transport relief to the affected areas to assist the many displaced people.

1422) Accounting Officer approval, dated 21st April 2016, for transport of emergency relief food)

1423) (iii), (iv) (v) It is true that transporters lost some kilograms of food on the way. Small weight losses were mainly due to spillage, however in cases of substantial weight loss, the transporters met the full cost of loss based on the contract prize of each bag. They were surcharged an equivalent amount of loss.

1424) **Committee Observations and Findings**

The Committee observed and found that:

The committee observed that the Letters by the Accounting officer approving the transport and surcharges done for losses incurred had been provided. However, there was no evidence of recovery of the surcharged amounts.

1425) **The Committee recommended that:**

1) **Within three (3) months upon adoption of this report, the Accounting Officer should provide evidence of recovery of the surcharged amounts to the Auditor-General for audit review.**
2) **Further, the Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

362 Unauthorized Procurement of Goods

1426) The statement of receipts and payments shows a figure of kshs.48, 565,862 under acquisition of Assets for the year ended 30 June 2019. Payment of kshs.368, 200 was paid to a Senior Clerical Officer being surrender of temporary imprest issued as facilitation for accreditation materials while attending ASAL Conference in Malindi. However, the surrender showed that the entire amount was used for cash procurement without due regard to competitive sourcing as required by the Public Procurement and Disposal Act, 2015.

Submission by the Accounting Officer

1427) It is true that payment of kshs.368, 200 was paid to a Senior Clerical Officer being surrender of temporary imprest issued as facilitation for accreditation materials while attending ASAL Conference in Malindi. The accreditation process to the ASAL conference was coordinated in collaboration with Government Protective Security Office (GPSO). The Government Protective Security Office took over the accreditation task due to the heightened security challenges during August 2018 in the Coastal region including Malindi, where the function took place.

1428) Further, the required materials for accreditation process were not available in the store and were urgently required and very limited time was left between 28/08/18 and 04/09/2018 the date of the conference. There wasn't enough time left to do competitive bidding.

1429) In addition, the procurement department verified the materials procured and received them in the stores via Counter receipts (S13) Nos 8528740, 8528741, 8528742 dated 30/08/2018. As such, the imprest was fully account for.

Committee Observations and Findings

1430) **The Committee observed and found that:**

The Committee observed that the Senior Clerical Officer was in breach of Section 58 (2) of the Public Procurement and Asset Disposal Act 2015 that requires the procurement process to ensure fairness, equitability, transparency, cost-effectiveness and competition among those who may wish to submit their applications.

1431) **The Committee recommended that:**

The Accounting Officer must at all times ensure adherence to the law as outlined in Section 58 (2) of the Public Procurement and Asset Disposal Act 2015 that requires the procurement process to ensure fairness, equitability, transparency, cost-effectiveness and competition among those who may wish to submit their applications.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1432) **Conclusion**

363 There were no material issues relating to effectiveness of internal controls, risk management and governance.

11. MINISTRY OF DEFENCE

REPORT ON THE FINANCIAL STATEMENTS – VOTE 1041

Dr. Ibrahim M. Mohamed, the Principal Secretary and Accounting Officer Ministry of Defence (Vote 1041) appeared before the Committee 15th July, 2021 to adduce evidence on the audited financial statement for the Ministry of Defence (Vote 1041) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. Lt. Gen. Levi Mgalu - Vice Chief of Defence Force
2. Mr. C. K. Muhia - Senior Chief Finance Officer
3. Mr. Electinia W. Wamumii - Deputy Accountant General
4. Mr. Col J.M. Ngatia - Chief of Legal Service
5. Maj. A. T. Naija - Legal Officer

And submitted as follows:

1433) **Basis for Qualified Opinion**

364. The Committee observed that there were no material issues noted during the audit of the financial statements for the Ministry.

365. Pending Bills

1434) Note 16C to the financial statements reflects pending bills balance of Kshs.568,617,140 as at 30 June, 2019. Had the accounts been settled and charged to the statement of receipts and payments for the year, it would reflect a deficit of Kshs.510,846,979 instead of the current reported surplus of Kshs.57,770,161. Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form the first expenditure to be charged.

Submission by the Accounting Officer

The Accounting Officer submitted as follows:

1435) **Pending Bills KShs.568,617,140 – Development Vote**

a. The Ministry of Defence had an approved budget of KShs.4,000,000,000.00 under the Development Vote D1014

b. The Ministry requested for and received Development exchequer as detailed below:

SNo.	Exchequer Requisitioned, KShs.	Exchequer Issued, KShs.	Under Issue, KShs.
1	3,500,000,000	3,431,695,000	68,305,000
2	500,000,000	-	500,000,000
Total	**4,000,000,000**	**3,431,695,000**	**568,305,000**

The Ministry therefore suffered an exchequer under-issue of KShs.568,617,140 as at 30.06.2019, and disclosed the same in Note 16C to the Financial Statements of the Ministry for the Financial Year under review. The difference of KShs.312,140 between the actual pending bills and the exchequer under-issue was caused by currency fluctuations.

c. Due to exchequer under-issue, the Ministry could not meet the financial obligations that had already been committed to as at the closure of the financial year 2018/2019. Had the exchequer of KShs.568,617,140 been availed, the Ministry could not have reflected the pending bills in question.

d. The Ministry would however wish to confirm that pending bills were treated as **'first charge'** in the subsequent Financial Year and settled in full despite the resultant adverse effect of distorting the budget for the year in which they are paid.
We further wish to state that details of the payees have been availed to the auditors for scrutiny and verification.

The correct position therefore is that the pending bills amounting to KShs.568,617,140 incurred on the Ministry's Development Vote during the financial year 2018/2019 were valid, and have been settled in full.

1436) **Surplus KShs.57,770,161.00**

a. The Ministry of Defence had approved budgets as follows:
   i. Recurrent Vote - KShs.101,548,580,315 (See Annex V)
   ii. Development Vote - KShs.4,000,000,000 (See Annex II)
b. The Ministry incurred expenditure as detailed in the table below:

uVote	Approved Budget, KShs.	Total Expenditure, KShs.	Under/(Over)-Utilization, KShs.
Recurrent	101,548,580,315	101,524,329,837	24,250,478

Development (GoK)	4,000,000,000	3,966,480,317	33,519,683

c. The total budget under-utilisation is as summarised:

Recurrent Vote	-	KShs. 24,250,478
Development Vote	-	KShs. 33,519,683
Total	-	KShs. 57,770,161

The Ministry therefore reported in its Statement of Receipts and Payments and Statement of Assets and Liabilities a total surplus of KShs.57,770,161 as at 30 June, 2019.

d. The amount of KShs.57,770,161 reflected as surplus on the Summary Statement of Appropriation relates to appropriation for the financial year under review that had not been spent as at 30 June, 2019. This amount had been reserved for foreign exchange fluctuations while paying foreign payments (PAs), to avoid the Ministry's bank accounts being overdrawn.

1437) **Committee Observations and Findings**

The Committee observed that the explanation given by the Accounting Officer with regard to pending bills was satisfactory; and

1438) **Committee Recommendation**

The Committee recommended that –

The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

1439) **Conclusion**

366. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1440) **Conclusion**

367. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REVENUE STATEMENTS - MINISTRY OF DEFENCE

REPORT ON THE REVENUE STATEMENTS

1441) **Unqualified Opinion**

368. There were no material issues noted during the audit of the revenue statements of the Ministry.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1442) **Conclusion**

369. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1443) **Conclusion**

370. There were no material issues relating to effectiveness of internal controls, risk management and governance.

12. MINISTRY OF FOREIGN AFFAIRS

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1052

Amb. Macharia Kamau, the Principal Secretary and Accounting Officer for the Ministry of Health (Vote 1052), appeared before the Committee on 21st July 2021 to adduce evidence on the Audited Financial Statements for the Ministry of Foreign Affairs (Vote 1052) for the Financial Year 2017/2018. He was accompanied by the following officers:

1.	Mr. Chimwaga Mungo	–	Director General- management
2.	Mr. Vincent L. Kirwa	–	Senior Deputy Accountant General
3.	Mr. Kenneth Mwangi	–	Senior Deputy Director Supply Chain
4.	Mr. John Guru	–	Director HRM
5.	Mr. James H. Aloyo	–	Head of Finance
6.	Mr. Solomon Nyangeua	–	Finance Officer
7.	Mr. Abel Njuguna.	-	PS Office

And submitted as follows:

371. Long Outstanding Imprests

1444) The statement of assets and liabilities as at 30 June, 2019 reflects a balance of Kshs.4,800,429 under accounts receivables – outstanding imprests. Examination of records held at Kenya Missions in Stockholm and Berlin revealed long outstanding imprests amounting to Kshs.2,956,653. Some of the imprests have been outstanding for 30 years and thus making their recoverability doubtful.

1445) In the circumstances, the recoverability of imprests totalling Kshs.2,956,653 included in the accounts receivables – outstanding imprests balance of Kshs.4,800,429 could not be confirmed.

Submission by the Accounting Officer

Stockholm

1446) The Accounting Officer admitted that the Statement of Assets and Liabilities for the Ministry as at 30th June, 2019 reflects a balance of Kshs.4,800,429 under Accounts Receivables - outstanding imprests out of which SEK 211,704.48 (Kshs.2,286,408 equivalent) relates to Long Outstanding Imprests in the books of the Kenyan Mission in Stockholm.

1447) The imprest SEK 211,704.48 (Kshs.2,286,408 equivalent) had been issued to Ambassador Joe Sang when he reported to Stockholm Mission on posting from Kenya High Commission in London, to enable him settle school fees for his child that remained studying in London following the Accounting Officer's approval that he could educate his children in a third country (Ref No. MFA.2007050789(23) dated 3rd June, 2013). The Ambassador left his children studying in London where he had been the Deputy Head of Mission after he reported to Stockholm as Ambassador.

1448) It is confirmed that Ambassador Joe Sang utilized the imprest to settle the school fee arrears in 2017 and retained receipts for the same. The officer, vide his letter to the Accounting Officer dated 8th June, 2020 surrendered the imprest by providing documentary evidence of payment of the school fees against the imprest warrant issued to him. This came after the Ministry initiated recovery from his salary of the imprest that was reflecting against his name as uncleared.

1449) It is confirmed that the imprest has since been accounted for in full and the Stockholm Mission has been provided with supporting documentation and advised to clear the imprest from their books.

Berlin

1450) The Accounting Officer admitted that the Statement of Assets and Liabilities for the Ministry as at 30th June, 2019 reflects a balance of Kshs.4,800,429 under Accounts Receivables - outstanding imprests out of which Kshs.670,245.05 relates to Long Outstanding Imprests in the books of the Kenyan Mission in Berlin.

1451) The imprests were issued to visiting delegations especially during state visits and the same were to be recovered upon receipt of remittances of per diems to the officers. The officers however did not account for or surrender the imprests before leaving the station.

1452) The Ministry has instituted the following interventions to manage the above state of affairs: -

- Has written to Accounting Officers of the Ministry's/State Departments to which the officers moved to, to recover the imprest from their renumerations and to remit the same to MFA.
- The Ministry has continued to deduct from salaries of the defaulting officers the imprests outstanding plus interests until their imprests will be fully accounted for.

1453) The above interventions have been shared with the audit team and outcome from the same are regularly availed for audit review.

1454) **Committee Observations and Findings**

(i) The Committee observed that imprest amounting to Kshs.2,286,408 advanced to Stockholm mission has since been surrendered;

(ii) The Committee further observed that the letter to Accounting Officers to recover outstanding Imprest in regard to Berlin has been availed;

(iii)The Committee also observed that the Accounting Officer failed to surrender imprest valued at Kshs.670,245.05, within seven (7) working days after returning to duty station as per Section 93 (5) of the Public Finance Management (National Government) Regulations, 2015;

(iv) The Committee observed that the Accounting Officer has taken measures to expedite the process of clearance of surrendered imprest/recovery;

(v) In addition, the Committee observed that the Accounting Officer failed to recover the full amount from the salary of the defaulting officers with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.

1455) **Committee Recommendation**

The Committee reprimands the Accounting Officer at the material time for failure to ensure that the outstanding imprests due were surrendered in time. This was in contravention of the provisions of the PFM Act 2012 and Regulation 93 of the PFM (National Government) Regulations 2015.

372. Unapproved Expenditure and Irregular Prior Year Adjustment

1456) The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was made to that effect

373. Irregular Variation of Contract

1457) The statement of receipts and payments for the year ended 30th June, 2019 reflects an expenditure of Kshs.1,618,676,563 in respect of acquisition of assets and which as disclosed in Note 9 to the financial statements includes an amount of Kshs.504,687,138 relating to refurbishment of buildings.

1458) During the financial year 2018/2019, the Ministry contracted a firm to renovate offices at the Ministry's Headquarters at a contract price of Ksh.14,925,045. However, the contract price was varied to Kshs.18,141,407 representing an increase of Kshs.3,216,362 or 21.5% of the contract price. The increase went beyond the allowed 15% and was made before the end of twelve months after signing the contract contrary to the requirements under section 139(3) and (4) of the Public Procurement and Asset Disposal Act, 2015.

Submission by the Accounting Officer

1459) The Accounting officer admitted that the Ministry signed a contract of Kshs.14,925,045.00 on 2nd May 2018 for renovation works to offices of the Ministry of Foreign Affairs headquarters. As the works progressed, it became necessary to undertake extra works alongside the ongoing works so as not to delay the commissioning of the refurbished offices for occupation.

1460) The extra works amounted to Kshs.3,216,313.33 thereby increasing the total contract cost to Kshs.18,141,407.40 from the initial contract cost of Kshs.14,925,045.00. It should be noted that the extra works constituted 21.5% of the earlier contract compared to the 25% variation allowed under section 139 (3) and (4) of the Public Procurement and Asset Disposal Act, 2015. The variation done as above was for the whole project and not for works only and was therefore within the allowed limits.

1461) **Committee Observations and Findings**

(i) The Committee observed that the contract variation was not just for the works but for the whole contract which is 21.5% against 25% allowable; and

(ii) The Committee therefore marked the matter as resolved

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1462) **Conclusion**

374. There were no material issues relating to effectiveness of internal controls, risk management and governance

13. STATE DEPARTMENT FOR VOCATIONAL AND TECHNICAL TRAINING

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1064

Dr. Margaret W. Mwakima, the Principal Secretary and Accounting Officer for State Department for Vocational and Technical, Training (Vote 1064) appeared before the Committee on 11th August, 2021 to adduce evidence on the Audited Financial Statements for the State Department for Vocational and Technical, Training (Vote 1064) for the Financial Year 2018/2019. She was accompanied by the following officers:

1. Mr. Anthony Masinde - Chief Finance Officer
2. Mr. Joseph Nyamora - Head of Accounting Unit
3. Mr. John Macharia -Accounts Unit
4. Mr. David Mwangi - Accounts Unit
5. Eg. Mwaa Mutinda - Director VET
6. Mr. Joseph W. Njau - Ag Director TE
7. Ms. Jane Kariuki - Deputy Director TE

And submitted as follows:

375. Transfers to Other Government Units

375.1 Over Disbursement Due to Use of Unverified Data

1463) The statement of receipts and payments reflects an expenditure of Kshs.6,998,566,833 in respect of transfers to other government units. The following anomalies were noted regarding the expenditure:

1464) From a sample of institutions, it was noted that the enrolment numbers provided by Kenya Universities and Colleges Central Placement Service were not used for disbursement purposes. Instead, different enrolment data containing inflated numbers whose source is unknown, was used resulting to an over payment of Kshs.50,599,308 as detailed below:

PV No.	Institution	KUCCPS Total No.	Valid No.	No. Used	Difference	Rate (Kshs.)	Amount (Kshs.)
1507	North Eastern NP	1,141	1,139	2,046	907	6,322.28	5,734,308
1092	Kisiwa TVC	31	-	2,113	2,113	15,000	31,695,000
1092	Mathenge TVC	494	374	1,108	734	15,000	11,010,000

1092	Moiben TVC	8	6	150	144	15,000	2,160,000
Total							**50,599,308**

Submission by the Accounting Officer

1465) The Accounting Officer submitted that during the inception of the first processing of capitation, there were no policy guidelines in place except the directive to use KUCCPS data as a basis for payment of capitation. The State department set up a disbursement committee which developed draft disbursement guidelines which formed the basis of payment of capitation. There were discrepancies with the issue of data from KUCCPS and TVET institutions which led to reconciliation problems. This was communicated by the CEO of KUCCPS vide their letter Ref.No. KUCCPS/14/1 dated October 17,2018

1466) After reconciliation of the numbers, KUCCPS vide letter Ref No. KUCCPS/14/1 dated June 10,2019. gave the correct data which was used in the processing of the stated amount of Kshs. 50,599,308 and therefore there was no overpayment. The breakdown of the stated institutions are indicated in the table below:

Table 1

PV No.	**Institution**	**KUCCPS Total No.**	**No. Used from Institution**	**Amount**	**Remarks**
1507	North Eastern NP	1141		12,933,750	Amount disbursed as per the institution budget
1092	Kisiwa TVC	2,125	2,113	31,695,000	As per letter KUCCPS/14/1 dated June 10,2019
1092	Mathenge TVC	1,737	1108	16,620,000	As per letter KUCCPS/14/1 dated June 10,2019
1092	Moiben TVC	275	150	2,250,000	As per letter KUCCPS/14/1 dated June 10, 2019 and list of beneficiaries**.**
Total				50,599,308	

1467) The number used from the institution as shown in the table above, it is clear that the ministry paid less than what could have paid using KUCCPS data.

1468) It is hereby confirmed there was no over disbursement. The payment to North Eastern Polytechnic was based on their budget line for the FY 2018/2019, because as per a National

Polytechnic a disbursement based on enrolment was not sufficient to sustain the institution's operation. The amount paid of Ksh.12,933,753 was ratified through disbursement committee meeting of 13/06/2019 currently the state department has established disbursement committee and TVET MIS for the purposes of control of the data.

1469) Currently we have also launch the TVET MIS and the principals have been instructed to upload the enrolment data on the TVET MIS which will be for data control.

Committee Observations and Findings

1470) The Committee observed that the Accounting Officer failed to ensure that the source data is reconciled, accurate and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

1471) **Committee Recommendations**

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**
2) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

375.2 Over Disbursement Due to Inflated Student Enrolment Numbers

1472) For some institutions, the data for student enrolment numbers used to make the disbursements was not cleaned to eliminate the students who did not provide the correct details, those who did not meet the minimum qualification, unregistered programs, non-citizens and those whose results could not be validated. This had the effect of increasing the number of students in these institutions leading to overpayment of Kshs.119,403,322 as detailed below:

PV No.	Institution	KUCCPS Total No.	Valid No.	No. Used from Instution	Difference	Rate (Kshs.)	Amount (Kshs.)
1504	Kabete NP	7,681	106	7,198	7,092	15,000	106,380,000
1507	Eldoret NP	11,673	8,617	8,624	7	6,322	44,254
1507	Kabete NP	10,631	3,431	3,433	2	6,322	12,645

1507	Kisumu NP	6,561	4,081	4,082	1	6,322	6,322
1507	Meru NP	7,739	1,361	1,362	1	6,322	6,322
1507	Nyeri NP	5,874	1,939	1,940	1	6,322	6,322
1507	Sigalagala NP	3,782	459	461	2	6,322	12,645
1507	North Eastern NP	-	-	2,046	2,046	6,322	12,934,812
666	Eldoret NP	3,049	3,042	3,049	7	15,000	105,000
Total							**119,403,322**

Submission by the Accounting Officer

1473) The Accounting Officer submitted that the enrollment data submitted is less than the KUCCPS data as per Table II and therefore there was no over-disbursement.

Table 2

PV. No.	Institution	KUCCPS Total No.	No. Used	Rate	Amount
1504	Kabete NP	10631	7198	15,000	107,970,000
1507	Eldoret NP	11673	8617	6,322	54,479,126.45
1507	Kabete NP	10631	3431	6,322	21,691,000
1507	Kisumu NP	6561	4081	6,322	25,801,000
1507	Meru NP	7739	1361	6,322	8,604,629
1507	Nyeri NP	5874	1939	6,322	12,258,909
1507	Sigalagala NP	3782	459	6,322	2,901,928
1507	North Eastern NP	-	-	-	12,933,750
666	Eldoret NP	3049	3049	15,000	105,000
	Total				119,508,897

1474) Letter Ref. No. KUCCPS/14/1 Dated October 17, 2018 Clarifies the issues of the discrepancy in the students number

1475) **Committee Observations and Findings**

The Committee observed that the Accounting Officer failed to ensure that accurate records and other supporting documents are submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 and pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1476) **Committee Recommendations**

The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents to the Auditor General in time as provided for in Article 229 (4)(h), section 81(4)(a) of the Public Finance Management Act 2012 and pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

375.3 Excess Disbursements and Disbursements to Institutions with Low/Nil Student Population

1477) Examination of records held by the State Department revealed that six (6) institutions entitled to a total of Kshs.12,000,000 based on the set criteria received a total of Kshs.27,000,000 resulting into excess disbursement of Kshs.15,000,000. Further, an amount of Kshs.64,500,000 in respect of recurrent grants was disbursed to institutions with less than two hundred (200) students. In addition, Kshs.500,000 was disbursed to Endebess Technical Training Institute in spite of the fact that the Institution was not listed among the beneficiary Institutions.

1478) In the circumstances, it has not been possible to confirm that the established criteria for the transfers was adhered to and that the disbursements were fairly done.

Submission by the Accounting Officer

1479) The Accounting Officer submitted that the State department disbursed an amount of Kshs.64,000,000 in respect of recurrent grants. The State department had developed a criteria for disbursing recurrent grants. Institutions were allocated the grants based on the five categories listed in the criteria provided to the Committee for perusal. The six (6) institutions which received a total of Kshs.27,000,000 never received disbursement because the amount was based on category III for students 500-999 students each getting 4,500,00 based on a criteria of disbursement of recurrent grants

1480) Endebess TTI was listed in category 1 (New Institutions) which were allocated Kshs.500,000 per quarter and therefore it was correctly listed as beneficiary institution in that category.

1481) **Committee Observations and Findings**

The Committee observed that the Accounting Officer failed to provide the established criteria for disbursing recurrent grants to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

1482) **Committee Recommendations**
The Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

376. Purchase of Furniture

1483) Included in the amount of Kshs.6,998,566,833 in respect of transfers to other Government units reflected in the statement of receipts and payments is an amount of Kshs.36,234,800 being expenditure for purchase of furniture and fittings for vocational and technical training institutes. However, the source of the funding was not disclosed as this activity was not provided for in the budget for the 2018/19 financial year neither were the amounts included in the pending bills for financial year 2016/17 when the procurement commenced.

1484) Evaluation of tenders was done on 22 May, 2017 and two (2) merchants emerged the winners for a total of Kshs.36,234,800. The contracts for the two (2) companies were signed on 2 August, 2017 - seventy-two (72) days after notification of award of tender contrary to the provisions of Section 2 (2.29) of the tender document that provided for a maximum of thirty (30) days.

1485) The bid price for one of the bidders was adjusted upwards by Kshs.341,600 from Kshs.18,014,400 to Kshs.18,356,000 by the evaluation committee contrary to Section 82 of the Public Procurement and Asset Disposal Act, 2015 which clearly stipulates that the tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.

1486) Further, the procured items were delivered on 1 February, 2018 and 25 May, 2018 - seventy-five (75) and one hundred and seventy-five (175) days respectively after the expiry of the contract periods. In addition, three Inspection and acceptance committee reports with different dates and each providing a different status of the goods delivered to Kasarani TVC were provided. It could therefore not be confirmed that the items were delivered in compliance with the terms and specifications of the contract.

1487) Consequently, the propriety and value for money on the purchase of furniture expenditure of Kshs.36,234,800 could not be confirmed.

Submission by the Accounting Officer
1488) The activity was budgeted in the financial year 2016/2017 and was captured in the approved procurement plan No. 2658 for the financial year 2016/2017 under budget lines ranging from line 1064101501 to 1064101556, we wish also to confirm that in the financial year 2017/2018 the budget for this procurement was captured in the estimates and in

approved procurement plan No. 8967 for the financial year 2017/2018 under budget lines ranging from line 1064101547 to 1064101560 and lines 1064101204 to 1064101207 and was also included in the pending bills 2017/2018, we wish to confirm that the same was included as per the letter Ref. MOEST/VTT/11/7(2) dated 5th November, 2018 Request for Auto creation Access indicates that the State Department is in the process of paying pending bills that were incurred in the financial year 2017/2018.

1489) The contract was signed 72 days after notification of award, the contract could not be signed during the month of June since the National Treasury had issued a directive for no further financial commitments after 31st May, 2017, so the contract could not be signed and had to be signed within a new budget cycle requiring inclusion of the budget in the Financial year 2017-2018 procurement plan the after verification of availability of funds and this was done under procurement plan No. 8967 of Financial year 2017-2018 , hence the issue of the signature date, however we wish to confirm that it was within the tender validity period in this case 120 days ending 8th August 2017

1490) The bid price was adjusted upwards however the Evaluation Committee while correcting arithmetical errors may have relied on Section II- Instruction to Tenderers Paragraph 2.22.2 which states; "Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and the quantity, the unit price shall prevail, and the total price shall be corrected. If the candidate does not accept the correction of the errors, its tender will be rejected, and its tender security forfeited. If there is a discrepancy between words and figures the amount in words will prevail".

1491) M/s Apicah Furniture supplied and delivered after 175 days and M/s Starzone Office Supplies 62 days after expiry of the Contract validity period of 120 days. The delay in delivery was occasioned by the electioneering period at the time and the post-election disorder whereby most parts of the country experienced sporadic violence. Normal office routine work was equally disrupted.

1492) The Two firms were able to supply in February 2018 and May 2018 respectively when the security situation had normalized in the particular areas. However, we got value for money because all the procured equipment was delivered to all the institutions. (Appendix 376).

Committee Observations and Findings

1493) The Committee observed that despite the delay in providing information to the auditors, the Accounting Officer explained the reasons for the variation in price, delay in delivery of the furniture and circumstances surrounding the procurement process and were found to be satisfactory.

1494) **Committee Recommendations**

The Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

377. Non-Compliance to the Third Rule on Salary Deductions

1495) Analysis of the payroll data for the year ended 30 June, 2019 revealed that payroll deductions for twenty-three (23), twenty-five (25) and one hundred and forty-nine (149) employees in the months of April, May and June respectively were in excess of two thirds of their gross pay. This contravenes Section 19(3) of Employment Act, 2007 which states that the total amount of all deductions which under the provisions of subsection (1), may be made by an employer from the wages of his employees at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry.

1496) In the circumstance, the State Department is in breach of the Law.

Submission by the Accounting Officer

1497) The Accounting Officer submitted that there were trainers who were moved from Teacher Service Commission to the State Department for Vocational and Technical Training and they were added to the IPPD. Some officers had salary deduction with reasons are summarized by the table below.

SNO	PAYROLLNUM	SURNAME	FIRSTNAME	OTHERNAMES	ED801	ED802	ED813	GROSS PAY	DEDUCTS	ONE THIRD	NETT PAY		REASON
1	20140003041	Waiharo	Joseph	Kimani	85,110.00	16,800.00	12,000.00	113,910.00	113,862.50	28,370.00	47.50	(28,322.50)	TSC loan still running which ought to have stopped upon transfer from TSC
2	1984143120	Odikre	Paul	Odhiambo	89,35	45,00	12,00	146,350.00	140,52	29,783.33	5,825.50	(23,957.83)	deptmental deductions

					0.00	0.00	0.00		4.50				
3	1986129568	Egesah	Aggrey	Musi	63,900.00	35,000.00	8,000.00	106,900.00	104,898.20	21,300.00	2,001.80	(19,298.20)	deptmental deductions
4	1993077604	Mwongela	Milcah	Mutindi	63,900.00	35,000.00	8,000.00	106,900.00	101,143.65	21,300.00	5,756.35	(15,543.65)	Tax excemption expired
5	2014240330	Muindi	Samuel	Wambua	49,950.00	16,500.00	6,000.00	102,450.00	99,400.90	16,650.00	3,049.10	(13,600.90)	Tax excemption expired
6	1989150201	Akech	Sebastian	Nengoh	31,950.00	15,400.00	-	47,350.00	46,534.75	10,650.00	815.25	(9,834.75)	officer on interdiction
7	2001066777	Ketter	Cyprian	Kimeli	63,900.00	15,400.00	8,000.00	87,300.00	71,662.20	21,300.00	15,637.80	(5,662.20)	TSC loan still running which ought to have stopped upon transfer from TSC
8	2005064662	Suja	Michael	Ochieng	55,150.00	22,000.00	6,000.00	83,150.00	70,274.20	18,383.33	12,875.80	(5,507.53)	deptmental deductions - training levy
9	1983000131	Mkanyika	Mary	Mkanyika	36,21	14,45	4,533.35	55,193.35	48,533.40	12,070.00	6,659.95	(5,410.05)	contract expiry (partial salary)

					0.00	0.00						
10	1996123603	Sangiriaki	Stephen	Muchiri	47,780.00	13,000.00	6,000.00	66,780.00	54,398.60	15,926.67	12,381.40	(3,545.27)	Hardship allowance dropped and it ought to have been paid
11	2010631739	Mukonyi	Rachael	Vakhoya	52,500.00	13,000.00	6,000.00	71,500.00	56,023.40	17,500.00	15,476.60	(2,023.40)	deptmental deductions - HELB
12	1993077337	Dickson	Benson	Murithi	63,900.00	18,000.00	8,000.00	89,900.00	69,723.20	21,300.00	20,176.80	(1,123.20)	KUPPET deductions
13	2001065998	Atuti	Stella	Kemunto	55,150.00	22,000.00	6,000.00	83,150.00	65,682.20	18,383.33	17,467.80	(915.53)	KUPPET deductions
14	2010632138	Koskey	Cherono	Linner	49,950.00	22,000.00	6,000.00	77,950.00	61,893.10	16,650.00	16,056.90	(593.10)	KUPPET deductions
15	1995088498	Ombwayo	Rebecca	Aidi	63,900.00	15,400.00	8,000.00	87,300.00	66,588.20	21,300.00	20,711.80	(588.20)	KUPPET deductions
16	2010187176	Dhoye	Grace	Adoyo	20,800.00	3,730.00	3,000.00	27,530.00	20,802.50	6,933.33	6,727.50	(205.83)	deptmental deductions - GOK house rent

17	2005064857	Mogere	Denis	Mogoi	55,150.00	22,000.00	6,000.00	83,150.00	64,868.20	18,383.33	18,281.80	(101.53)	KUPPET deductions
18	1996122317	Makori	Paul	Geteni	89,350.00	16,800.00	12,000.00	118,150.00	88,371.50	29,783.33	29,778.50	(4.83)	KUPPET deductions

Committee Observations and Findings

1498) The Committee observed that the Accounting Officer explained the reasons for the over recovery in salaries of the said officers and there were delays in correcting the anomalies in the payrolls were satisfactory

Committee Recommendations

1499) The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

378. Non-Operational Institutions

1500) In the financial year 2017/2018, the State Department completed sixteen (16) technical training institutes in fifteen (15) Counties. The institutions though completed, were not operational as at the time of audit casting doubt on their viability and whether proper feasibility studies were conducted. In addition, the non-operational Institutions continued to draw Kshs.2,000,000 annually for operational costs from the Government.

1501) Under the circumstances, value for money may not have been realized.

Submission by the Accounting Officer

1502) The Accounting Officer submitted that the sixteen institutions in the fifteen counties mentioned were completed awaiting operationalization. For institutions to become operational there are preliminary issues that need to be put in place before opening the institutions for enrolment of students. This include appointment of Boards, registration of the institution with TVETA, recruitment of administrative staff and deployment of trainers which all take time. However, the Accounting Officer confirmed that the sixteen institutions are now fully operational.

1503) In terms of their viability, the Accounting Officer reported that the State Department is mandated to ensure that there is one TVC per constituency to enhance access and equity in bringing Technical education to every part of the country. The interest in Technical education is gaining ground across the country and the department expects the number of students enrolled in TVET institutions to increase substantially in view of the 100% enrolment program of students in secondary education.

1504) On the issue of allocation of Kshs 2,000,000 to non-operational institutions, this amount is allocated to these institutions to meet operational expenditures such as electricity, water, internet, security and any other necessary expenditure. In line with the approved criteria for disbursement of recurrent grants to the TVET institution.

1505) However, the Committee raised concerns that there are a number of TVT institutions in several constituencies that are not connect to three phase electricity line. The Accounting Officer responded that the State Department has paid 150M to Kenya Power and Lightning Company for establishing of 3 phase infrastructure to a list of institution on that have been provide to KPLC.

Committee Observations and Findings

1506) The Committee observed that the Accounting Officer's explanation that the allocation of Kshs 2,000,000 to non-operational institutions to meet operational expenditures on electricity, water, internet, security and any other necessary expenditure was in line with the approved criteria for disbursement of recurrent grants to the TVET institution and was satisfactory.

1507) **Committee Recommendations**

The Accounting Officer must at all times ensure that Public Funds are used in a way which is lawful, authorized, effective, efficient, economical and transparent in line with Section 79 (1) (b) of the PFM Act 2012.

379. Stalled Projects

379.1 Proposed Kakrao Technical Training Institute

1508) The contract for the construction of the proposed Kakrao technical training institute was awarded at a contract sum of Kshs.53,720,833. The contract commenced on 01 November, 2014 with an expected completion date of 01 November, 2015 for a period of fifty two (52) weeks. The contract was terminated on 4 July, 2017. According to the termination letter, the contractor had already been paid Kshs.46,214,053 being 86% of the contract sum. The level of completion at the time of termination was 73% and the contractor, therefore, ought to have been paid Kshs.33,844,125 or 63% of the contract sum given 10% retention portion requirement. The contractor was therefore overpaid by Kshs.12,369,928 which may constitute loss of public funds.

1509) In addition, the incomplete institution with no learners was fitted with furniture and donor funded equipment which are now subject to wear and tear without being put to any economical use.

1510) In the circumstances, the objectives of the project may not have been attained and value-for-money may not be realized on the expenditure.

Submission by the Accounting Officer

1511) The Accounting Officer submitted that the Ministry of Education through Rongo University started the construction of Kakrao Technical and Vocational College at a contract sum of Ksh.53,720,833.00. The first contract was awarded to Manya Ltd but was terminated on 17th March, 2017 at 68% work done due to non-performance by the contractor.

1512) A second contract was awarded to Mbingo Enterprises Limited to complete the remaining works.

1513) The building was partially handed over and training is ongoing in the ground floor of the institution.

1514) Suna East National Government Constituency Development Fund (NG-CDF) has not contributed the Kenya Shillings ten million as per the agreement. The Ministry has written a letter to Suna East Member of Parliament reminding him on the contribution of Kenya Shillings Ten Million by Suna East NG-CDF.

1515) The state department has submitted a comprehensive report on the status of all projects as recommended by PAC.

1516) **Committee observations and findings**

(i) The Committee observed that the contractor was overpaid and the excess payments have not been recovered or explained;

(ii) The Committee further noted that the project, although incomplete had been put into use and there are no details of how the state Department intends to fund and complete the project.

(iii) The Committee also noted that the legal status of the terminated contract is unclear which might attract litigation/legal costs or sanctions.

1517) **Committee Recommendations**

1) The Committee recommends that the Accounting Officer should within three months of the adoption of the report, ensure that they fast track the completion of the remaining works in the Technical Training Institute and forward completion certificate to the Auditor General for audit verification.

2) The Committee further recommends that the Accounting Officer should provide details on the legal status of all terminated contracts and be held personally liable for any financial losses arising from overpayment to contractors.

379.2 Incomplete Technical Training Institutes

1518) Records maintained by the State Department reflected that construction of eight (8) technical training institutes started as early as June 2014 and which ought to have been completed within one year were still at varying stages of completion. No extension of the contract periods had been granted. Although Management attributed the delayed completion to various challenges ranging from insecurities to dispute over land, completion of the projects was not achieved as at the time the audit report was finalized and solutions for the challenges were not indicated.

Submission by the Accounting Officer

1519) The Accounting Officer submitted as per the table below:

No.	Proposed name of the institution	Status (% work done)	Reason	Action taken by Ministry
1.	Ebukanga TVC	100	Contract is now completed.	Principal has been posted
2.	Lamu East TVC	90	The contractor is claiming some variation	The claim was declared invalid by internal audit. Negotiations are ongoing to address the same.
3.	Merti TVC	95	NG-CDF has not contributed Ksh3 Million	Written a reminder letter to MP
4.	Saku	87	First contractor was terminated due to non-performance	Written a reminder letter to MP
5.	Sigor	88	Insecurity in the area and was affected by floods in March 2020	Written a letter to the Chairperson, National Development Implementation Technical Committee requesting for financial assistance to remove the flood deposits

6.	Samburu West	70	NG-CDF has not contributed Ksh10 Million despite many reminders from the Principal, Meru National Polytechnic	Written a reminder letter to MP
7.	Balambala	80	NG-CDF has not contributed Ksh10 Million	Written a reminder letter to MP
8.	Kakrao	85	NG-CDF has not contributed Ksh10 Million	Written a reminder letter to MP

1520) **Committee observations and findings**

(i) The Committee observed that out of the 8 training institutes, only one is complete and functional; and

(ii) The Committee further observed that the 8 training institutes had taken too long to complete and the facilities may suffer wear and tear or vandalism.

1521) **Committee Recommendations**

The Committee recommended that the Accounting Officer should within three months of the adoption of the report, ensure that the remaining 7 training institutes are completed before embarking on establishment of new ones and forward completion certificates to the Auditor General for audit verification.

380. Unresolved Prior Year Matter

380.1 Purchase of Information, Communication and Technology (ICT) Equipment, Furniture and Fittings for Technical Solutions

1522) As reported in the previous year, the statement of receipts and payments for the year ended 30 June, 2019 reflected a figure of Kshs.6,850,983,600 under use of goods and services. The figure included an amount of Kshs.6,509,182,533 for purchase of specialized materials and services as disclosed in the financial statements, which also included an amount of Kshs.339,347,580 spent in the procurement of ICT equipment, furniture and fittings for various technical training institutions from nine (9) firms. The following anomalies were noted:

i. The approved procurement plan for the year was not availed for audit review. It was therefore not possible to confirm that the items were in the procurement plan of the State Department of Vocational and Technical Training.

ii. The bidder's original tender documents were not availed for audit review and therefore the validity of the procurement process could not be ascertained for the year ended 30 June, 2018.

iii. The tender evaluation was undertaken thirty-four (34) days after the tender opening on 19 April, 2018 and forty-one (41) days for ICT equipment and furniture and fittings respectively contrary to the provisions of Section 80(6) of the Public

Procurement and Asset Disposal Act, 2015 which allows a maximum of thirty (30) days after the opening of the tenders.

iv. The appointment letters for the tender opening and evaluation committees were not availed for audit review and hence it's not clear if the members who performed the duties on 19 April, 2017 and 15 May, 2017 were appointed by the Principal Secretary as per the Public Procurement and Asset Disposal Act 2015.

v. The evaluation reports prepared did not have scores awarded by each evaluator neither were the individual score sheets availed for audit review.

vi. The inspection and acceptance committee members were paid Kshs.5,917,800 for inspection and acceptance of various equipment and construction works at various technical training institutions. The officers had not been appointed formally into the inspection and acceptance committees as required by the Public Procurement and Asset Disposal Act, 2015 Section 48(1) which requires that an accounting officer of a procuring entity to establish an ad-hoc committee known as the inspection and acceptance committee.

1523) In the circumstances, the State Department is in breach of the law.

Submission by the Accounting Officer

1524) The Accounting Officer submitted that this procurement commenced in the financial year (2016/2017) and was completed during the audited financial year 2017/2018.

1525) The table below summarizes the key audit issues raised in the paragraph and the responses

S.No.	Audit Queries	Response	Appendix
1	Procurement plan	The IFMIS approved procurement plan for 2016-2017 is attached	Appendix
2	Bidders Original Tender Documents	Tender documents were availed	Appendix
3	Evaluation period/ timeliness	The evaluation was done 4 days beyond the stipulated 30days due to upsurges in the e-procurement platform.	Appendix
4	Appointment letters for Tender opening committee and for evaluation	The Tender Opening and evaluation Committee was appointed on 3rd April 2017 and 3rd May 2017 respectively	Appendix
5	Individual Score sheets for the evaluation committee	Score sheets availed	Appendix

6	Appointment letters for inspection and acceptance committee members	Appointment of inspection and acceptance committee was appointed on 27th November, 2018	Appendix

1526) **Committee observations and findings**

The Committee observed that the missing documents were provided to the Auditor-General for audit review despite after too long period.

1527) **Committee Recommendations**

(i) Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;

(ii) The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1528) **Conclusion**

381. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECTS

KENYA ITALY DEBT FOR DEVELOPMENT PROGRAM (KIDDP)

REPORT ON THE FINANCIAL STATEMENTS

1529) **Unqualified Opinion**

382. There were no material issues noted during the audit of the financial statements of the Program.

Other Matter

383. Budget Control and Performance

1530) The statement of comparative budget and actual amounts reflects nil receipt budget and nil actual on comparable basis. However, the Program spent an amount of Kshs.20,288,614 against the approved budget of Kshs.53,735,500 resulting to an under expenditure of Kshs.33,446,886 or 62 % of the budget. The Management has explained that the Program utilized past savings and attributed the underpayment to slow Program's implementation.

Submission by the Accounting Officer.

1531) The under expenditure was as a result of challenges in exchequer release. However measures have been put in place to ensure great absorption of funds.

The Committee observations and Findings

1532) The Committee observed and found that:

(i) The Committee observed and found that the explanation and documents given by the Accounting Officer with regard to budget control and performance was satisfactory;

(ii) The committee also observed that the under absorption was as a result underfunding or in-adequate Exchequer releases.

Committee Recommendations

1533) The Committee therefore recommends that:

The Accounting Officer national treasury should always ensure that the money belonging to the other State Departments is released in good time to enable implementation of development projects and provision of services.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1534) **Conclusion**

384. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1535) **Conclusion**

385. There were no material issues relating to effectiveness of internal controls, risk management and governance.

SUPPORT TO TECHNICAL, VOCATIONAL EDUCATION AND TRAINING FOR RELEVANT SKILLS DEVELOPMENT (GOK/ADB TVET PHASE II) PROJECT - LOAN NO. 2100150033295

REPORT ON THE FINANCIAL STATEMENTS

1536) **Unqualified Opinion**

386. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1537) **Conclusion**

387. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1538) **Conclusion**

388. There were no material issues relating to effectiveness of internal controls, risk management and governance.

14. STATE DEPARTMENT OF UNIVERSITY EDUCATION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1065

Amb. Simon Nabukwesi, the Principal Secretary and Accounting Officer for the State Department of University Education (Vote 1065) appeared before the Committee on 3rd June, 2021, 30th June, 2021 and to adduce evidence on the Audited Financial Statements for the State Department of University Education (Vote 1065) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. Simon Mugambi - Chief Finance Officer
2. Mr. Majes M. Kiburi - Deputy Director Education
3. Mr. Robert A. Samuel - Assistant Accountant General - HAU
4. Mr. Geoffrey Monari - Chief Finance Officer – University Fund Board
5. Ms. Victoria Ngina - Senior Accountant

389. Unconfirmed Receipt of Grants

1539) The statement of receipts and payments for the year ended 30 June, 2019 reflects transfers to other Government Units figure of Kshs.89,827,490,592, which as disclosed in Note 7 to the financial statements, includes a balance of Kshs.1,976,016,602 in respect of grants to thirty (30) private universities for 29,729 government sponsored students. However, no confirmations from the recipient private universities on the number of government students who were actually admitted and are still in these institutions was availed for audit review. In addition, no reports by the State Department officials on verification of the said students in the specific universities were availed for audit review. This is contrary to provisions of Section 23(2) (c) of the Public Finance Management (National Government) Regulations, 2015 which guide transfer of funds to institutions within and outside Government.

Submission by the Accounting Officer

1540) The Accounting Officer submitted that the Ministry disbursed Kshs.1,976,016,602 in the financial year ending 30th June 2019 in respect of grants to thirty (30) private universities for 29,729 government sponsored students. The list of students was verified by the Universities Funding board before forwarding to the Ministry for disbursement.

1541) The schedules from Universities Funding Board supporting the payments and confirmations from private universities on number of Government students admitted there were attached for perusal by the Committee. The list was forwarded to auditors for review and verification.

1542) **Committee Observations and findings**

(i) The Committee observed that the Accounting Officer failed to timely avail confirmations from the recipient private universities on the actual number of government students admitted thereby committing an offense of financial misconduct under Section 195 (1) (g) of the PFM Act, 2012;
(ii) The Committee also observed that students selected universities themselves and each of the respective private universities send list of students admitted for funding by the Government;
(iii) The Committee further observed that the Kenya Universities and Colleges Central Placement Service – KUCCPS - also submitted a process list verified by the University and the Commission on University Education – CUE;
(iv) In addition, the Committee observed that a list of the universities and the names including constituencies of the private students-funded by Government was provided for verification by the Auditors; and
(v) The Committee marked the matter as resolved.

1543) **Committee Recommendation**

The Accounting Officer should ensure he/she avails on a timely basis confirmations from the recipient private universities on the actual number of government students admitted pursuant to section 23(2) (c) of the Public Finance Management (National Government) Regulations, 2015 which guide transfer of funds to institutions within and outside Government.

390. Grants and Transfers to Other Government Units

1544) The statement of receipts and payments reflects transfers to other Government Units figure of Kshs.89,827,490,592 which, as disclosed in Note 7 to the financial statements, includes Kshs.79,943,771,622 in respect of current grants to Government Agencies and other levels of Government. However, a review of the records maintained by the State Department revealed the following unsatisfactory matters:

390.1 Disbursements to Jomo Kenyatta University of Agriculture and Technology

1545) During the year under review Kshs.110,467,995 was disbursed to Jomo Kenyatta University of Agriculture and Technology for construction of a new administration block against an approved budget amount of Kshs.103,420,000. The contract for the construction of the new administration block was executed on 14 December, 2012 at a contract price of Kshs.285,919,713. A review of the University Council's special meeting minutes dated 17 June, 2019 indicated that the project stalled in 2016 and that the contract sum was increased by Kshs.62,447,206 from the original contract price of Kshs.285,919,713 to Kshs.348,366,919. However, documentation supporting the payment of Kshs.110,467,995 and progress report on whether the stalled project will be revived, completed and put to use, were not availed for audit review.

Submission by the Accounting Officer

1546) The Accounting Officer submitted that Jomo Kenyatta University of Agriculture and Technology received Kshs.110,467,995 in respect to new Administration block against a revised contract valuation sum of Kshs.348,366,919.30 up from Kshs.285,919,713. Copies of interim certificates (Certificate No. 18 Kshs.39,275,080; Certificate No. 17 Kshs.50,790,100 and Certificate No. 16 Kshs.20,402,815 all totaling to Kshs.110,467,995) supporting the disbursements together with minutes of valuation have since been reviewed and verified by Auditors.

1547) The project has been revived and its progressing on well (currently at 83% complete) with a revised completion date of August 2021.

1548) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to avail on time the documentation supporting the payment of Kshs.110,467,995 and progress report of the contract;

(ii) However, this documentation was later availed to the Auditors for verification and their satisfaction; and

(iii) The Committee therefore marked the matter as resolved.

1549) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

390.2 Disbursements to Machakos University

1550) During the year under review Kshs.37,500,000 was disbursed to Machakos University for extension of ADB Building. The disbursement was done against 2017/2018 local purchase orders totalling Kshs.19,749,133 while the remaining disbursement of Kshs.17,750,867 was not supported. Further, Kshs.220,000,000 was disbursed to the institution for construction of a tuition block against the approved budgeted amount of Kshs.149,737,500 resulting to an excess disbursement of Kshs.70,262,500.

Submission by the Accounting Officer

1551) The Accounting Officer submitted that the Ministry disbursed Kshs.37,500,000 to Machakos University for completion of ADB project. The payment is supported by attached certificate No. 10,11,12,13 and 14. It was also true that disbursement towards construction of Tuition Block exceeded the final approved figure of Kshs.149,737,500 by Kshs.70,262,500. This disbursement was done at the beginning of the financial year.

1552) The payments were processed and disbursed to the Universities before the supplementary budget was approved by Parliament in June, 2019 that revised the budget downwards resulting to excess disbursement.

1553) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to excess disbursement of Kshs.70,262,500 was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1554) **The Committee therefore recommends that:**

The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

390.3 Disbursements to Karatina University

1555) Payment records held at the State Department indicate that amounts of Kshs.119,175,132 and Kshs.148,262,855 were disbursed to Karatina University for construction of a library and a resource center respectively. However, the disbursements for the library were not supported by valuation certificates while payments for the resource center were in respect to a 2011/2012 contract. No information has been availed to ascertain that these contracts are still ongoing to date and the status of the projects.

Submission by the Accounting Officer

1556) The Accounting Officer submitted that Karatina University received Kshs.119,175,132 and Kshs.148,262,855 as development grants towards construction of Library and Resource centre respectively during the financial year ended 30th June, 2019.

1557) This is to confirm that the library project is ongoing and it is currently 58% complete. Copies of Interim valuation certificates supporting the disbursement of Kshs.119, 175,132 have been forwarded to Auditors for review and verification.

1558) The construction of Resource Centre was awarded to Kuverji Godvin Patel & Sons at a contract sum of Kshs.624,429,200 on 26th January 2012. The contract had exceeded the initial expected completion time. The delay in completion had been occasioned by limited funding for development expenditure over the years. However, extension of the completion time was approved and granted by University Council. The works certified stood at Kshs.617,823,563 as at 30th June 2019.

1559) The pending works by the main contractor and sub-contractors were completed in 2019/2020 FY and the release of final retention money has been done. The building is complete and in use.

1560) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting with regard to the disbursement of Kshs.119,175,132 and Kshs.148,262,855 to Karatina University for construction of a library and a resource center respectively was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved**.

1561) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

390.4 Disbursements to Maasai Mara University

1562) During the year under review, the State Department disbursed Kshs.200,340,000 and Kshs.75,898,140 to Maasai Mara University for the construction of a tuition block and perimeter wall respectively. A review of payment records indicate that the tuition block contract sum was Kshs.410,700,000 plus 10% consultant fee totalling to Kshs.451,770,000 while the perimeter wall was for a contract sum of Kshs.87,219,440. Information available indicates that amounts totalling Kshs.485,835,000 and Kshs.95,135,640 have been disbursed in respect to the tuition block and perimeter wall respectively in the last three (3) years. However, the excess disbursements of Kshs.34,065,000 and Kshs.7,916,200 for the two projects respectively has not been explained. The excess disbursements totalling Kshs.41,981,200 above the contract sums is irregular and contrary to the Public Finance Management Act, 2012.

Submission by the Accounting Officer

1563) The Accounting Officer submitted that a total of Kshs.580,970,640 has been disbursed as development grants to Maasai Mara University to fund the Tuition block and Perimeter wall which were on-going projects. Kshs.493,770,770 and Kshs.87,199,870 has been disbursed in respect to the tuition block and the perimeter wall projects respectively.

1564) The two contracts were varied in accordance to Public Procurement and Disposal Act which allows a maximum variation of 25% per contract. The amount paid over and above the contract sum is therefore as a result of project variation that was approved over the 3 years implementation period. The boundary wall has been completed and handed over to the university. The tuition block is complete awaiting hand over on 30th June 2021. Copies of Minutes approving the variations and the financial appraisal for the project were forwarded to auditors for review and verification.

1565) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the disbursement of Kshs.580,970,640 to Maasai Mara University to fund the Tuition block and Perimeter wall respectively was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1566) **Committee Recommendations**

The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

390.5 Disbursements to Maseno University

1567) On 1 August, 2016, Maseno University entered into a contract for construction of an administration block at a contract price of Kshs.89,900,246. A review of the payment records indicates that Kshs.121,250,000 has been disbursed towards the administration block. No explanation for the excess expenditure of Kshs.31,349,754 has been availed for audit review.

1568) Under the circumstances, the accuracy and completeness of the current grants to Government Agencies and other levels of Government could not be ascertained.

Submission by the Accounting Officer

1569) The Accounting Officer submitted that the initial contract between Maseno University and M/S Volcanic General Contractors and Supplies for the Construction of Administration block was Kshs.89,900,245.80. However, there was a variation of Kshs.16,364,900.80 by the Ministry of public works in respect to Administration block dated 2nd May, 2019 which occasioned the changes in the initial contract sum. The balance of Kshs.14,984,854 related to tuition block project.

1570) The two projects are coded in IFMIS as one vide code 1065100903 as per the attached Development expenditure appropriations accounts report. The details of the approved variation report and the contracts for the two projects have since been forwarded to auditors for review and verification.

Committee Observations and Findings

1571) The Committee observed and found that:

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the excess expenditure of Kshs.31,349,754 for the Construction of Administration block at Maseno University was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1572) **Committee Recommendation**

The Committee therefore recommends that:

The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

391. Unapproved Expenditure on Repair of Motor Vehicle

1573) The statement of receipts and payments reflects an expenditure of Kshs.545,330,148 under use of goods and services, which as disclosed in Note 5159 to the financial statements, include an amount of Kshs.506,920 incurred on routine maintenance – vehicles and other transport equipment. The expenditure of Kshs.506,920 was in respect of motor vehicle repairs of GKB 411F which had been involved in an accident. The police abstract availed for audit review indicates that the accident occurred at Shauri Moyo Government quarters on 19 April, 2019 through careless driving of the vehicle of the other party. However, whereas the insurer of the other party accepted to honor the claim, it is not clear why the State Department incurred the cost of repair on its behalf.

1574) In the circumstances public funds may have been lost as no information has been provided to confirm that the funds incurred for the repair were refunded by the insurance company.

Submission by the Accounting Officer

1575) The Accounting Officer submitted that the Ministry spent Kshs. 506,920/= for the repair of GKB 411F which was involved in an accident that was caused by vehicle registration no. KBQ 447N belonging to Tamina Cleaning Services. It is also true that CIC Group, on behalf of the insured accepted to refund the sum which was spent on the repairs.

1576) The State Department proceeded to pay for the repairs as the process of pursuing the claim with CIC was taking long time and the vehicle GKB 411F being an (Higher Education Science and Technology (HEST) project vehicle was required to undertake critical project assignments within schedules agreed with the Donor.

1577) The Ministry therefore proceeded with the repairs and paid for the same on the basis of CIC commitment letter that the company was going to refund the money. A follow up with the Insurance Company was made through a letter Ref. No. –MOE/ADM/2/8 Vol. XI dated 15th November, 2019 for refund. Copy of the letter was attached for perusal by the Committee.

1578) The insurance company has committed to refund the Ministry Kshs. 410, 336 being the total claim of Kshs. 512, 920 less 20% minimum contribution as per the third party insurance policy. The Ministry has requested the opinion on this matter and was waiting for the response.

1579) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the expenditure incurred for the repair of Motor Vehicle registration number GKB 411F was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1580) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

Other Matter

392. Budget Control and Performance

392.1 Budget Under Absorption

1581) The State Department for University Education had a total budget of Kshs.111,863,534,937 for the financial year 2018/2019 comprising of Kshs.100,471,475,368 for recurrent and Kshs.11,392,059,569 for development votes respectively. However, the total actual expenditure was Kshs.101,812,416,076 resulting to an overall budget under-absorption of Kshs.10,051,118,861 or 9%. The under absorption of the approved budget is an indication of activities planned for but not implemented by the State Department hence denying Kenyan citizens the desired services.

Submission by the Accounting Officer

1582) The Accounting Officer submitted that the budget under absorption was majorly caused by under collection of AIA by Public Universities due to decline in enrolment of self-sponsored students.

1583) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting with regard to the Budget under absorption was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1584) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

392.2 Under-Collection of A-I-A

1585) The State Department for University Education realized Appropriations-in-Aid of Kshs.40,988,810,636 against approved estimates of Kshs.49,780,884,087 resulting into under-collection of Kshs.8,792,073,451 or approximately 18% of the total estimated collections. The under collection is an indication of projects planned for but not implemented by the various Institutions denying Kenyan citizens the desired services.

Submission by the Accounting Officer

1586) The Accounting Officer submitted that the universities did not raise all the A-I-A budgeted for as there was substantial decline in the enrolment of self-sponsored students who they targeted. The state department is fully complying with treasury guidelines that no new projects will be started until the ongoing ones are completed. This therefore implies that as some projects gets completed more resources will be made available to ensure all projects are completed.

1587) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting with regard to the under-collection of A-I-A was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1588) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

392.3 Unauthorized Expenditure

1589) During the year under review, examination of accounting records indicated that a sum of Kshs.1,054,629,381 was disbursed to five (5) universities namely Machakos University, Jomo Kenyatta University of Science and Technology, Tom Mboya University College, Kibabii University College and Meru University of Science and Technology against a collective budget of Kshs.922,550,000, thus exceeding the budget allocation by Kshs.132,079,381.

1590) Although Management indicated that the payments were processed and disbursed to the Universities before the supplementary budget was approved by Parliament in June, 2019, these amounts have not been recovered to date.

Submission by the Accounting Officer

1591) The Accounting Officer submitted that the Machakos, Jomo Kenyatta University of Agriculture and Technology, Tom Mboya, Kibabii and Meru universities received Kshs.

1,054,629,381.00 for development in the financial year 2018/2019 against the approved budget (after Supplementary) of Kshs. 922,550,000. The funds had been processed and disbursed to the universities as grants before the supplementary budget was approved by parliament in mid –June 2019. The universities paid the contractors for the certificates on work done and therefore it was not practically possible to request the contractors to refund the funds they had received.

1592) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the unauthorized expenditure was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1593) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

393. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

394. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECTS

SUPPORT TO ENHANCEMENT OF QUALITY AND RELEVANCE IN HIGHER EDUCATION, SCIENCE AND TECHNOLOGY PROJECT (ID NO. P-KE-IAD-001 - LOAN AGREEMENT NO. 2100150027993)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

395. Defects and Delays in Plant and Equipment Supplies to Universities

1594) The statement of receipts and payments for the year ended 30 June, 2019 reflects expenditures totalling Kshs.225,053,795 incurred on acquisition of non-financial assets. Included in the balance are payments totalling Kshs.150,030,625 incurred on purchase of specialized plant, equipment and machinery during the year.

1595) As indicated in the audit report for the previous year, the Project has entered into contracts with several vendors for supply of specialized science and engineering equipment to selected public universities. Under the terms of the contracts, the vendors receive advance payment equivalent to 20% of their respective contract values after they submit bank guarantees of equivalent amount. A further 60% of the contract sum is paid after the equipment is shipped and relevant documents submitted to Management. The remainder 20% is paid upon receipt and acceptance of the items supplied.

1596) As at 30 June, 2019, the Project's expenditure on procurement of specialized plant and equipment totalled Kshs.2,724,432,291, spent over two financial years. However, audit verification revealed that equipment valued at Kshs.43,028,900 delivered to four (4) universities did not meet user specifications and were, as a result, rejected by the respective inspection and acceptance committees. At the time of the audit in September, 2019, the equipment had not been replaced. Also equipment worth Kshs.90,607,668 bought for the four (4) universities lacked some key components and were rejected by the respective inspection committees. The suppliers did not offer replacements even though the contract terms required them to replace or repair defective supplies within fourteen (14) days of being notified to do so. In addition, equipment worth Kshs.41,513,200 due for supply to three (3) of the four (4) universities were not delivered by the respective suppliers.

1597) In view of the defective and unfulfilled supplies, it is not possible to confirm the value of equipment acquired by the Project against expenditures totalling Kshs.2,724,432,291 reported in Note 8.6 to the financial statements as having been incurred on purchase of specialized plant, equipment and machinery in the two financial years ended 30 June, 2019. Further, the universities have not obtained any value on the expenditures totalling Kshs.175,149,768 incurred on the defective and unfulfilled purchases. As a result, the purposes for which the various equipment were bought have not been attained.

Submission by the Accounting Officer

1598) The Accounting Officer submitted that the same matter was discussed by the Public Accounts Committee in its reports of 2016/2017 and 2017/2018 and was resolved. The Project is closing on 30th June, 2021.

1599) **Committee Observations and Findings**

The Committee observed that the matter was discussed in its report of the financial year 2016/2017 and recommended as follows:

1) **Within three (3) months upon adoption of this report the Attorney General should avail to the National Assembly his opinion and advice in respect of the non-performing contracts.**
2) **Within three (3) months upon adoption of this report, and subject to the advice of the Attorney general, the Accounting Officer should recover any payments made to the contractors for undelivered equipment.**

Other Matter

396. Budget Control and Performance

1600) The statement of comparison of budget and actual amounts for the year ended 30 June, 2019 reflects final budgeted and actual expenditure on comparable basis amounting to Kshs.415,460,000 and Kshs.338,080,474 respectively resulting to under-expenditure of Kshs.77,379,526 or 19% of the budget for the year.

1601) No explanation has been provided by Management for the failure to absorb all the funds made available to the Project during the year under review.

Submission by the Accounting Officer

1602) The Accounting Officer submitted that under absorption was as a result of late approval of Supplementary budget 2, 0f 2018/19 FY by the National Treasury in the fourth quarter.

1603) **The Committee observed and found that:**

The committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1604) **Conclusion**

397. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1605) **Conclusion**

398. There were no material issues relating to effectiveness of internal controls, risk management and governance.

ESTABLISHMENT OF KENYA ADVANCED INSTITUTE OF SCIENCE AND TECHNOLOGY(KAIST) PROJECT NO KEN-4

REPORT ON THE FINANCIAL STATEMENTS

1606) **Unqualified Opinion**

399. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1607) **Conclusion**

400. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1608) **Conclusion**

401. There were no material issues relating to effectiveness of internal controls, risk management and governance.

EASTERN AND SOUTHERN AFRICA HIGHER EDUCATION CENTERS OF EXCELLENCE (ACE II) PROJECT (CREDIT NO. 5798-KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

402. Loss of Project Vehicle

1609) As disclosed in Note 8.6 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.24,285,013 in respect of acquisition of non-financial assets, out of which Kshs.22,180,900 relates to purchase of vehicles and other transport equipment. Available information indicates that the Management acquired a Project vehicle - Toyota Fortuner Registration No. GK B193V at a cost of Kshs.8,355,900 in May, 2019. However, physical verification and motor vehicle records revealed that the vehicle was missing. The Project Management explained that the vehicle was stolen, within days after purchase, in a carjacking incident and this was reported to the police.

1610) In the circumstances, the Accounting Officer may not have put adequate measures to safeguard Project assets and the citizens will not derive value from this vehicle.

Submission by the Accounting Officer

1611) The Accounting Officer submitted that it was true that the vehicle Toyota Fortuner Registration No. GKB 193V whose cost was Kshs. 8,355,900 is missing and has been reported stolen. The vehicle went missing in the hands of a driver Mr. Vincent Abwao Mukobe who reported (report was attached for perusal by the Committee) that the vehicle was stolen from him in a carjacking incident on 26th August, 2019 at around 9 p.m. In the same night the driver reported the matter to the police, Director DUE where the vehicle is assigned for ACE II Project and the Transport Officer the following morning.

1612) Since then the police are carrying out investigations into the incident and will avail their report once they are through. As management, they have established that the driver had driven the vehicle out of the office premises beyond official working hours without authority. This is contrary to the set rules and regulation governing operations of Government Transport. We have instituted disciplinary process to have the driver disciplined, and the driver has since been dismissed.

1613) The disciplinary action against the driver is in tandem with the relevant regulations including Code of Regulations and Government Transport Policy containing measures governing Government Transport, which we as a State Department are implementing. Documents supporting actions taken by the State Department on this matter have been forwarded to Auditors for review and verification.

1614) **Committee Observations and Findings**

(i) The Committee observed that the explanation by the Accounting Officer with regard to the expenditure incurred for the repair of Motor Vehicle registration number GKB 193V whose cost was Kshs. 8,355,900 and documents availed were fairly satisfactory.

(ii) The matter remained unresolved.

1615) **Committee Recommendation**

Within three (3) months upon tabling and adoption of this report, the Accounting Officer should provide a report to both the National Assembly and the Auditor General on the status of status of investigations regarding the lost Motor Vehicle registration number GKB 193V whose cost was Kshs. 8,355,900.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1616) **Conclusion**

403. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1617) **Conclusion**

404. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR UNIVERSITY EDUCATION

AFRICA CENTER OF EXCELLENCE IN SUSTAINABLE USE OF INSECTS AS FOOD AND FEEDS PROJECT (IDA CREDIT NO.5798-KE) – JARAMOGI OGINGA ODINGA UNIVERSITY OF SCIENCE AND TECHNOLOGY

REPORT ON THE FINANCIAL STATEMENTS

1618) **Unqualified Opinion**

405. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

406. Budgetary Control and Performance

1619) The statement of comparative budget and actual amounts for the year ended 30 June, 2019 reflects actual receipts of Kshs.122,265,498 against budgeted receipts of Kshs.164,772,368 resulting in a shortfall of Kshs.42,506,870 or 26% of the total budget. Further, actual expenditure for the year amounted to Kshs.66,133,902 against the actual receipts of Kshs.164,772,368 resulting in an under expenditure of Kshs.98,638,466 or 60% of the budgeted expenditure. The under expenditure occurred in all expense components. The Project did not therefore implement all programmes and work plans fully as approved in the budget thus delaying provision of services to the Kenyan citizens.

Submission by the Accounting Officer

1620) The Accounting Officer submitted that the project activities are students centered. It's noted that at commencement of the project, the center did not have academic programs for the students' admission. Therefore, the center had to develop programs for accreditation by Commission for University Education (CUE) before admission. This process took one year to complete hence delaying the commencement of most project activities. This had a ripple effect in the budget execution. A slow and strict procurement process further delayed the timely budget execution.

1621) Measures have however been put in place to speed up the execution of the project activities in a timely manner. This will have an effect on revenue generation that is pegged on project deliverables.

1622) **Committee recommendations**

Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide the National Assembly and Auditor General for review with proof of absorption in form of status report, certificates of work done and approved for payment.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

407. Lack of Government Counterpart Funding

1623) The statements of receipts and payments reflects transfer from foreign entities amounting to Kshs.40,535,699 which as disclosed in Note 8.2 to the financial statements represents grants received from Bilateral Donors. However, there was no evidence to prove that counterpart funding was received or budgeted for as per the Grant Agreement which states that counterpart funds of up to five percent of the credit (equivalent to a maximum of US$ 900,000) over the project duration of five (5) years be provided to support activities of the Project. No reason has been provided for this anomaly, contrary, to Regulation 72 (6) of the Public Finance Management (National Government) Regulations, 2015, which states that the National Government shall ensure grants are factored in the budgets and counterpart funds appropriated accordingly.

1624) Consequently, failure to receive budgeted funds negatively affects the operations of the Project and none adherence to provisions of the Grant Agreement may lead to withdrawal of funds by the Donor.

Submission by the Accounting Officer

1625) The Accounting Officer submitted that the counterpart fund is budgeted for and spent by the Ministry to fund project coordination activities by National Steering Committee (NSC) meetings. These amount are combined for the three centers in Kenya namely JOOUST, MOI and Egerton University.

1626) During the year in review, the Ministry conducted scheduled NSC visits and attended technical advisory meeting which are budgeted under counterpart funding. The expenditure from the ministry on counterpart funding was as per attached documents in appendix 1. These amounts are budgeted for and controlled by the Ministry.

1627) **Committee Observations and Findings**

(i) The Committee observed that the explanation by the Accounting Officer with regard to the lack of Counterpart Government Funding and documents availed was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1628) **Conclusion**

408. There were no material issues relating to effectiveness of internal controls, risk management and governance.

FLOOD DISASTER RISK REDUCTION IN BUNYALA, BUSIA COUNTY, KENYA PROJECT (ADB G-KE-KZ0-ZZZ-002) – MASENO UNIVERSITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

409. Unsupported Cash Equivalents Balance

1629) The statement of financial assets and liabilities reflects a cash equivalents balance of Kshs.1,254,067 as at 30 June, 2019 which has no corresponding Note to the financial statements. Further, the balance was not supported by a board of survey report casting doubt on the accuracy of the cash equivalents balance of Kshs.1,254,067 as at 30 June, 2019.

Submission by the Accounting Officer

1630) The Accounting Officer submitted as follows:

1. Maseno University has only one current account No. 110389094 in KCB Kisumu Branch. It is from this account that all University payments are made. Copy of Bank statement details were availed for perusal by the Committee.

2. Whenever the project makes payments requests, funds are transferred from the project account No. 1176816284 of KCB, Kisumu Branch to the current. Copy of Bank transfer details were availed for perusal by the Committee.

3. The cash balance of Ksh.1,254,067 in the statement of financial assets and liabilities relates to funds which were transferred to the University current A/ No.110389094 on 5th March

2019 in anticipation of paying project expenses. Copy of Bank statement details were availed for perusal by the Committee.

4. However, some of the payments totaling to Kshs. 1,254,067 were not made because the operations of the project were suspended by the donor (ADB) on 05.04.2019. Copy of Bank statement details were availed for perusal by the Committee.

5. The funds are therefore still available in the current account. Copy of Bank statement showing current balances was availed for perusal by the Committee.

6. The University has engaged the donor on authorization of the payments and will pay the outstanding bills as soon as the authority is given.

7. The outstanding expenses are captured in note 9.2 of the audited financial statement. Copy of revised financial statements were availed for perusal by the Committee.

1631) **Committee Observations and Findings**

(i) The Committee observed that the explanation by the Accounting Officer with regard to the Unsupported Cash Equivalents Balance availed was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

410. Inconsistencies Between the Financial Statements and the Explanatory Notes

1632) The statement of financial assets and liabilities reflects an opening fund balance of Kshs.21,876,147, which has been incorrectly presented as cash and cash equivalent brought forward, in the statement of financial assets and liabilities.

1633) Further, Notes 8.8 A to 8.8 D referred to in the statement of financial assets and liabilities are omitted under Notes to the financial statements. Similarly, the statement of receipts and payments refers to Note 8.7 on foreign exchange loss but Note 8.7 contain information on cash and cash equivalents.

1634) In view of the unreconciled variance and the inconsistencies between the financial statements and the explanatory notes, the accuracy and fair presentation of the financial statements could not be confirmed.

Submission by the Accounting Officer

1635) The Accounting Officer submitted as follows:

1. The Accounting Officer submitted that it The amount of Kshs 21,876,147.00 was the closing cash balance in the FY 2017/18. This amount was the opening cash balance in

the FY 2018/19. Copy of Bank statement showing opening balances was availed for perusal by the Committee.

2. Since the project was using the cash system of reporting as opposed to accrual, the amount was therefore reflected as cash equivalent brought forward though it served as opening fund balance.

3. Notes 8.8A to 8.8 D were wrongly referenced in the statement of financial asset and liabilities which talks about cash balance, bank balance, cash equivalents and imprest and advances. Copy of Bank reconciliation schedule was availed for perusal by the Committee.

4. The correct notes that refer to the specific items in the statement of asset and liabilities are notes 87 which talks about cash and bank balances of Kshs.52,128. Copy of statement of assets was availed for perusal by the Committee.

5. Note 8.8 D relates to imprest outstanding as at end of Financial Year which had a nil balance. Copy of imprest schedule was availed for perusal by the Committee.

6. The breakdown of foreign exchange losses are captured in note 9.1.

7. With the explanation given and proper reference of the notes, there is no unreconciled variance and inconsistencies, as indicate on page 2, paragraphs 2 of the audited financial statement. Copy of the audited financial statements was availed for perusal by the Committee.

1636) **Committee Observations and Findings**

(i) The Committee observed that the explanation by the Accounting Officer with regard to the Unsupported Cash Equivalents Balance availed was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

Other Matter

411. Budget Control and Performance

1637) The statement of comparative budget and actual amounts for the year ended 30 June, 2019 reflects actual receipts of Kshs.21,876,147 against budgeted receipts of Kshs.50,222,901 resulting in a shortfall of Kshs.28,346,754 or 56% of the total budget. Similarly, the actual expenditure for the year amounted to Kshs.20,569,952 against the budgeted receipts of Kshs.50,222,901 resulting in an under-expenditure of Kshs.20,569,952 or 50%. The receipts shortfall is attributed to delay in disbursements of funds from the Development Partner while the under-expenditure is due to delay in carrying out some of the Project activities. As a result of the large budget deficit, the Project may not have implemented all programmes and work plans fully as approved in the budget thus delaying provision of services to the Kenyan citizens.

Submission by the Accounting Officer

1638) The Accounting Officer submitted as follows:

1. The Kshs. 50,222,901.00 captured in the statement of comparative budget was the balance from the budget allocation of the project as approved by the donor. Copy of the approved project budget was availed for perusal by the Committee.

2. However, in the last year of the project (2018/2019 only Kshs.21,876,147.00 was disbursed to the project before it was stopped. Copy of the disbursement schedule was availed for perusal by the Committee.
3. The overall funding level for the project was 79.72% which translates to EURO 721,098.36 out of the expected EURO 995,000. Copy of the project funding status was availed for perusal by the Committee.

4. The expenditure of Kshs. 20,569,952.00 incurred during the Financial Year 2018/2019 was therefore within funds available.

1639) **Committee Observations and Findings**

(i) The Committee observed that the explanation by the Accounting Officer with regard to the Unsupported Cash Equivalents Balance availed was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

412. Pending Bills

1640) Note 8.8 and Note 8.9 to the financial statements reflects pending staff bills amounting to Kshs.637,000 and pending payables owed to suppliers of goods and services amounting to Kshs.3,588,226 as at 30 June, 2019 respectively. Pending payments have the potential risk of additional costs in interest on delayed payments and penalties.

Submission by the Accounting Officer

1641) The Accounting Officer submitted that the pending bills amounting to Kshs.13,878,074 for FY 2018-2019 and Kshs.133,624,202 for FY 2017-2018 has since been paid being first charge in the subsequent financial year budget.

1642) **The Committee observed and found that:**

The Committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

1643) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1644) **Conclusion**

413. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1645) **Conclusion**

414. There were no material issues relating to effectiveness of internal controls, risk management and governance.

AFRICA CENTRE OF EXCELLENCE (ACEII) PHYTOCHEMICALS, TEXTILES AND RENEWABLE ENERGY (PTRE) PROJECT – MOI UNIVERSITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

415. Inaccuracies in the Financial Statements

415.1Discrepancies Between Balances in the Financial Statements and the Ledger

1646) The statement of receipts and payments for the year ended 30 June, 2019 reflects total payments figure of Kshs.88,459,403 which is at variance with the amount reflected in the ledger of Kshs.91,187,149 resulting into an unexplained variance of Kshs.2,727,746. Further, the total payments figure of Kshs.88,459,403 was not supported by ledgers for the project's different activities. Although the expenses have been classified according to their functions in the financial statements, it was observed that the accounting system of the University reflected total expenditure of Kshs.91,187,149 for the year in one single entry in the ledger. It has not been explained how these expenses were disaggregated or apportioned to the various components reflected in the financial statements.

1647) Consequently, the accuracy, validity and completeness of the total payments amount of Kshs.88,459,403 for the year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

1648) The Accounting Officer submitted that the variance between the financial statements and the general ledger emanated from the different basis of preparation of the two documents.

1649) The financial statements of ACEII PTRE Project are prepared on IPSAS CASH Basis while the University financial system in use was based on IPSAS ACCRUAL Basis of accounting. This meant that while the general ledger included accrued expenses, the financial statements of the Project excluded these accruals and only included cash payments as provided for under IPSAS CASH accounting. This accounted for the variance of Kes 2,727,746 that is in the report.

1650) The University accounting system in use during the year collated all the ACEII PTRE Project activities under one Project General Ledger. We provided an analysis of the expenses that showed the expenses under the different project activities and reconciled these to the payments as per the ledger. We attach a copy of this analysis for your perusal.

1651) **Committee Observations and Findings**

The Committee however observed that the Accounting Officer failed to ensure that he availed supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015.

1652) **Committee Recommendations**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

415.2Balances in the Statement of Comparison of Budget and Actual Amounts and the Approved Budget

1653) The statement of comparison of budget and actual amounts final budget figure of Kshs.154,519,233 is at variance with the approved final budget figure of Kshs.215,626,403 resulting in a variance of Kshs.61,107,170 which has not been explained or reconciled. As a result, the accuracy and completeness of the statement of comparison of budget and actual amounts final budget figure of Kshs.154,519,233 for the year ended 30 June, 2019 could not be confirmed.

1654) In view of the foregoing, the accuracy and completeness of the financial statements could not be ascertained as at 30 June, 2019.

Submission by the Accounting Officer

1655) The Accounting Officer submitted that it The Project prepared the Statement of Comparison of Budget and Actual amounts based on the adjusted budget for the financial year. The original budget was Kes 215,626,403 that was subsequently adjusted to Kes 154,519,233.

1656) During the year the Project did not receive all the funds anticipated in the original budget. An adjusted budget was therefore prepared in line with the funds available during the year as shown below:

Item	**Original budget**	**Amended budget**	**Financial statements**
Activity 1.0	25,124,131	25,124,131	25,124,131
Activity 2.0	41,607,892	41,607,892	41,607,892
Activity 3.0	9,860,375	9,860,375	9,860,375
Activity 4.0	121,776,354	63,024,110	63,024,110
Activity 6.0	51,625	-	-
Activity 7.0	51,625	-	-
Activity 8.0	1,400,380	-	-
Activity 9.0	15,753,988	14,902,725	14,902,725
	215,626,370	**154,519,233**	**154,519,233**

1657) The variance noted in the report was, therefore, because of the adjusted budget that was used as explained above.

1658) **Committee Observations and Findings**

The Committee however observed that the Accounting Officer failed to ensure that he availed supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015.

1659) **Committee Recommendations**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

416. Irregular Renovations of Kenya-Re and Main Campus Houses

1660) As disclosed under Note 2.4 to the financial statements, the statement of receipts and payments reflects under purchase of goods and services an amount of Kshs.62,927,466 which includes an expenditure of Kshs.16,810,689 for 'set up and Institutional framework' under activity 1.0. According to the consolidated procurement plan, there was planned renovation and refurbishment for approximately Kshs.2,575,000.00. The refurbishments were to be done in-house by the Estates Department which in their estimates provided materials schedule with a cost estimate of Kshs.1,534,495 for the repair works.

1661) The procurement of the refurbishment materials was done in 19 January, 2018 out of which three (3) firms won the tender under a different category of materials and were awarded tenders at a cost of Kshs.2,640,573, Kshs.70,267 and Kshs.705,232 respectively for supply of assorted hardware materials. An examination of the expenditure records relating to the refurbishments revealed that a total of Kshs.5,484,797.00 was spent thereby resulting to an over expenditure of Kshs.3,047,608 over and above the approved budget and work plan. Further, no explanation was given for the variance of Kshs.3,950,302 between the materials schedule estimate of Kshs.1,534,495 and the actual expenditure of Kshs.5,484,797. In addition, seven (7) other firms which did not participate in the quotations were also paid contrary to section 44 (2)(1a) of Public Procurement and Asset Disposal Act, 2015.

1662) In the circumstance the management was in breach of the law.

Submission by the Accounting Officer

1663) The Accounting Officer submitted that the renovations of the Kenya Re and Main Campus houses were carried out under Activity 1.5 – Refurbishment of Centre Buildings and Improvement of Centre Facilities.

1664) The approved budget for the activity in the 2018/2019 financial year was USD 116,244, made up of:

Allocations for FY 2018/2019	USD 25,000
Balance brought forward from FY 2017/2018	USD 91,244
	USD 116,244

1665) The approved budget for the activity was therefore Kes 12,002,193 and not Kes 2,575,000 as indicated in the report.

1666) **Committee Observations and Findings**

i) The Committee observed that it was confirmed that the budget for renovation and refurbishment was kshs 12,002,193. Thus the expenditure of kshs. 5,484,797 was incurred within the budget.
ii) The Committee further observed that the management availed the quotations for the other firms which were paid for the supply of materials.
iii) The Committee therefore marked the matter as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

417. Lack of Imprest Register

1667) The statement of financial assets and liabilities reflects imprests and advances of Kshs.311,392. However, the imprests register was not availed indicating the details of the imprest issued by way of name of imprest holder, warrant number, amount, date of issue, purpose of imprest, and date of surrender.

1668) Consequently, the accuracy, validity and completeness of the imprests and advances of Kshs.311,392 reflected in the statement of financial assets and liabilities as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

1669) The Accounting Officer submitted that the University maintains an imprest register that has a system maintained record of all imprests issued. The system has the details of the imprest including:

- Date issued
- Name and PF of the person taking the imprest
- Purpose of the imprest
- Warrant number
- Amount of the imprest
- Date of accounting/surrender
- Amount accounted/surrendered

A copy of the details from the system maintaining imprests was availed for perusal by the Committee.

1670) **Committee Observations and Findings**

The Committee observed that the imprest had been surrendered and the imprest register and the other details availed, verified and confirmed by the Auditors.

15. STATE DEPARTMENT FOR EARLY LEARNING AND BASIC EDUCATION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1066

Mr. Julius Juan, the Accounting Officer for the State Department of Early Learning and Basic Education (Vote 1066), appeared before the Committee on 25th August, 2021 to adduce evidence on the Audited Financial Statements for the State Department Basic Education (Vote 1066) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. E. Mukira Gichigo - Head of Account Unit
2. Mr. Wekesa Khaoya - Chief Finance Officer
3. Mr. Olicil Nergan - Director Primary Education
4. Mr. Margaret Muandale - Director Teachers Education
5. Mr. Pane Kibet - Director Secondary Education

And submitted as follows

418. Overpayment of Subsidies

1671) The statement of receipts and payments reflects a balance of Kshs.59,633,897,605 being subsidies for the year ended 30 June, 2019. Included in this amount is an overpayment of subsidy funds amounting to Kshs.105,905,782 to three hundred and thirty-one (331) public secondary schools in different counties arising from inflated enrolment data. A comparison of the disbursement schedules for terms 1 and 2 of 2019 with the schedules for term 3 of 2018 for sampled counties revealed discrepancies between the data submitted by the schools and the data reflected by the State Department that was used for calculation of subsidy amounts due to schools. In the circumstances, it is not possible to confirm the authenticity of the reported subsidies totalling Kshs.59,633,897,605.

Submission by the Accounting Officer

1672) The Accounting Officer submitted that the State Department noted the anomaly in the disbursement that was occasioned by the estimation of students in the first term of 2019 and started making recoveries from schools in question. So far, a recovery of Kshs.81,164,878.43 has been made in the subsequent disbursements of third term 2019 and first term 2020 as indicated in the attached Recovery schedule presented to the Committee. Further recoveries were affected by the COVID 19 pandemic. The schools required these resources to enable them to meet the health protocols meant to combat the spread of the pandemic.

1673) **Committee Observations and Findings**

(i) The Committee observed that amount only relates to sampled counties rather than all the counties. This meant therefore that the problem could be spread to all the other counties, implying possible massive loss of Public Funds;
(ii) The Committee observed that the process of making recoveries from the sampled schools was halted due to Covid 19; and
(iii) Further, the Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

Committee Recommendations

1674) The Committee therefore recommends that:

1) Within three months of tabling and adoption of this report, the Accounting Officer should fully recover the outstanding amounts overpaid and submit evidence of recovery to the Auditor-General for review.
2) Within three months of tabling and adoption of this report, the DCI should initiate an investigation into the secondary schools subsidy programme with a view to unravel any malpractices.

419. Transfers to Other Government Units

1675) As disclosed in Note 8 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.25,381,569,547 in respect of transfers to other government units.

1676) The following observations were made with regard to the expenditure:

419.1 Overpayment of Grants

1677) Included in the transfers to other government units, the balance is Kshs.369,905,960 overpaid to ninety-nine (99) primary schools sampled from thirteen (13) counties due to inflation of enrolment data. The number of students used to calculate the disbursements differed with the number of students confirmed by the Sub-County Directors of Education. In the circumstances, it has not been possible to confirm the validity of the expenditure of Kshs.25,381,569,547 on transfers to other government units.

Submission by the Accounting Officer

1678) The Accounting Officer submitted that in the financial year 2018/2019, the State Department made an overpayment to 99 public primary schools. This was due to the State Department using the previous year's enrolment in calculating the disbursement to schools, while awaiting verification of enrolment from the respective Sub-County Directors of Education (SCDEs). The delay in submitting enrolment data by the respective SCDEs has been resolved and the SCDEs are now required to submit data annually before preparation of disbursement schedules.

1679) Going forward, the State Department is in the process of migrating to the NEMIS system in computing disbursement of FPE funds to schools. The State Department has managed to have over 20,000 public primary schools enrolled in the system and efforts are being made to have all the schools in the system so that in future, capitation will be computed using real time data.

1680) **Committee Observations and Findings**

(i) The Committee observed that amount only relates to sampled counties rather than all the counties. This meant therefore that the problem could be spread to all the other counties, implying possible massive loss of Public Funds;

(ii) The Committee observed that no recoveries from the sampled schools has been done; and

(iii) Further, the Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012.

Committee Recommendations

1681) The Committee therefore recommends that:

1) **Within three months of tabling and adoption of this report, the Accounting Officer should fully recover the outstanding amounts overpaid and submit evidence of recovery to the Auditor-General for review.**
2) **Within three months of tabling and adoption of this report, the DCI should initiate an investigation into the primary schools grant programme with a view to unravel any malpractices.**

419.2 Transfer of Funds to Improperly Registered Special Needs Education Institutions

1682) The balance of Kshs.25,381,569,547 on transfers to other government units includes a disbursement of Kshs.148,045,707 to special needs education institutions and post primary schools that were not properly registered as required under part 3.0 (i) of Disbursement Guidelines for Special Needs Education. The guidelines require that grants should only be disbursed to registered special primary schools and post primary schools. Further, some schools did not have Teachers Service Commission (TSC) numbers and others had duplicate certificates of registration numbers. In addition, the transfers includes an amount of Kshs.127,247,521 disbursed for Special Needs Education for the months of October and November, 2018. However, the enrolment data differed in the two months from 12,734 pupils in October, when Kshs.94,686,421 was paid, to 14,157 pupils when top-ups amounting to Kshs.32,561,100 were paid in the subsequent month. In the circumstances, it has not been possible to confirm the authenticity of the disbursements.

Submission by the Accounting Officer

1683) The Accounting Officer submitted that the disbursement of Ksh.148,045,707 to special needs education institutions and post primary schools for 2018/2019 FY was an authentic disbursement and indeed the schools were properly registered as required under part 3.0 (i) of Disbursement Guidelines for Special Needs Education Institutions. However, we concur that there was an omission of TSC Codes/ Registration certificate numbers for some schools at the time of preparing the disbursement schedules. The State Department has now provided the registration numbers/ TSC codes.

1684) Four schools were found to have duplicate registration certificate numbers and another two schools had duplicate TSC codes. This was a typographical error during compiling our earlier audit Submission by the Accounting Officer but has now been corrected.

1685) The State Department has also noted the audit observation in the case where enrolment data differed in the two months of October and November from 12,734 pupils in October, when Kshs.94, 686,421 was paid, to 14,157 pupils when top-up amounting to Kshs.32, 561,100 was paid. The State Department disburses grants to Special Needs Schools in 3 or 4 quarters in a year, but disburses FPE Top-Up to schools once per year. Our Directorate for Special Needs Education data update is a continuous process. Head teachers through the County Directors of Education (CDEs) and Sub-County Directors of Education (SCDEs), submit requests for data updates which are then used to update our disbursement enrolment data. The State Department has found that the updating of 2018 data was not done for both Grants and Top-Up list at the same time for the same period. This anomaly has now been corrected.

1686) **Committee Observations and Findings**

(i) The Committee observed that there were anomalies that occasioned loss of Public Funds;

(ii) The Committee observed that no recoveries from the affected schools has been done; and

(iii) Further, the Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012.

Committee Recommendations

1687) The Committee therefore recommends that:

1) **Within three months of tabling and adoption of this report, the Accounting Officer should fully recover the amounts overpaid and submit evidence of recovery to the Auditor-General for review.**
2) **Within three months of tabling and adoption of this report, the Auditor-General should initiate a Forensic Audit on the transfers to the Special Needs Education Institutions with a view to unravel any malpractices.**

419.3 Irregular Payments to Low-Cost Boarding Schools

1688) Included in the balance of Kshs.25,381,569,547 transfers to other government units is an amount of Kshs.8,028,000 irregularly paid to low cost boarding schools out of which Kshs.6,576,000 was paid in excess as a result of the State Department using enrolment figures that were higher than the figures confirmed by the County Directors of Education in some schools. A balance of Kshs.1, 452,000 was paid to undeserving schools not in the list of Low-Cost Boarding Schools (LCBS) confirmed by the County Directors of Education (CDE). Further, some schools appearing in the list of LCBS confirmed by the CDEs did not receive funding amounting to Kshs.8,544,000 thus denying funds to deserving students.

Submission by the Accounting Officer

1689) The Accounting Officer submitted that in computation of low-cost boarding funds, the Ministry uses data submitted by the County Director of Education (CDE). This data is submitted at different times during the school calendar owing to the nature of the catchment area where the targeted schools are characterized by occasional drop outs and re-entry of out of school children (OOSC) to schools.

1690) In financial year 2018/19, the State Department erroneously made overpayment of KShs. 6,576,000 to sampled schools that were analysed by the auditor and the department based on enrolment data that was received. To avoid future recurrence, continuous verification is carried out. KShs. 1,452,000 was also erroneously paid to Mahoo primary school and Wajir primary school which were under consideration then for low-cost boarding funding. The schools have since been approved and are in the beneficiary list.

1691) Tambila Primary and Wajir primary were in the list of approved low-cost schools confirmed by CDE categorized as not funded were actually funded with one misplaced in a different county of kwale (Tambila) instead of Taita Taveta (C) and in Wajir county-attachment marked.

1692) Nguraru, Ilkarian, Wajir School for Mentally Handicapped primary schools which were not funded have since been submitted in the current verification and list will be included in the next disbursement subject to funds adequacy and verification.

1693) Nkare Nairowua, Oloisiyioi, Romosha primary schools in Narok county are not in the recent verification list but will be under consideration with CDE's submission.

1694) **Committee Observations and Findings**

(i) The Committee observed that there were anomalies that occasioned loss of Public Funds;

(ii) The Committee observed that no recoveries from the affected schools has been done; and

(iii) Further, the Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;and

1695) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should fully recover the amounts overpaid and submit evidence of recovery to the Auditor-General for review.**

2) **Within three months of tabling and adoption of this report, the Auditor-General should initiate a Forensic Audit on the transfers to the Low-Cost Boarding Schools with a view to unravel any malpractices.**

419.4 Disbursement of Funds to Schools with Duplicate Registration Numbers

1696) Included in the balance of Kshs.25,381,569, 547 transfers to other government units is an amount of Kshs.919,171,802 disbursed to various primary schools. The schools had identical registration numbers, some of which could not be traced in the National Education Management Information System (NEMIS) and the list of TSC registered schools. The transfer of funds was against ministerial guidelines on funds disbursements. In the circumstances it is not possible to confirm the authenticity of the disbursements.

Submission by the Accounting Officer

1697) The Accounting Officer submitted that at the inception of Free Primary Education (FPE), schools were identified using their Teacher Service Commission (TSC) codes since by then, most public schools were not registered with the Ministry of Education. The code had 9 digits. The first 3 digits represented the province, the next 3 digits represented the district and the last 3 codes represented the specific school. Those schools which were yet to receive their TSC codes were captured using the first 6 digits (representing the province and the district), followed by the word new.

1698) In the disbursement of funds in the financial year 2018/2019, some schools had not been given the full TSC code and hence they have codes bearing the first 6 digits of the TSC codes. However, the schools are duly registered by the Ministry of Education and have been assigned NEMIS codes as shown in the NEMIS report availed to the Committee, with all the information that was not available at the time of the audit.

1699) **Committee Observations and Findings**

(i) The Committee observed that there were anomalies that occasioned loss of Public Funds;

(ii) The Committee observed that no recoveries from the duplicated primary schools has been done; and

(iii) Further, the Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;and

1700) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should fully recover the amounts overpaid and submit evidence of recovery to the Auditor-General for review.**
2) **Within three months of tabling and adoption of this report, the DCI initiate an investigation into the primary schools grant programme with a view to unravel any malpractices.**

420. Unresolved Prior Year Matters

420.1 Compulsory Acquisition of LR No.209/7879/4 by the National Land Commission

1701) As reported in the previous year, a total of Kshs.1,500,000,000 was spent under the Head, Legal Dues/Fees, Arbitration and Compensation Payments. The approved budget under this Head was Kshs.20,120,000 but the State Department spent an extra Kshs.1.5 billion. The funding was meant to cater for compulsory acquisition of part of LR No. 209/7879/4 measuring 13.5364 acres for Ruaraka High School and Drive-Inn Primary School from its registered owners. However, the following unsatisfactory matters were noted: Based on Article 223(5) of the Constitution, the Principal Secretary, The National Treasury exceeded his mandate by authorizing the Principal Secretary, Ministry of Education to overspend Kshs.1,500,000,000 on land compensation, an amount which exceeded the allowable threshold of Kshs.20,120,000 - being 10% of the budgeted provision for the item by Kshs.1,479,880,000.

1702) Although the Principal Secretary to The National Treasury had indicated that the amount was to be ratified in the Supplementary II Budget, no evidence was provided that this was done. Further, the outstanding compensation balance of Kshs.1,769,040,600 was not factored in the subsequent budgets and was not disclosed in the financial statements as a pending bill. Various correspondences between the Chairman, National Land Commission and the Principal Secretary, State Department for Early Learning and Basic Education indicated that the Chairman, National Land Commission had on 24 April, 2017 disclosed the compensation amount of Kshs.3,269,040,600 for the two parcels of land two months prior to the actual valuation done on 14 June, 2017.

1703) It was not clear how the compensation amount was arrived at before the actual valuation was done. To date, the entire area has been developed contrary to the provisions of Section 30, 31 and 41 of the Physical Planning Act, 1996 (Revised 2012) where applications for development should be accompanied by the approved plans, the purposes of the development, the land which the applicant intends to surrender for purposes of public utility and roads for access to any subdivisions within the area included in the application to the adjoining land. In the circumstances, it has not been possible to confirm that the expenditure totalling Kshs.1,500,000,000 for the year ended 30 June, 2018 was a proper charge to public funds.

Submission by the Accounting Officer

1704) The Accounting Officer submitted that the Committee discussed the matter in its Report of 2017/2018 and the matter was an active Court.

1705) **Committee Observations and Findings**

The Committee observed that there was an active matter in Court. The matter was, therefore, stayed under <u>sub judice rule</u>

420.2 Subsidies

1706) As reported in the previous year, there was an overpayment of subsidies to one hundred and eighty-five (185) Secondary Schools in eleven (11) sampled counties amounting to Kshs.269,254,288 as a result of inflated enrolment data. Although the State Department has explained that the officer involved in the data entry that resulted to a variance between the enrolment data submitted by schools and the enrolment data used by the State Department for computation of amounts due to the schools was interdicted and the matter referred to the Ethics and Anti- Corruption Commission for further investigation, the case has not been concluded. In addition, two (2) non-existent schools in Kakamega received a total of Kshs.27,329,598.95. In the circumstances, it was not possible to confirm that payment of Kshs.296,583,887 to the one hundred and eighty-seven (187) Secondary Schools was a proper charge to public resources.

Submission by the Accounting Officer

1707) The Accounting Officer submitted that the Committee discussed the matter in its Report of 2017/2018.

Committee Observations and Findings

1708) The Committee observed that matter was deliberated in 2017/2018 and recommended that:

Within three (3) months after tabling and adoption of this report, the EACC should conclude the report on the investigations. Mr. Joshua Ocharo Momanyi and any other Public Officer and entity found culpable should be duly recommended for prosecution for committing an offence of financial misconduct leading to incurring wasteful expenditure on behalf of the government and the State Department as provided for in Section 197(1) (k) and (l) of the PFM Act, 2012.

Other Matter

421. Pending Bills

1709) Notes 18.1 and 18.2 to the financial statements reflect pending bills amounting to Kshs.8,592,146 as at 30 June, 2019 which were not settled in the year under review but carried forward to 2019/2020 financial year due to inadequate Exchequer releases. Failure to settle bills in the year to which they relate adversely affects the subsequent year`s provisions to which they have to be charged.

Submission by the Accounting Officer

1710) The Accounting Officer submitted that the it was true that the State Department had pending bills to the tune of Kshs.8,592,146. This arose due to inadequate exchequer issues. The same was treated as a first charge in the 2019-2020 financial year.

1711) **The Committee observed and found that:**

The committee observed that the Accounting Officer gave the underlying reasons for not settling the pending bills and the contingency measures put in place to address the problem.

1712) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

422. Long Outstanding Schools' Creditors and Debtors

1713) As at 30 June, 2019, seven (7) sampled schools and one (1) college had outstanding trade and other payables totalling to Kshs.192,511,912. Delay in settlement of liabilities might lead to escalation of interest, litigation, reputation risk and other costs related to delayed payments. Similarly, a sample of five (5) schools and one (1) college had Kshs.3,731,620 being unpaid rent on houses occupied by teachers contrary to Section C.8 (2) of the Human Resource Policies and Procedures Manual for the Public Service, 2016, which requires officers occupying institutional houses to pay rent equivalent to the value as determined by the Ministry responsible for Housing or to surrender their house allowance whichever is lower.

Submission by the Accounting Officer

1714) The Accounting Officer submitted that some of the concerned institutions have made good their obligations in regard to payment of trade and other payables. These are Limuru Girls, St Francis Mangu, Dagoretti High, Maryhill Girls, Arya Girls, Moi Girls Nairobi and Machakos Boys who have either partially or fully paid their outstanding debts as tabulated below

No.	School	Outstanding Amount	Paid to Date	Balance
1	Alliance High	22,134,776	0	22,134,776
2	Limuru Girls	26,859,668	20,365,048	6,494,620
3	St. Francis Mangu	440,522	440,522	0
4	Dagoretti High School	32,660,694	16,427,892	16,232,802
5	Mary Hill	1,499,166	1,499,166	0
6	Arya Girls	1,142,630	1,142,630	0
7	Moi Girls	45,682,132	45,682,132	0
8	Upper hill School	30,444,386	0	30,444,386

9	Nembu High School	4,453,768	0	4,453,768
10	Machakos Boys High School	6,375,461	6,375,461	0
	TOTAL	**171,693,203.00**	**91,932,851.00**	**79,760,352.00**

1715) The payment to date is 91,932,851.00 leaving a balance of Ksh 79,760,352.00

1716) In regard to unpaid rent on houses occupied by teachers, some of the concerned schools, St. Francis Mangu, Upper Hill and Machakos School have collected funds for the houses as indicated in the table:

NO	School	Amount	Collected	Balance
1	**Alliance High**	**368,890**	**0**	**368,890**
2	**St. Francis Mangu**	**448,300**	**38,000**	**410,300**
3	**Moi Girl's School Nairobi**	**1,574,500**	**1,370,000**	**204,500**
4	**Upper hill School**	**207,000**	**68,400**	**138,600**
5	**Machakos Boys High School**	**450,930**	**80,000**	**370,930**
	TOTAL	**3,049,620**	**1,556,400**	**2,175,220**

1717) Most of the schools are having difficulties in collecting the rent as the teachers involved have been transferred. However, the State Department will engage TSC in recovery of these rent from arrears

1718) **The Committee observed and found that:**

(i) The committee observed that the some of the concerned institutions have made good their obligations in regard to payment of trade and other payables.

(ii) The committee further observed that in regard to unpaid rent on houses occupied by teachers, most of the schools are having difficulties in collecting the rent as the teachers involved had been transferred. However, it appeared that the Principals and the Boards of Management for the institutions were adamant to ensure that public resources were safeguarded.

(iii) The Accounting officers did not provide evidence of existence of the obligations (creditors) or assets(rent)

1719) **The Committee recommended that:**

1) The Accounting Officer should ensure the schools institute measures to promptly recover rents due and ensuring that rent collection is prompt done to avoid accumulation of unpaid rent and loss of Public Funds.

2) Within three (3) months after tabling and adoption of this report, the Accounting Officer should come up with a policy to be adopted by the management of all schools to ensure prompt recovery of rents when it falls due and honouring the outstanding obligations. A status report should be provided to the Auditor-General for audit review. Further, within the three months, the Accounting Officer should follow up

with the Management of all schools in populating an authentic and verifiable list of rent debtors to be submitted to the TSC for Recovery and that all eligible creditors to have the obligations settled.

423. Acquisition of Unauthorized Loans by Shanzu Teachers College

1720) Shanzu Teachers Training College obtained a loan of Kshs.103,485,595 during the financial year 2014/2015. The loan was for the construction of accommodation facilities within the College for a private entity - a Business School. Although the loan agreement was not provided for audit verification, the loan statement as at 10 September, 2019 indicated that repayments amounting to Kshs.49,389,825 had been made leaving an unpaid balance of Kshs.54,095,770. However, approval by the Cabinet Secretary for borrowing as required under Section 51 (2) of Public Finance Management Act, 2012 and evidence of competitive bidding for the loan as required under Article 227 of the Constitution of Kenya was not provided. In addition, neither the evidence of approval for the establishment of a Business School within the College nor the approval to offer the title deed for the College land as collateral for the loan was provided.

1721) Further, documents reviewed at the College indicated that interest at the rate of 12.5% per annum was agreed upon and later varied to 18%, 19%, 20% and finally 24%. No explanation was provided for the variation. In addition, the College procured the construction works at a contract sum of Kshs.59,000,000 through a request for quotations method contrary to the thresholds provided under the Public Procurement and Asset Disposal (Amendment) Regulations, 2013. Under the circumstances, the legality of the arrangements to build the accommodation facilities for a private entity within the College and to offer the title deed for the College land as collateral for the loan could not be confirmed. In addition, the regularity, competitiveness and value for money on the loan obtained and procurement of the construction works was in doubt.

Submission by the Accounting Officer

1722) The Accounting Officer submitted that the business school was established within the Shanzu Teachers College compound and was registered by the Ministry of Education. The college took a bank loan from Jamii Bora Bank and there was a loan agreement, however, the department regrets that it was not availed at the time of the audit. The interest rates were reviewed according to the Central Bank of Kenya guideline.

1723) **Committee Observations and Findings**

(i) The Committee observed that the evidence of approval by the Cabinet Secretary for the establishment of a private institution within a public institution was not provided.

(ii) The Committee observed that evidence of approval by the Cabinet Secretary for borrowing as required under Section 51 (2) of Public Finance Management Act, 2012 was not provided;

(iii) The Committee further observed that there was no contractual documents between the private institution and Shanzu Teachers College on the terms of engagement, revenue share, asset ownership and usage as well as obligations pertaining to either party.

(iv) The Committee further observed that evidence of competitive bidding for the loan as required under Article 227 of the Constitution of Kenya was not provided.

(v) The Committee also observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

1724) **The Committee recommended that:**

1) **Within three (3) months after tabling and adoption of this report, the Accounting Officer should submit the books of accounts and other financial records, contractual documents detailing the terms of engagement and related documents to the Auditor General for Audit.**
2) **The Cabinet Secretary for Education should reprimand the Shanzu Teachers College Administration for illegally operating a private college within a government institution without approval. Legal action, including sanction,s should be imposed on all officers found culpable.**

424. Construction of New Mama Ngina Girls High School

1725) Mama Ngina high school received a disbursement of Kshs.192,449,398 for the relocation of the school to North Coast. The works were awarded vide Contract No. MNGIHS/Tender No.21/2019 for main works, plumbing and electrical works. A review of the Contract revealed that the evaluation committee did not comply with Regulations 9 and 10 of the Public Procurement and Asset Disposal Act, 2015 read together with Legal Notice No.106 of 2013 that requires an evaluation committee to prepare a report on the analysis of the tenders received and final ratings assigned to each tender and to submit a report that includes among others, the scores awarded by each evaluator for each tender or proposal to the tender committee.

1726) Further, Section 46(c) of the Public Procurement and Asset Disposal Act, 2015 requires an Accounting Officer to ensure that an ad hoc evaluation Committee is established with the secretary being the person in charge of the procurement function. Minutes availed for audit review did not indicate presence or professional contribution of a secretary who is in charge of the procurement function. The State Department has however explained that an officer was seconded to provide advice to the committee on procurement matters. In the circumstances, it has not been possible to confirm the propriety of the expenditure of Kshs183,160,230 and that public resources have been applied lawfully and in an effective way.

Submission by the Accounting Officer

1727) The Accounting Officer submitted that Individual Evaluators score sheets were not availed together with the Tender Evaluation report during the audit, but the score sheets, evaluation reports and due diligence report in regard to the tender have been submitted to the auditor for verification.

1728) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer concurred that iindividual evaluators score sheets together with the Tender Evaluation report were not provided during the audit.

(ii) The Committee further observed that the score sheets, evaluation reports and due diligence report in regard to the tender were submitted to the Auditor-General for audit verification later.

(iii)The Committee also observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

1729) **The Committee recommended that:**

The Cabinet secretary for Education to write a reprimand letter to the School Administration for breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit.

425. Non-Compliance to a Third Rule on Salary Deductions

1730) Analysis of the payroll data for the year ended 30 June, 2019 revealed that forty-six (46) and fifty- one (51) employees had payroll deductions in excess of two thirds of their gross pay in the month of May and June respectively with some employees having negative net pays. This contravenes Section 19 (3) of Employment Act, 2007 which requires that without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages. In the circumstance, the State Department was in breach of the law.

Submission by the Accounting Officer

1731) The Accounting Officer submitted that it was true that during the period under review forty-six (46) and fifty- one (51) employees in the month of May and June 2019 respectively had payroll deductions in excess of two thirds which was as a result of imprests and other government compulsory deductions that were highly prioritized by the IPPD system leading to the flouting of the one third rule as illustrated in in documents availed to the Committee for perusal.

1732) The flouting of the one third rule has since been rectified as illustrated by the current payroll status as at June 2021of the listed cases.

1733) **Committee Observations and Findings**

The Committee observed that the Accounting Officer explained the reasons for the over recovery in salaries of the said which was as a result of imprest and other government compulsory deductions that were highly prioritized by the IPPD system leading to the flouting of the one third rule. However, the Committee noted that this is against Section C paragraph

C.1.3 of the Human Resource Policies and Procedures Manual for the Public Service of May, 2016 rendering such affected officers liable to disciplinary proceedings in accordance with Section J paragraph J.9.1 .

1734) **Committee Recommendations**

The Cabinet Secretary should write a reprimand letter to the affected officers as a disciplinary action and ensure the irregularity is stopped.

426. Audit of Schools

426.1 Installation of Closed-Circuit Television (CCTV) System at Nembu Girls High School

1735) The school's Board of Management approved the procurement of CCTV cameras at a budgeted cost of Kshs.600,000 on 23 February, 2019. However, the school administration procured the cameras at a cost of Kshs.1,173,400 contrary to Section 45 (3) (a) of the Public Procurement and Asset Disposal Act, 2015 which provides that all procurement processes shall be within the approved budget of the procuring entity. Further, as at the time of the audit, the Management had paid Kshs. 600,000 to the supplier leaving a balance of Kshs.573,400. Information available indicated that the supplier had initiated legal proceedings to recover the unpaid amount, exposing the institution to additional costs in the form of legal costs, interest on delayed payments and other penalties.

Submission by the Accounting Officer

1736) The CCTV was installed at a cost of Kshs.1,173,400/- against an estimated budget of Kshs.600,000.00. The project was approved by the BOM to be undertaken in two phases. The school sought redress out of court and paid the remainder of Ksh 573,400.00 to the contracted firm. Meanwhile, the CCTV is in use.

1737) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer admitted that the CCTV was installed at a cost way above the approved budget in contravention to Section 45 (3) (a) of the Public Procurement and Asset Disposal Act, 2015;

(ii) The committee further observed that management of the institution were in breach of section 68 (1) (a) for incurring an expenditure that is unlawful and unauthorised.

1738) **Committee Recommendations**

1) **The Cabinet Secretary should write a reprimand letter to the school administration as a disciplinary action. Also, impose a surcharge on the school Administration and provide evidence to the National Assembly for the extra cost incurred by the school in terms of suit costs and extra contractor claims.**
2) **The Accounting officer should provide the Court order as documentary evidence for the settlement agreement and evidence of claim settlement.**

426.2 Irregular Disbursement of Secondary School Funds

1739) Included in the statement of receipts and payments balance of Kshs.59,633,897,605 for subsidies is an amount of Kshs.8,438,326 disbursed to Primary Schools from the Free Day Secondary Education (FDSE) Funds. The same schools also benefited from Free Primary Education (FPE) funds meant for primary schools. This therefore, led to double and excess funding to the said schools as different rates were used for the two categories with the FDSE having higher rates than FPE. The excess funding to primary schools denied deserving secondary schools the much-needed cash for their operations negatively affecting the schools' operations, liquidity and consequently, the quality of education offered.

Submission by the Accounting Officer

1740) The auditor indicated that Kshs.8,438,326 was used to fund Some primary schools using Free Day Secondary Education (FDSE) funds. The State Department's analysis shows the Ksh 5,998,129.14 was disbursed to dully registers been secondary schools as shown in table 1.

Table 1: Duly Registered Secondary schools

Term	Acc. Type	UIC	Institution Name	Enrol.	Bank	Total Amount
First Term, January 2019	Operation	3WWP	Paul Harris Sec	483	Kcb	3,781,890.00
	Operation	DG5J	Sweet Waters	2	Kcb	15,660.00
	Tuition	3WWP	Paul Harris Sec	483	Kcb	696,486.00
	Tuition	DG5J	Sweet Waters	2	Kcb	2,884.00
First Term, March 2019	Operation	F9NK	AIPCA Subuiga Sec.	4	Coop	5,768.00
	Operation	UFA4	Gongoni	72	Kcb	563,760.00
	Tuition	UFA4	Gongoni	72	Kcb	103,824.00
Second Term, May 2019	Operation	3WWP	Paul Harris Sec	433	Kcb	673,008.85
	Tuition	3WWP	Paul Harris Sec	433	Kcb	154,848.29
						5,998,129.00

1741) AIPCA subuiga Secondary, 5QZZ is the same school as AIPCA Subuiga Secondary (F9NK) that had been duplicated in the system, It has since been removed. However, Ksh 2,440,196.71 was send to primary schools as shown in table 2

Table 2: Primary schools that Received FDSE funds.

Term	Acc. Type	UIC	Institution Name	Enrol	Bank	Total Amount
	operation	36RA	Weruini	1	Kcb	7,830.00

First Term, Jan 2019	operation	63NA	Muthiingini	1	Kcb	7,830.00
	operation	649H	Ugina	2	Coop	15,660.00
	operation	7ULA	St Johns Gosere	2	Coop	15,660.00
	operation	84BS	Riragi	1	Coop	7,830.00
	operation	99Q2	Rikenye DOK	1	Coop	7,830.00
	operation	FH7X	Wambiti	2	Kcb	15,660.00
	operation	FNMR	Nyamonema	5	Coop	39,150.00
	operation	GJ9J	Soko	19	Coop	148,770.00
	operation	PJPA	Senda	4	Kcb	31,320.00
	operation	PL4K	Timboiywo	1	Kcb	7,830.00
	operation	PRKS	Osiri Migere	1	Coop	7,830.00
	operation	U8C9	Namunyiri RCEA	15	Kcb	117,450.00
	operation	UQU4	Namboboto Girls	164	Nbk	1,284,120.00
	operation	X9YC	Syongungi	4	Kcb	31,320.00
	operation	XHHE	Suguta	1	Kcb	7,830.00
	Tuition	36RA	Weruini	1	Kcb	1,442.00
	Tuition	63NA	Muthiingini	1	Kcb	1,442.00
	Tuition	649H	Ugina	2	Coop	2,884.00
	Tuition	7ULA	St Johns Gosere	2	Coop	2,884.00
	Tuition	84BS	Riragi	1	Coop	1,442.00
	Tuition	99Q2	Rikenye Dok	1	Coop	1,442.00
	Tuition	GJ9J	Soko	19	Coop	27,398.00
	Tuition	PRKS	Osiri Migere	1	Coop	1,442.00
	Tuition	UQU4	Namboboto Girls	164	Nbk	236,488.00
	Tuition	X9YC	Syongungi	4	Kcb	5,768.00
First Term, Mar 2019	Operation	283E	Chepkebit	1	Kcb	7,830.00
	Operation	R5L6	Pwani FYM	1	Kcb	7,830.00
	Operation	MR48	Kianjokoma	1	Coop	7,830.00
	Operation	J4A6	Mukoye	5	Kcb	39,150.00
	Operation	GCWH	Tombo	14	Kcb	109,620.00
	Operation	QM37	Munjiti	3	Kcb	23,490.00
	Operation	BB9C	Nyamang Ara	1	Equity	7,830.00
	Operation	KQF5	Museve	5	Nbk	39,150.00
	Operation	UV9Y	Tulanduli	1	Equity	7,830.00
	Operation	UZH9	Nyaroha	8	Kcb	62,640.00
	Operation	V89U	Siabai	2	Kcb	15,660.00
	Operation	W3W4	Nanighi	1	Equity	7,830.00
	Tuition	283E	Chepkebit	1	Kcb	1,442.00
	Tuition	R5L6	Pwani Fym	1	Kcb	1,442.00
	Tuition	MR48	Kianjokoma	1	Coop	1,442.00
	Tuition	J4A6	Mukoye	5	Kcb	7,210.00

	Tuition	GCWH	Tombo	14	Kcb	20,188.00
	Tuition	QM37	Munjiti	3	Kcb	4,326.00
	Tuition	BB9C	Nyamang Ara	1	Equity	1,442.00
	Tuition	7ULA	St Johns Gosere	1	Coop	1,442.00
	Tuition	KQF5	Museve	5	Nbk	7,210.00
	Tuition	UV9Y	Tulanduli	1	Equity	1,442.00
	Tuition	UZH9	Nyaroha	8	Kcb	11,536.00
	Tuition	V89U	Siabai	2	Kcb	2,884.00
	Tuition	W3W4	Nanighi	1	Equity	1,442.00
	Operation	283E	Chepkebit	1	Kcb	2,458.45
Second Term, May 2019	Tuition	283E	Chepkebit	1	Kcb	524.13
	Tuition	J84D	Tigithi	1	Kcb	524.13
						2,440,196.00

1742) The disbursement to primary schools was caused by the schools selecting their level as secondary on NEMIS. Data cleanup has been continuously undertaken and these error will not recur again as the loophole has been sealed.

1743) **Committee observations and Findings**

(i) The Committee observed that failure by the State Department to maintain and continuously update its enrolment data to reflect the up-to-date locus amounts to dereliction of duty;

(ii) Further, the Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;and

1744) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should fully recover the amounts overpaid and submit evidence of recovery to the Auditor-General for review.**
2) **Within three months of tabling and adoption of this report, the DCI should initiate an investigation into the free primary and free secondary schools Education Funds grant programme with a view to unravel any malpractices.**

426.3 Construction of Resource Centre in Buruburu Girls Secondary School

1745) The school conceptualized the idea to put up a resource center at a cost of Kshs.113,064,596. Although the Board of Management approved the project, the school did not seek approval from the County Director of Education. Further, the school did not involve the Ministry of Public Works in preparing the bill of quantities but instead single sourced a private firm. Evidence of how the bidders invited to quote for the works were identified was not provided neither was evidence of appointment of an adhoc evaluation committee pursuant to Section 46 (1) of the Public Procurement and Asset Disposal Act, 2015 provided. The basis for the award of the works was therefore unclear. In addition, as at the time of audit in May,2020, Kshs.50,992,073 had already been paid to the contractor and the project had stalled. In the circumstances, the regularity and value for money on the expenditure could not be confirmed.

Submission by the Accounting Officer

1746) Buruburu Girls Secondary School, conceptualized a resource centre which would comprise of a bakery, 200 sitting capacity hall on the ground floor, special classrooms on first floor, a library on second floor, an e-learning centre on third floor and two number, two-bedroom flats on the fourth floor in 2013 at a cost of Ksh.113,064,596.00. The project was to be financed by contribution from parents. However, the government stopped schools from charging for development of the schools and hence the construction stalled when Ksh.50,992,073.00 had been expended. The following explains the concerns by the auditors:-

(i) The project started in January 2016 when schools were only required to seek approval
from the BOM for construction purposes and seek the concurrence of the parents to finance the projects. The requirement to seek approval started at the beginning of financial year 2016/2017. Attached please find a letter of approval related to continuation of the project.

(ii) Since inception, the school has engaged consultancy services to ascertain the quality of her projects. Over this period, the school always used Kitololo consultant Engineers as a consultant for all construction being undertaken in the school and rarely involved the state department of public works, A comparative analysis of the costs involved and it was concluded that it was cost effective to continue using the services of the consultant.

(iii) The school used a restricted tendering procurement method where eleven binders participated but five were responsive. Thereafter three namely Atlas plumbers and builders (K) ltd, Marimo Construction Ltd and Veksons Ltd were shortlisted.

(iv) The Requirement appointment of an ad hoc evaluation committee pursuant to section 46(1) of the public procurement and asset disposal Act, 2015, seems not to have been met at the time.

(v) The evaluation was undertaken by Mucina Ezekiel and Associates, who had provided the bills of quantities, resulting in Atlas Plumbers and Builders (K) Ltd being awarded the tender.

1747) The current school administration is seeking to discharge all the contractors and consultants on this project without incurring additional costs. Consequently, the project has temporarily stopped for the school to make the necessary enquiries from the Ministry of Works on the involvement of private consultants.

1748) **Committee observations and Findings**

(i) The Committee observed that school administration breached the Public Procurement and Asset Disposal Act 2015 as follows;
   a. The school used a restricted tendering procurement method without meeting the conditions outlined in Section 102 of the Public Procurement and Asset Disposal Act 2015.
   b. The evaluation was undertaken by Mucina Ezekiel and Associates, who had provided the bills of quantities resulting to lack of fairness, equitability, transparency and competition contrary to Section 58 of the Public Procurement and Asset Disposal Act 2015.
   c. The requirement for the appointment of an ad hoc evaluation committee pursuant to section 46(1) of the public procurement and asset disposal Act, 2015, was not adhered to.
   d. The school administration committed the school to an expenditure way above the approved budget in contravention to Section 45 (3) (a) of the Public Procurement and Asset Disposal Act, 2015;

(ii) The Committee further observed that project had stalled after having paid Ksh.50,992,073.00 to the contractor. This may lead to wastage of funds through wear and tear of stalled project and litigations from breach of the contract.

1749) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer and the school administration should come up with a financing arrangement to complete the project and provide the details to the National Assembly.**
2) **The Cabinet Secretary for Education should reprimand the school administration for flouting the Public Procurement and Asset Disposal Act 2015.**

426.4 Construction of Laboratory and Dormitory at Maryhill Girls High School

1750) Included in the statement of receipts and payments balance of Kshs.59,633,897,605 for subsidies is an amount of Kshs.25,828,050 disbursed to Maryhill Girls High School for infrastructure development. A perusal of procurement documents revealed that the school Management used the infrastructure funds to construct a laboratory and a dormitory at a cost of Kshs.5,971,333 and Kshs.19,856,717 respectively using force account method of procurement. However, no evidence was provided on the competitiveness in the procurement of the assets, equipment and labour utilized and that the conditions for use of the force account method as outlined under Section 109 (2) and (3) of the Public Procurement and Asset Disposal Act, 2015 had been satisfied.

1751) In particular the following anomalies were noted:

i) No prior approval from the Accounting Officer which is a requirement to apply this method.
ii) The bill of quantities used for the works was not availed for audit.

iii) Management used labour based method which was not advertised as required in the Public Procurement and Asset Disposal Act, 2015.
iv) There was no evidence that Management invited quotations for the supply of project materials from the list of prequalified suppliers.
v) The works involved in the project did not meet the requirement of Section 109(a) of the Public Procurement and Asset Disposal Act, 2015 where quantities of work involved should be small and scattered or in remote locations and the quantities of work should be defined in advance. In this case the work exceeded the Kshs.5,000,000 threshold above which open tender should have been used.
vi) There was no evidence that the school's Management used force account method by making recourse to the state or using public assets, equipment and labour contrary to section 109(2) which states that where quantities are small and scattered in remote locations for which qualified construction firms are unlikely to tender at reasonable prices and quotations of work cannot be defined in advance. Management is in breach of law and the propriety of the expenditure totalling could not be ascertained for the year ended 30 June, 2019.

Submission by the Accounting Officer

1752) The Accounting Officer admitted that Kshs. 28,659,970.00 (Kenya Shillings twenty eight million, six hundred and fifty nine thousand, nine hundred and seventy only) was provided to Maryhill Girls' High School for infrastructure development. These amounts were given on diverse dates as indicated in the table below.

Table 3: Disbursement of Infrastructure funds to Maryhill Girls High School

Date	Amount (Kshs.)
28th June, 2016	4,659,970.00
16th December, 2016	12,000,000.00
21st April, 2017	12,000,000.00
Total	**28,659,970.00**

1753) Due to the urgent need to ensure effective implementation of the 100% transition policy of the Ministry of Education, the school decided to complete the stalled laboratory block and underpin the old dormitory to ensure it is a storey building that can accommodate more floors, hence enhance the capacity of the dormitory to accommodate more students. In respect to the concerns by the Auditors, the submission by the Accounting Officer is as follows:-

i) The approval was granted for the construction
ii) The revised Bills of Quantities used for the works are attached for audit review. The project started in 2011 and the bills of quantities were revised in 2016. Small parts of the project have been implemented in small bits due to financial constraints.
iii) The advertisement for labour was approved by the Board of Management (BOM) (see attached minutes) for the advert to be placed at designated offices (the Sub-

County Director's office, local churches and the Deputy County Commissioner's office). This was to enable the school to utilise local labour. The supervisors of the projects were parents in the school and were doing pro bono work.

iv) The school management advertised for the Materials in the daily nation of 4th October 2016 and the daily nation of 28th December 2017.

v) The laboratory started in 2011 and was to be completed to a certain level (Ground and first floor). Its construction stalled due to lack of funds. Due to the 100% transition, it became necessary to hasten the project and the total cost for the completion of the project stood at Ksh.16,494,664.00 based on the revised bills of quantities of 2016. The school was unable to raise the whole amount needed for the contract. The BOM approved the project to proceed by competitively procuring the needed construction materials from wholesalers, hiring of local labour and utilising on pro bono basis the services of some parents who were professional in construction. Therefore, small quantities of works have been undertaken to reach the current level.

vi) The dormitory had to be reinforced to allow for the construction of a storey building. This construction started in 2017 and Ksh28,339,200.00 was required to complete the project based on the bills of quantities**.** The school lacked all the funds to undertake the project. Since time was of essence to ensure 100% transition so that more students had to be accommodated, the BOM also approved the project to proceed on the same basis as the Laboratory project. The construction was supervised on pro bono basis by Architect Mungai, a parent in the school.

vii) The school issued tenders to various firms for specialized works like electrical installation, mechanical works, plumbing and sanitary pipe works, Bathroom wall mirrors.

1754) **Committee observations and findings**

The Committee observed that the School Management is in breach of Section 109 of the Public procurement and Asset Disposal Act 2015 by failing to adhere to the conditions outlined to use the force account procurement method.

1755) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer and the school administration should come up with a financing arrangement to complete the project and provide the details to the National Assembly.**

2) **The Cabinet Secretary for Education should reprimand the school administration for flouting the Public Procurement and Asset Disposal Act 2015.**

426.5 Irregular Payments for Construction of a Multipurpose Hall at Kaimosi Teachers Training College

1756) The balance of Kshs.59,633,897,605 for subsidies reflected in the statement of receipts and payments includes Kshs.43,314,289 disbursed to the College for the construction of a Multipurpose Hall. The institution signed a contract with a local construction company on

3rd October, 2017. Although the company contracted to undertake the works was in the list of registered suppliers, the contract sum was above the threshold for use of restricted tendering and the works should therefore have been advertised. Further, the thirty-six (36) weeks contract period was to lapse in June, 2018. However, as at the time of audit, the contractor had abandoned the site after payment of Kshs.27,749,758 by the College and had not applied for extension of the contract period.

1757) Further, the initial design and bill of quantities were altered from a hall with a kitchen to an amphitheatre and a kitchen. However, revised engineer's drawings and the necessary approvals were not provided. In the circumstances, the propriety and value for money on the expenditure totalling Kshs.43,314,289 could not be confirmed. In addition, in absence of the necessary approvals for the construction, the legality of the construction and the health and safety of the building could not be ascertained.

Submission by the Accounting Officer

1758) There was no variation, instead there was interchangeable use of names, i.e. Amphitheatre versus multi-purpose hall in various BOM minutes. The project was authorized by NEMA as per the documents availed to the Committee for perusal. Since there was no funds the contractor abandoned the site.

1759) **Committee observations and findings**

(i) The Committee observed that the College Management is in breach of the Public Procurement and Asset Disposal Act 2015 the contract sum was above the threshold set for use of restricted tendering and the works should therefore have been advertised.

(ii) The Committee further observed that the contractor had abandoned the site after payment of Kshs.27,749,758 by the College due to lack of funds as cited by the Accounting Officer. However, the Committee noted that the Kshs.43,314,289 had been disbursed to the College for the construction of the said Multipurpose Hall thus the funds were not exhausted and may have been diverted to other use.

1760) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer and the school administration should come up with a financing arrangement to complete the project and provide the details to the National Assembly.**

2) **Within three months of tabling and adoption of this report, the Accounting Officer should provide returns on how the Kshs.43,314,289 disbursed to the College was utilised .**

426.6 Infrastructure

1761) Funds to Sixty-Five (65) Primary Schools Included in the balance of Kshs.25,381,569,547 reflected in the statement for receipts and payments for transfer to other government units is a disbursement of Kshs.51,600,000 to sixty-five (65) primary Schools for infrastructure development. The amount was disbursed without any formal application contrary to the requirement that needy schools should make applications to the Ministry through their County Directors of Education for approval after attaching all the necessary documentations. The regularity of the disbursements could therefore not be confirmed.

Submission by the Accounting Officer

1762) The state department disbursed KShs 200m in the financial year 2018/19 to 304 schools. KShs.51,600,000 was disbursed to 65 schools of which necessary application documents were not provided for audit verification; the documents were attached for perusal by the Committee.

1763) The state department approximately serves twenty-three thousand (23,000) primary schools across the country against an average annual budget of KShs.200m. All the schools cannot be funded in one financial year, if this is to be actualized, other parameters like equity, regional balance, field assessment reports and on the strength of submissions from County Education Boards are used to fund schools. All in all, effort to maintain equity, regional balance, inclusivity, and improvement of teaching & learning & environment in schools remains the key objective of the program.

1764) **Committee observations and Findings**

(i) The Committee observed that failure by the State Department to provide the required documents at the time of audit amounts to dereliction of duty;

(ii) Further, the Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;and

1765) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Auditor General should initiate a forensic audit into the transfer to other government -Infrastructure grants to primary and secondary schools.

426.7 Construction of a Wall at Machakos Boys High School

1766) Machakos Boys high school received an amount of Kshs.10,000,000 from the State Department for construction of a wall around the school. As at the time of the audit, the construction was ongoing. However, it was observed that the tender opening committee minutes and the tender evaluation reports provided for audit were not signed. The appointment letters of the committee members, tender opening register and score sheets from individual evaluation committee members were not provided for audit.

1767) In addition, the minutes provided indicated that the school principal chaired the tender opening and the evaluation committees, creating a conflict of interest since the professional opinion from the head of the procurement function would be addressed to him. Further, the tender was awarded to the second lowest bidder at a contract price of Kshs.9,828,010. No explanation was provided as to why the tender was not awarded to the winning bidder who had quoted Kshs.8,492,163. In the circumstances, it is not possible to confirm that public funds were spent in a lawful and in an effective manner.

Submission by the Accounting Officer

1768) Machakos Boys High school received an amount of Ksh.10,000,000 from the State Department of Early Learning and Basic Education for the construction of a perimeter wall, gate and gate house. The funds were provided to the school on 15th October, 2018 following an application by the school. Consequently, the school advertised for tender in Daily Nation on 8th June, 2019. This Advert provided eight (8) mandatory conditions that the Bidders were to meet, and these conditions were the basis for Evaluation.

1769) The tender committee members had been appointed earlier as indicated on the copies of letters of appointment to the tender committee. The tender opening minutes show the bidders and their quotation. Representatives of two bidders Kalibin Building construction and Mima Energy Ltd were present at the tender opening meeting. The name of the principal appearing on the minutes was an error, where the secretary typing used a template of the previous (other minutes), this was noticed when the auditors requested for the minutes from the chairman of the tender committee. This has been noted and in future it will be cross checked.

1770) The individual score can be seen from the minutes attached. Although M/S Kalibin Building contractors won the tender, they declined for the low quote citing that their quotation was the labour only despite the school tender documents as prepared by the state department of public works indicated full contract. Attached in appendix 426.7 is the decline letter from Kalibin Building and minutes. M/S Kalibin Building Contractors can be Contacted on +254722 663 202. Following this development Mima Energy were awarded the tender and undertook the contract as full contract.

1771) **Committee observations and findings**

(i) The Committee observed that the school principal may have had a conflict of interest since the professional opinion from the head of the procurement function would have been addressed to him.

(ii) The Committee further observed that failure by the school administration to provide the required documents at the time of audit amounts to dereliction of duty;

1772) **Committee Recommendations**

The Cabinet Secretary should reprimand the school administration for flouting the Public Procurement and Asset Disposal Act 2015 and the Public Audit Act 2015 on provision of documents to auditors.

426.8 Irregular Payments to Kenya Secondary Schools Heads Association

1773) Included in the balance of Kshs.59,633,897,605 for subsidies as reflected in the statement of receipts and payments is an amount of Kshs.13,051,941 payment to Kenya Secondary Schools Heads Association. The funds were diverted from free day secondary education funds. The beneficiary organization is not defined in the Government funding structure and such payments amount to diversion of public funds.

1774) Consequently, Government officers making the payments were in breach of Section 79(2) (b) of the Public Finance Management Act, 2012 which provides that a public officer employed in a National Government, state organ or public entity shall ensure that the resources within the officer's area of responsibility are used in a way which is lawful and authorized, effective, efficient, economical and transparent. In this circumstance, it has not been possible to confirm that the payments totalling Kshs.13,051,941 is a proper charge to public funds.

Submission by the Accounting Officer

1775) The Kenya Secondary School Heads Association (KESSHA) is a registered association of about 7,000 members drawn from both public and private secondary schools. The Kenya Secondary School Heads Association (KESSHA) is a major stakeholder in the education sector and plays a critical role in the promotion of quality education, access, relevance, education policy dissemination and implementation. In the Basic Act 2013, KESSHA is a member of the County Education Boards.

1776) The amount of Kshs.13,051,941.00 (Thirteen Million, Fifty One Thousand, Nine Hundred And Forty One Shillings) payment to the Kenya Secondary School Heads Association (KESSHA) from the Ten (10) sampled secondary schools, between 2018-2019 was mainly drawn from FDSE funds and mainly from operations Vote head.

1777) The subscriptions paid by respective branches are decided by the national governing Committee. The main activities of KESSHA include; Organizing Principals' retreats/Conferences, Organizing awards for teachers whose students excel in national examinations, organizing the students' council meetings, and supporting education activities in the areas of deficit e.g. prize giving days.

1778) Even though the Kenya Secondary Schools Heads Association (KESSHA) is not defined in the Government funding structure, to some extent, the collected funds are meant to supplement and enhance the provision of quality education through the improvement of the respective principals' management skills and training of students' leaders among other education activities.

1779) The above notwithstanding, the State Department is developing policy guidelines to ensure that the funding to the Kenya Secondary Schools Heads Association (KESSHA) from Free Day Secondary Education FDSE is regulated and controlled to avoid abuse and allow the prudent use of public resources in an approved, effective, efficient and transparent manner.

1780) **Committee observations and findings**

(i) The Committee observed that the Accounting Officer was in breach of Section 79(2) (b) of the Public Finance Management Act, 2012 which provides that a public officer employed in a National Government, state organ or public entity shall ensure that the resources within the officer's area of responsibility are used in a way which is lawful and authorized, effective, efficient, economical and transparent.

(ii) The Committee further observed that the Accounting Officer irregularly diverted funds voted/ budgeted for free day secondary education.

1781) **Committee Recommendations**

The Accounting Officer should recover the funds from the Association or a surcharge be initiated against him to recover the funds irregularly diverted.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1782) **Conclusion**

427. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECTS

KENYA PRIMARY EDUCATION DEVELOPMENT PROJECT (GRANT NO. TFO18863)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

428. Unreconciled Cash and Cash Equivalents Balance

1783) The statement of financial assets as at 30 June, 2019 reflects cash and cash equivalents totalling Kshs.338,104,683 as further disclosed in Note 8.10 A to the financial statements. The balance includes Kshs.76,427,428 (Account A - Kshs.72,252,550, Account B – Kshs.447,999 and Gok Account – 3,726,879) being payments in the cashbook not yet captured in the bank statement. In addition, outstanding payments totalling Kshs.4,766,183 reflected in the cashbook are not reflected in the bank statement.

1784) In the view of these anomalies, the accuracy and completeness of the cash and bank balance totalling Kshs.338,104,683 reflected in the statement of financial assets as at 30 June, 2019 cannot be confirmed.

Submission by the Accounting Officer

1785) Our bank reconciliation statements reflected Kshs 76,427,428 being payments in the cashbook not in the bank statement. This occurred because the financial year ended on a Sunday and therefore payments which were made on the Friday 28th June 2019 could only be cleared at the Central Bank on Monday 1st July 20219 since the bank does not operate during weekends. The payments have since been either paid in the bank or reversed in the cash book. Attached is the June 2019 bank reconciliation indicating when the payments were cleared and July 2019 bank reconciliation and statements for your review

1786) **Committee Observations and Findings**

(i) The Committee observed that, the Accounting Officer explained the source of the reconciling figure of Kshs 76,427,428 being payments in the cashbook not in the bank statement. However, since Audit exercise is conducted some months after the close of the year, the balances ought to have been reconciled before the Auditors questioned the balances. Therefore, the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Committee also observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

1787) **Committee Recommendations**

The Committee reprimands the Accounting Officers for failing to ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also failed to ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

Emphasis of Matter

429. Unreconciled Special Account Statements

1788) The statement of receipts and payments for the year ended 30 June, 2019 reflects proceeds from domestic and foreign grants totalling Kshs.2,226,690,359 as further disclosed in Note 8.4 to the financial statements. However, the identical account balance reflected in the special account statement as at 30 June, 2019 is Kshs.1,839,775,734 resulting to a variance of Kshs.386,914,625 which, however, had not been reconciled at the time of the audit. My Opinion is not qualified in respect to this matter.

Submission by the Accounting Officer

1789) During the financial year ended 30th June 2019, the project received Kshs 1,837,824,007 as exchequer releases and also made direct payments to suppliers and contractors through world bank of Kshs 388,866,352 giving a total of Kshs 2,226,690,359 being proceeds from foreign grants. The variance of 386,914,625 is made of direct payment of kshs 388,866,352 and a loss of Kenya shillings against the dollar of Kshs 1,951,727 which were never factored in the special account statement. Payment vouchers and analysis of direct payments were availed for perusal by the Committee.

1790) **Committee Observations and Findings**

(i) The Committee observed that, the Accounting Officer explained the source of the reconciling figure of a variance of Kshs.386,914,625 being direct payments and a loss of Kenya shillings against the dollar of Kshs 1,951,727 which were never factored in the special account statement. However, since Audit exercise is conducted some months after the close of the year, the balances ought to have been reconciled before the Auditors questioned the balances. Therefore, the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Committee also observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

1791) **Committee Recommendations**

The Committee reprimands the Accounting Officers for failing to ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also failed to ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

Other Matter

430. Unresolved Prior Year Matters

1792) The following matters reported during the 2017/2018 audit had not been resolved as at the time of conclusion of the 2018/2019 audit. The Matters related to unreconciled balances on expenditures, cash and the special account statement.

430.1 Expenditure Balances

1793) The statement of receipts and payments for the year ended 30 June, 2018 reflected expenditure totalling Kshs.2,259,784,105 while records shown in the Integrated Financial Management Information System (IFMIS) report for the same period reflected expenditure totalling Kshs.2,274,469,102. The variance of Kshs.5,259,898 between the two records was, however, not reconciled.

1794) As a result, it was not possible to confirm the accuracy and completeness of the expenditure totalling Kshs.1,844,175,185 included in the financial statements for the year ended 30 June, 2018.

Submission by the Accounting Officer

1795) The committee marked the matter as resolved in its report for the financial year 2017/2018 and further recommended that :

1) Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

2) Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.

3) Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

430.2 Cash and Bank Balances

1796) Excluded from cash and cash equivalents balance amounting to Kshs.196,612,188 as at 30 June, 2018 was Kshs.1,326,538 being payments in bank statement not captured in the cashbook. Some of the payments dated back to December, 2017. No explanations were provided by Management on why the two sets of records were not reconciled. As a result, the accuracy and completeness of the cash and bank balances totalling Kshs.338,104,683 as at 30 June, 2018 could not be confirmed.

Submission by the Accounting Officer

1797) The committee marked the matter as resolved in its report for the financial year 2017/2018 and further recommended that :

1) Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

2) Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.

3) Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

430.3 Special Account Statement

1798) The statement of receipts and payments for the year ended 30 June, 2018 reflected a comparative balance totalling Kshs.2,458,212,857 under proceeds from domestic and foreign grants which however, differed with the respective account balances reflected in the special accounts statement amounting to Kshs.1,415,868,504 and Kshs.976,182,343, amounting to Kshs.2,392,050,847 in aggregate. The difference amounting to Kshs.66,162,010 between the two sets of records was not explained. As a result, the accuracy of the statement of receipts and payments could not be confirmed.

Submission by the Accounting Officer

1799) The committee marked the matter as resolved in its report for the financial year 2017/2018 and further recommended that :

1) Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

2) Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.

3) Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1800) **Conclusion**

431. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

432. Outstanding Imprests and Advances

1801) The statement of financial assets as at 30 June, 2019 reflects outstanding imprests and advances totalling Kshs.130,210,818 as disclosed under Note 8.10(C) to the financial statements. A sum of Kshs.2,733,739 of the balance is due from some education directorates in County governments and relates to disbursements made in the 2017/2018 financial year. Further, examination of records relating to imprests issued to officers and partner organizations indicated that controls over accounting for the imprests are not working as intended as large portions of the imprests are not surrendered in time.

1802) No plausible explanation has been provided as to why the imprests have not been accounted for.

Submission by the Accounting Officer

1803) During the financial year 2018/2019, there were frequent IFMIS system breakdown resulting in delay in the processing of surrendered imprests vouchers in the system within the stipulated time despite the fact that the officers surrendered their imprests in time. The management have put in place measures and controls to ensure that imprest issued are properly accounted for in the future. Unspent AIE balance of Kshs 2,733,739 due from counties were refunded back to the project. Bank transfer RGTS are availed for perusal by the Committee.

1804) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not take any action in line with Regulation 92 (5), (6) and (8) of the PFM (National Government) Regulations, 2015 for the failure to account for or surrender the imprest on the due date or issuing a second imprest before surrender of the first one.

1805) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that the holder of a temporary imprest accounts or surrenders the imprest within 7 working days after returning to duty station.**
2) **Where the imprest holder fails to account for or surrender the imprest on the due date, the he/she shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.**
3) **in order to effectively and efficiently manage and control the issue of temporary imprests, no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary.**
4) **The Committee recommends that the Accounting Officer reprimands all the officers in breach of the financial regulations.**

GOK/UNICEF EDUCATION FOR YOUNG PEOPLE PROGRAMME

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

433. Inaccuracies in Cash and Cash Equivalents

1806) As noted in the previous year's audit report, the statement of financial assets reflects cash and cash equivalent balance of Kshs.4,648,145. However, a recast of the cashbook in the month of August, 2016 revealed that the balance carried down was Kshs.9,128,436 instead of Kshs.10,148,436 resulting in an unreconciled variance of Kshs.1,020,000. Further, the bank reconciliation statement as at 30 June, 2019 reflected payments in bank statements not recorded in cash book amounting to Kshs.503,350 in respect of outward payment and whose nature has not been disclosed or analysis availed for audit review.

1807) In view of the above, the completeness and accuracy of the cash and cash equivalents of Kshs.4,648,145 reflected in the statement of financial assets as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

1808) The committee marked the matter as resolved in its report for the financial year 2017/2018 and further recommended that :

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

Other Matter

434. Unsupported Cumulative Expenditure

1809) As reported in the previous year, the statement of receipts and payments for the year ended 30 June, 2018 had reflected payments on purchase of goods and services totalling to Kshs.134,826,523 which constituted direct payments balance of Kshs.114,711,204 representing 85.1% that had not been supported.

1810) Consequently, the completeness and accuracy of cumulative expenditure to-date of Kshs.1,361,179,756 reflected in the statement of receipts and payments for the year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

1811) The Accounting officer will engage with UNICEF to develop guidelines to ensure that the Government of Kenya as the beneficiary of these programmes is fully involved in supervision of their implementation.

1812) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not satisfactorily respond to this paragraph.

1813) **Committee Recommendations**

1) **The Committee reprimands the Accounting Officer for failing to comply with the parliamentary committee's request to respond to Auditor-General's report and appear before the committee for deliberations contrary to The National Assembly standing order No. 191.**
2) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
3) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

435. Unsupported Domestic and Foreign Grants

1814) As disclosed under Note 8.4 to the financial statements, the statement of receipts and payments reflects proceeds from domestic and foreign grants of Kshs.3,808,950 and cumulative to-date of Kshs.1,662,735,984. However, progress report on the grants were not availed for audit review.

Submission by the Accounting Officer

1815) Majority of the programs are implemented directly by UNICEF through direct payments with the ministry implementing very few activities. UNICEF does not provide reports of the extent of implementation of its programs and therefore a gap exists.

1816) Committee Observations and Findings

The Committee observed that the Accounting Officer did not respond to this paragraph.

Committee Recommendations

1) **The Committee reprimands the Accounting Officer for failing to comply with the parliamentary committee's request to respond to Auditor-General's report and appear before the committee for deliberations contrary to The National Assembly standing order No. 191.**
2) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
3) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

436. Budget Control and Performance

1817) The statement of comparative budget and actual amounts reflects actual receipts of Kshs.3,808,950 which was 100% of the budget. However, the Programme spent Kshs.4,642,817 against the approved budget of Kshs.3,808,950 resulting to an over expenditure of Kshs.833,867 or 18%. The Management has however, not explained the cause of the variance through an Annexure to the financial statements as required by the reporting template and as provided by International Public Sector Accounting Standard, IPSAS 24.

Submission by the Accounting Officer

1818) As in the case of previous year this is as a result of UNICEF spending more in direct payments than the amounts allocated in the budget in the execution of their programs.

1819) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not satisfactorily respond to this paragraph.

1820) **Committee Recommendations**

1) **The Committee reprimands the Accounting Officer for failing to comply with the parliamentary committee's request to respond to Auditor-General's report and appear before the committee for deliberations contrary to The National Assembly standing order No. 191.**
2) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at**

least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.

3) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1821) **Conclusion**

437. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

438. Lack of Key Programme Information

1822) As previously reported, the following Programme documents were not availed for audit review; the design report, implementation manual, GOK/UNICEF policies, annual work plan and activities report.

1823) In the forgoing, it has not been possible to ascertain if the Programme met the expectation of the Kenyan citizens as outlined in the GOK/UNICEF Country Programme Action Plan, 2014-2016.

Submission by the Accounting Officer

1824) No submissions.

1825) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

1826) **Committee Recommendations**

1) **The Committee reprimands the Accounting Officer for failing to comply with the parliamentary committee's request to respond to Auditor-General's report and appear before the committee for deliberations contrary to The National Assembly standing order No. 191.**

2) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at**

least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.

3) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

16. STATE DEPARTMENT OF POST-TRAINING AND SKILLS DEVELOPMENT

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1068

Mr. Alfred Cheruiyot, the Accounting Officer for the State Department of Vocational and Technical Training (Vote 1068) appeared before the Committee on11th August, 2021 to adduce evidence on the Audited Financial Statements for the State Department of Vocational and Technical Training (Vote 1068) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr.M. B. Mohamed - Senior Accountant PTSD
2. Mr. Joseph M. Yamu - Assistant Accountant General
3. Ms. Catherine M. Shiroko - Senior Principal Finance Officer

And submitted as follows:

1827) **Unqualified Opinion**

439. There were no material issues noted during the audit of the financial statements of the State Department.

Other Matter

440. Pending Bills

1828) The Financial Statements reflects pending bills balance of Kshs 3,264,565 as at 30th June 2019. Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form the first expenditure to be charged.

Submission by the Accounting Officer

1829) These pending bills were due to lack of exchequer issues and were paid in the subsequent year 2019/2020 as per the schedule below and bank statements attached.

SUPPLY OF GOODS			
S.No.	**Details**	**Amount Ksh**	**Date Paid**
1	Lyrical Traders	408,000.00	14/11/2019
2	Kenmore Enterprises	264,750.00	14/11/2019
3	Seruka International	309,900.00	19/12/2019
4	Chrispen Agencies	89,750.00	14/11/2019
5	Kenmore Enterprises	137,500.00	14/11/2019
6	Fair Sales Ventures	131,000.00	14/11/2019

7	Joely General Suppliers	315,000.00	11/12/2019
8	Solid Furniture Business	59,000.00	3/1/2020
9	Venyte Supplies	66,000.00	14/11/2019
	Sub Total 1	**1,780,900.00**	
SUPPLY OF SERVICES			
1	Emmola Trading Company	746,879.00	22/11/2019
2	Kenya Safari Lodges	474,500.00	31/10/2019
3	Wamera Auto Engineers	229,786.00	11/12/2019
4	Fine Tune Motors	29,500.00	14/11/2019
	Sub Total 2	**1,480,665.00**	
	Grand Total	**3,261,565.00**	

1830) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to pending Bills was persuasive; and

(ii) The Committee marked the matter as resolved.

441. Budgetary Control and Performance

1831) The State Department for Post Training and Skills Development had a total recurrent budget of Kshs 75,455,000.00 voted for the Financial Year 2018/2019 while actual receipts was Kshs 56,033,474.00 resulting to an under absorption of Kshs 19,421,524 or 26% of its voted amount. The under absorption of the approved budget indicates that the State Department did not implement some of the planned activities, which implies that citizens did not receive the expected services.

Submission by the Accounting Officer

1832) The State Department for Post Training and Skills Development was established under Executive Order No. 1 of June 2018 (Revised). Being its first year for operalisation, most officers who were posted there took time to report and begin the tasks in good time.

1. Rent and Rates budget of Kshs 4,543,488 was not completely used as the space had not been identified.
2. Refurbishment of Non-Residential Buildings amounts of Kshs 4,009,825 was never utilized as the space was not in existence by then.
3. Salaries totaling to Kshs 2,462,708 was never utilized as the anticipated officers took time to report even as they reported some of them their files took long to come for change of pay point as they continued earning their salaries from the previous stations.
4. Routine Maintenance Vehicles had a balance of Kshs 1,149,928 because the State Department had new vehicles hence less repairs.
5. The rest were utilities which could not be absorbed due to low activities occasioned by less staff to initiate the actions.

1833) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Budget Control and Performance was persuasive; and

(ii) The Committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1834) **Conclusion**

442. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1835) **Conclusion**

443. There were no material issues relating to effectiveness of internal controls, risk management and governance.

17. MINISTRY OF HEALTH

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1081

Ms. Susan Mochache, the Principal Secretary and Accounting Officer for the Ministry of Health (Vote 1081) appeared before the Committee on 19th May, 2021 and 30th August, 2021 to adduce evidence on the Audited Financial Statements for the Ministry of Health (Vote 1081) for the Financial Year 2018/2019. She was accompanied by the following officers:

1.	Mr. Moses N. Mbaruk	- Secretary Administration
2.	Mr. Nelson Kariuki	-PMFT
3.	Mr. Joseph K. Koech	- Deputy Accountant General
4.	Ms. Joan A. Achieng	- Assistant Accountant General
5.	Mr. Jonah Onentiah	- Admissions
6.	CPA, CS Ken Nyamolo	- Ag. CEO NACC
7.	Mr. John N. Kamau	- MOH - MES
8.	Mr. Edward Njoroge	- Ag. CEO KEMSA
9.	Mr. Fredrick Owich	- SRN – MOH
10.	Ms. Christine Mwangi	- Financial Accountant –KEMSA
11.	Mr. Raben Kenyanya	- ACDP – MOH
12.	Ms. Stella Oduogi	- Senior Accountant – NASCOP
13.	Ms. Nancy J. Kemboi	- Deputy Accountant General – Global Fund
14.	Ms. Alice Akinyi	- Assistant Accountant General
15.	Mr. Martin Mito	- Principal Supply Chain Management Officer
16.	Mr. Bernard Kuria	- Senior State Counsel
17.	Mr. David Mutua	- Procurement Manager – KEMSA
18.	Mr. Fredrick Wanyonyi	- KEMSA – CS/DW

And submitted as follows:

Basis for Qualified Opinion

444. Un-Surrendered Old Deposits Balances from Former Ministries

1836) The Statement of Assets and Liabilities reflects Cash and Cash equivalent's balance of Kshs.141, 471,060 as at 30 June, 2019. However, as previously reported, deposits totaling Kshs.10, 956,141,687 that were held in the bank accounts of the former Ministry of Medical Services and Ministry of Public Health and Sanitation, which were later merged to form the Ministry of Health, were not transferred to the new deposit account contrary to the provisions of Treasury Circular No.AG/CONF.17/01/65 of September, 2013 which required deposits in former Ministries to be analyzed and transferred to new account. Additional information indicate that the bank accounts of the former Ministries were closed on 16 October, 2014 and the Ministry vide letter Ref: No/ACC/AUDIT/12/Vol. II (18) dated 6 March, 2019 sought for approval from The National Treasury to write off the balance. The approval has however, not been granted. Consequently, the validity and accuracy of the reported cash and cash equivalent balance of Kshs.141, 471,060 as at 30 June, 2019 could not be ascertained.

Submission by the Accounting Officer

1837) **The Public Accounts Committee) (PAC) marked the matter as resolved in its Report of 2017/2018.**

445. Bank Balances

445.1 Recurrent Account

1838) As disclosed under Note 12A to the Financial Statements, the Statement of Assets and Liabilities reflects a bank balance of Kshs.140, 841,550 which includes an amount of Kshs.591, 183 held in the recurrent bank account. However, the recurrent cash book reflected a balance of Kshs.36, 115,976 resulting in an unexplained variance of Kshs.35, 524,793. Further, out of the cash book balance of Kshs.36,115,576, only an amount of Kshs.4,853,999 was transferred to the National Treasury at the end of the reporting period resulting to an unaccounted for balance of Kshs.31,261,977.

1839) In addition, although the June, 2019 bank reconciliation statement reflected receipts in cash book not in bank statement amounting to Kshs.2,117,644,383, an amount of Kshs.15,712,323 of these receipts could not be traced in the cash book. Further, the reconciliation statement reflected payments in cashbook not in bank statement totaling Kshs.672, 272, 662, receipts in bank statement not in cashbook totaling to Kshs.8, 202,963, payments in bank statement not in cashbook totaling to Kshs.295,396,076 and receipts in cashbook not in bank statement totaling to Kshs.432, 271,217 for which clearance status as at 31 March, 2020 was not provided.

Submission by the Accounting Officer

1840) The Accounting Officer submitted that it was true that in the Financial Statements, the Statement of Assets and Liabilities reflects a bank balance of Kshs.140,841,550 which included an amount of Kshs.591,183 held in the recurrent bank account. It is also true that the recurrent cashbook balance reflected a balance of Kshs.36,115,976 as per the analysis in the table below.

Analysis: In reconciliation

Balance c/d as per cash book	36,115,977.85	cash book extract was attached

Add: Receipts in cash book	19,386,478.32	cashbook extract was attached
Total Receipts	**55,502,456.17**	
Less: Payments in bank Statement not in Cashbook	50,648,459.65	Cash book extract was attached
Transfers to National Treasury	**4,853,996.50**	-Cash Book balance as at 30/6/2019. & extract of bank statement were attached

1841) It was also true that the June, 2019 bank reconciliation statement reflected receipts in cash book not in bank statement amounting to Kshs.2,117,644,383. Further, the reconciliation statement reflected payments in cashbook not in bank statement totaling Kshs.672, 272, 662, receipts in bank statement not in cashbook totaling to Kshs.8, 202,963, payments in bank statement not in cashbook totaling to Kshs.295,396,076 and receipts in cashbook not in bank statement totaling to Kshs.432, 271,217 for which clearance status as at 31 March, 2020 was not provided. We wish to state that the bank reconciliation statement had errors and revised one was done.

1842) Clearance dates for the outstanding items were indicated and a bank statement was also attached for perusal by the Committee.

1843) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regards to the Recurrent Account was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

445.2 Development Account:

1844) The Bank balance of Kshs.140, 841,550 as at 30 June, 2019, includes a balance of Kshs.2,987 relating to the development bank account. However, the bank reconciliation statement for the account reflected payments in cash book not in Bank Statement amounting to Kshs.3,628,640,131 of which Kshs.1,995,512,927 could not be traced to the cashbook.

Submission by the Accounting Officer

1845) The Accounting Officer submitted that it was true that the Bank balance of Kshs.140, 841,550 as at 30th June 2019 includes a balance of Kshs.2,987 relating to the development bank account. Payment in cashbook of Kshs.1,995,512,927 was duly posted in the cashbook as detailed in the schedule attached and cashbook extracts. The total of Kshs.3,628,640,131 which included the Kshs.1,995,512,927 was paid in bank.

1846) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regards to the Development Account was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

445.3 Deposit Account

1847) The Bank balance of Kshs.140, 841,550 as at 30 June, 2019, further includes an amount of Kshs.140, 247,380 held in bank accounts. However, although Note 12A to the financial statements reflects a comparative deposit account bank balance of Kshs.51,947,227, the Cash book reflected a balance brought forward of Kshs.57,520,674 as at 1 July, 2018 resulting in an unexplained variance of Kshs.5,573,447.

1848) In addition, the June 2019 bank reconciliation statement reflects payments in cashbook not in bank statement totaling Kshs.1,259,580, receipts in bank statement not in cashbook totaling Kshs.1,916,278, payments in bank statement not in cashbook totaling Kshs.788,820 and receipts in cashbook not in bank statement totaling Kshs.25,194,975 for which clearance status as at 31 March, 2020 was not provided.

1849) Further, the bank reconciliation statement reflects receipts in bank statement not in cashbook amounting to Kshs.1,916,278 which includes transfers of Kshs.1, 387,180 whose details were not provided. The reconciliation also reflects receipts in cashbook not in bank statement amounting to Kshs.41,300,107 which includes an amount of Kshs.6,190,402 whose nature was not disclosed.

1850) In the circumstances, the validity, accuracy and completeness of the reported bank balance of Kshs.140,841,550 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

1851) The Accounting Officer submitted that it was true that the bank balance of Kshs.140,841,550 as at June 2019 includes an amount of Kshs.140, 247,380 held in deposit bank account. It is true that the financial statements reflect a comparative deposit bank balance of Kshs.51,947,227 while the cashbook reflected a balance brought forward of Kshs.57,520,674 resulting in a variance of Kshs.5,573,447**.** The over casted opening bank balance was adjusted in the financial year 2019/20 on 30th June 2020 by capturing under stated payments of Ksh.5, 573,447 cashbook extract.

1852) It was true that the June 2019 bank reconciliation statement that was submitted reflected payments in cashbook not in bank statement totaling Kshs.1,259,580, receipt in bank statement not in cashbook totaling Kshs.788,820 and receipts in cashbook not in bank statement totaling Kshs.25,194,975 for which clearance had not been done by March 2020. However, the outstanding balances have been cleared as at the dates indicated in the reconciliation statements which were attached. The Kshs.6,190,402 relates to a receipt in the bank statement on 10th August 2018 from the National Bank and posted in the cashbook on 10th April 2019.

1853) Further the transfers of Kshs.1, 387,180 included in the receipt in bank statement not in cashbook totaling Kshs.1, 916,278 as per the reconciliation statement were receipts from various activities as tabulated in the following table below:

Date	Details	Amount	Management comment
30/1/2019	Trfs	3.000	Salary deductions
22/3/2019	Trfs	200.00	Salary deductions
4/4/2019	Trfs	30.00	Salary deductions
12/6/2019	Trfs	16,000.00	Salary deductions
30/6/2019	Trfs	153,799.60	Salary deductions
30/6/2019	Trfs	136,641.00	Retention monies withheld from Robconsultl design and services PV 000469
30/6/2019	Trfs	23,065.80	Salary deductions
30/6/2019	Trfs	48,560.00	Salary deductions PV 003663
30/6/2019	Trfs	124,212.50	Retention monies withheld from Robconsult design and services PV 000468
12/6/2019	Trfs	50.00	Salary deductions
30/6/2019	Trfs	884,591.40	Retention monies withheld from Interlink Industries PV 00475
TOTAL		**1,387,180.30**	

1854) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regards to the Deposit Account was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

446. Accounts Receivables - Outstanding Imprest

1855) Note 13 to the financial statements reflects outstanding government imprest balance of Kshs.19,761,950 as at 30 June, 2019. However, included in this balance is an amount of Kshs.14,648,675 which ought to have been accounted for on or before 30 June, 2019 but was still outstanding as at 31 October, 2019. This is contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station. Regulation 93(6), further, provides that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.

1856) The Ministry was, therefore, in breach of the law and full recoverability of the imprest balance of Kshs.19,761,950 as at 30 June, 2019 could not be ascertained.

Submission by the Accounting Officer

1857) The Accounting Officer submitted that all the Outstanding Imprest balance of Kshs.19,761,950 has been fully recovered.

1858) **Committee Observations and Findings**

(i) The Committee observed that the Outstanding Imprest balance of Kshs.19,761,950 was fully recovered; and

(ii) **The Committee therefore marked the matter as resolved.**

1859) **Committee Recommendation**

Accounting Officers must at all times ensure that they take appropriate measures to resolve any issues arising from audit which may remain outstanding pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.

447. Funds Balances Brought Forward

1860) The Statement of Assets and Liabilities reflects a fund balance brought forward of Kshs.30,802,623 which differs with the closing net financial position balance of Kshs.31,562,536 reflected in the 2017/18 financial statements resulting in an unexplained difference of Kshs.759,913.

1861) In the circumstance, the accuracy of fund balance brought forwarded of Kshs.30, 802,623 could not be confirmed.

Submission by the Accounting Officer

1862) The Accounting Officer submitted that the unexplained difference of Kshs.759, 913 constitutes bank account balances for Recurrent and Development respectively, that were swept back to the exchequer by the National Treasury after the end of the 2017/2018 Financial Year. The breakdown is as follows:

Analysis of Balance B/F: 2018/2019

Balance B/F	31,562,536.00
Add: Receipts in bank statement	80,815.55
Total Receipts	**31,643,351.55**
Less: Transfers	
Recurrent	(395,398.55)
Development	(445,330.00)
Balance c/d	**30,802,623.00**

1863) The recurrent closing balance was Kshs.314,582. However, the amount swept back by the National Treasury was Kshs.395,398.55 as per the attached transaction slip. The amount was swept back after commencement of new Financial Year 2019/2020 operations, and after a receipt of Kshs.80,815.55 was banked as reflected in the bank balance certificate which were attached; and thus the opening balance of Ksh.30,802,623.00 as reported in the financial statements FY 2018/2019. Bank Statements (recurrent & development) showing the bank balances as at end of Financial Year 2017/2018 were also attached.

1864) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regards to the Funds Balances Brought Forward was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

1865) **Committee Recommendation**

Accounting Officers must at all times ensure that they take appropriate measures to resolve any issues arising from audit which may remain outstanding pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.

448. Accounts Payables

1866) Included in the reported accounts payable - deposits balance of Kshs.140,247,380 is an amount of Kshs.14,958,603 comprised of fines and surcharges, salary recoveries and imprest recoveries from the payroll. No satisfactory explanation was provided as to why the amounts were included under deposits.

1867) In the circumstances, the accuracy of accounts payables balance of Kshs.140,247,380 as at 30 June, 2019 could not be confirmed.

1868) **Committee Recommendation**

Accounting Officers must at all times ensure that they take appropriate measures to resolve any issues arising from audit which may remain outstanding pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.

449. Other Receipts

1869) The statement of receipts and payments reflects a balance of Kshs.4,136,816,060 for other receipts which as disclosed in Note 5 to the financial statements includes administrative fees and charges of Kshs.14,223,368. However, the account analysis from the Integrated Financial Management Information System (IFMIS) reflected an amount of Kshs.15,899,324 for the receipts resulting into an unexplained variance of Kshs.1,675,956.

1870) In the circumstances, the accuracy and validity of administrative fees and charges balance of Kshs.14,223,368 could not be confirmed.

1871) **Committee Recommendation**

Accounting Officers must at all times ensure that they take appropriate measures to resolve any issues arising from audit which may remain outstanding pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.

450. Unsupported and Double Payment of Compensation of Employees:

1872) Included in compensation of employees figure of Kshs.7,137,164,779 reflected in the Statement of Receipts and Payments is an amount of Kshs.3,066,301 whose payment vouchers and other related supporting documents were not provided for audit review.

Submission by the Accounting Officer

1873) The Accounting Officer submitted that it was true that an amount of Kshs.7,137,164,779 was incurred in compensation of employees for 2018/209 F/Y. The Kshs.3,066,301 worth of payment vouchers and other related supporting documents have since been forwarded to the office of auditor general for audit review. Analysis of the payment vouchers amounting to Kshs.3,066,301 and Copies of the Payment vouchers on compensation of employees were attached.

1874) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regards to the Unsupported and Double Payment of Compensation of Employees was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

1875) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

451. Use of Goods

453.1 Rentals of Produced Assets – Managed Equipment Services (MES) Scheme

1876) On 06 February, 2015, the Ministry of Health entered into agreements with five (5) medical contractors for lease of medical equipment to ninety-eight (98) hospitals across the forty-seven (47) counties under the Government Managed Equipment Services (MES) Scheme. The equipment was to be delivered in five (5) lots as follows:

Lot	**Equipment**
Lot 1-Theatre Equipment	Anesthetic machine with ventilator, electrosurgical unit, operating theatre ceiling mounted lamp, operating theatre table

	major, resuscitaires, instrument trolleys, patient stretcher/side rail, resuscitation patient trolley and linen trolley.
Lot 2-Theatre CSSD Surgical Instruments and Equipment	Surgical instruments set for major operations, gynecological, minor operations, ENT, Ophalmology and theatre CSSD equipment.
Lot 5-Renal equipment	Dialysis machine, dialysis beds, suction machine, vital signs monitor, oxygen concentrator and drug trolleys.
Lot 6	ICU/HDU Equipment
Lot 7	Radiology Equipment

1877) However, on 16 October, 2017 and 22 November, 2017, the Ministry signed variations of contracts with three suppliers for leasing of additional medical equipment under lot 1, 2, 5 and 6 to twenty-four (24) hospitals in twenty-three (23) counties.

1878) As at 30 June, 2019, the Ministry had paid a total of Kshs.26, 342,824,540 to the various medical contractors and consultants, out of which an expenditure of Kshs.8, 794,740,483 relates to 2018/2019 financial year. The expenditure of Kshs.8, 794,740,483 included Kshs.902, 231,552 in respect of the variation of contracts as detailed below:,

Lot	Original Contracts	Variation Contracts (Kshs.)	Total
1	839,368,980	193,137,595	1,032,506,575
2	1,607,359,354	473,116,838	2,080,476,192
5	4,386,089,500	-	4,386,089,500
6	345,333,190	117,817,292	463,150,482
7	694,648,162	118,159,826	812,807,988
Consultancy	19,709,746	-	19,709,746
Sub-total	**7,892,508,932**	**902,231,551**	**8,794,740,483**
Administrative Costs			3,635,410
Grand Total			**8,798,375,893**

The following anomalies were noted;

453.1.1Lack of a Needs Assessment Survey Report

1879) A needs assessment report which informed the decision to lease additional equipment for the twenty-four (24) hospitals was not availed for audit verification. Consequently, the propriety of the expenditure amounting to Kshs.902, 231,553 could not be confirmed.

Submission by the Accounting Officer

1880) The Accounting Officer submitted that the ministry has since noted some of the issues that it considered critical. The issues are addressed as here under:

1. Lack of needs assessment report informing the decision on additional equipment to 24 hospitals

1881) The additional equipment to 24 hospitals was done based on the fact that some of the initial hospitals on the contract lacked space/building to install equipment in the second theatre hence the additional theatre was relocated to a hospital within the same County. For instance, in Elgeyo Marakwet, the space in Chebiemit was not enough to accommodate two theatres; hence the other theatre was relocated to Kamwosor. In order to operationalize the theatre CSSD equipment was considered for the hospital. Letters 1 and 2 on the MES Project dated 23rd August 2016 and 27th June 2016 were attached for perusal by the Committee.

2. Details of when variations were done

1882) **The variations were done as follows;**

Lot 1: Deed of Variation relating to the provision of medical equipment and related services in respect of Lot 1: 22nd November 2017

Lot 2: Deed of Variation relating to the provision of medical equipment and related services in respect of Lot 2: 16th October 2017

Lot 5: Variation deed was signed on 22nd November 2017

Lot 6: Amendment, Variation and Restatement Deed relating to the provision of medical equipment and related services in respect of Lot 6. Signed on 20th November 2017(MoH) & 24th November, 2017 (Philips).

3. Number of years the contract was running at the time of the variations

1883) By the time the variations were being done, the contract had been running for periods indicated below:

Lot 1: Effective date of the Contract: 2nd December 2015 -2 years**.**
Lot 2: Effective date of the Contract: 31st December 2015- 2 years**.**
Lot 5: Effective date of the Contract: 22nd November, 2016- 1 year**.**
Lot 6: Effective date of the Contract: 1st April 2016-1 year 7 months.
Lot 7: No variation undertaken.

1884) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regards to the Use of Goods and Lack of a Needs Assessment Survey Report was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

1885) **Committee Recommendation**

Accounting Officers must at all times ensure that they take appropriate measures to resolve any issues arising from audit which may remain outstanding pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.

453.1.2MES Equipment not in Use

1886) A physical verification exercise carried out in January, 2020 revealed that, lot 1 theatre equipment – a set of which consists of: anesthetic machine with ventilator (1), electrosurgical unit, operating theatre ceiling mounted lamp (1), operating theatre table major (1), resuscitaires -infant radiant warmer (1), instrument trolleys (2), patient stretcher-side rail (1), resuscitation patient trolley (3) and linen trolley (2) – had not been put into use in some hospitals as detailed below:

S/No.	County	Hospital	Comments
1	Kakamega	Kakamega County Referral Hospital	Equipment was still in store as it was not required at the time. Lease paid Kshs.8,047,400.
2	Elgeyo Marakwet	Kamwosor Sub County	The equipment was not in use as the sub county hospital did not have a theatre and specialists including anaesthetists and theatre nurses. Lease paid Kshs.8,047,400
3	Murang'a	Kigumo Sub County Hospital	Equipment was not in use due to lack of anaesthetists & Washimg Machine.
4	Samburu	Suguta Marma Sub County Hospital	Equipment was not in use due to lack of theatre nurses and anaesthetists, inadequate power supply, lack of power back up (generator) and water. Lease paid Kshs.8,047,400.
5	Meru	Kanyakine Sub County Hospital	The equipment is only used for minor cases due to lack of specialized personnel including theatre nurses and anaesthetists.

			Lease paid Kshs.8, 047,400.
6	Tharaka Nithi	Magutuni Sub County Hospital	The equipment is only used for minor cases due to lack of specialized personnel including theatre nurses and anaesthetists. Lease paid Kshs.8, 047,400.
7	Lamu	Mpeketoni Sub County Hospital	The equipment is only used for minor cases due to lack of specialized personnel including theatre nurses and anaesthetists. Lease paid Kshs.8, 047,400.
8	Machakos	Mwala Sub County Hospital	Equipment was not in use due to lack of theatre room. Lease paid Kshs.8,047,400.

1887) Under the circumstances, it was not possible to ascertain whether the public obtained value for money from lease payments totaling Kshs.64, 379,200 incurred in respect of the medical equipment delivered but not put into use.

Submission by the Accounting Officer

1888) The Accounting Officer submitted that the matter was discussed in the Public Accounts Committee appearance on 19th of May 2021 and the matter was not resolved. However, the Committee requested for further information which was provided as follows:

1. Previous report on MES presented to PAC and a brief on Managed Equipment Services (MES) project (bond).
2. Role of County VS Ministry of Health, including on disbursement of MES funds and MOU's between Ministry of Health and County Governments.
3. Confirmation of source of funds. Letter from National Treasury confirming the source of funds.
4. Current status MES payments: The Ministry has so far paid Kshs.37,084,932,645.65 to various contractors in the MES contract as indicated in the table below:

Lot No.	Contractor	Amount paid to date (Kshs.)
1	Shenzhen Mindray	4,607,797,520.60
2	Esteem Industries Inc.	8,776,532,453.15
5	Bellco srl	2,588,389,951.85
6	Philips Medical systems ND. BV.	2,723,816,962.60
7	GE East Africa Services Ltd	18,388,395,757.45
	TOTAL	**37,084,932,645.65**

5. Counties where equipment are lying idle and why

1. **Summary of Hospitals with Equipment but not operational.**

Lot 1: Theatre Equipment

No.	County	Hospital	Reason	Remarks
1.	Wajir	Eldas	Lack of theatre staff i.e. medical officer & anesthetist	
2.	Samburu	Suguta Marmar	Lack of theatre staff i.e. medical officer, theatre nurses & anesthetist	
3.	West Pokot	Kacheliba	Lack of theatre staff i.e. theatre nurses & anesthetist	
4.	Tana River	Garsen	Lack of theatre staff and clean Water	
5.	Tana River	Bura	Lack of theatre staff i.e. medical officer, theatre nurses & anesthetist	
6.	Samburu	Baragoi	Lack of theatre staff i.e. medical officer, theatre nurses & anesthetist and clean Water	
7.	Elgeyo Marakwet	Kamwosor	Lack of support departments i.e. laboratory, Imaging & Laundry	The County has procured a washing machine & ultrasound machine to address Imaging & Laundry services

Lot 2: CSSD and Theatre Equipment

No.	County	Hospital	Reason
1	Samburu	Suguta Marmar	Power Upgrade required to operate the 250 litre autoclave. **Note:** The contractor however, supplied the hospital with a 100 litre, single phase autoclave to continue offering services.

Lot 7: Radiology equipment

No.	County	Hospital	Reason
1.	Migori	Kehancha	Transformer has been installed. Cabling & switch gears not yet installed by the County

2.	Nyamira	Keroka	Transformer has been installed. Cabling & switch gears & distribution board not yet installed by the County
3.	Tharaka Nithi	Tharaka	Transformer has been installed. Cabling & switch gears not yet installed by the County
4.	Trans-Nzoia	Endebess	Transformer has been installed. Cabling & switch gears not yet installed by the County
5.	West Pokot	Kapenguria	Transformer has been installed. Cabling & switch gears not yet installed by the County
6.	West Pokot	Kacheliba	Transformer has been installed. Cabling & switch gears not yet installed by the County
7.	Kitui	Mwingi	Transformer has been installed. Cabling & switch gears not yet installed by the County

6. Counties where equipment are being utilized and the output/benefits being achieved by the citizens.

No.	County	Hospital	Remarks
1.	BARINGO	Eldama Ravine	All Equipment in Lot 1, 2 & 7 working
2.		Kabarnet DH	All Equipment in Lot 1, 2, 5 & 7 working
3.	BOMET	Ndanai SDH	All Equipment in Lot 1, 2 & 7 working
4.		Longisa DH	All Equipment in Lot 1, 2, 5 & 7 working
5.	BUSIA	Kocholia SDH	All Equipment in Lot 1, 2 & 7 working
6.		Busia DH	All Equipment in Lot 1, 2, 5 & 7 working
7.	ELGEYO MARAKWET	Chebiemit DH	All Equipment in Lot 1, 2 & 7 working
8.		Iten DH	All Equipment in Lot 1, 2, 5 & 7 working
9.	EMBU	Ishiara SDH	All Equipment in Lot 1, 2 & 7 working
10.		Embu PGH	All Equipment in Lot 1, 2, 5, 6 & 7 working
11.	GARISSA	Masalani SDH	All Equipment in Lot 1, 2 & 7 working
12.		Garissa PGH	
13.	HOMABAY	Rachuonyo SDH	All Equipment in Lot 1, 2 & 7 working
14.		Homabay DH	All Equipment in Lot 1, 2, 5 & 7 working
15.	ISIOLO	Garbatullah SDH	All Equipment in Lot 1, 2 & 7 working
16.		Isiolo DH	All Equipment in Lot 1, 2, 5 & 7 working
17.	KAJIADO	Loitokitok SDH	All Equipment in Lot 1, 2 & 7 working
18.		Kajiado DH	All Equipment in Lot 1, 2, 5 & 7 working
19.	KAKAMEGA	Malava SDH	All Equipment in Lot 1, 2 & 7 working
20.		Kakamega PGH	All Equipment in Lot 1, 2, 5, 6 & 7 working

21.	KERICHO	Sigowet SDH	All Equipment in Lot 1, 2 & 7 working
22.		Kericho DH	All Equipment in Lot 1, 2, 5 & 7 working
23.		Londiani(Variation	All Equipment in Lot 1, 2 working
24.	KIAMBU	Kiambu DH	All Equipment in Lot 1, 2, 5 & 7 working
25.		Thika DH	All Equipment in Lot 1, 2, 5, 6 & 7 working
26.	KILIFI	Kilifi DH	All Equipment in Lot 1, 2 & 7 working
27.		Malindi DH	All Equipment in Lot 1, 2, 5 & 7 working
28.	KIRINYAGA	Kimbimbi SDH	All Equipment in Lot 1, 2 & 7 working
29.		Kerugoya DH	All Equipment in Lot 1, 2, 5 & 7 working
30.	KISII	Gucha SDH	All Equipment in Lot 1, 2 & 7 working
31.		Kisii CRH	All Equipment in Lot 1, 2, 5, 6 & 7 working
32.		Nyamache (Variation)	All Equipment in Lot 1, 2, 5 working
33.	KISUMU	Kisumu East DH	All Equipment in Lot 1, 2 & 7 working
34.		JOOTRH	All Equipment in Lot 1, 2, 5, 6 & 7 working
35.	KITUI	Mwingi DH	All Equipment in Lot 1, 2 & 7 working
36.		Kitui DH	All Equipment in Lot 1, 2, 5 & 7 working
37.	KWALE	Msambweni SDH	All Equipment in Lot 1, 2, 5, 6 & 7 working
38.		Kinango DH	All Equipment in Lot 1, 2 & 7 working
39.	LAIKIPIA	Nyahururu DH	All Equipment in Lot 1, 2 & 7 working
40.		Nanyuki DH	All Equipment in Lot 1, 2, 5 & 7 working
41.	LAMU	Faza SDH	All Equipment in Lot 1, 2 & 7 working
42.		Mpeketoni	All Equipment in Lot 1, 2 working
43.		Lamu DH	All Equipment in Lot 1, 2, 5 & 7 working
44.	MACHAKOS	Kangundo DH	All Equipment in Lot 1, 2 & 7 working
45.		Machakos DH	All Equipment in Lot 1, 2, 5 & 7 working
46.		Mwala(Variation)	All Equipment in Lot 1, 2 working
47.	MAKUENI	Makindu DH	All Equipment in Lot 1, 2 & 7 working
48.		Makueni DH	All Equipment in Lot 1, 2, 5 & 7 working
49.	MANDERA	Elwak SDH	All Equipment in Lot 1, 2 & 7 working
50.		Takaba	All Equipment in Lot 1, 2 working
51.		Mandera DH	All Equipment in Lot 1, 2, 5 & 7 working
52.	MARSABIT	Kalacha SDH	All Equipment in Lot 1, 2 & 7 working
53.		Marsabit DH	All Equipment in Lot 1, 2, 5 & 7 working
54.		Moyale(Variation)	All Equipment in Lot 1, 2 working
55.	MERU	Nyambene SDH	All Equipment in Lot 1, 2, 5 & 7 working

56.		Meru DH	All Equipment in Lot 1, 2, 5, 6 & 7 working
57.		Kanyakine(Variation)	All Equipment in Lot 1, 2 working
58.	MIGORI	Kehancha SDH	All Equipment in Lot 1, 2 & 7 working except digital general X-ray
59.		Migori DH	All Equipment in Lot 1, 2, 5 & 7 working
60.	MOMBASA	Likoni SDH	All Equipment in Lot 1, 2 & 7 working
61.		Port Reitz	All Equipment in Lot 1, 2 working
62.		Coast PGH	All Equipment in Lot 1, 2, 5, 6 & 7 working
63.	MURANGA	Maragua SDH	All Equipment in Lot 1, 2 & 7 working
64.		Kigumo(Variation)	All Equipment in Lot 1, 2 working
65.		Murang'a DH	All Equipment in Lot 1, 2, 5 & 7 working
66.	NAIROBI	Mbagathi DH	All Equipment in Lot 1, 2 & 7 working
67.		Mama Lucy Kibaki Hosp	All Equipment in Lot 1, 2, 5 & 7 working
68.	NAKURU	Naivasha SDH	All Equipment in Lot 1, 2, 5 & 7 working
69.		Nakuru PGH	All Equipment in Lot 1, 2, 5, 6 & 7 working
70.		Molo(Variation)	All Equipment in Lot 1, 2 working
71.	NANDI	Nandi Hills SDH	All Equipment in Lot 1, 2 & 7 working
72.		Kapsabet DH	All Equipment in Lot 1, 2, 5 & 7 working
73.	NAROK	Transmara	All Equipment in Lot 1, 2 & 7 working
74.		Narok DH	All Equipment in Lot 1, 2, 5, 6 & 7 working
75.	NYAMIRA	Gesima SDH	All Equipment in Lot 1, 2 & 7 working
76.		Manga	All Equipment in Lot 1, 2 working
77.		Nyamira DH	All Equipment in Lot 1, 2, 5 & 7 working
78.	NYANDARUA	Engineer SDH	All Equipment in Lot 1, 2 & 7 working
79.		Ol Kalou DH	All Equipment in Lot 1, 2, 5 & 7 working
80.	NYERI	Mukurweini DH	All Equipment in Lot 1, 2 & 7 working
81.		Nyeri PGH	All Equipment in Lot 1, 2, 5, 6 & 7 working
82.	SAMBURU	Baragoi SDH	All Equipment in Lot 1, 2 & 7 working
83.		Maralal DH	All Equipment in Lot 1, 2, 5 & 7 working
84.	SIAYA	Bondo DH	All Equipment in Lot 1, 2 & 7 working
85.		Siaya DH	All Equipment in Lot 1, 2, 5 & 7 working
86.		Yala	All Equipment in Lot 1, 2 working
87.	TAITA TAVETA	Taveta DH	All Equipment in Lot 1, 2 & 7 working

88.		Wesu	All Equipment in Lot 1, 2 working
89.		Voi DH	All Equipment in Lot 1, 2, 5 & 7 working
90.	TANA RIVER	Garsen SDH	All Equipment in Lot 2 & 7 working
91.		Bura	All Equipment in Lot 2 working
92.		Hola DH	All Equipment in Lot 1, 2, 5 & 7 working
93.	THARAKA NITHI	Tharaka SDH	All Equipment in Lot 1, 2 & 7 working
94.		Chuka DH	All Equipment in Lot 1, 2, 5 & 7 working
95.		Magutuni	All Equipment in Lot 1, 2 & 7 working
96.	TRANSZOIA	Endebess SDH	All Equipment in Lot 1, 2 & 7 working except digital general X-ray machine
97.		Kitale DH	All Equipment in Lot 1, 2, 5 & 7 working
98.	TURKANA	Lopiding SDH	All Equipment in Lot 1, 2 & 7 working
99.		Lodwar DH	All Equipment in Lot 1, 2, 5 & 7 working
100.	UASIN GISHU	Burnt Forest	All Equipment in Lot 1, 2 & 7 working
101.	VIHIGA	Emuhaya	All Equipment in Lot 1, 2 & 7 working
102.		Vihiga DH	All Equipment in Lot 1, 2, 5 & 7 working
103.	WAJIR	Griftu SDH	All Equipment in Lot 1, 2 & 7 working
104.		Eldas	All Equipment in Lot 2 working
105.		Wajir DH	All Equipment in Lot 1, 2, 5 & 7 working
106.	WEST POKOT	Kacheliba SDH	All Equipment in Lot 1, 2 & 7 working except digital general X-ray machine
107.		Kapenguria DH	All Equipment in Lot 1, 2, 5 & 7 working
108.	NATIONAL HOSPITALS	KNH	All Equipment in Lot 1, 2, 5 & 7 working
109.		MTRH	All Equipment in Lot 1, 2, 5, 6 & 7 working
110.		National Spinal Injury hospital	All Equipment in Lot 1, 2 & 7 working

1889) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regards to the MES Equipment not in Use was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

1890) **Committee Recommendation**

Accounting Officers must at all times ensure that they take appropriate measures to resolve any issues arising from audit which may remain outstanding pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.

452. Other Grants and Transfers

452.1 Emergency Relief and Refugee Assistance

1891) The Statement of Receipts and Payments reflects payments of Kshs.180,489,639 for Other Grants and Transfers which, as disclosed in Note 9 to the Financial Statements, include expenditure of Kshs.176,337,067 on Emergency Relief and Refugee Assistance. However, included in the latter balance is an amount of Kshs.52,834,587 for which payment vouchers and other related supporting documents were not provided for audit review. Further the unsupported expenditure included Kshs.24,219,683 incurred on foreign travel and subsistence allowance.

1892) Consequently, the propriety of expenditure totaling Kshs.52,834,587 and the accuracy of the reported balance for Emergency Relief and Refugee Assistance could not be confirmed.

Submission by the Accounting Officer

1893) The Accounting Officer submitted that it was true that the Statement of Receipts and Payments reflects payments of Kshs.180,489,639 for Other Grants and Transfers, which include expenditure of Kshs.176,337,067 on Emergency Relief and Refugee Assistance; out of which Kshs.52,834,587 worth of payment vouchers were not availed for audit.

1894) The payment vouchers amounting to Kshs.52,834,587 have been availed to the Auditors for review. Summary of the payment vouchers and copies of the relevant payment Vouchers were attached for perusal by the Committee.

1895) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regards to the MES Equipment not in Use was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

1896) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

453. Acquisition of Assets

1897) As disclosed in Note 11 to the Financial Statements, the Statement of Receipts and Payments reflects an expenditure of Kshs.1,204,509,178 under acquisition of assets. The following observations were made with regard to the expenditure.

453.1 Purchase of Vehicles and Other Transport Equipment

1898) The expenditure of Kshs.1,204,509,178 includes an amount of Kshs.13, 825,000 incurred on purchase of vehicles and other transport equipment for which payment vouchers were not provided for audit verifications.

Submission by the Accounting Officer

1899) The Accounting Officer submitted that the payment of Kshs.13,825,000 was made to Toyota Kenya Limited vide payment voucher no. 000023T and it was in respect of purchase of Motor vehicle model Toyota KDJ-150R GK AEY-VXL Registration Number GK B542U/KCS 006B.

1900) The respective payment voucher no.000023T has since been forwarded to the Auditor General's office for audit verification.

1901) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regards to the Acquisition of Assets and Purchase of Vehicles and Other Transport Equipment was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved**.

453.2 Construction of Buildings

1902) Hospital , as reflected in the analysis below (from the account analysis extract in ifmis).

No.	Description	p/v no.	Analysis	Amount
1.	Capture of expenditure(AIA for Cert.no.2)	000501	6,893,643.70	
	Capture of expenditure(AIA for Cert.no.2)	"	9,880,889.35	16,774,533.05
2.	Capture of expenditure(AIA for Cert.no.3)	000500	12,637,923.05	
	Capture of expenditure(AIA for Cert.no.3)	"	17,251,767.85	29,889,690.90
3.	Capture of expenditure for Cert.no.3	000495	5,322,448.45	
	Capture of expenditure(AIA for Cert.no.4)	"	28,643,934.80	
	Capture of expenditure(AIA for Cert.no.4)	"	34,026,087.00	67,992,470.25
4.	Capture of expenditure(AIA for Cert.no.4)	000497		50,903,598.75

5.	Capture of expenditure(AIA for Cert.no.5)	000498	16,657,326.75	
	Capture of expenditure(AIA for Cert.no.5)	"	22,849,339.05	39,506,665.78
6.	Capture of expenditure(AIA for Cert.no.6)	000496	15,088,317.85	
	Capture of expenditure(AIA for Cert.no.6)	"	11,008,772.65	26,097,090.50
7.	Payment in respect of BADEA-a financier	000256		35,514,138.65
				266,678,188.00

1903) The respective amounts were direct payments made by the National Treasury in relation to three Donors (BADEA, SFD and Opec Fund for international Development (OFID))-loan AIA. However, the Ministry has obtained copies of the payment vouchers and supporting documents and forwarded the same to the Auditor General office for audit verification.

1904) Letter from the National Treasury on payments to Vaghjiyani Enterprises, copies of the Payment vouchers that were held at the National Treasury that were forwarded to office of the Auditor General for audit review were attached for perusal by the Committee.

1905) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regards to the Construction of Buildings was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

1906) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

453.3 Research, Studies, Project Preparation, Design and Supervision

1907) Payment vouchers and related documents for an expenditure of Kshs.7,178,010 included under Research, Studies, Project preparation, Design and Supervision balance of Kshs.236,609,510 were not provided for audit verification.

Submission by the Accounting Officer

1908) The Accounting Officer submitted that analysis of the payment vouchers amounting to Kshs.7,178,010 and copies of the payment Vouchers relating to research were forwarded for audit review and submitted to the Committee.

1909) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regards to the Purchase of Vehicles and Other Transport Equipment was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

454. Transfer to Other Government Units.

1910) As disclosed in Note 8 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.53,389,723,735 under transfer to other government units which includes an amount of Kshs.3,981,570,000 disbursed to the National Hospital Insurance Fund (NHIF). However, NHIF confirmed receipt of Kshs.2,300,000,000 resulting to an unexplained variance of Kshs.1,681,570,000.

1911) Consequently, the accuracy and validity of the transfers to the National Hospital Insurance Fund of Kshs.3,981,570,000 could not be confirmed.

Submission by the Accounting Officer

1912) The Accounting Officer submitted that the accuracy and validity of the transfers to the National Hospital Insurance Fund of Kshs.3,981,570,000 had been confirmed and the relevant documents forwarded for audit review and verification. Copies were also provided to the Committee for perusal.

1913) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regards to the the accuracy and validity of the transfers to the National Hospital Insurance Fund of Kshs.3,981,570,000 was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

1914) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**

455. Pending Bills

1915) As disclosed in Note 17 and Annex 1 to the Financial Statements, pending bills totaling to Kshs.41, 925,635,774 were not settled during the FY 2018/2019 but were instead carried forward to 2019/2020 financial year. Further, included in the pending bills of Kshs.41,925,635,774 is a balance of Kshs.40,715,355,848 – representing 97.1% of the total pending bills – in respect of court awards and legal fees for which the breakdown and analysis was not provided for audit verification.

1916) In the circumstances, the accuracy and validity of pending bills balance of Kshs.41, 925,635,774 could not be confirmed.

Submission by the Accounting Officer

1917) The Accounting Officer submitted that the committee marked the matter as resolved during the Public Accounts Committee appearance on 19th of May 2021. The Committee further recommended that the Ministry's Legal Department drafts a proposed amendment bill on the civil cases that aim at curbing the interest rates and any other relevant matter that may facilitate the Committee to follow up with State Law Office. The ministry's legal department has made the following recommendations:

1. Parliament to enforce enactment of regulations, laws, and policy guidelines that can be used consistently to ensure timely settlement of judgments and arbitral awards against the government. The proposed laws and policy guidelines should restrict interest on judgments against government and state agencies.

2. **Civil Procedure Act Cap 21**

1918) Review an amendment of the Civil Procedure Act Cap 21, in-particular section 26 which gives the court discretion to award interest on judgments.

3. **Proposal on Section 26**,

1919) Introduce new sub-section (3) which states;

"Where any interest is awarded to or against the government, interest shall be payable unless the court otherwise orders, and any interest so payable shall be at the same rate as that at which interest is payable upon judgment debts due from or to the government under the Government Proceedings Act."

4. **Statutory Cap on Interest Rate**

1920) An amendment to various laws (Public Procurement and Disposal Act, section 48 and Government Proceedings Act) to provide for statutory cap on interest rates to between 4-8% as the maximum rate of interest paid by the State on judgments and accrued claims. This would avoid unfair economic burdens to be placed on the government by judicial awards reflecting the statutory maximum.

5. **Prompt Payment Bill, 2020**

1921) Parliament to enact fast tracking of the Prompt Payment Bill, 2020. The object of the Bill is to put in place a legal framework to facilitate prompt payment for supply of goods, works and services procured by government entities both at the national and county level. It is envisaged that prompt payment for supply of goods, works and services procured by government entities both at the national and county level will reduce pending legal bills arising from breach of contracts for non-payment and the interest component which is at commercial rates and at time compounded.

1922) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to the settlement of the Pending Bills was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

1923) **Committee Recommendation**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

456. Unresolved Prior Year Matter – Transfer to Other Government Units

1924) As previously reported, included in other transfers figure of Kshs.63,911,988 for the year ended 30 June 2018 is an amount of Kshs.4,855,887 being refund of ineligible expenditure to Global Fund National Tuberculosis Lung Disease (NTLD) project as a result of imprest issued for activities outside the project' work plan in the year 2007.

1925) No reason was provided for non-recovery of this long outstanding amount from officers concerned

Submission by the Accounting Officer

1926) The Accounting Officer submitted that from the outstanding imprests and advances reported in the audit for financial year 2018/19 of Kshs.4,432,469 for Global Fund National Tuberculosis Lung Disease (NTLD) programme, an amount of Kshs.1, 268,300 was surrendered leaving an outstanding balance of Kshs.3,305,050. The balance comprised Kshs.2, 520,195 outstanding imprests and Kshs.784,650 advances to defunct provincial administration for BCG vaccines. The new constitution abolished the Provincial administrative units; thus, the former Provincial Directorate of Public Health offices became defunct.

1927) The outstanding personal imprests of Kshs.2, 520,195 as at 30 June 2019 relates to impressts issued under the Global Fund TB grant KEN-T-TNT-584. The Ministry has initiated recovery measures and names of the imprest defaulters sent to the Department of Human resource for recovery of the outstanding amounts.

1928) The Kshs.784,650 outstanding are advances to defunct provincial administration for BCG vaccines. The Ministry has written letters to the banks where the KEPI Accounts were held requesting for certificate of bank balances and bank statements with a view of transferring the balances back to the Ministry and eventually closing the accounts. The breakdown of Kshs.3,305,050 is as indicated in the table below:

GLOBAL FUND TB GRANT OUTSTANDING IMPRESTS AS AT 30TH JUNE 2019					
S/NO	**NAME OF OFFICER /INSTITUTION**	**AMOUNT TAKEN**	**DATE OF SURRENDER**	**AMOUNT SURREND'D**	**BALANCE**
1	PATRICK GAWO - 2003000198	21,000	30-01-15	18,000	3,000
2	BENJAMIN OTITA - 1985100314	30,000	30-06-14	0	30,000
3	JOSEPH KARIMI (PRIN. DRIVER)	95,000	30-01-15	0	95,000
4	NICHOLAS NJERU - 1970013719	2,392,400	30-06-16	0	2,392,400
	SUB TOTAL	**2,538,400**		**18,000.00**	**2,520,400**
ADVANCES TO DEFUNCT PROVINCIAL ADMINISTRATION - KEPI ACCOUNTS Ksh.784,650.00					
S/NO	**NAME OF OFFICER/INSTIT'N**	**AMOUNT TAKEN**	**DATE OF SURRENDER**	**AMOUNT SURREND'D**	**BALANCE**
1	EASTERN PROVINCE	7,441,500	30-12-13	7,430,699	10,801
2	NORTH EASTERN PROVINCE	11,682,060	30-12-13	11,662,110	19,950
3	NAIROBI NORTH	10,388,250	30-12-13	10,297,283	90,967
4	NYANZA PROVINCE	9,629,210	30-12-13	9,537,790	91,420
5	NAIROBI SOUTH	14,521,300	30-12-13	14,425,300	96,000
6	COAST PROVINCE	15,168,150	30-12-13	15,064,832	103,318
7	WESTERN PROVINCE	9,627,800	30-12-13	9,459,227	168,573
8	RIFT VALLEY PROVINCE	9,752,100	30-12-13	9,494,441	203,621
	SUB TOTAL	**88,210,370**		**86,710,838**	**784,650**
	TOTAL	**90,748,770**		**86,728,838**	**3,305,050**

1929) Ministry letter to Attorney General on retired/non-government employees as action taken, copies of surrender vouchers for Kshs.1,268,300 and Letters to the banks where the KEPI Accounts were held were all attached for perusal by the Committee.

1930) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to the Unresolved Prior Year Matter – Transfer to Other Government Units was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

1931) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**

Emphasis of Matter

457. Budget Control and Performance

1932) During the year under review, the Ministry's actual receipts amounted to Kshs.75,664,375,352 against budgeted receipts of Kshs.85,142,343,332 resulting in a shortfall of Kshs.9,477,967,980 or 89% of the budgeted amount. Further, the Ministry's actual expenditure for the year amounted to Kshs.75,674,063,779 against budgeted expenditure of Kshs.85,142,343,332 resulting in an overall under expenditure of Kshs.9,468,279,553 or 89%. Management has attributed the shortfall in expected receipts to unrealized Appropriations-In-Aid (AIA) component of the donor funded projects and unrealized revenue reported by Semi-Autonomous Government Agencies.

1933) **Committee Observations and Findings**

(i) The Committee observed that the unrealized Appropriations-In-Aid (AIA) component of the donor funded projects and unrealized revenue reported by Semi-Autonomous Government Agencies led to the under-absorption of the budget; and

(ii) **The Committee therefore marked the matter as resolved.**

1934) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

Basis for Conclusion

458. Provision of Health Care Information Technology (HCIT) solutions for Managed Equipment Service (MES) Project

1935) On 2nd October, 2017, the Ministry entered into a contract with an ICT firm for provision of health care information technology solutions for the Managed Equipment Service Project (MES) Scheme at a contract sum of Kshs.4.9 billion. The project was to take five (5) years commencing on the contract date and was to cover ninety-eight (98) hospitals under the Government's Managed Service (MES) plan. The project's scope entailed provision of health care information technology solutions including software and hardware interfaces, training and on-going maintenance.

1936) Information available indicates that, although the project had not commenced as at 30 June, 2019, the Ministry vide letter dated 18 November, 2019, terminated the contract without notice thereby exposing the Government to the risk of litigation and damages. The Ministry while terminating the contract cited among other reasons some unrealistic clauses in the contract including clause 39.2 which provided that in the event of termination by the procuring entity, the entity shall pay to the contractor for all services undertaken, and an additional amount equivalent to eighty (80) per cent of the remaining outstanding contractor's fees as detailed under schedule 13 of the contract.

1937) Management has not explained why the contract was signed with the unfavorable clauses and why the input of the Attorney General was not sought before the contract was signed, as provided under Section 5 of the Office of the Attorney General Act, 2012. The Section empowers the Attorney General to negotiate, drat, vet and interpret local and international agreements and treaties for and on behalf the government and its agencies.

Submission by the Accounting Officer

1938) The Accounting Officer submitted that the aforementioned issue had an active court case.

1939) **Committee Observations and Findings**

(i) The Committee observed that the matter on Provision of Health Care Information Technology (HCIT) solutions for Managed Equipment Service (MES) Project was **subjudice;**

(ii) The Committee therefore pended the matter awaiting the outcome of the Court proceedings; and

(iii) The matter therefore remained unresolved.

1940) **Committee Recommendation**

1) **The Committee resolved that since the matter falls under National Assembly Standing Order Number 89, the Accounting Officer should, within three months after the tabling and adoption of this report, submit a brief on the status of the Court case to the National Assembly.**
2) **The matter be stayed under sub judice rule.**

459. Proposed Upgrading of Othaya District Hospital

1941) As previously reported, the Ministry awarded a contract for the upgrading of facilities at Othaya Sub District Hospital to a contractor at a contract sum of Kshs.436,300,799 which was later revised to Kshs.501,745,919. The initial completion period of 85 weeks was extended to 123 weeks with the new completion date being 25 October, 2012. A status report dated 21 February, 2014 – 69 weeks after lapse of the contract period of 123 weeks – indicated cumulative payments of Kshs.501,745,918 representing 99.9% of the revised contract sum of Kshs.501,574,918.

1942) Inspection of the project in November, 2015 revealed that the contractor and subcontractors were not on site. Although it was indicated that the project had been terminated on mutual agreement, no documentary evidence was made available for audit verification. Further, no evidence was provided that the performance guarantee had been recalled and discharged against the uncompleted works. Additional information also revealed that another company had been awarded a new contract to complete the remaining works at a contract sum of Kshs.141, 959,487. The total expenditure for the construction of the hospital had accumulated to Kshs.578, 542,747 by 30 June, 2016.

1943) In addition, the Ministry reported an expenditure of Kshs.145, 154,150 for construction of Othaya District Hospital during the financial year 2016/2017 which brought accumulated expenditure on the hospital to Kshs.723, 696,897 by 30 June, 2017. This expenditure when compared against the initial contract value of Kshs.436, 300,798 gives rise to a variation of Kshs.287, 396,099 or 66%. Further, the Ministry incurred expenditure of Kshs.20,880,390 comprising of upgrading of facilities of Kshs.827,520, stand by diesel generator of Kshs.16,564,061 and consultancy fees of Kshs.3,488,810 during the year under review. This has raised the initial contract of Kshs.436,300,798 to Kshs.744,577,287 leading to a variation of Kshs.308,276,489 (71%). The project progress reports availed have not addressed the variation, completion and handing of the facility. An update report in the month of February, 2019 indicated that the hospital was not yet operational although the Ministry has been planning to operationalize the Hospital as a National Government facility. This was after the County Government of Nyeri cited budgetary challenges and requested the Ministry to take over the hospital.

1944) Consequently, it has not been possible to confirm value for money on the expenditure of Kshs.744, 577,287 incurred on the hospital as at 30 June, 2019.

Submission by the Accounting Officer

1945) The Accounting Officer submitted that the matter was resolved by the Committee in its Report for the financial year 2017/2018. However, the Committee requested for a policy on establishment of referral hospitals as well as guidelines on the taking over of referral hospitals.

1946) After devolution in 2013, hospitals that had been gazetted under State Corporations Act cap 466 were only two, i.e. Moi Teaching & Referral Hospital (MTRH) and Kenyatta National Hospital (KNH). Article 15 (1)(f) of the health Act of 2017, envisions that the Ministry responsible for health shall develop policy measures to promote equitable access to health services to the entire population, with special emphasis on eliminating the disparity in realization of the objects of this Act for all areas including marginalized and disadvantaged population. There was need to establish, a national Hospitals Authority as a body corporate which will oversee the governance, operation and development of theses identified and upcoming tertiary hospitals to deliver quality specialized healthcare services in accordance with the accepted international standards.

1947) The Ministry in a bid to create inter- county referral mechanisms, saw the need to develop a policy establishing the referral mechanisms. The ministry developed a draft cabinet memo which was to authorize the policy establishment and amendment of the State corporations Act. A legal notice was drafted seeking to establish National Referral Hospital Authority(NHRA) to oversee the leadership, governance and operations on the existing two National Hospitals managed under a department in the Ministry (Mathari National Teaching & Referral Hospital, and National Spinal Injury Hospital) and any other upcoming National Referral Hospital. A Draft cabinet memo on the establishment of a National Referral Hospitals Authority (NRHA) and a Draft Legal notice on the State Corporations Act (cap 446) were availed to the Committee.

1948) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to the gazettement of Othaya District Hospital and other Referral Hospitals was satisfactory;

(ii) The Committee however observed that the Cabinet was yet to approve the Memo on the establishment of a National Referral Hospitals Authority (NRHA) to manage and oversee all National Referral Hospitals; and

(iii) **The Committee therefore marked the matter as resolved**.

460. Long Outstanding County Debts

1949) As previously reported, in the 2013/2014 financial year, the Ministry paid salaries totaling Kshs.9, 208,279,767 on behalf of the county governments. The payments were to be recovered in the same financial year. However, documents and information available indicated that the Ministry only recovered Kshs.4,837,973,350 in the 2013/2014 financial year leaving a balance of Kshs.4,370,306,417 which remained outstanding as at 23 July, 2020 when the audit was finalized as detailed below.

No.	County	Total per County (Kshs.)	Payment by the County (Kshs.)	Unpaid Balance as at 30 June 2019-Kshs.
1.	Baringo	436,539,829	203,160,522	33,379,307
2.	Bomet	149,939,230	109,228,726	40,710,504
3.	Bungoma	542,025,992	169,903,393	372,122,599
4.	Busia	345,973,625	70,000,000	275,973,625
5.	Embu	524,931,828	-	524,931,828
6.	Garissa	292,081,394	62,762,901	229,318,493
7.	Homa Bay	394,803,167	129,949,868	264,853,299
8.	Isiolo	194,420,152	113,038,625	81,381,527
9.	Kajiado	294,670,327	130,287,386	164,382,941
10.	Kakamega	713,869,102	337,034,472	376,834,630
11.	Keiyo Markwet	324,977,919	295,200,242	29,777,678
12.	Kericho	422,131,231	251,000,000	171,131,231
13.	Kiambu	1,089,527,249	784,583,346	304,943,904
14.	Kilifi	397,785,611	239,951,407	157,834,205
15.	Kirinyaga	334,363,915	-	334,363,915
16.	Kisii	582,690,520	366,131,142	216,559,378
17.	Kisumu	709,470,408	357,612,798	351,8857,619
18.	Kitui	391,677,718	391,677,718	-
19.	Kwale	231,334,998	231,334,998	-
20.	Laikipia	266,319,862	-	266,319,862
21.	Lamu	113,266,122	52,101,740	61,164,382
22.	Machakos	591,362,876	169,654,816	421,708,060
23.	Makueni	406,610,824	145,828,399	260,782,424
24.	Mandera	90,891,534	90,891,534	-
25.	MARSABIT	183,407,716	141,430,191	41,977,526
26.	Meru	576,851,358	576,851,358	-
27.	Migori	276,885,532	110,382,633	166,502,899
28.	Mombasa	682,711,689	-	682,711,689
29.	Murang'a	436,763,133	150,000,000	286,763,133
30.	Nairobi County	1,650,432,282	200,000,000	1,450,432,382
31.	Nakuru	1,120,516,450	240,000,000	880,516,450

32.	Nandi	316,123,713	-	316,123,713
33.	Narok	272,498,842	125,275,446	147,223,396
34.	Nyamira	211,470,903	96,202,703	115,268,200
35.	Nyandarua	374,637,572	118,933,341	255,704,231
36.	Nyeri	744,981,628	-	744,981,628
37.	Samburu	137,563,771	137,563,773	(2)
38.	Siaya	271,951,370	-	271,951,370
39.	Taita Taveta	233,302,147	184,390,140	48,912,001
40.	Tana River	121,374,421	56,306,932	65,067,489
41.	Tharaka	270,821,606	-	270,821,606
42.	Trans Nzoia	371,743,296	331,620,768	40,122,528
43.	Turkana	155,882,043	87,372,822	68,509,221
44.	Uasin Gishu	410,059,769	188,495,202	221,564,568
45.	Vihiga	209,312,955	93,376,411	115,936,544
46.	Wajir	126,188,331	126,188,331	-
47.	West Pokot	211,133,707	172,249,260	38,884,447
	Total for County's	**19,208,279,766**	**7,837,973,349**	**11,370,306,417**
	Recoveries from National Treasury		**7,000,000,000**	**(7,000,000,000)**
	Total	**19,208,279,766**	**14,837,973,349**	**4,370,306,417**

1950) The Ministry has not explained why the amount remained outstanding and why no disclosure was made in the financial statements.

Submission by the Accounting Officer

1951) The Accounting Officer submitted that the Ministry is not able to recover the long outstanding debts since the budget expenditure lapsed in the financial year 2013/2014. It is worth noting that all funds under recurrent account are always swept to General/Consolidated Fund Account at Central Bank by the National Treasury after every financial year end; and thus were the money to be received, the National Treasury would have recovered them at source without reference to the ministry.

1952) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Long Outstanding County Debts was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

1953) **Committee Recommendation**

1) **Within three (3) months upon adoption of this report, the Accounting Officer should ensure that the balance of Kshs.4,370,306,417 for Long Outstanding**

County Debts paid as salary in 2013/2014 and which remained outstanding as at 23 July, 2020 and recurring from the 2013/2014 financial year is fully recovered from the defaulting Counties.**

2) **Upon failure to implement recommendation (1) above, the National Treasury should recover the money at source without further reference to the Ministry.**

461. Irregular Payment on Portable Clinics

1954) As previously reported, the Ministerial Tender Committee awarded the contract to supply of Portable Medical Clinics to an Investments Company vide Ministerial Tender Committee Minute No.MOH/MTC/.37/2014-2015. The Company was to supply one hundred (100) portable medical clinics at a unit price of Kshs.10,000,000 (totaling to Kshs.1 billion). On 17 July, 2015, the contract to supply, Installation, Commissioning and Handing Over of the clinics was signed between the Investment Company and the Ministry. The contract period was to be from the date of signing of the contract to the end of financial year 2015/2016. During the 2015/2016 financial year, the Ministry paid Kshs.800,000,000 for portable clinics before installing, commissioning and handing over thus contravening the contractual agreement.

1955) Further, in 2018/19, the Ministry incurred Kshs.2,417,100 on allowances to officers from the Ministry involved in verifying the contents of the portable clinics, carrying out repairs, rebranding and writing a comprehensive operationalization plan of 89 clinics allegedly vandalized at Miritini, Mombasa. No explanations were provided on the whereabouts of eleven (11) clinics and why the Ministry incurred an extra Kshs.2,417,100 on the clinics that are not in its possession.

1956) Consequently, it has not been possible to confirm that the Government obtained value for money on the expenditure of Kshs.802,417,100.

Submission by the Accounting Officer

1957) The Accounting Officer submitted that the matter was discussed in The Public Accounts Committee appearance on 19th of May 2021 and the matter was considered resolved. However, the Committee requested for the Ethics and Anti –corruption letter granting the Ministry authority to distribute the portable clinics. Authority letter from EACC for Acquisition and distribution of the Portable clinics was attached for perusal by the Committee.

1958) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Irregular Payment on Portable Clinics was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

462. Computed Tomography (CT) Scanners

1959) As previously reported, the Ministry in 2017/18 financial year paid Kshs.1,740,000,000 for computed Tomography (CT) scanners. This was 20% of the contract value which was paid as a condition precedent for the Government of Kenya to obtain a loan of Kshs.7,000,000,000 from the People's Republic of China to finance the purchase of the CT scanners. The scanners were procured through Neusoft Medical Systems Co. Ltd. However, no procurement documents for Neusoft Medical Systems had been provided at the time of conclusion of the audit review. Information available indicates that Neusoft Medical Systems was proposed by the Government of the Peoples Republic of China as a leading manufacturer of CT scans. Consequently, it was not possible to ascertain whether due diligence and fidelity to the Public Procurement and Asset Disposal Act, 2015 was observed. In particular, Section 85 which requires tenders to be evaluated by the Evaluation Committee of the procuring entity for the purpose of making recommendations to the Accounting Officer through the Head of Procurement to inform the decision of the award of the contract to the successful tenderers.

1960) Under the circumstances, Procurement laws and regulations may have been flouted as the necessary procurement documents were not provided for audit review.

Submission by the Accounting Officer

1961) The Accounting Officer submitted that it was true included in the receipts and payments figure of Kshs.2,392,695,718 as at 30th June 2018 is an expenditure on acquisitions of assets of Kshs.1,740,000.000 under specialized plant, equipment and machinery paid for CT Scanners, which was 20% of the contract value paid as a conditional precedent for Kenyan government to obtain a loan; and no procurement documents provided at the time of conclusion of the audit review.

1962) Section 6(1) of the Public Procurement and Asset Disposal Act 2015 states that "where any provision of the Act conflicts with any obligations of the Republic of Kenya arising from a treaty, agreement or any other convention ratified by Kenya and to which Kenya is a party, the terms of the treaty or agreement shall prevail".

1963) The procurement for the Computed Tomography (CT) Scanners was based on a Government to Government arrangement between the Government of China and the Government of Kenya and therefore not subject to the Public Procurement and Asset Disposal Act 2015.

1964) The ministry however confirms that due diligence and fidelity to the public procurement and disposal act of 2015 was observed and in particular section 85 which require tenders to be evaluated by the evaluation committee of the procuring entity for the purpose of making recommendations to the accounting officer through the head of procurement to inform the decision of the award of the contract to the successful tenderers.

1965) The matter was discussed in by the Public Accounts Committee on 19th of May 2021 and the following documents requested for by the committee. They include:

i. List of Delegation Mission Travel to China (**tabled before the Committee**)
ii. Copies of payment vouchers and Travel Clearance for the officers (**tabled before the Committee**)

1966) The contract between the Government of the Republic of Kenya through the Ministry of Health and Neusoft Medical Systems for supply and installation of the CT Scanners and The Due Diligence report for the Ministry of Health.

1967) **Committee Observations and Findings,**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Computed Tomography (CT) Scanners was satisfactory; and
(ii) **The Committee therefore marked the matter as resolved.**

1968) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

463. Lack of Audit Committee

1969) The Committee requested to be furnished with information as to why the Audit Committee chair resigned.

Submission by the Accounting Officer

1970) The Accounting Officer submitted that the Ministry has since appointed a new Audit Committee with a Chair and the Committee was active.

1971) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to lack of Audit Committee was satisfactory;
(ii) The Committee also observed that the Accounting Officer had since appointed an active new Audit Committee with a Chairperson; and

(iii) **The Committee therefore marked the matter as resolved.**

1972) **Committee Recommendation**

1) **Accounting Officers must at all times ensure that they have appropriate arrangements in place for conducting internal audit according to the guidelines of the Accounting Standards Board pursuant to the provisions of section 73(1)(a) of the Public Finance Management Act, 2012.**

2) **Accounting Officer MUST at all times ensure that they adhere to the provisions of Section 73(5) of the Public Finance Management Act 2012.**

464. Lack of well Documented Enterprise Wide Risk Management Process and IT Strategic Committee

1973) As previously reported, the Ministry did not have a well-documented enterprise wide risk management process or policies in place to effectively guide the enterprises risk management processes at large. This is contrary to Regulation 165 of the Public Finance Management (National Government) Regulations, 2015 which provides that the Accounting Officer shall ensure that the National Government entity develops - (a) risk management strategies, which include fraud prevention mechanism; and (b) a system of risk management and internal control that builds robust business operations.

1974) The Ministry also did not have an IT Strategic Committee; an IT Strategic Plan that supports business requirements and ensures that IT spending remains within the approved IT Strategic Plan; formally approved IT Security Policy to ensure data confidentiality, integrity and availability; formal, documented and tested emergency procedures; or copies of the IT continuity and disaster recovery plans kept off-site and backups stored in a secure off-site location.

Submission by the Accounting Officer

1975) The Accounting Officer submitted that the Ministry has since appointed a new IT Strategic Committee with a Chair and the Committee was active.

1976) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to lack of IT Strategic Committee was satisfactory;

(ii) The Committee also observed that the Accounting Officer had since appointed an active new IT Strategic Committee with a Chairperson; and

(iii) **The Committee therefore marked the matter as resolved.**

1977) **Committee Recommendation**

1) **Accounting Officers must at all times ensure that they have appropriate arrangements in place for risk management according to the guidelines of the**

Accounting Standards Board pursuant to the provisions of section 73(1)(a) of the Public Finance Management Act, 2012.

2) **Accounting Officers must at all times ensure that they adhere to the provisions of Section 73(5) of the Public Finance Management Act 2012.**

DONOR FUNDED PROJECTS

GLOBAL FUND PROGRAM – EXPANDING HIV PREVENTION, CARE AND TREATMENT SERVICES TO REACH UNIVERSAL ACCESS (80% COVERAGE) TO REDUCE BOTH INCIDENCE AND ASSOCIATED IMPACT (GRANT NO. KEN-H-MOF/KEN-H-TNT NO.853)

465. Unconfirmed Bank Balances

1978) The Statement of Financial Assets reflects bank balance of Kshs.67,372,346 as at 30 June, 2019. However, and as reported in the previous year, the Bank reconciliation statement for Co-operative bank account No.01141125021800 for the month of June, 2018 reflected receipts in cashbook not captured in the bank amounting to Kshs.1, 397,060. However, a review of the bank statements had revealed the cheques amounting Kshs.1,397,060 had indeed been cleared in May, 2018.

1979) A review of the matter during the year under review revealed that the status remained unresolved as at 30 June, 2019. In the circumstances, the accuracy of cash and cash equivalent balance of Kshs.67,372,346 reflected in the statement of financial assets as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

1980) The Accounting Officer submitted that it was true that cheques amounting Kshs.1,397,060 had indeed been cleared in May 2018 from Old Grant NFM1 bank account. It is noted that on 30th June 2019 from the reconciliation statements, the same amount had been cleared. However, on 27th of June 2019, the transfer from current Grant to Old Grant was done hence effecting the clearance of Kshs.1,397,060 receipts in bank. The following documents were attached for perusal by the Committee:

i. Bank statement & Bank reconciliation for old account as at June 2018 and June 2019 A/C 01141125021800;
ii. Bank statement & Bank reconciliation for New account as at June 2018 and June 2019 A/C 01141696726200; and
iii. Transfer Payment Voucher and schedule supporting the Kshs.1, 397,060.

1981) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to lack of Unconfirmed Bank Balances was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

1982) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

466. Prior year adjustment

1983) The Statement of Financial Assets reflects a prior year adjustment of Kshs.11,250,790 which relates to outstanding imprests and advances for the prior year accounted for in the year under review. However, the treatment is contrary to the requirements of paragraph 47 of international public sector accounting standards (IPSAS) 3 which require that material prior year period errors be corrected retrospectively in the first set of financial statements authorized for issues after discovery by restating the comparative amounts for prior periods(s) presented in which the error occurred. No explanation has been provided for the non-compliance.

1984) Consequently, the financial statements have not complied with the requirements of IPSAS 3.

Submission by the Accounting Officer

1985) The Accounting Officer submitted that it was true that by the end of financial year 2017/2018, there were outstanding imprests totaling Kshs.11,250,790. The amount was surrendered, leaving a balance of Kshs.287,400 as outstanding. Recovery process has been initiated for the officer who defaulted.

Status of the imprests

No	Officers name	Amount issued	Date cleared	Surrender with voucher	Cash Surrender Banked	Balance
1.	Jacob Odhiambo	677,150	30.03.19	277,350	399,800	-
2.	Helger Musyoka	3,657,000	31.10.19	3,644,300	12,700	-
3.	Felix Omarita	287,400	-	-	-	287,400
4.	Caroline Asin	2,279,360	30.10.18	1,667,120	612,240	-
5.	Ibrahim Dulacha	287,300	30.11.18 23.06.21	285,200	2,100	-
6.	Jessee Kalabuka	573,200	02.09.18	562,240	10,960	-
7.	Jesse Kalabuka	658,440	30.11.18	651,100	7,340	-
8.	Brenda Opanga	1,178,380	03.10.18	1,045,530	60,000	-

			01.11.18		72,850 132,850	
9.	Mary Mugambi	1,652,600	31.12.18	1,463,700	188,900	-
	TOTAL	**11,250,790**		**9,596,500**	**1,367,330**	**287,400**

i. Recovery letter for Mr. Felix Marita
ii. Bank statement for direct debit of Kshs.1,367,330
iii. Surrender vouchers amounting to Kshs.9,596,500

1986) **Committee Observations and Findings**
(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to lack of Prior year adjustment was satisfactory; and
(ii) **The Committee therefore marked the matter as resolved.**

1987) **Committee Recommendation**
The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

467. Unauthorized receipts and expenditure

1988) Contrary to the International Public Sector Accounting Standards, IPSAS 24, the Management did not provide any reason for material deviations between the budget and actual amounts. Further, the Management did not include in the preparation of the financial statements, an annexure as provided by the Public Sector Accounting Standards Board of Kenya to explain the deviations. The Project received Kshs.5,432,208 and utilized Kshs.46,621 without any budget or authority. The Management is therefore in breach of the law.

Submission by the Accounting Officer

1989) The Accounting Officer submitted that during the financial year under audit review, the grant had come to an end, thus no budget was prepared as the bank balance was to be transferred entirely to the new project. Analysis of the Ksh.5,432,208 is as indicated in the table below;

No.	**Analysis**	**Amount**
1.	Interests earned by the account	1,295,216.94
2.	surrender of imprests in cash	4,136,991.20
	Totals	**5,432,208.00**

1990) **N/B:** The utilized amount of Kshs.46,621 represent the bank charges arising from interests earned for the year as per the following documents:

i. Analysis of bank interest totaling Ksh.1,295,216.94 supported by Bank statement and bank reconciliation statement.
ii. Analysis of imprest surrenders totaling to Ksh.4,136991.20 supported by bank statement
iii. Analysis of bank charges supported by bank statement.

1991) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to lack of Unauthorized receipts and expenditure was satisfactory; and
(ii) **The Committee therefore marked the matter as resolved.**

1992) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

468. Inability to utilize the Grant within the Project period

1993) As disclosed under the funding summary section of the annual report and Financial Statements, the Project was for duration of two (2) years from 1 October, 2015 to 31 December, 2017 with total available funding of Kshs.3,801,642,328(USD 43,200,481). A review of the Annual report and financial statements for the year ended 30 June, 2019, however reflect undrawn balances of Kshs.1,016,799,046 (USD 9,825,170) and cash and cash equivalent balance of Kshs.67,372,346 as at 30 June, 2019 which is likely to be refunded to the donor as no Programme extension is in place. Although Management has indicated that disbursements of funds to counties remained a challenge, there was need to expand the area of coverage so as to utilize the grant and maximize the benefits.

1994) In the circumstances, the primary objective of reduction of HIV AIDS new infections by 75% and related mortality rate by 25% and value for money for the Program may not have been achieved in light of undrawn and unutilized funds.

Submission by the Accounting Officer

1995) The Accounting Officer submitted that it was true that the program was not able to utilize the Grant fully due to various system challenges, and governance structures that came with devolution. Devolution disrupted existing reporting structures and this caused a lot of challenges and affected approval to carry out activities at various levels. It was also not possible to carry out some of the activities at all. There were also unclear CASCOS (County Aids/ STD coordinators) leadership roles in the counties, as some leaders had wished the funds to be given to them and this could not be possible since it was not provided for in the Grant agreement. Below are documents to support this explanation:

i. Approved work plan for 2014/2015
ii. Approved work plan 2016/2017
iii. Approved work plan 2017/2018
iv. Approved work plan 2018/2019
v. Authority to transfer the old balance to new grant.

1996) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to lack of Inability to utilize the Grant within the Project period was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

1997) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

KENYA HEALTH SECTOR SUPPORT (EMMS) PROJECT (IDA NO.4771 AND 50340 –KE)

472. Transfer to Other Government Entities

1998) The Statement of Receipts and Payments reflects transfer to other government entities of Kshs.527,102,564. Note 8.7 to the Financial Statements discloses that the figure includes a transfer of Kshs.73,908,356 to International Development Association (IDA) in respect of ineligible funds identified under the Project during implementation period termed as long outstanding un-documented expenditures caused by foreign exchange losses. The Management did not avail supporting documents and explanations for the payment by way of clarifications and information on how the amount was tabulated and why such losses could not have been avoided.

1999) In the circumstances, it has not been possible to confirm the propriety of transfer to other government entities of Kshs.527,102,564 reflected in the statement of receipts and payments for the year ended 30 June, 2019.

Submission by the Accounting Officer

2000) The Accounting Officer submitted that it was true that there were long outstanding undocumented expenditures caused by foreign exchange losses. This could not have been avoided because when loans are processed, funds are deposited in the USD account. Upon requisition of Exchequer, the funds are converted into Kshs. and deposited directly into the Ministry development account. This could lead to an exchange rate gain or loss depending on the strength of the Kshs. at the time. In this case, there were losses over a period of time amounting to Kshs.81,549,372 (USD$802,888.37). The Payment of Kshs.73,908,356 which is part of Voucher no. 000688 amounting to Kshs.81,549,372 which is the amount in question was later availed for review, and in the subsequent audit the query was cleared. The payment voucher no.000688 of Kshs.81, 549,372 reflecting the exchange rate, memo authorizing payment, the PA (payment Advice) used for refunding the money back to the donor, and the Bank Statement showing the Kshs.73,908,356 paid was provided to the Committee.

2001) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents including correspondences with the National Treasury given by the Accounting Officer with regard to lack of Transfer to Other Government Entities was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2002) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

473. Cash and Cash Equivalents

2003) The statement of financial assets and liabilities as at 30 June, 2019reflects cash and cash equivalents balance of Kshs.135,997,037. However, the reconciliation statement supporting the bank balance of Kshs.135,997,037 reflects payments in bank statement not in the cashbook amounting to Kshs.2,380,000 with some balance dating far back to July, 2016 and whose clearance status had not been availed at the time of the conclusion of the audit.

2004) Consequently, the accuracy and validity of the bank balance of Kshs.135,997,037 reflected in the statement of financial assets and liabilities as at 30 June, 2019could not be confirmed.

Submission by the Accounting Officer

2005) The Accounting Officer submitted that it was true that the bank reconciliation statement reflects the payment in bank not in cashbook amounting to Kshs.2,380,000. The double payment occurred due to internet challenges experienced during transition period from G-

Pay to internet banking. The matter has been referred to the legal unit for legal action against the firm by the name Hill Converters Ltd. A copy of the letter was provided.

2006) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Cash and Cash Equivalents was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2007) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

474. Approved Budget and Work plan

2008) Schedule 2 (Project execution) D on annual work program and budget of the Project financing agreement requires that the recipient should prepare and furnish to the Association, for the review and approval, an annual budget and work program not later than 28th of February each year. During the year under review, the statement of receipts and payments reflects payments totaling to Kshs.579,629,210. However, the approved work program and budget were not availed for audit verification.

2009) Consequently, it has not been possible to ascertain that activities and programmes were within the annual work plans, were executed as planned and that the stakeholders obtained value for money in the expenditure of Kshs.579, 629,210.

Submission by the Accounting Officer

2010) The Accounting Officer submitted that it was true that there was no work plan and budget for the activities undertaken. This is because whenever a World Bank Project comes to an end, there is usually a grace period of four months granted for the project to clear any pending issues. The payments were done within this period hence there was no need for approved budget and work plan. E-mail communications from the World Bank on the four months grace period and a Hand book on the closing date were provided to the Committee.

2011) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Approved Budget and Work plan was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2012) **Committee Recommendation**

The Accounting Officer must at all times ensure that during implementation of all World Bank sponsored projects he/she prepares and keeps all the project work plans and approved budgets in line with the World Bank funding guidelines.

475. Project Closure

2013) A review of the financing agreement indicated that the Project was expected to come to an end on 30 June, 2018. However, the Management did not avail any evidence of either the Project extension or the closure report for audit review.

2014) As a result, the eligibility and validity of expenditure amounting to Kshs.579,629,210 incurred during the year ended 30 June, 2019, could not be confirmed.

Submission by the Accounting Officer

2015) The Accounting Officer submitted that it was true that the project ended on 30th June 2018. However, there was a grace period of four months up to 31st October 2018 within which the project was allowed to clear any pending issues. It was during this window period that the Kshs.579,629,210 was paid. Correspondence on the grace period was provided.

2016) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Project Closure was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2017) **Committee Recommendation**

The Accounting Officer must at all times ensure that during completion of all World Bank sponsored projects he/she prepares and keeps either the Project extension or the closure report and provides them for audit review when required.

KENYA HEALTH SECTOR SUPPORT PROJECT –SWAP SECRETARIAT (IDA CR. NO. 4771-KE AND CR. NO.5367-KE)

477. Inaccuracy in the Statement of Financial Assets and Liabilities

2018) As disclosed in Note 8.8B to the financial statements, the statement of financial assets and liabilities ought to reflect outstanding imprest balance of Kshs.170,098 down from the balance brought forward of Kshs.21,106,696 reflected in the previous financial year but which has not been reflected in the statement of financial assets and liabilities as at 30 June, 2019. The Management has not provided explanation for this anomaly.

2019) In addition, the Accounting Officer had not initiated recovery of the full amount from the salary of the defaulting officer nor subjected the outstanding imprest to a charge of interest at the prevailing Central Bank rate as provided for under Section 93 (6) of the Public Finance (National Government) Regulations, 2015 which provides that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank rate.

2020) In the circumstances, the accuracy, completeness and validity of the financial statements could not be confirmed.

Submission by the Accounting Officer

2021) The Accounting Officer submitted that it was true that the statement of financial assets and liabilities ought to reflect outstanding imprest balance of Kshs.170,098 down from the balance brought forward of Kshs.21,106,696 reflected in the previous financial year which has not been reflected in the statement of financial assets and liabilities as at 30th June, 2019. This was an error which was later rectified in the Statement of financial assets and liabilities as at 30th June 2020. The mistake is highly regretted.

2022) The outstanding imprest of Kshs.170,098 has since been recovered in full from the officer's February 2020 salary. The following copies of documents from Human Resource were attached:

i. Recovery documents from Human Resource Department; and
ii. Copy of the financial Statements showing the rectification.

2023) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Inaccuracy in the Statement of Financial Assets and Liabilities was satisfactory; and
(ii) **The Committee therefore marked the matter as resolved.**

2024) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

478. Irregular Project Extension

2025) As per the financing agreement, the Project closed on 30 June, 2018. However, the Management did not avail, for audit review, evidence of approval for an extension. Consequently, the eligibility of expenditure amounting to Kshs.525,552,947 incurred during the year under review and the validity of the project could not be confirmed for the year ended 30 June, 2019.

2026) In the foregoing, I am unable to confirm whether, the expenditure of Kshs.525,552,947 incurred during the year ended was a proper charge to public funds.

Submission by the Accounting Officer

2027) The Accounting Officer submitted that it was true that management did not avail the review evidence for an extension for audit review. The Project was given a grace period of four months to complete the pending issues that were existing by 30th June 2018. The expenditure of Kshs.525,552,947 was incurred within the project closeout date. All e-mail correspondences and a List of the Payment vouchers for KHSSP for Kshs.525,552,947 were provide to the Committee.

2028) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Irregular Project Extension was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved**.

2029) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that during completion of all World Bank sponsored projects he/she prepares and keeps either the Project extension or the closure report and provides thwm for audit review when required.**
2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

479. Lack of Approved Budget and Work plan

2030) During the year under review, the Management incurred expenditure amounting to Kshs.525,552,947. However, the approved work program and budget were not availed for audit verification contrary to Schedule 2D (project execution) on annual work program and budget of the financing agreement that required not later than 28 February, in each year, the recipient to prepare annual budget and work program for approval.

2031) Consequently, the Management was in breach of the Public Finance Management Act, 2012.

Submission by the Accounting Officer

2032) The Accounting Officer submitted that it was true that there was no approved budget and work plan for the period. This is because the Project was not undertaking any new activity but was only clearing all the pending issues during the four months grace period, and thus was adopting the existing work plan. A copy of the grace period offered by the World Bank and the previous year's work plan and budget were provided.

2033) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Lack of Approved Budget and Work plan was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2034) **Committee Recommendation**

The Accounting Officer must at all times ensure that during implementation of all World Bank sponsored projects he/she prepares and keeps all the project work plans and approved budgets in line with the World Bank funding guidelines.

EAST AFRICA'S CENTRE OF EXCELLENCE FOR SKILLS AND TERTIARY EDUCATION IN BIOMEDICAL SCIENCES –PHASE 1 (LOAN NO.2100150031997) PROJECT

482. Budget Control and Performance

2035) The statement of comparative budget and actual amounts for the year ended 30 June, 2019 reflects an approved budget and actual receipts on comparable basis of Kshs.227,525,215 and Kshs.204,058,455 respectively, thus exceeding the budget by Kshs.24.067,879 or 90% of the budgeted receipts. Similarly, the Project utilized an amount of Kshs.143,852,430 or 63% of the approved budget of Kshs.230,000,000 resulting into an under-expenditure of Kshs.86,147,571 or 37% of the budget. Management has attributed the under-expenditure to delays in the approval of hiring of personnel at the Project Coordinating Unit (PCU), training of students and procurement of equipment which is now underway.

Submission by the Accounting Officer

2036) The Accounting Officer submitted that it was true that the statement of comparative budget and actual amounts for the year ended 30 June, 2019 reflected an approved budget and actual receipts on comparable basis of Kshs.227,525,215 and Kshs.204,058,455 respectively thus under collecting receipts by Kshs.24,067,87 or 10% of the budget receipts. Similarly, the Project utilized an amount of Kshs.143,852,430 or 63% of the approved budget of Kshs.230,000,000 resulting into an under-expenditure of Kshs.86,147,571. The under-expenditure was due to delays in the approval of hiring of personnel at the Project Coordinating Unit (PCU), delayed MHRMAC approval for training of students, as well as delay in getting approval for procurement of equipment. The expenditure is now expected to increase as result of the following:

1. The project has now hired a project manager who reported on 2nd May 2021. In addition to this, Monitoring and Evaluation officers are reporting on 1st July 2021.
2. The project has trained 68 health workers from July 2019.
3. Procurement of Batch I Equipment is completed and we have embarked on modalities of procuring Batch II Equipment.
4. Construction of East Africa's Kidney Institute Complex commenced on 1st April 2020 and has progressed well having raised 9 interim certificates of which 8 are paid. Other supporting documents are listed below:

   i. Appointment letter for the project manager
   ii. Copies of interim certificates for EAKI Complex
   iii. List of the 96 trained health workers.

2037) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Budget Control and Performance was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2038) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

483. Delay in Project Implementation

2039) As reported in the previous year, Section 3.0.1 of the financing agreement states that the Borrower shall repay the principal of the loan over a period of thirty-five (35) years, after a five(5) years grace period commencing from the date of signing the agreement. The Project commencement date was 17 December, 2014 with a projected end date of 31 December, 2019. A review of the status as at 30 June, 2019 revealed that an extension of two (2) years was granted in May, 2019 to end on 31 December, 2021. However, some major milestones had not commenced including the construction of the East Africa Kidney Institute Complex which in turn has delayed the implementation of other activities.

2040) Consequently, I am unable to confirm whether value for money will be achieved by the stakeholders as planned.

Submission by the Accounting Officer

2041) The Accounting Officer submitted that the major milestone was marked by commencement of construction works in April 2020 and initiation of the process of delivery of Batch II equipment in February 2020. These two aspects take the biggest chunk of the budget (Kshs.1, 958, 486,755 or 59%) and hence it's expected that this will improve the project performance and disbursement. The management has also moved to mitigate the delays by approving 24 hours' work schedule for the consultant including obtaining the requisite NEMA approval for the same. Other supporting documents were availed as below:

i. No objection letter for Projection extension to 31st December 2022;
ii. NEMA approval for extension of working hours to 24 hours;
iii. Progress reports for the civil works; and
iv. Copy of Contract document.

2042) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Delay in Project Implementation was satisfactory; and
(ii) **The Committee therefore marked the matter as resolved.**

2043) **Committee Recommendation**

The Accounting Officer must at all times ensure that in the event there is a delay in the implementation of any project he/she avails all the necessary correspondences and documents giving reasons for the delay and the same should be availed to the Auditors for review during audit.

484. Irregular Payment for Substandard Items

2044) A firm was engaged by the Ministry of Health to supply surgical instruments and care equipment at a price of Kshs.54,811,465.33 inclusive of duties and taxes. A review of the procurement records indicated that the items were supplied at a cost of Kshs.44,336,263 on 12 February, 2018. However, the inspection and acceptance committee rejected some items amounting to Kshs.1,721,892 which did not meet the set specifications and were not valid.

2045) Further, according to the contract delivery and completion schedule, the contract was to be serviced within a period of sixteen (16) weeks from the date of signing, which was to end on 30 June, 2017. However, by 30 June, 2019, two (2) years after the expected completion and with some items delivered and paid for having been rejected, management was yet to enforce the provision for liquidated damages as provided in clause 20 of the general conditions of the contract.

2046) Consequently, the effectiveness on management of public resources could not be confirmed.

Submission by the Accounting Officer

2047) The Accounting Officer submitted that it was true that some items worth Kshs.1,721,892 were rejected and not paid for. A proof of non-payment is the balance of commitment from ADfB ledger.

i. The ADB Ledger showing non-payment of the Kshs.1,721,892
ii. List of Goods rejected
iii. Copy of the Tax exemption by The National Treasury.

2048) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents including tax exemption letter from the National Treasury given by the Accounting Officer with regard to the Irregular Payment for Substandard Items was satisfactory; and
(ii) **The Committee therefore marked the matter as resolved.**

2049) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

485. Lack of Project Steering Committee (PSC) Meetings

2050) Paragraph 4.1.2 of Section IV of the Project's Appraisal Technical Report requires that the established Project Steering Committee (PSC) shall meet quarterly as part of project implementation. However, evidence availed during the year under review, showed that the PSC only met once. Additionally, substantial sustainability challenges were discussed in the meeting including audit of training equipment supplied, slow absorption of funds, and challenges in acquiring consumables for dialysis unit, among others. The PSC minutes were not signed and evidence of follow up actions was not availed.

Submission by the Accounting Officer

2051) The Accounting Officer submitted that it was true that the Steering Committee met once. This is because of the sustainability challenges, for instance, most members of the PSC were transferred out of the Ministry and necessitated reconstitution of the Committee.

2052) The Steering Committee has now been reconstituted and it has held five meetings between November 2019 and May 2021. Minutes of the meetings held were provided. The management has addressed all matters raised in the previous year's audits which have since been resolved in the 2019/2020 Audit report. The matter was cleared by the Auditor in the year 2019/2020.

2053) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Lack of Project Steering Committee (PSC) Meetings was satisfactory;

(ii) The Committee also observed that the Accounting Officer reconstituted the Project Steering Committee (PSC) which was holding regular meetings; and

(iii) **The Committee therefore marked the matter as resolved.**

2054) **Committee Recommendation**

The Accounting Officer must at all times ensure that there exists a Project Steering Committee for any project being implemented and that the Steering Committee meets regularly keeping and minutes of the meetings availed for audit review during audit.

GLOBAL FUND TUBERCULOSIS GRANT PROGRAM (GRANT NO.KEN-T-TNT-854 AND KEN-T-TNT-1548) REPORT ON THE FINANCIAL STATEMENTS

486. Cash and Cash Equivalents

2055) The statement of financial assets reflects cash and cash equivalents balance of Kshs.424,552,261 as disclosed under Note 8.9 to the financial statements. A reconciliation of the balances between the cashbook balances and those in the bank statement included reconciling items totaling Kshs.1,429,924 which have been long outstanding. However, no explanation was provided for failure to clear the long outstanding reconciling items under both the old and new grant accounts as indicated below:

Description	Old Grant (Kshs.)	New Grant (Kshs.)
Payments in cash book not in bank	61,196	976,175
Receipts in Bank not in cash book	135,330	35,000
Payments in bank not in cashbook	51,893	0
Receipts in cash book not in bank	35,000	135,330
Total	**283,419**	**1,146,505**

2056) This may be an indication of errors or misstatements in the cashbook balance. Under the circumstances, the accuracy and validity of the cash and cash equivalents balance of Kshs.424,552,261 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

2057) The Accounting Officer submitted as per the analysis provided in the table below:

Expired Grant No.KEN-T-TNT-854 Account No.01120005400000 - Old Grant

Description	Kshs	Management Comments
Payments in cashbook Not in bank **RESOLVED** (Dropped in subsequent Financial Year Audit)	61,200 Not as reported by OAG as Kshs.61,196.	This relates to NSSF payment of Kshs.68,000 (Chq No. 000239) that the bank erroneously debited in the account as Kshs.6,800, thus resulting in a net difference of Kshs.61,200. The Ministry communicated the error to the bank manager vide letter no. NLTP/FIN/12/14/Vol I (001) dated 25/10/2018 and verbal follow ups. At the time the old grant bank account was being closed and balances there in transferred to the new account the bank had not taken action as required**.**
Receipts in bank not in cashbook **RESOLVED** (Dropped in subsequent Financial Year Audit)	135,330	This relates to bounced transactions whose beneficiaries' bank details were invalid, whose payments were under the new grant bank account. However, the bank returned the monies to the project through the old grant bank account that had lapsed. The Ministry communicated vide email dated 13/11/2018 to the bank to reverse these transactions as per attached emails but no action was taken as required. The amount queried of Kshs.135,330 is included in the balances of Kshs.15,549,934.01 that was transferred from the old to the new bank account after being reconciled and closed. This effectively corrected the error**.**
Payments in bank not in cashbook **RESOLVED** (Dropped in subsequent Financial Year Audit)	51,893	This is a total of Kshs.24,857.50 payable to HELB vide cheque no. 002602 that the bank erroneously paid twice and Kshs.27,035 in respect of Damaris Mwanthi which the bank erroneously paid from the old account as opposed to the new bank account. The Ministry communicated the error to the bank management vide letter no. NLTP/FIN/12/14/Vol I (001) dated 25/10/2018 and subsequent verbal follow ups, the bank had not taken action to rectify the error by the time the Ministry was closing the old bank account. The amount queried of Kshs.27,035 relating to Damaris Mwanthi is included in the balances of Kshs.15,549,934.01 that has been transferred to the new account on closure of the old account, technically correcting the error. The Ministry expects to receive Kshs.24,857.50 from the bank that is still outstanding. Necessary efforts are being made to recover the amount**.**

Receipts in cashbook not in bank **RESOLVED** (Dropped in subsequent Financial Year Audit)	35,000	This amount relates to imprest surrendered by cash deposited in the new grant bank account as opposed to the old account. This is because the Ministry was in the process of closing the old account and transferring the balances to the new account, hence, the refund to the new account. The Ministry has closed the old grant bank account all the balances transferred to the new account thus rectifying the error.
	283,419	

<table>
<tr><th colspan="3">Bank Account No.01141163732900 for Grant No. KEN-T-TNT-1548 New Grant</th></tr>
<tr><th>Description</th><th>Kshs</th><th>Management Comments -</th></tr>
<tr><td>Payments in cashbook Not in bank

RESOLVED (Dropped in subsequent Financial Year Audit)</td><td>976,175</td><td>The payments cleared from the bank as per the information tabulated below:-
<table>
<tr><th>Cheque No</th><th>Amount</th><th>Date Cleared</th></tr>
<tr><td>000384</td><td>64,655.00</td><td>12-09-19</td></tr>
<tr><td>000384</td><td>258,620.00</td><td>12-09-19</td></tr>
<tr><td>Online Ref No.1250619247</td><td>412,900.00</td><td>Reversed -</td></tr>
<tr><td>000354</td><td>240,000.00</td><td>30-09-19</td></tr>
</table>
Bank statements & Cash Book - Annex II</td></tr>
<tr><td>Receipts in bank not in cashbook

RESOLVED (Dropped in subsequent Financial Year Audit)</td><td>35,000</td><td>This amount relates to imprest surrendered by cash deposited in the new grant bank account as opposed to the old account. This is because the Ministry was in the process of closing the old account and transferring the balances to the new account, hence, the refund to the new account. The Ministry has closed the old grant bank account all the balances transferred to the new account thus rectifying the error.</td></tr>
<tr><td>Payments in bank not in cashbook</td><td>0</td><td></td></tr>
<tr><td>Receipts in cashbook not in bank

RESOLVED (Dropped in subsequent Financial Year Audit)</td><td>135,330</td><td>This relates to bounced transactions whose beneficiaries' bank details were invalid, whose payments were under the new grant bank account. However, the bank returned the monies to the project through the old grant bank account that had lapsed. The Ministry communicated vide email dated 13/11/2018 to the bank to reverse these transactions as per attached emails but no action was taken as required.</td></tr>
</table>

		The amount queried of Kshs.135,330 is included in the balances of Kshs.15, 549, 934.01 that was transferred from the old to the new bank account after being reconciled and closed. This effectively corrected the error.
	1,146,505	

2058) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Cash and Cash Equivalents was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2059) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

487. Budget Control and Performance

2060) The statement of comparative budget and actual amounts reveals that the Project had budgeted receipts totaling Kshs.1,166,028,879 from the external development partners but actual receipts amounted to Kshs.814,513,562 only, resulting to a shortfall of Kshs.351,515,317 or 30% of the total budgeted receipts. Similarly, the Project had budgeted to spend an amount of Kshs1,166,028,879 but only Kshs.663,786,370 or 57% was actually expended. The under-utilization of funds implies that the Project may not be achieving its planned goals and objectives. Management has not given any plausible explanation for material deviation between the budget and actual amounts contrary to the provision under IPSAS 24.

Submission by the Accounting Officer

2061) The Accounting Officer submitted that in the second quarter (December 2018) of the financial year that ended 30 June 2019, the Global Fund Grants transitioned from the ending New Funding Model 1(NFM1-Old Grant) to the New Funding Model 2(NFM2-New Grant) that started in January 2019. During this transition, the country was required to open new bank accounts for NFM2. The process of opening new bank account entailed obtaining several approvals. This occasioned the delay in implementation of the work plan for the third quarter that overlapped with the Fourth Quarter activities.

2062) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Budget Control and Performance was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2063) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

488. Failure to Recover Long Outstanding Imprests

2064) As previously reported, the statement of financial assets reflects accounts receivable-imprests and advances balance of Kshs.4,432,469 as at 30 June, 2019. However, and as disclosed at Note 8.10 to the financial statements, the total imprest and advances of Kshs.4,432,469 some dating back to 2012/2013 financial year were overdue as at 30 June, 2019.

2065) This is contrary to Section 93 (5) of the Public Finance Management Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station. Further, Section 93 (6) provides that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank rate.

2066) Consequently, it has not been possible to ascertain the recoverability of the imprest and advances balance as at 30 June, 2019 and the Management is therefore in breach of the law.

Submission by the Accounting Officer

2067) The Accounting Officer submitted that from the outstanding imprest and advances reported under the audit for financial year 2018/19 of Kshs.4,432,469, Kshs.1,268,300 was surrendered and the outstanding balance is Kshs.3,305,050. The new constitution abolished the Provincial administrative units; thus, the former Provincial Directorate of Public Health offices became defunct. The Ministry is following up with the respective treasuries to have the KEPI accounts closed and the monies transferred to the Ministry. The Ministry is also following up imprest defaulters as some of them seems to be no longer in public service.

2068) The outstanding personal imprest of Kshs.2,520,000 as at 30 June 2019 relates to imprest issued under the GF TB grant KEN-T-TNT-584. These are as per the below table:

GLOBAL FUND TB GRANT OUTS TANDING IMPRES TS AS AT 30TH JUNE 2019

S/NO	NAME OF OFFICER /INSTIT UTION	AMNT TAKEN	DATE OF SURRENDER	AMOUNT SURREND'D	BALANCE
1	PATRICK GAWO - 2003000198	21,000	30-01-15	18,000	3,000
2	BENJAMIN OTITA - 1985100314	30,000	30-06-14	0	30,000
3	JOSEPH KARIMI (PRINCIPAL DRIVER)	95,000	30-01-15	0	95,000
4	NICHOLAS NJERU - 1970013719	2,392,400	30-06-16	0	2,392,400
	SUB TOTAL	**2,538,400**		**18,000.00**	**2,520,400**
ADVANCES TO DEFUNCT PROVINCIAL ADMINISTRATION - KEPI ACCOUNTS					
S/NO	**NAME OF OFFICER/INSTITUT ION**	**AMOUN T TAKEN**	**DATE OF SURRENDER**	**AMOUNT SURRENDER ED**	**BALANCE**
1	EASTERN PROVINCE	7,441,500	30-12-13	7,430,699	10,801
2	NORTH EASTERN PROVINCE	11,682,06 0	30-12-13	11,662,110	19,950
3	NAIROBI NORTH	10,388,25 0	30-12-13	10,297,283	90,967
4	NYANZA PROVINCE	9,629,210	30-12-13	9,537,790	91,420
5	NAIROBI SOUTH	14,521,30 0	30-12-13	14,425,300	96,000
6	COAST PROVINCE	15,168,15 0	30-12-13	15,064,832	103,318
7	WESTERN PROVINCE	9,627,800	30-12-13	9,459,227	168,573
8	RIFT VALLEY PROVINCE	9,752,100	30-12-13	9,494,441	203,621
	SUB TOTAL	**88,210,37 0**		**86,710,838**	**784,650**
	TOTAL	**90,748,77 0**		**86,728,838**	**3,305,050**

2069) The following support documents were provided:

i. Letter to Human Resource Department for recovery of the Outstanding amount of Ksh.2, 520,400;
ii. Copies of surrender vouchers for Kshs.1, 268,300 worth of imprests Surrendered; and
iii. Letters to the banks where the KEPI Accounts were held.

2070) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Failure to Recover Long Outstanding Imprests was satisfactory;

(ii) The Committee also observed that all the Long Outstanding Imprests had been fully recovered from Imprest defaulters; and

(iii) **The Committee therefore marked the matter as resolved.**

2071) **Committee Recommendation**

The Accounting Officer must at all times take action to recover the full Imprest amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.

HEALTH SECTOR SUPPORT PROJECT -HEALTH SECTOR SERVICES FUND (GRANT NO.4771-KE ANDTF-16027)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

493. Unsupported Bank Balances

2072) As had been reported in the previous year and as disclosed under Note 8.13.A to the financial statements, the statement of financial assets and liabilities reflects bank balances of Kshs.658,291,115. However, the Management did not avail supporting documents by way of bank confirmation certificates, bank Reconciliation Statements and cash books to account for an amount of Kshs.657,875,266 which is indicated as held in forty-seven (47) Counties. Further, although a review of the audit carried out by the Independent Integrated Fiduciary Review Agent (IIFRA)-M/s Wachira Irungu and Associates indicated that supporting documents of Kshs.518,080,255 was availed resulting to unsupported cash balance of Kshs.139,795,011 from twelve (12) Counties. No explanation has been given for failing to avail these documents for audit review or why Management has not adjusted the balances in the books of accounts.

2073) Consequently, the validity, completeness and accuracy of bank balances of Kshs.658,291,115 reflected in the statement of financial assets and liabilities as at30June, 2019 could not be confirmed.

Submission by the Accounting Officer

2074) The Accounting Officer submitted that it was true that supporting documents amounting to Ksh.658,291,115 had not been availed for verification. However, the amount was erroneously captured in the Financial Statements as bank balances instead of expenditure as per the financing agreement with the World Bank.

2075) The total amount of Kshs.658,291,115 is fully supported by the bank statements as having been received by the county facilities. The bank statements have been forwarded to auditor general for verification. Respective County facilities' bank statements were provided.

2076) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unsupported Bank Balances was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved**.

2077) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

494. Lack of Project Extension

2078) As per the Project Information and overall performance report, the Project was expected to end on 30 June, 2018. Ideally, the Management should have sought for an extension from the donor in order to continue operating beyond the closing date. During the year under review, the Project utilized an amount of Kshs.371,351,105 although nothing was received from the donor. The Management, however, did not avail authority for the extension or a 'Letter of No Objection' from the financier.

2079) In the circumstances, the validity and eligibility of expenditure amounting to Kshs.371,351,105 could not be ascertained.

Submission by the Accounting Officer

2080) The Accounting Officer submitted that it was true that the project was expected to end on 30th June 2018. However, there was a grace period of four months up to 31st October 2018 which was to allow the project to finalize any outstanding issues related to the project. The transactions were undertaken during this grace period. Copies of the transactions were provided.

2081) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents including copy of the grace period letter given by the Accounting Officer with regard to the Lack of Project Extension was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2082) **Committee Recommendation**

The Accounting Officer must at all times ensure that in the event of delayed project completion a project extension is sought and a report of the same is kept for audit review and verification at the time if audit.

SUPPORT OF THE HEALTH FINANCING STRATEGY –OUTPUT BASED APPROACH (OBA) PROGRAMME (DREDIT NO.201065853)

497. Unsupported Payments to Consultant

2083) As disclosed under Note 8.5 to the Financial Statements, the Statement of Receipts and Payments reflects an expenditure under use of goods and services amounting to Kshs.22,435,199 out of which, a payment of Kshs.21,907,000 or 98% was paid to a company, engaged through a contract with the Ministry of Health to perform consulting services on Micro Health Insurance through micro-finance institutions (BMZ-Ref No. 201065853) on 22 December, 2014. The contract was for duration of five (5) years ending 1 October, 2019 for a fixed order value of EUR 3,000,000 (Kshs.330,000,000). Section 5.2 of the contract –detailed disbursement plan provides for annual external report during the Programme period. A review of disbursements to the company up to 30 June, 2019 revealed that a total of Kshs.21,907,000 of the order value had been paid. However, the Management has not availed Financial Statements by the consultant as required by the contract.

2084) In the circumstances, the propriety of Kshs.21,907,000 paid to the company could not be confirmed.

Submission by the Accounting Officer

2085) The Accounting Officer submitted that it was a requirement for Financial Statements and Audit reports for the Consultant to be provided before payments were done. The consultant provided the audited Financial Statements and was availed for Audit review. The issue was dropped in the Audit report for the financial year 2019/20. Other supporting documents were provided as below:

i. Consultant Audited Financial statements for the three years; and
ii. Report of the Auditor General for the period ended 30th June 2020.

2086) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unsupported Payments to Consultant was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2087) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

498. Discrepancy in Project Timelines

2088) The Programme was officially scheduled to end on 30 October, 2017 while the Micro Health Project which is operating under the Programme was scheduled to end on 01 October, 2019 with the final report expected on 01 April, 2020. The Management has not demonstrated how the Micro Health Project will be managed beyond the period of the Programme.

2089) In the circumstances, I am unable to confirm the continued existence of the Micro Health Project.

Submission by the Accounting Officer

2090) The Accounting Officer submitted that the programme was put on hold as directed by the donor for project closure until final audit was done. In this situation, the running contract was accommodated and the donor gave no objections in honoring the contract obligations as the programme management unit was still in place.

2091) A no objection to tenders for external audit services was given by the donor on 26th September 2018. After evaluation of the tender, issuance of the professional opinion was delayed due to changes in the Ministry's management. This led to the external Audit services to be retendered again. After retendering, there was mis-communication on the tendering process between KfW and the Ministry's procurement Department. This led to nullification of the tender. Other supporting documents were provided as below:

i. A no objection to the ToR for the Tender/Award for the External Audit Services ; and

ii. A no objection for nullification and re-tender for provision of Consultancy services for the External Audit.

2092) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Discrepancy in Project Timelines was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2093) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

499. Lack of Programme Extension and Undrawn Balances

2094) A review of the funding summary reflects undrawn balance of EURO 3,954,416 equivalent to Kshs. 467,133,977 and the statement of financial assets and liabilities reflect cash and cash equivalent balance of Kshs. 19,910,763 which is likely to be refunded to the donor since the Programme end date was 30 October, 2017. There is no evidence that the management have sought for approval for the extension of the Programme upon expiry.

2095) In the circumstances, the Programme may not have realized it set goals and objectives.

Submission by the Accounting Officer

2096) The Accounting Officer submitted that it was true that funding summary reflects undrawn balance of EURO 3,954,416 equivalent to Kshs.457,531,025; and the statement of financial assets and liabilities reflect cash and cash equivalent balance of Kshs.19,910763 which is likely to be refunded to the donor since the Programme end date was 30 October, 2017.

2097) The cash and cash equivalent of EUROs 156,405.09 (after deducting a four months forecast of EUROS 13,250) was refunded back to the donor. The management wrote to KfW requesting for authority to utilize the undrawn funds .The response granting authority was received on 7th July 2020. The donor has allowed use of the residual funds in other programmes with related initial programme core objective and hence no definite closure date has been set. Other supporting documents were provided below:

i. Evidence of refund of the cash and cash and cash equivalent; and
ii. Letter requesting for Authority for utilization of undrawn/residual funds, as well as the letter granting authority for the same.

2098) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Lack of Programme Extension and Undrawn Balances was satisfactory; and
(ii) **The Committee therefore marked the matter as resolved.**

2099) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that in the event of delayed program completion an extension is sought and a report of the same is kept for audit review and verification at the time if audit.**

2) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

SUPPORT OF THE HEALTH CARE FINANCING STRATEGY –REPRODUCTIVE HEALTH –OUTPUT BASED APPROACH (RH-OBA) PROJECT (CREDIT BMZ NO. KENYA 201065853)

502. Late Submission of Financial Statements

2100) The financial statements for the year ended 30 June, 2019 were submitted for audit on 11 November, 2019, more than one (1) month after the statutory deadline of 30 September, 2019. This is contrary to Section 81(4)(a) of the Public Finance Management Act, 2012 which requires accounting officers to submit financial statements to the Auditor-General within three (3) months after the end of each financial year. Late submission of financial statements affects the execution of the planned audit. Management was therefore in breach of the law.

Submission by the Accounting Officer

2101) The Accounting Officer submitted that RH-OBA Programme was managed by Price Waterhouse Coopers (PWC) as Management Consultants for Voucher distribution, and PWC were responsible for preparation of the Financial Statements. During the financial year 2018/2019, the project had no operational activities. As such, the staffs allocated to this project were engaged in other assignments. The project had appointed a liaison officer to be the link between the Ministry and PwC team for the entire lifetime of the project. This was meant to avoid future delays in submission of the reports. The issue was resolved and dropped in 2019/2020 Audit. A copy of the Extract of the Status of Audit report for the programme for 2018/19 Financial Year.

2102) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Late Submission of Financial Statements was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2103) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

503. Lack of Project Extension

2104) As reported in the previous year, the Project was intended to contribute in reduction of both maternal and infant mortality rates by improving access to and utilization of reproductive health services by the economically disadvantaged populations. As disclosed under the funding summary section of the Annual Report and Financial Statements, the project, (Phase I-IV) was expected to end in January, 2018 with total available funding of Kshs.3,273,686,056 (EURO.30,200,000). However, a review of the annual report and financial statements for the year ended 30 June, 2019, reflects undrawn balances of Kshs.122,746,139 and cash and cash equivalent balance of Kshs.14,506,635 which is likely to be refunded to the donor as no project extension is in place. Although Management explained the reduction on reimbursable amounts as due to the Government of Kenya funding on free maternity, there was need to expand the area of coverage so as to utilize the grant and maximize the benefits.

Submission by the Accounting Officer

2105) The Accounting Officer submitted that the RH-OBA financial statements for FY 2018/19, RH-OBA project achieved 97% utilization. The project objectives were met as presented in the final project implementation report. The remaining 3% was not utilized because of the following reasons:

1. Introduction of free maternity services by Government which was effected in 2012. This led to the reduction of the reimbursement amounts to the facilities, for instance, normal delivery was reduced from Kshs.4,000 to Kshs.1,500. Consequently, the project withdrew less money than what was expected within the project life.

2. The Ministry of Health had planned to increase the number of districts in the phase - 4 of implementation from 5 to 8 but this was not effected due to the free maternity services offered across the country by Government.

3. The issue was resolved and dropped in 2019/2020 Audit.

2106) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Lack of Project Extension was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2107) **Committee Recommendation**

The Accounting Officer must at all times ensure that in the event of delayed project completion a project extension is sought and a report of the same is kept for audit review and verification at the time if audit.

TRANSFRORMING HEALTH SYSTEMS FOR UNIVERSAL CARE (THS-UC) PROJECT GRANT IDA CREDIT NO.5836-KE, TFOA2561 AND TFOA2792

505. Long Outstanding Imprests and Advances

2108) The statement of financial assets reflects accounts receivables- imprests and advances of Kshs.30,189,944 which had not been recovered as at 30 June, 2019 which includes a long outstanding balance of Kshs.1,774,900 issued during the financial year 2016/2017. No explanation has been availed why the Accounting Officer has not taken action to recover the full amount from the salary of the defaulting officers plus interest at the prevailing Central Bank Rate as provided under Section 93(5) of the Public Finance Management (National Government) Regulations, 2015.

Submission by the Accounting Officer

2109) The Accounting Officer submitted that it was true that the Statement of Financial Assets and Liabilities as at 30 June 2019 reflects outstanding imprests and advances figure of Kshs.30,189,944 which had been committed for the activities that had not been concluded as at the close of the Financial Year. However, copies of surrender vouchers and imprests are attached. The status is as analysed in the table below:

No.	Description	Mode of Surrender	Amount
1.	AIE issued to the Ministry of Interior and Co-ordination of National Government-Department of Civil Registration **(surrender vouchers attached)**	Payment vouchers	10,000,000
2.	Surrender by Payment vouchers	Payment vouchers(Various)	18,415,044
3.	Un-surrendered imprest from Gaudencia Mokaya		1,774,000
	Total imprests and advances		**30,189,944**

2110) The Kshs.10,000,000 was an Authority to Incur Expenditure (AIE) issued to the Ministry of Interior and Coordination of National Government to support civil registration activities under THS-UC project. The Kshs.1,774,900 remains outstanding from the previous financial year. This imprest was issued to Gaudecia Mokaya who passed on before the activity had taken place. The Ministry of Health wrote to Pensions department to recover the funds from the officer's pension and deposit the funds to the projects account.

2111) The issue was resolved in the subsequent audit except for the outstanding imprest issued to Gaudencia Mokaya. A reminder dated 8th April 2021 has been made to the Secretary, pensions department to expedite on the issue. More supporting documents were attached attached as below:

i. Recovery letter to pensions Department for outstanding imprest relating to Gaudencia Mokaya;
ii. Reminder letter to pensions department;
iii. Summary of the outstanding figure of Kshs.30,189,944; and
iv. Copies of Surrender vouchers from Ministry of Health and the Department of Civil Registration.

2112) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Long Outstanding Imprests and Advances was satisfactory;
(ii) The Committee also observed that all the Long Outstanding Imprests and Advances had been fully recovered; and
(iii) **The Committee therefore marked the matter as resolved.**

2113) **Committee Recommendation**

The Accounting Officer must at all times take action to recover the full amount from the salary of any defaulting officer with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.

506. Ineligible Expenditure

2114) During the year under review, the County received a total of Kshs.20,543,431 to finance planned project activities. It was observed that an expenditure of Kshs.1,625,000 for Emergency Maternal and Neonatal Obstetric Care (EMNOC) training of County health workers was paid through the Project. However, according to the annual work plan for the County Health Department, the activity was to be funded by the County Government and not THS-UC Project. There is no evidence that the Management sought and/or was given a 'Letter of No Objection' by the Donor or the Secretariat.

2115) In absence of any 'Letter of No Objection', the eligibility of the expenditure could not be confirmed.

Submission by the Accounting Officer

2116) The Accounting Officer submitted that Kiambu County responded that it was a mistake conducting Emergency Maternal and Neonatal Obstetric Care (EMNOC) training worth Kshs.1,625,000 using THS funds even though the training was within the scope of THS project which is in Reproductive maternal and child health. Based on this error, the Ministry wrote to CEC Kiambu County informing him of the recovery from the County's subsequent allocation in the financial year 2020/2021, and the amount have since been recovered. A copy of the Letter to Kiambu notifying them of the recovery of the money was attached.

507. Irregular Payment of Undisclosed Pending Bills

2117) During the year under review, the Project made payments totaling to Kshs.27, 843,830 for goods and services delivered and invoiced in the previous financial years and which had not been disclosed as pending bills in the previous year's financial statements.

2118) In the circumstance, the accuracy and validity of the payments of Kshs.27, 843,830 could not be confirmed.

Submission by the Accounting Officer

2119) The Accounting Officer submitted that it was true that during the financial year 2018/19, payments totalling to Kshs.27,843,830 were made for goods and services relating to financial year 2017/18. Towards closure of the 2017/18 Financial Year, there were trainings and workshops that had been approved and were taking place in the month of June. Some of the trainings had not come to an end as at 30th June 2019, and payments are done based on the invoices raised by the Institutions, and according to the attendance lists. It was not possible to raise POs for the conference facilities because the requisition module of procurement had already been closed; hence the invoices were raised but could not be paid for.

2120) In addition, there were deliveries made towards closure of the year, and it was not possible to make the payments in time as the ifmis system was closed on 30th June 2019. The payment vouchers have since been paid and are attached for verification.

2121) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Irregular Payment of Undisclosed Pending Bills was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2122) **Committee Recommendation**

1) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

2) **The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015.**

508. Budget Control and Performance

2123) The summary Statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.5,321,546,459 and Kshs.2,736,445,044 respectively resulting to an under-funding of Kshs.2,585,101,415 or 49% of the budget. The underfunding affected the planned activities and projects which could impact negatively on service delivery to the public. In the circumstances, the public has not received the services as planned.

Submission by the Accounting Officer

2124) The Accounting Officer submitted that during the year under review, the Gross amended budget estimate amounted to Kshs.5,321,546,459 while the net actual amount incurred was Kshs.4,726,293,692. The reduction was due to a transfer to AIA which was increased from Kshs.400,000,000 to Kshs.595,252,767. The Budget was reviewed downwards through the Supplementary budget by the National Treasury, and a copy of the Revised Development Supplementary Estimates has been attached. A copy of the supplementary estimates of 2018/2019 Financial Year.

2125) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Budget Control and Performance was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2126) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

509. Prior Year Audit Matter

509.1 Unsupported Payments in County Government of Taita Taveta

2127) As previously reported, the statement of receipts and payments for the year ended 30 June, 2018 reflected transfers to other government entities (third parties) of Kshs.1,250,000,000. Included in this amount was a disbursement of Kshs.14,863,473 to Taita-Taveta County. An audit inspection during the financial year 2017/2018 had revealed that payments amounting to Kshs.2,846,500 were incurred at the County level but did not have supporting documents such as counter receipt vouchers (S13), bin cards for taking items on charge while no authority or approvals to carry out activities were availed.

2128) In the circumstance, the propriety of the expenditure of Kshs.2,846,205 reported in the 2017/2018 could not be confirmed.

Submission by the Accounting Officer

2129) The Accounting Officer submitted that an amount of Kshs.2,846,205 comprised of eight payments as indicated below:

PAYEE	Description	LPO Number	Invoice	Amount
Chemoquip Limited	Being payment for supply of laboratory reagents-cervical cancer screen	3074726	123025	221,308.00
Chemoquip Limited	Being payment for supply of laboratory reagents-cervical cancer screen	3074726	123038	65,455.00
Medix East Africa LTD	Being payment for supply of laboratory reagents-cervical cancer screen	3074731	5444	905,000.00
Medix East Africa LTD	Being payment for supply of laboratory reagents-cervical cancer screen	3074737		487,500.00
Mwakiki Investment	Being payment for supply and delivery of refined fuels-outreaches	3071009	645	271,742.00
Mwakiki Investment	Being payment for supply and delivery of refined fuels-outreaches	3071010	644	300,000.00
Tsavo Auto point Ltd	Being payment for supply and delivery of refined fuels-outreaches	3071011	6081	400,000.00
Highridge Pharmaceutical LTD	Being payment for supply of laboratory reagents-cervical cancer screen	3074727	5938	195,200.00
TOTAL				**2,846,205**

2130) Copies of the payment vouchers and the relevant support documents have since been attached for audit verification. The issue was resolved in the Audit report for 2019/20 Financial Year.

2131) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the prior Year Audit matter on Unsupported Payments in County Government of Taita Taveta was satisfactory;

(ii) The Committee also observed that all the correspondences between the National Treasury, the Ministry of Health and the County Government of Taita Taveta were provided and verified; and

(iii) **The Committee therefore marked the matter as resolved.**

2132) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

510. Nairobi County

510.1 Un-utilized Funds

2133) During the year under review, the annual work plan for the Nairobi County Department of Health reflected a budget for project activities of Kshs.55,242,085 which comprised of Kshs.17, 009,120 that related to activities carried forward from the previous year work plan and Kshs.38,232,965 relating to planned activities for the year under review. Further, the County had available funds totaling to Kshs.49,576,417 comprising of a balance brought forward of Kshs.17,009,120 and funds received during the year of Kshs.32,567,279. However, payment vouchers availed for audit review indicated that the Project incurred expenditure amounting to Kshs.17,009,120 which relates to implementation of previous year's work plan activities. The difference of Kshs.32,567,279 relating to implementation of financial year 2018/2019 annual work plan activities remained unutilized as at 30 June, 2019. The slow rate of funds absorption is contrary to the values and principles of public service as provided for under Article 232(1)(c) of the Constitution which requires responsive, prompt, effective, impartial and equitable provision of services.

2134) In the circumstances, the planned project activities were not achieved and therefore the expected benefits to the people of Nairobi County were not realized.

Submission by the Accounting Officer

2135) The Accounting Officer submitted that it was true that in the Financial Year 2018/19, the county received Kshs.32,562,788.70 for implementation of activities that were planned during the year. The slow absorption was due to the challenge of transition between Nairobi County and Nairobi Metropolitan Services (NMS). The National Treasury has not yet resolved the stalemate. Attached are communications between Nairobi Metropolitan Services (NMS) and The National Treasury. Correspondences between Nairobi Metropolitan Services (NMS) and the National Treasury.

2136) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the unutilized funds in Nairobi County Government was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2137) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

510.2 Comingling of Funds

2138) Section 76(1) of the Public Finance Management (County Governments) Regulations, 2015 requires opening and maintenance of a Project account for every Project at Central Bank of Kenya (CBK), unless exempted in writing by the Cabinet Secretary, into which all funds shall be kept and an account shall be known by the name of the Project for which it is opened and each Project shall maintain only one bank account.

2139) A review of the County transactions in respect of the Project indicated that a separate account was not maintained. The Project transactions were conducted in a County Special Purpose Account which also handled transactions for other Projects. Consequently, the Management is in breach of the law.

Submission by the Accounting Officer

2140) The Accounting Officer submitted that the Nairobi County Government operates a dedicated County THS-UCP and DANIDA-UHC projects funds special account namely; NAIROBI CITY COUNTY SPECIAL PURPOSE(KES), Account Number No: 1000339179 at the Central bank of Kenya. This account handles the transactions for Danida-UHC and THS-UCP ONLY after the funds are transferred from the County Revenue Fund. However, in year under review , Kshs.79,423,251 for Compensation for user fee forgone was deposited in the above mentioned special account.

2141) The Financial Manual on the operations of Transforming Care project stipulates that the counties must operate a Special Purpose account which should not hold any funds other than THS funds and Danida. The Ministry was therefore not aware of this commingling and has since sensitized project Accountants in all the counties on the best accounting practices including avoidance of comingling of THS funds as contained in the Finance Manual page 24 section 4.3(105). Copy of the Finance Manual was provided.

2142) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents including emails between the Donors and Nairobi County Government given by the Accounting Officer with regard to the Comingling of Funds was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2143) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

511. Irregular Procurement of Conference Facilities in Kiambu County

2144) Section 10(2)(b) of the Public Procurement and Asset Disposal Act, 2015 requires quotations to be given to as many persons as necessary to ensure effective competition. During the year under review, the County made various payments amounting to Kshs.4,781,500 through the Project for hire and use of conference facilities for training. However, it was noted that the hotel services were paid using cash with no evidence of competitive procurement. In the absence of competitive bidding, it could not be established whether there was value for money for the services provided amounting to Kshs.4,781,500. In the circumstances, the management is in breach of the law.

Submission by the Accounting Officer

2145) The Accounting Officer submitted that it was true that Kiambu County did not follow procurement process as required making the expenditure of Kshs.4,781,500 ineligible. The World Bank directed that the money be refunded in full to the Projects Special Purpose Account (SPA) in Kiambu County. In this regard, the Principal Secretary wrote to the CEC Kiambu County vide a letter REF: MOH/ADM/THUCP/1/2/171/VOL.II (99) dated 10th February 2021, through the Council of Governors (CoG) requesting the county to refund the funds to the Project's Account and this has been done. Copies of the statement of Account were provided as follows:

i. Letter to Kiambu County requesting for refund of the funds
ii. Copy of bank statement of the Special Purpose Account.

2146) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Irregular Procurement of Conference Facilities in Kiambu County was satisfactory; and
(ii) **The Committee therefore marked the matter as resolved.**

2147) **Committee Recommendation**

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or

disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

512. Transfer to Other Government Entities

2148) The statement for receipts and payments for the year ended 30 June,2019 reflects total transfers to other government entities of Kshs.2,174,871,327 comprising of transfers by the entity of Kshs.215,286,365 and payments made by third parties of Kshs.1,959,584,962. Signed confirmations or expenditure returns from beneficiaries were however, not availed for audit review. Consequently, it has not been possible to establish whether the transfers were received by the intended beneficiaries and utilized for the intended purposes.

2149) In the circumstances, I am unable to confirm whether the transfers are a proper charge to public funds.

Submission by the Accounting Officer

2150) The Accounting Officer submitted that during the Financial Year 2018/2019, Kshs.1,959,584,962 was transferred to the Counties directly from the National Treasury as Conditional Grants on behalf of the Ministry of Health. The Counties acknowledged receipt of the funds and the acknowledgements are hereby attached. Records are now available from all the counties and KMTC acknowledging receipt of the transferred funds. More supporting documents were provided as follows:

i. Schedule of the recipient Counties and institution (KMTC);
ii. Acknowledgement receipts from the Counties; and
iii. Acknowledgement receipts from KMTC.

2151) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Transfer to Other Government Entities was satisfactory; and
(ii) **The Committee therefore marked the matter as resolved.**

2152) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

513. Lack of Audit Committee Reports

2153) Paragraph 160(1) (b) of the Public Finance Management (National Government) Regulations, 2015 requires that the internal auditors shall have a duty to give reasonable assurance through the Audit Committee on the state of risk management, control and governance within the organization. Further, Section 162(1) requires that the Head of Internal Audit reports administratively to the Accounting Officer and functionally to the Audit Committee. However, the Management did not avail any supporting documents as evidence that the Project had approved internal audit work plans and/or whether there was any discussion of the audit reports and actions taken. Consequently, the measures put in place for internal controls, risk management and governance may not be adequate.

Submission by the Accounting Officer

2154) The Accounting Officer submitted that the Ministry vide Ref: MOH/AUD/MAC/II dated 13th August 2020 appointed a Chairperson to the Audit Committee. The Committee is now in place and operational. Copies of Letters of appointment of Committee members were provided.

2155) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Lack of Audit Committee Reports was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2156) **Committee Recommendation**

1) **Accounting Officers must at all times ensure that they have appropriate arrangements in place for conducting internal audit according to the guidelines of the Accounting Standards Board pursuant to the provisions of section 73(1)(a) of the Public Finance Management Act, 2012.**

2) **Accounting Officer MUST at all times ensure that they adhere to the provisions of Section 73(5) of the Public Finance Management Act 2012.**

GLOBAL FUND HIV AIDS PROGRAM (GRANT NO. KEN-H-TNT GA 1547)

514. Unsupported cash and cash equivalents

2157) As disclosed under note 8.8 to the financial statements, the statement of financial assets reflects cash and cash equivalents of Kshs.91,948,910 which includes an Mpesa balance of Kshs.15,000,000 whose supporting documents by the way of Mpesa confirmation certificate were not availed for audit review. In addition, the reconciliation statement supporting the bank balance of Kshs.76,948,910 reflects payments in the bank statement not in the cashbook totaling Kshs.614,000 and whose clearance status had not been disclosed at the time of conclusion of the audit in October 2019.

2158) Under the circumstances the accuracy and completeness of the cash and equivalent balance of Kshs.91,948,910 reflected in the statement of financial assets as at 30th June 2019 could not be confirmed.

Submission by the Accounting Officer

2159) The Accounting Officer submitted that the amount of Kshs.15,000,000 mentioned under note 8.8 to the financial statements was transferred in June 2019 from the Global fund bank to Mpesa Holding account to facilitate Global Fund activities as shown by bank, Mpesa Account and Mpesa Utility Account statements. This is the first time that NASCOP was rolling out payment of DSA (Daily Subsistence Allowance) via Mpesa, and at the same time doing a trial on the effectiveness of the system. The trial was done on 29th June 2019 where the expenditure of Kshs.2M was paid without validation in the system, and the reversal reflected on July 2019.

Summary of the Certificate of balance for the Kshs.15M payment

No.	Type of Account Held	Balance
1.	MMF Account(M-pesa Holding Account)	10,000,000.00
2.	Utility Account	2,978,582.00
	Sub-totals	
3.	Expenditure paid in error and reversed in July 2019	2,021,418.00
	TOTALS	**15,000,000.00**

2160) The following documents were provided in support of the explanation:
i. Bank and M-pesa holding statements of Kshs.15M;
ii. Mpesa Holding & Utility certificate of balance of Kshs.12,978,582; and
iii. Reversed M-pesa statement of Kshs.2,021,418 expenditure paid in error.

2161) It was also true that the reconciliation statement supporting the bank balance of Kshs.76,948,910 reflects payments in the bank statement not in the cashbook totaling Kshs.614,000. Documents in support of payments to various payees on the schedule taken to bank totaling Kshs.614,000 had been inadvertently processed and paid in the cash book as Kshs.600,000 vide payment voucher no. 0224, cheque no. 380 and cash book entry no. 1761 respectively. This transaction has been corrected in the cash book hence clearing the outstanding amount in the bank reconciliation. The following documents were provided in support of the explanation:
i. Schedule for the Kshs.614,000;
ii. Letter from the bank confirming correction of the error; and
iii. Bank statement indicating the payment of 614,000 supported by Cash Book.

2162) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unsupported cash and cash equivalents for Global Fund HIV AIDS Program was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2163) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

515. Unaccounted for imprests

2164) As disclosed under note 8.9 to the financial statements, the statement of financial assets reflects under accounts receivable- Imprest balance of Kshs.1,959,870. The outstanding imprests were overdue as at 30th June 2019, contrary to section 93(53) of the Public Finance Management regulations 2015 which states that a holder of temporary imprest shall account or surrender the same within 7 working days after returning to the duty station. Further, section 93(6) provides that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the accounting officer shall take immediate action to recover the full amount from the salary of the defaulting officer within an interest at the prevailing Central bank rate.

2165) Consequently, the Management was in breach of the law.

Submission by the Accounting Officer

2166) The Accounting Officer submitted that it was true that an amount of Kshs.1,959,870 were imprests outstanding as disclosed under note 8.9 to the financial statement of assets. This is analyzed as indicated below;

1. Imprests amounting to Kshs.366,620 were surrendered by cash and banked
2. Imprests amounting to Kshs.1,263,250 were surrendered by way of payment vouchers.
3. The balance of Kshs.330,000 is still outstanding. The outstanding amount relates to a case that is under police investigation. After the incident, the management mitigated the possibility of any future occurrence by shifting to the use of MPESA EFT payment system to pay the participants.

2167) Schedule outlining the details pertaining to these imprests is as shown below:

NAME	OUTSTANDING	DATE OF	AMOUNT	TOTAL

	AMOUNT	SURRENDER	SURREND'D	
Imprest surrendered by cash banked				
Joseph Gituku	7,430	29.06.2020	7,030	
Joseph Gituku		29.06.2020	400	
Frankline Songok	3,635	31.07.2019	3,635	
Rose Ayugi	28,710	25.07.2019	28,710	
Lance Dudah	88,200	09.07.2019	88,200	
Betty chepkwony	2,400	15 .07.2019	2,400	
Anthony Wachira	735	16.07.2019	735	
Kirui Elvis	14,670	30.06.2020	14,670	
Brenda Opanga	37,720	16.07.2019	27,200	
Brenda Opanga		18.07.2019	10,000	
Betner Nyamota	181,520	08.07.2019	181,520	
Ahmed Fidhow	1,600	16.07.2019	1,600	**366,620**
Imprest surrenderd by Payment Vouchers				
Barbara Mambo	769,440	07.09.2020	769,440	
Jaseph Gituku	493,810	27.07.2019	493,810	**1,263,250**
				1,629,870
Imprest not surrendered				
Ambrose Juma	330,000		NIL	**330,000**
TOTAL	**1,959,870**			**330,000**

2168) The following documents were provided in support of the explanation:

i. Copies of surrender vouchers;
ii. Bank Statements; and
iii. Nascop current status & officers' statements on the robbery, Imprest Holder Police Statement, P3, Approved Memo, Abstract.

2169) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the unaccounted for imprests was satisfactory;
(ii) The Committee also observed that all the Imprests had been fully recovered; and
(iii) **The Committee therefore marked the matter as resolved.**

2170) **Committee Recommendation**

Within three months of the adoption of this report, the Accounting Officer must take action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.

UNITED NATIONS POPULATION FUND (UNFPA) 8TH COUNTRY PROGRAMME FOR KENYA

518. Unverified Purchase of Goods and Services in Prior Year

2171) The statement of receipts and payments for the year under review reflects cumulative expenditures on purchases of goods and services totaling Kshs.151,798,622, as further disclosed in Note 8.5 to the financial statements. As reported in the previous financial year (2016/2017), the balance includes Kshs.7,232,800 paid to facilitate training in various Counties. However, the respective support documents were not presented for audit verification and as a result, the occurrence and validity of the expenditure could not be confirmed. The expenditure remains unverified.

Submission by the Accounting Officer

2172) The Accounting Officer submitted that the relevant documents including the work tickets have since been availed for audit verification and review. We regret the delay in submission. Details of the payments made and the responses were provided in support.

2173) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unverified Purchase of Goods and Services in Prior Year was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2174) **Committee Recommendation**

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE MINISTRYOF HEALTH

HEALTH SECTOR SUPPORT PROJECT (CREDIT NO.4771-KE) –KENYA MEDICAL SUPPLIES AUTHORITY (KEMSA)

524. Unconfirmed Receipts and Utilization of Projects Funds

2175) The statement of comprehensive income for the year ended 30 June, 2019 reflects total revenue of Kshs.376,629,191 which comprises of receipts transferred from the Ministry of Health (KSSP/EMMS) amounting to Kshs.333,194,208 and bank interest of

Kshs.43,434,983. The above Kshs.333,194,208 constitutes an amount of Kshs.200,000,000 receipts from Sector Wide Approach (SWAP) Secretariat, Kshs.49,539,459 indicated as Ministry of Health Medical Grants and Kshs.83,654,749 which is indicated as income for KEMSA facilitation. However, the amounts indicated had not been received in the Project bank account by the close of the financial year but were instead received in the KEMSA Equity Trade Account. Further, it is not clear how the corresponding expenditure financed by the total amount of Kshs.333,194,208 was captured in the Project ledger given that the amount had not been received in the Project account.

2176) In the circumstances, it is not possible to confirm the accuracy and validity of receipts of Kshs.333,194,208 and the respective expenditure for the year ended 30 June,2019.

Submission by the Accounting Officer

2177) The Accounting Officer submitted that Receipts of Kshs.200,000,000 and Kshs.133,194,208.35 were received on 9th July 2018 from Ministry of Health to KEMSA Equity Trade Account. KEMSA Equity Trade bank statement was provided.

2178) The breakdown of the Kshs.333,194,208.00 is as follows;

Remarks	**Amount**
Grant from the World Bank for purchase of EMMS and included 10% KEMSA Management fees. **(See appendix 1(b) -Letter from PS-MoH to KEMSA REF: MOH/ADM/1/1 /128 VOL 1**	200,000,000.00
Grant from MOH for payment for Lab equip. & consumables that had not been shipped by 30-6-2018. **See appendix 3(b) -Letter from PS-MoH to World Bank REF: MOH/DP16/1 Vol.II)**	49,539,458.80
KEMSA fees for supply chain services under KHSSP for the procurement of Equipment. (**See appendix 3(b) letter from KEMSA to PS MOH dated 24th May 2018)**	83,654,749.20
	333,194,208.00

2179) The amount of Ksh.200,000,000 were funds for the procurement of Essential Medicine and Medical Supplies-EMMS for health facilities implementing Result Based Financing. Approval for Procurement of Essential Medicines and Medical Supplies under financial year 2017/2018 was provided. The amount transferred was inclusive of KEMSA fees.

2180) Below is the breakdown of actual expenditure for the Ksh.200,000,000:

Item description	Unit of Issue	Supplier	Total cost in KES
Safety Boxes	Piece	Dominion Supplies(K)Ltd	53,196,500.00
Anti-D(Rh) Inj 300mcg	Vial	Zan Investments Ltd	105,651,562.50
		Sub-Total	**158,848,062.50**
KEMSA Management Fees @ 10%			15,884,806.25
Total Expenditure			**174,732,868.75**
Actual Receipt			**200,000,000.00**
Funds Balance			**25,267,131.00**

2181) Receipt of Ksh.200,000,000.00 was recognized in the statement of financial performance under revenue from exchange transactions. The expenditure for payment of commodities amounting to Ksh.158,848,063 was captured in the financial statements under 'purchase of Assets, Equipment and Consumables. Copies of payment vouchers were provided. Expenditure of Ksh.15,884,806 being 10% management fees was captured in the financial statements under Operating Expenses.

2182) The amount of Ksh.49,539,458.80 was Government of Kenya funds which were counterpart funds for the project that were to cater for deliveries made after 30 June 2018. Receipt of Ksh.49,539,458.80 was recognized in the statement of financial performance under revenue from exchange transactions. The amount was not spent, since the targeted deliveries were not received.

2183) The amount of Ksh.83,654,749.20 was Government of Kenya funds which were counterpart funds for the project that were to cater for KEMSA fees for supply chain services earned from KHSSP procurement. Receipt of Ksh.83,654,749.20 was recognized in the statement of financial performance under revenue from exchange transactions.

2184) Out of the planned procurement of Ksh.780,000,000 procurements worth Ksh.569,788,861.32 were realized, therefore KEMSA earned Ksh.56,978,886.13 being 10% Management Fees, leaving a balance of Ksh.26,675,863.07 Expenditure of Ksh.56,978,886.13 was captured in the financial statements under Operating Expenses.

2185) Below is the breakdown of the funds balances that were transferred back to the Project Account on 30th March 2020. Copy extract of KHSSP Non-Pooled bank statement was provided.

PURPOSE	Receipt	Amount Paid	KEMSA Fees	BALANCE
Grant from the World Bank for purchase of EMMS	200,000,000.00	158,848,063.00	15,884,806.00	25,267,131.00

To cater for HPTs that had not been shipped by 30-6-2018.	49,539,458.80	0.00	0.00	49,539,458.80
To cater for KEMSA operations	83,654,749.20	0.00	56,978,886.13	26,675,863.07
Total	**333,194,208.00**	**158,848,063.00**	**72,863,692.13**	**101,482,452.87**

2186) The total funds balance of Ksh.101,482,452.87 was captured as Accounts Receivable in the Project Accounts. On 22nd June 2020, KEMSA refunded to MOH project account the project's savings amounting to Ksh.289,090,323.48 that included the balance of Ksh.101,482,452.87. Copy of audited Financial Statements was provided.

2187) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unconfirmed Receipts and Utilization of Projects Funds was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2188) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

526. Delay in Distribution of Equipment

2189) The statement of comprehensive income for the year ended 30 June, 2019 reflects under purchase of assets, equipment and consumables amounting to Kshs.400,099,529. However, equipment valued at Kshs.3,051,499 was still at KEMSA warehouses and had not been distributed for installation and commissioning despite the suppliers having been fully paid. Consequently, the public may not have realized value for money in respect of the undistributed equipment valued at Kshs.3,051,499 as at 30 June, 2019.

Submission by the Accounting Officer

2190) The Accounting Officer submitted that it the commodities valued at Ksh.3,051,499 had not been distributed as at the June 2019 but KEMSA has since distributed all the commodities. KEMSA stock valued at Ksh.515,101.82 has since been distributed as shown in the table below:

Item	Quantity purchased	Quantity distribut'd	No of items in store	cost value	Iss'd Qty	Cost of issues	Balance Qty	Cost value of Balance
Refrigerator	1340	1339	1	98,725.00	0	0	1	98,725.00
Centrifuge	852	845	7	352,749.25	7	352,749.25	0	0.00
Cryotherapy machine	100	98	2	882,463.80	2	882,463.80	0	0.00
Infant Weighing & Machine	711	710	1	19,971.70	1	19,971.70	0	0.00
Weighing &Height Machine	1499	1489	10	299,575.50	10	299,575.50	0	0.00
Delivery Set	4924	4896	28	146,247.64	14	73,123.82	14	73,123.82
Oxygen Concentrato r	950	947	3	226,141.65	3	226,141.65	0	0.00
Electric Fetal Doppl er	1562	1555	7	31,185.00	7	31,185.00	0	0.00
Autoclave	490	489	1	263,043.00	0	0.00	1	263,043.00
Dry Heat Sterilizer	454	451	3	228,660.00	2	152,440.00	1	76,220.00
Manual Vacuum Aspiration	126	0	126	502,740.00	125	498,750.00	1	3,990.00
Totals				**3,051,502.54**		**2,536,400.72**		**515,101.82**

2191) Issue report and sample proof of deliveries for the distributed commodities was provided in support.

2192) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Delay in Distribution of Equipment was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2193) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

2) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

527. Delayed Project Closure

2194) A review of the project agreement indicates that the Project was to close on 30 June, 2018. During the year under review, the Project incurred expenditure amounting to Kshs.477,133,561. The Management did not avail for audit review evidence of approval of the project extension or a 'Letter of no Objection' from the Donor.

2195) However, no approved work plans and budget were availed for audit verification contrary to Schedule 2 (project execution) D on annual work program and budget of the Project Financing Agreement, 2014 that requires the recipient to prepare and furnish to the Donor, the annual budget and work program not later than 28 February, each year for the Donor's review and approval.

2196) As a result, it has not been possible to ascertain the validity and eligibility of expenditure or determine whether programmes were executed as planned and that the stakeholders obtained value for money in the expenditure of Kshs.477,133,561.

Submission by the Accounting Officer

2197) The Accounting Officer submitted that the Project was initially for 48months ending 30th September 2015. The project was later extended to 30th June, 2018. A Letter from The World Bank to PS-Ministry of Health, dated 21st November 2016 was provided. The suppliers who were to deliver the commodities pointed out the challenges they were having which would hinder the arrival of the equipment in Kenya by 30th June 2018. A Letter from KEMSA to PS-Ministry of Health, KEMSA letter to MOH dated 24th May 2018 was also provided in support. This led to correspondence with the project to obtain a no objection on the said consignments, which would have the ownership transferred to KEMSA for those items that were in the high seas on 30th June 2018. These items arrived after 30th June 2018 and could only be paid for in the period after 30th June 2018. Below is the breakdown of Ksh.477,133,561.

No.	Description	Amount (Kes.)
1	Purchase of asset, equipment & consumables	400,099,529.00
2	Exchange Loss	245,260.00
3	Bank Charges	15,932.00
4	Operating expenses	76,772,840.00
	TOTAL	**477,133,561.00**

2198) The expenditure relates to payment of equipment procured within the Financial Year 2017/18 but was delivered in the Financial Year 2018/2019. The shipment was done to KEMSA as the consignee before the project closure date meaning that the title of goods changed from the supplier to KEMSA before 30th June 2018. The payment was subsequently made within 6 months after the project closure date. Copies of payment vouchers paid within project end date.

2199) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Delayed project Closure was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2200) **Committee Recommendation**

The Accounting Officer must at all times ensure that at the end of every project a project closure report is and the same is kept and provided for audit review and verification at the time of audit.

GLOBAL FUND HIV/AIDS PROJECT GRANT NUMBER KEN-H-TNT-1547-NATIONAL AIDS CONTROL COUNCIL

528. Unconfirmed Funds from Previous Grant

2201) The statement of receipts and payments reflects funds brought forward from a previous Grant of Kshs.79,960,862. Information availed indicates that under Clause 6.1 of Grant Agreement, Global Fund gave authority for the Management to utilize the uncommitted balances from the previous Grant KEN-H-TNT-853 to roll out the new Grant KEN-H-TNT-1547. It was however, noted that the previous Grant KEN-H-TNT-853 had not been preparing separate Financial Statements for the past years and no Grant closure report from the Local Fund Agent was availed for audit.

2202) In the absence of Grant closure reports and clear authorization from Global fund on the exact amounts to be transferred to the new Grant, the accuracy of the receipts of Kshs.79,960,862 cannot be confirmed.

Submission by the Accounting Officer

2203) The Accounting Officer submitted that NACC prepared and presented a separate Financial Statement for the Global Fund Grant for the financial year 2018/2019 for Grant KEN-H-TNT-853. A copy of the report is attached for ease of reference was provided. The Guidelines for the Annual Audit of Global Fund Grants 2014, section 2.1 provides that the annual report for the legal entity of the grant recipient is acceptable provided it clearly distinguishes GF income, expenditure and balances by grant. The NACC prepared its annual reports for the previous grant which distinguished Global Fund income and expenses from exchequer resources. This is disclosed under Pages 50 and 59 on the Notes to the Financial Statements as per attached extract of the Financials. The reports were shared with both the OAG and Global Fund was provided.

2204) The Global Fund Financial Closure Report (FCR) dated August 27, 2019 and addressed to the National Treasury verified the closing balances to be USD 9,305,862 which translated into Ksh.78,668,715. The Difference between the Ksh.79,960,862 and the Ksh.78,668,715 of Ksh1, 292,147 represents interest earned in the NACC GF Account. The amounts were transferred under the New Grant-NFM2 and the old Grant Account closed as evidenced in the GF request dated June 26, 2020 and Bank Confirmation and Statements dated May 28, 2021.

2205) The matter is therefore considered closed based on the presentation of the Global Fund Financial Closure Report (FCR), Balance Confirmation and closure of the Project Account. NACC continues to strengthen its financial reporting systems to ensure full compliance with Kenya Government and Global Fund grant requirements.

2206) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unconfirmed Funds from Previous Grant was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

2207) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

529. Low Budget Absorption

2208) A review of the Project funding summary at Section 1.7 of the annual report and financial statements indicates that Global Fund has committed an equivalent of Kshs.709,999,904 towards implementation of various Project activities within the Project duration of forty-two (42) months commencing 1 January, 2018 to 30 June, 2021. Further, and as reflected in the statement of comparative budget and actual amounts, out of the total commitments of Kshs.709,999,904, an amount of Kshs.478,554,970, equivalent to 67% of the total commitments was factored in the budget for the eighteen (18) months' period ended 30 June, 2019, for implementation of various approved Project activities. However, out of the budgeted expenditure amount of Kshs.478,554,970, only Kshs.167,355,928 equivalent to 35% of the total budget was utilized during the period, resulting in unutilized balance of Kshs.311,199,042, equivalent to 65% of the total budget. The Management has attributed the low absorption to late programme approval, delayed process of the implementation of the Strategic Framework and Adolescent Programme.

2209) Consequently, the project is clearly behind schedule and timely achievement of the key project objectives and outcomes as outlined in the grant agreement remain doubtful.

Submission by the Accounting Officer

2210) The Accounting Officer submitted that it was true that out of the budgeted expenditure amount of Kshs.478,554,970, only Kshs.167, 355,928 equivalent to 35% of the total budget was utilized during the period, resulting in unutilized balance of Kshs.311,199,042 equivalent to 65% of the total budget.

2211) The under absorption was occasioned by the Funds Flow challenges with the GF resources being received late and towards the end of the Financial year on 29th June. The Schedule of the Funds disbursement and confirmation was provided.

2212) The Challenges occasioning delays have since been addressed with a more efficient funds flow in the subsequent Grants as evidenced by over 76% absorption in the Current Grant ending in June 2021. The last Grant absorption for the NACC was at 91% showing a remarkable improvement on the absorption.

2213) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Low Budget Absorption was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2214) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

EAST AFRICA PUBLIC HEALTH LABORATORY NETWORKING PROJECT (EAPHLN) CREDIT NO.4732-KE –KENYA MEDICAL SUPPLIES AUTHORITY

533. Budget Control and Performance

2215) The statement of comparison between the budget and actual amounts reflects approved revenue budget of Kshs.85,864,578 and actual amounts realized of Kshs.64,135,422 resulting to an under-funding of Kshs.21,729,156 or 25% of the budget.

2216) However, out of the received amount of Kshs.64,135,422 only Kshs.3,224,286 relating to 2015/2016 budget was absorbed resulting to an under absorption of Kshs.60,911,136 or 95% of revenue. The low absorption could adversely affect the achievement of the planned activities hence impacting negatively on service delivery.

Submission by the Accounting Officer

2217) The Accounting Officer submitted that the original Budget for procurement of laboratory Equipment and Reagents for new sites (MTRH & Marsabit and NPHL) was Ksh.150, 000.000 and not Ksh.85,864,578 as indicated. The actual funds received were Ksh.85,864,578 which resulted in a Budget-Actual variance of Ksh.64,135,422. We wish to clarify that there is no risk of underfunding since the funds received were as per the tender awards for the HPTs. Below is the current status of utilization of receipt Kshs.85,864,578.

Allocation	Actual Award / Receipt	PAYMENT MADE	VARIANCE
HASS SCIENTIFIC & MEDICAL SUPPLIES LTD	15,160,000.00	15,160,000.00	-
SCIENCESCOPE LIMITED	530,807.97	559,291.78	(28,483.81)
BIO-ZEQ KENYA LIMITED	17,477,959.99	17,477,959.99	-
HASS SCIENTIFIC & MEDICAL SUPPLIES LTD	12,035,252.00	12,017,252.00	18,000.00
SURGIPATH SERVICES EAST AFRICA LTD	328,545.00	247,545.00	81,000.00
ULTRALAB E.A. LTD	299,250.00	299,250.00	-
ULTRALAB E.A. LTD	142,800.00	142,800.00	-
ULTRALAB E.A. LTD	1,555,441.00	1,555,441.00	-
BIO-ZEQ LIMITED (PREVIOUSLY LENGUE LIMITED)	18,798,606.67	17,238,840.00	1,559,766.67
SCIENCESCOPE LIMITED	724,064.72	329,842.90	394,221.82
AFRICA BIOSYSTEMS LIMITED	14,006,900.78	14,006,900.78	-
CROWN HEALTHCARE	4,804,950.00	4,804,950.00	-
Total	**85,864,578.13**	**83,840,073.45**	**2,024,504.68**

2218) As at 30th June 2020, HPTS valued at Ksh.83,840,073 had been supplied and paid for. Expenditure of Ksh.3,224,286 related to final payment of retention on construction of incinerator sheds that were budgeted for in Financial Year 2015/2016 and does not relate to the funding received of Ksh.85,864,578.13. Copy of extract of Audited Financial Statements and bank statements showing amounts received were provided.

2219) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Budget Control and Performance was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

2220) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

18. STATE DEPARTMENT OF INFRASTRUCTURE

FINANCIAL STATEMENTS FOR VOTE 1091

Prof. Paul Mwangi Maringa, the Principal Secretary and Accounting Officer for the State Department of Infrastructure (Vote 1091) appeared before the Committee on 18th August, 2021 to adduce evidence on the Audited Financial Statements for the State Department of Infrastructure (Vote 1091) for the Financial Year 2018/2019. The following officials accompanied him:

1. Ms. Sophie Mwangechi – Head of Accounting unit.
2. Mr. Philip Wachira – Head of finance.
3. Eng. Morris Nabende – Director KIHBT.

Basis for Qualified Opinion

536. Prior Year Adjustments

2221) As disclosed under note 15 to the Financial Statements, the statement of assets and liabilities reflect a prior year adjustment figure of Kshs.2,482,600,901;(2018- Kshs.34,215,084) which is not supported by way of documentary evidence.

2222) Consequently, the accuracy of the prior year adjustments could not be confirmed.

Submission by the Accounting officer

2223) The Accounting Officer submitted that the prior year adjustment figure of Kshs.2,482,600,901 reflected in the statement of assets and liabilities relate to the following:

1. Unspent bank balances under Recurrent and Development accounts for the year 2017/2018 swiped to the Exchequer.
2. Salary advances, Imprests and unspent AIE, s balances cleared during the year under review.

2224) The breakdown of this figure and explanatory note is also given under note 15-Notes to the Financial Statement. Documentary evidence to support Kshs.2,482,600,901 and that of the comparative year 2017/2018 of Kshs.34,215,084 were reviewed and verified by the auditor and also attached for perusal by the Committee.

2225) **Committee Observations and Findings**

The Committee observed that the statement of assets and liabilities reflected a prior year adjustment figure of Kshs.2,482,600,901 being Unspent bank balances under Recurrent and Development accounts for the year 2017/2018 swiped to the Exchequer and Kshs.34,215,084) Salary advances, Imprests and unspent AIE, s balances cleared during the year under review.

2226) **Committee Recommendations**

The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

537. Unresolved Prior Year Audit Matters

2227) The unresolved prior year matters relate to the Financial Year 2017/2018 and beyond. The Public Accounts Committee (PAC) has since issued a report on these prior year matters and the State Department is working on implementation of the recommendations. Action on PAC recommendations is underway at the State Department for submission to the National Treasury and will be communicated back to Parliament by the National Treasury. The paragraphs range from paragraph 537.1 to 537.5 and have been submitted in this report as detailed below:

2228) The following prior year matters that have a bearing on the accuracy of the financial statements for the year remained unresolved as at 30 June, 2019.

537.1 Inaccuracies in the Financial Statements

2229) The comparative figures in the financial statements did not balance and reflected the following material inaccuracies:-

537.1.1Unbalanced Trial Balance – Suspense and Clearance Accounts

2230) The trial balance presented in support of the financial statements for the year ended 30 June,2018 did not balance and reflected suspense and clearance account balances of Kshs.676,928,451 (Debit) and Kshs.355,031,018 (Credit) respectively. Management has not provided support on how the balances were cleared and its effect on the financial statements balances for the year ended 30 June, 2019.

Submission by the Accounting officer

2231) The Accounting Officer submitted that the Trial balance for the year ended 30th June 2018 did not balance and indeed reflected balances of Kshs.676,928,451(Dr) and Kshs.355,031,018 (Cr) described as suspense and clearance accounts. The same had not been analysed as at the time of the audit review. Subsequently, the State Department formed a task force which carried out investigations on the composition of the amounts for suspense reflected in the financial statements and those that had been brought forward from the prior periods starting July 2014. In the course of the investigations, the State department discovered errors and misstatements in the prior financial statements which they analysed and the correct balances were brought forward as reflected in the State Department's revised financial statements 2017/2018 which reflects the true position of the State department's District suspense and the same is attached herewith for review.

2232) **Committee Recommendations**

The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

537.2 Cash and Cash Equivalents

537.2.1Development Bank Account

2233) Included in the comparative cash and cash equivalent balance of Kshs.2,695,462,863 is development account balance of Kshs.2,265,313,292.The trial balance in support of the balance reflected Kshs.88,564,683,918 resulting to unexplained and unreconciled difference of Kshs.86,299,370,626.

2234) Further, the bank reconciliation statement for the bank account had payments in cash book but not in bank amounting Kshs.4,875,005 which composed of stale cheques that had not been written back to the cash book. The bank reconciliation also included receipts and payments in the bank but not in the cash book amounting to Kshs.3,350,700 and Kshs.2,045,624 respectively. No explanation has been provided for failure to clear the long outstanding reconciling items.

Submission by the Accounting officer

2235) The Accounting Officer submitted that the Development bank balance of Kshs.2,265,313,292 included as part of cash and cash equivalents of Kshs.2,695,462,863 differed with the IFMIS figure of (Kshs.88,564,683,918). This difference arose as a result of a backlog of prior period auto-reconciliation process that remained unreconciled in the IFMIS. The State department engaged technical support from the National Treasury's Accounting Services and IFMIS Directorates in order to resolve these outstanding issues. Through the guidance and support of the team, the Auto-reconciliation processes were updated resulting in the resolution of these long outstanding unreconciled items. The balances reported as per the financial statements now tie with the numbers in the IFMIS.

2236) **Committee Recommendations**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

537.2.2Recurrent Bank Account

2237) Included also in the comparative cash and cash equivalent balance is recurrent bank account balance of Kshs.214,309,493.The trial balance presented in support of the balance reflected a balance of Kshs.17,416,693,411 resulting to an unexplained difference and unreconciled difference of Kshs.17,202,383,918.

2238) Further, the bank reconciliation statement for the bank account had payments in the cash book but not in the bank statement amounting to Kshs.9,608,371 which composed of stale cheques that had not been written back to the cash book. The bank reconciliation statement also included receipts and payments in the bank statement but not in the cash book amounting to Kshs.12,695,351 and Kshs.4,434,680 respectively while receipts in the cash book but not recorded in the bank statement amounted to Kshs.11,090,993.Management has not provided reasons for non-clearance of the long outstanding reconciling items.

2239) In addition, the bank reconciliations were being prepared outside the Integrated Financial Management Information System (IFMIS).

Submission by the Accounting Officer

2240) The Accounting Officer submitted that the Recurrent bank balance of Kshs.214,309,493 also included as part of cash and cash equivalent differed with the IFMIS figure of Ksh.17,416,693,411. This difference arose as a result of a backlog of prior period auto-reconciliation process that remained unreconciled in the IFMIS. The State department engaged technical support from the National Treasury's Accounting Services and IFMIS Directorates in order to resolve these outstanding issues. Through the guidance and support of the team, the Auto-reconciliation processes were updated resulting in the resolution of these long outstanding unreconciled items. The balances reported as per the revised financial statements now tie with the numbers in the IFMIS.

2241) **Committee Recommendations**

The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

537.2.3Deposits

2242) Included in the comparative cash and cash equivalent balance are deposits of Kshs.212,555,241. However, detailed analysis in support of the deposits has not been provided. Further, the trial balance in support of the deposit balance reflected an amount of Kshs.309,435,345 resulting to unexplained and unreconciled difference of Kshs.96,880,104.

Submission by the Accounting officer

2243) The Accounting Officer submitted that the Deposit bank balances of Kshs.212,555,241 included as part of cash and cash equivalents differed with the IFMIS figure of Kshs.309,435,345. This difference arose as a result of a backlog of prior period auto-reconciliation process that remained unreconciled in the IFMIS. The State department engaged technical support from the National Treasury's Accounting Services and IFMIS Directorates in order to resolve these outstanding issues. Through the guidance and support of the team, the Auto-reconciliation processes were updated resulting in the resolution of these long outstanding unreconciled items. The balances reported as per the revised financial statements now tie with the numbers in the IFMIS.

2244) **Committee Recommendations**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

537.2.4 Undisclosed Bank Balances

2245) Excluded from the comparative cash and cash equivalent balance were bank balances of Kshs.4,004,785 and Kshs.25,056,895,967 of the Kenya Transport Sector Support project and the Road Annuity Fund respectively. From the foregoing, the accuracy and completeness of the reported cash and cash equivalent balance of Kshs.593,057,945 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

2246) The Accounting Officer submitted that it was true the bank balances of kshs.4,004,785 and kshs.25,056,895,967 being Kenya Transport sector support project and Road Annuity Fund respectively were excluded from the cash and cash equivalent balance at 30th June,2018 and that the accuracy and completeness of the reported cash and cash equivalent balance of Kshs.593,057,945 as at 30th June 2019 could not be confirmed.

2247) The Kenya Transport Sector Support Project bank balance has since been included in the revised financial statements. Additionally, the Roads Annuity Fund receipts and transfers were captured as AIA in the year under review (vote book extract attached) and thereafter receipted in the Roads Annuity Fund which prepares a separate financial statement under IPSAS accrual basis thus excluding it from the cash and cash equivalents in the Financial Statements 2017/18.

2248) **Committee Recommendations**

The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

537.3 Exchequer Releases

2249) As disclosed under note 3 to the financial statements, the statement of receipts and payments reflected comparative exchequer releases figure of Kshs.52,873,956,581 while the trial balance in support reflected a figure of Kshs.254,572,836,570 resulting to an unreconciled difference of Kshs.201,698,879,989.In the circumstance, it was not possible to ascertain the accuracy of the comparative Exchequer releases for the year ended at 30 June,2018.

Submission by the Accounting officer

2250) The Accounting Officer submitted that the exchequer releases balance of Ksh.52,873,956,581 as disclosed in note 2 to the financial statements is at variance with the trial balance figures. He also stated that, as per the standard chart of account in IFMIS, exchequer is classified under code 9910201 exchequer releases/provisioning account which is cumulative from previous years to the next. The difference between the cumulative exchequer of previous years and the current year, results in a figure of ksh.52,873,956,581 which ties with exchequers releases from the IFMIS generated statement of receipts and payments attached to the revised financial statement.

2251) **Committee Recommendations**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

537.4 Accounts Receivables

537.4.1Clearance Account

2252) Included in the comparable accounts receivables balance is Kshs.Nil, being clearance account balance. However, the trial balance in support reflects a balance of Kshs.676,928,451 resulting to a variance of Kshs.676,928,451 that has not been explained.

Submission by the Accounting Officer

2253) The Accounting Officer submitted that it was true the trial balance figure was at variance with the accounts receivables balance. This was as a result of cumulative incompleteness of year end closing procedures and auto reconciliation processes that remained outstanding from prior periods. The same was corrected in conjunction with technical support from the National Treasury's IFMIS and Accounting Services Directorates with whom the State department was able to drilldown the incomplete procedures and un-cleared effects outstanding in the system for the periods to date. The auto reconciliations were completed resulting in the system reflecting the numbers as supported in the financial statements. Going forward, the State Department has embarked on a comprehensive training and capacity building programme in order to ensure the State departments staffs are fully sensitized on the requisite year end closing procedures and IFMIS reconciliation processes to ensure such errors do not recur in future.

2254) **Committee Recommendations**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

537.4.2 Other Debtors and Prepayments and Agency Account

2255) The comparable accounts receivables balance of Kshs.38,282,324 excludes other debtors and prepayments and agency account balances of Kshs.13,068,546 and Kshs.16,410,340 respectively in the trial balance.

Submission by the Accounting Officer

2256) The Accounting Officer submitted that it was true the comparable accounts receivables balance of Kshs.38,282,324 excludes other debtors and prepayments and agency account balances of Kshs.13,068,546 and Kshs.16,410,340 respectively in the trial balance. This was as a result of cumulative incompleteness of year end closing procedures and auto reconciliation processes that remained outstanding from prior periods. The same was corrected in conjunction with technical support from the National Treasury's IFMIS and Accounting Services Directorates with whom the State department was able to drilldown the incomplete procedures and un-cleared effects outstanding in the system for the periods to date. The auto reconciliations were completed resulting in the system reflecting the numbers as supported in the financial statements. Going forward, the State Department has embarked on a comprehensive training and capacity building programme in order to ensure the State departments staff is fully sensitized on the requisite year end closing procedures and IFMIS reconciliation processes to ensure such errors do not recur in future

2257) **Committee Recommendations**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

537.4.3Government Imprests

2258) The comparative Government imprest balance of Kshs.1,731,087 is at variance with the trial balance figure of a negative Kshs.1,798,211 resulting to unexplained difference of Kshs.3,529,298 that has not been reconciled. In the circumstance, the accuracy and fair statement of the accounts receivables balance of Kshs.53,132,393 as at 30 June,2019 could not be ascertained.

Submission by the Accounting officer

2259) The Accounting Officer submitted that the Government imprest balance of Ksh.1,731,087 as at 30th June 2018 is at variance with the Trial balance of Kshs.(1,798,211) resulting to unexplained and unreconciled difference of Ksh.3,529,298. This was as a result of cumulative incompleteness of year end closing procedures and auto reconciliation processes that remained outstanding from prior periods. The same was corrected in conjunction with technical support from the National Treasury's IFMIS and Accounting Services Directorates with whom the State department was able to drilldown the incomplete procedures and un-cleared effects outstanding in the system for the periods to date. The auto reconciliations were completed resulting in the system reflecting the numbers as supported in the financial statements. Going forward, the State Department has embarked on a comprehensive training and capacity building programme in order to ensure the State departments staff are fully sensitized on the requisite year end closing procedures and IFMIS reconciliation processes to ensure such errors do not recur in future.

2260) **Committee Recommendations**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

537.5 Accounts Payables-Deposits and Retentions

2261) As disclosed under note 13 to the financial statements, the statement of assets and liabilities reflect comparative accounts payables balance of Kshs.212, 555, 241.However, there was no schedule in support of the balance. Further, the trial balance in support reflects a balance of Kshs.1,605,943,329 resulting to an unexplained variance of Kshs.1,393,388,088.

2262) Consequently, the accuracy and fair statement of comparative accounts payables balance of Kshs.191,621,913 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

2263) The Accounting Officer submitted that it was true the statements of assets and liabilities shows accounts payable balance of Ksh.212,555,241 disclosed under note 13 as Deposits which is at variance with the trial balance figure of Kshs.1,605,943,329 reflected in the trial balance resulting to an unexplained difference of Kshs.1,393,388,088. This difference arose as a result of a backlog of prior period auto-reconciliation process that remained unreconciled in the IFMIS. The State department engaged technical support from the National Treasury's Accounting Services and IFMIS Directorates in order to resolve these outstanding issues and through the guidance and support of the team the Auto-reconciliation processes were updated resulting in the resolution of these long outstanding unreconciled items. The balances reported in the financial statements now tie with the numbers in the IFMIS as per the attached IFMIS generated reports-summary statement of deposits and analysis of the same is provided for your review.

2264) **Committee Recommendations**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

Other Matters

538. Pending Bills

2265) As disclosed under Notes 17.1 to the financial statements, the State Department for Infrastructure had pending bills totalling Kshs.4,622,222 as at 30 June, 2019 that were not settled during the year 2018/2019 but were instead carried forward to 2019/2020.Failure to settle bills during the year in which they relate to adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting officer

2266) The Accounting Officer submitted that the State Department had pending bills totalling Kshs.4,622,222 as at 30th June,2019 as disclosed under Note 17 to the financial statement.This was occasioned by lack of the exchequer from the National Treasury and reduction of budget. However, the pending bills have since been paid. (Schedule of pending bills for the year under review settled in year 2019/2020 and supporting copies of paid vouchers were attached for perusal by the Committee)**.**

2267) In the year ended 30th June 2020, this State Department Headquarters had no pending bills as per our pending bills submission letter ref. MOTIHUD&PW/I/A/14.21/C/VOL.13/(69) dated 21st July 2020. Copy was attached for perusal by the Committee.

2268) **Committee Observations and Findings**

(i) The Committee observed that the pending bills have since been settled; and

(ii) The Committee marked the matter as resolved.

2269) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2270) **Conclusion**

539. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2271) **Conclusion**

540. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECTS
NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT (IDA CREDIT NO. 5140-KE)

REPORT ON THE FINANCIAL STATEMENTS

2272) **Unqualified Opinion**

541. There were no material issues noted during the audit of the financial statements of the Project.

542. Special Account Reconciliation Variance

2273) As previously reported, the Statement of Receipts and payments for the year ended 30th June 2016 reflected total receipts from Development partners of Kshs.48,744,572, while the special account statement prepared by The National Treasury reflected an amount of Ksh.8,000,736 as having been withdrawn to finance the project activities. Management has not reconciled or explained the resultant difference of Ksh.40,743,836 between the two sets of records.

Submission by the Accounting Officer

2274) The Accounting Officer submitted that the Statement by the National Treasury only captured the receipts from the Development Partner while the State Department's Accounts captures both the Development Partner Component and the GOK counterpart portion.

2275) The project received Exchequer totaling Kshs.48,744,572 in two tranches, received and disbursed to the Project Account as follows:

Date Received	Exchequer Ref. No	Amount	Date Disbursed	FT. No.
24th Dec, 2015	DE:151/15/16	8,000,000.00	26th Jan, 2016	FT160265YMHS
14th Jan, 2016	DE:150/15/16	40,744,572.00	11th Feb, 2016	FT16042X831S

The total amount of Ksh.48,744,572 is correctly captured in the Statement of Receipts and Payments.

2276) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Special Account Reconciliation variance was persuasive; and

(ii) The Committee marked the matter as resolved.

2277) **Committee Recommendations**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

2278) **Conclusion**

543. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2279) **Conclusion**

544. 'There were no material issues relating to effectiveness of internal controls, risk management and governance.

EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT (IDA CREDIT NO.5638-KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

545. Inaccuracies in the Statement of Financial Assets

2280) The statement of financial assets reflects prior year adjustment of Kshs.6,492,005 which, as shown under Note 8.16 to the financial statements, related to outstanding imprests. However, the details of the prior year adjustments were not provided. Further, the statement of financial assets reflects a nil balance under inter project payables while Note 8.14 to the financial statements reflects outstanding inter project payables of Kshs.4,711,006. The differences between the two sets of records have not been explained.

Submission by the Accounting Officer

2281) The Accounting Officer submitted that the two sets of records have been reconciled and the revised project Financial Statement has been presented to the auditor for verification.

2282) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Committee further observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

(iii) However, the Committee observed that the explanation given by the Accounting Officer with regard to Inaccuracies in the Statement of Financial Assets was persuasive; And

(iv) The Committee marked the matter as resolved.

2283) **Committee Recommendations**

The Accounting Officer should always ensure that the records are reconciled and analyzed with necessary supporting documents and submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

546. Unexplained Budgetary Variances

2284) The statement of comparative budget and actual amounts for the year ended 30th June, 2019 reflects actual receipts of Kshs.70,891,648 against budgeted receipts of Kshs.80,000,000 resulting in an under-collection of Kshs.9,108,358 or 11% of the budget receipts. Similarly, the statement reflects total actual expenditure of Kshs.97,944,718 against the budgeted expenditure of Kshs.80,000,000 resulting into an over- expenditure of Kshs.17,944,718 or 22% of the budgeted expenditure. Explanation for the material differences between the budget actual accounts were not provided contrary to the reporting requirements prescribed by Public Sector Accounting Standards Board.

Submission by the Accounting Officer

2285) The Committee Office submitted as follows:

For the under collection, the project had a carried forward balance of Kshs.27,331,955 from June 2018 which was enough to cater for the expenditure. The over-expenditure was occasioned by a budget reduction which reduced the project expenditure budget from Kshs.120,000,000 to Kshs.80,000,000. By the time the budget cut was effected, the project had already spent the money resulting to an over-expenditure of Kshs.17,944,718.

2286) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to Unexplained Budgetary Variances was persuasive; and
ii. The Committee marked the matter as resolved.

2287) **Committee Recommendations**

Accounting Officers must at all times ensure that they take appropriate measures to resolve any issues arising from audit which may remain outstanding pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC ESOURCES

2288) **Conclusion**

547. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2289) **Conclusion**

548. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA TRANSPORT SECTOR SUPPORT PROJECT (IDA CREDIT NO.S 4926-KE AND 5410-KE (COMPONENT B1 SUPPORT TO MINISTRY OF ROADS)

REPORT ON THE FINANCIAL STATEMENTS

2290) **Unqualified Opinion**

549. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC ESOURCES

2291) **Conclusion**

550. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2292) **Conclusion**

551. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR INFRASTRUCTURE

SUPPORT TO ROAD SECTOR POLICY: 10TH EDF RURAL ROADS REHABILITATION PROJECT IN KENYA (AGREEMENT NO.KE/FED/023-571) – KENYA RURAL ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2293) **Unqualified Opinion**

552. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2294) **Conclusion**

553. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2295) **Conclusion**

554. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NUNO-MODOGASHE ROAD PROJECT – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2296) **Unqualified Opinion**

555. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

556. Pending Bills

2297) Notes 9.1 to the financial statements reflects pending accounts payable totalling Kshs.1,829,786,534 as at 30 June, 2019. Management has not provided reasons for non-payment of the bills even though the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2298) The Accounting Officer submitted that the Pending bills arose due insufficient and delayed Exchequer releases to facilitate prompt contractual payments. In the subsequent Financial Year 2019/20, the Authority in liaison with the Parent Ministry and the National Treasury managed to secure adequate budgetary allocation for the project and settled the entire pending bills.

2299) **Committee Observations and Findings**

(i) The Committee observed that the pending bills have since been settled; and

(ii) The Committee marked the matter as resolved.

2300) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2301) **Conclusion**

557. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2302) **Conclusion**

558. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NORTH EASTERN TRANSPORT IMPROVEMENT PROJECT (IDA CREDIT NO. V0630) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

559. Unaccounted Project Funds Reported as Cash in Transit

2303) Note 8.10 to the financial statements discloses cash in transit of Kshs.48,755,520, relating to cash released by the development partner in 2017/2018 financial year but was yet to be accounted for as at the financial statement date. Consequently, it is not possible to ascertain the accuracy of the cash in transit amount of Kshs.48,755,520 as of 30 June, 2019.

Submission by the Accounting Officer

2304) The Accounting Officer submitted that the observation that Kshs.48,755,520 were in transit as at 30 June 2019. We however wish to confirm that the funds were received by the Authority on 30 June 2020 and were fully accounted for in the project's financial statements for FY 2019/2020.

2305) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards Unaccounted Project Funds Reported as Cash in Transit was persuasive; and
ii. The Committee marked the matter as resolved.

2306) **Committee Recommendations**

The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

Other Matter

560. Pending Bills

2307) Note 9.1 to the financial statements discloses pending bills amount of Kshs.76,746,315 as at 30 June, 2019. Although Management has committed to liaising with the line ministry and The National Treasury for adequate budgetary allocation and timely exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2308) The Accounting Officer submitted that the Pending bills arose due to delayed release of Kshs.48,755,520 IDA revenue funds that were in transit as at 30 June 2019. These amounts were however received by the Authority in the subsequent financial year and were utilized in clearing the pending bills.

2309) **Committee Observations and Findings**

i. The Committee observed that the pending bills have since been settled; and
ii. The Committee marked the matter as resolved.

2310) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2311) **Conclusion**

561. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND OVERALL GOVERNANCE

2312) **Conclusion**

562. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NAIROBI OUTER RING ROAD IMPROVEMENT PROJECT NO.P-KE-DB0-020 – KENYA URBAN ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2313) **Unqualified Opinion**

563. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

564. Pending Bills

2314) Note.9.1 to the financial statements reflects pending bills amounting to Kshs.660,153,812 as at 30 June, 2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2315) The Accounting Officer submitted that the Pending bills under the project have been caused by limited budgetary allocation due to overall budget ceiling. Also budget cuts in the previous financial years caused carryover of pending bills. Part of the pending bills amounting to Kshs.238 Million have since been settled and management anticipates to settle the balance within Financial Year 2019/2020.

2316) **Committee Observations and Findings**

i. The Committee observed that pending bills amounting to Kshs.238 Million have since been settled and the balance is anticipated to be settled in subsequent financial year; and
ii. The matter remained unresolved.

2317) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2318) **Conclusion**

565. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2319) **Conclusion**

566. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KIBWEZI-MUTOMO-KITUI ROAD PROJECT CONTRACT NO. BLA2016K001 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2320) **Unqualified Opinion**

567. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

568. Accrued Interest on Delayed Payments

2321) Review of Interim Payment Certificates numbers 1 and 2 revealed interest claim on the project as a result of delayed payments of Kshs.189,516,296 to November 2018. As per project progress report of June, 2019, the claim had been certified for payment whilst the contractor continued to levy interest on subsequent delayed payments. Management attributed the delays to the inadequate budgetary provision on the Government of Kenya counterpart contribution which is a prerequisite prior to release of development partner portion in line with the signed financing agreement. With the continued delays, the cost of completing the project is bound to escalate.

Submission by the Accounting Officer

2322) The Accounting Officer submitted that it was true that the project attracted interest on delayed payments which were occasioned by:

a) The financiers' requirement that the development partner portion can only be settled upon proof that GoK counterpart portion of each IPC has been settled
b) Inadequate Budgetary allocations as well as delays in release of exchequer funds led to delays in processing GoK portion.

2323) In order to ensure that the pending bills are settled, the Authority is liaising with the Parent Ministry and the National Treasury in an effort to secure adequate budgetary provisions to settle the Pending Bills.

2324) **Committee observations and findings**

i. The Committee observed that the GoK component has not been released to date; and
ii. The matter remained unresolved.

2325) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

569. Pending Bills

2326) Note 9 to the financial statements reflects pending bills amounting to Kshs.2,607,930,204 as at 30 June, 2019. Although management has committed to liaising with the line Ministry and The National Treasury for adequate budgetary allocation and timely exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2327) The Accounting Officer submitted that the project had pending bills amounting to Kshs.2,607,930,204. This was a result of inadequate Development Partner and GoK Budgetary allocation in the financial year. The Authority was however able to secure Budgetary allocations amounting to Kshs.7,106,001,845 in subsequent FY 2019/20 which was partly utilized to settle the pending bills. Due to the fact that the project has been ongoing while experiencing insufficient budgets, the pending bills stood at Kshs.1,920,899,428 as at 30 June 2021. These bills will be partly settled using the current GoK budgetary allocation of Kshs.200,000,000 while the Authority continue to liaise with the parent ministry and the National Treasury to secure sufficient Budgetary allocations.

2328) Committee observations and findings

i. The Committee observed that the pending bills were occasioned as result of low budgetary allocation to the project; and
ii. The matter remained unresolved.

2329) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2330) **Conclusion**

570. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2331) **Conclusion**

571. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MOMBASA WEST INTEGRATED URBAN ROADS NETWORK PROGRAMME PHASE 2: DUALLING OF MAGONGO ROAD (A109L) AND EXPANSION OF KIPEVU ROAD – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2332) **Unqualified Opinion**

572. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2333) **Conclusion**

573. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2334) **Conclusion**

574. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KAPCHORWA-SUAM-KITALE AND ELDORET BYPASS ROADS (KENYA) PROJECT ID NO. P-Z1-DB0-183 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2335) **Unqualified Opinion**

575. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

576. Pending Bills

2336) Note 9.1 to the financial statements reflects pending accounts payable amounting to Kshs.3,614,452,293 as at 30 June, 2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2337) The Accounting Officer submitted that an amount of Kshs.3,614,452,293 was outstanding as at 30 June, 2019 as a result of insufficient GOK budgetary allocation to settle the GoK project components. We however wish to confirm that as at close of 30 June 2021, the project's pending bills had been reduced to Kshs.999,981,672 which will be partly settled by current year's GoK Budgetary allocation of Kshs.200,000,000. The Authority will however continue to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payment of pending bills.

2338) **Committee observations and findings**

i. The Committee observed that the pending bills were occasioned as result of low budgetary allocation to the project; and
ii. The matter remained unresolved.

2339) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2340) **Conclusion**

577. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2341) **Conclusion**

578. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MOMBASA PORT AREA ROAD DEVELOPMENT PROJECT (LOAN AGREEMENTS NOS.KE-P29 AND KE-P32) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2342) **Unqualified Opinion**

579. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

580. Pending Bills

2343) Note 9.1 to the financial statements reflects pending accounts payable of Kshs.4,770,992,771 as at 30 June, 2019. Although management has committed to liaising with the line ministry and The National Treasury for adequate budgetary allocation, timely exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2344) The Accounting Officer submitted that the Pending bills arose due to inadequate budgetary provisions. In the subsequent FY 2019/20 and 2020/21however, the Authority in coordination with the Parent Ministry and the National Treasury managed to secure funds worth 11bn that facilitated project implementation and reduction of the closing pending bills. In FY 2021/22 the project has been allocated Kshs.6.86 Billion towards reducing the opening bills of Kshs.4,789,660,357 as well as facilitate project implementation.

2345) **Committee observations and findings**

i. The Committee observed that the pending bills were occasioned as result of low budgetary allocation to the project; and
ii. The matter remained unresolved.

2346) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2347) **Conclusion**

581. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2348) **Conclusion**

582. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MOMBASA-NAIROBI-ADDIS ABABA ROAD CORRIDOR PROJECT PHASE II (MARSABIT-TURBI ROAD) ID NO. P-Z1-DBO-027 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2349) **Unqualified Opinion**

583. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

584. Pending Bills

2350) Note 9 to the financial statements reflects pending bills amounting to Kshs.72,171,014 as at 30 June, 2019 against a bank balance of Kshs.2,837,752. Management has not explained how these bills will be cleared since the project has closed and they may not access further funding from either the development partner or the Kenyan government.

Submission by the Accounting Officer

2351) The Accounting Officer submitted that the situation arising due to the exhaustion of the credit extended to the Government. It is however critical to note that it is the Authority that contracts service providers to the project and therefore bound by the provisions of the contract. In the event that the credit is exhausted, it is the Government that remains with the residual responsibility of ensuring the project is delivered to the public. As such budgetary allocations and exchequer are made available to extinguish such liabilities. As at close of FY 2020/21 this amount had reduced to Kshs.62,165,683 which is anticipated to be settled in the current financial year.

2352) **Committee observations and findings**

i. The Committee observed that the pending bills were occasioned as result of low budgetary allocation to the project; and
ii. The matter remained unresolved.

2353) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2354) **Conclusion**

585. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2355) **Conclusion**

586. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MOMBASA-NAIROBI-ADDIS ABABA ROAD CORRIDOR PROJECT PHASE III (TURBI - MOYALE) NO. P-ZI-DB0-095 LOAN NO. 2100150025546 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2356) **Unqualified Opinion**

587. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

588. Pending Bills

2357) Note 9.1 to the financial statements reflects pending bills amounting to Kshs.141,736,470 as at 30 June, 2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2358) The Accounting Officer submitted that the amount of Kshs.141,736,470 remained outstanding as at 30 June 2019 due to FY 2018/19 budgetary reduction Kshs.646,800,000 to Kshs.100,000,000. The Authority however part paid an amount of Kshs.112,643,638 in FY 2019/20 and the balance cleared in FY 2020/21.

2359) **Committee Observations and Findings**

i. The Committee observed that the pending bills have since been cleared; and
ii. The Committee marked the matter as resolved.

2360) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2361) **Conclusion**

589. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2362) **Conclusion**

590. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MOMBASA–MARIAKANI HIGHWAY PROJECT LOT 1: (MOMBASA-KWA JOMVU) LOAN NO. 2100150032743 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2363) **Unqualified Opinion**

591. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

592. Pending Bills

2364) Note 9 to the financial statements reflects pending bills amounting to Kshs.3,731,885,451 as at 30 June, 2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2365) The Accounting Officer submitted that this arose due to budgetary and consequently exchequer constraints. As at 30 June 2021 however, the Authority had reduced these pending bills to Kshs.444,088,431 which will be further reduced by the current GoK budgetary allocation of Kshs.60,000,000. The Authority will continue to liaise with the Parent Ministry and the National Treasury towards securing sufficient funding to settle all the pending bills.

2366) **Committee observations and findings**

i. The Committee observed that the pending bills were occasioned as result of low budgetary allocation to the project; and
ii. The matter remained unresolved.

2367) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2368) **Conclusion**

593. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2369) **Conclusion**

594. There were no material issues relating to effectiveness of internal controls, risk management and governance.

IMPROVEMENT OF RURAL ROADS AND MARKET INFRASTRUCTURE IN WESTERN KENYA PROJECT CREDIT NO. BMZ 2007-65 123 (KFW) – KENYA RURAL ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2370) **Unqualified Opinion**

595. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2371) **Conclusion**

596. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND OVERALL GOVERNANCE

2372) **Conclusion**

597. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA-SOUTH-SUDAN LINK ROAD PROJECT (REF. NO.202062065 AND BMZ NO.202083939) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2373) **Unqualified Opinion**

598. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2374) **Conclusion**

599. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2375) **Conclusion**

600. There were no material issues relating to effectiveness of internal controls, risk management and governance.

TIMBOROA-ELDORET ROAD REHABILITATION PROJECT NO. P-KE-DB0-019 (LOAN NO. 2100150023344) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2376) **Unqualified Opinion**

601. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

602. Pending Bills

2377) Note 9.1 to the financial statements reflects pending bills amounting to Kshs.2,644,758 as at 30 June, 2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2378) The Accounting Officer submitted that the pending bills resulted from inadequate budgetary allocation during the financial year. The bills were subsequently settled in full in subsequent financial year 2019/2020.

2379) **Committee Observations and Findings**

i. The Committee observed that the pending bills have since been settled; and
ii. The Committee marked the matter as resolved.

2380) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2381) **Conclusion**

603. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2382) **Conclusion**

604. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NAIROBI-THIKA HIGHWAY IMPROVEMENT PROJECT LOT I AND II (CREDIT NO. 2100150015544) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2383) **Unqualified Opinion**

605. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

606. Pending Bills

2384) Note 9 to the financial statements reflects pending bills amounting to Kshs.279,213,863 as at 30 June, 2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2385) The Accounting Officer submitted that this amount represents outstanding land compensation payments as adjudged by the National Lands Commission. The amounts remain outstanding due to constrained budgetary allocation to the project. The Authority is however in constant liaison with the Parent ministry and The National Treasury to ensure adequate resources are availed to clear off these amounts.

2386) **Committee Observations and Findings**

i. The Committee observed that the pending bills were occasioned as result of low budgetary allocation to the project; and
ii. The matter remained unresolved.

2387) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2388) **Conclusion**

607. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2389) **Conclusion**

608. There were no material issues relating to effectiveness of internal controls, risk management and governance.

CENTRAL KENYA RURAL ROADS IMPROVEMENT AND MAINTENANCE PROJECT (AFD CREDIT NO. CKE 1012 01 B, CREDIT NO. CKE 1046 01 J AND CREDIT NO. CKE 1094 01 M) – KENYA RURAL ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2390) **Unqualified Opinion**

609. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2391) **Conclusion**

610. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2392) **Conclusion**

611. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MULTINATIONAL: ARUSHA-HOLILI/TAVETA-VOI ROAD PROJECT LOAN NO.2100150028894 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2393) **Unqualified Opinion**

612. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

613. Pending Bills

2394) Note 9 to the financial statements reflects pending bills amounting to Kshs.198,195,163 as at 30 June, 2019. Although management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation, timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2395) The Accounting Officer submitted that the Project had outstanding bills amounting to Kshs.98,195,163 as at 30 June 2019. This is a result of insufficient exchequer allocations.

2396) As at close of FY 2020/21 however, the outstanding bills had been reduced to Kshs.25,023,499 which is anticipated to be settled in the current financial year 2021/22.

2397) **Committee Observations and Findings**

(i) The Committee observed that the pending bills have since been settled and a balance of Kshs.25,023,499 is anticipated to be settled in the subsequent financial year; and

(ii) The matter remained unresolved.

2398) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2399) **Conclusion**

614. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2400) **Conclusion**

615. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PORT REITZ/MOI INTERNATIONAL AIRPORT ACCESS (C110) ROAD (FIDIC EPC/TURNKEY BASED) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2401) **Unqualified Opinion**

616. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

617. Pending Bills

2402) Note 9.1 to the financial statements reflects pending bills amounting to Kshs.106,793,758 as at 30 June, 2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2403) The Accounting Officer submitted that the pending bills resulted from inadequate budgetary allocations. In FY 2019/20 however, the Authority managed to secure a budgetary allocation of 123mn for the project which was able to substantively reduce the pending bills to Kshs.29million as at 30 June 2020. The balance has been planned for payment in the current financial year using the GoK budgetary allocation of Kshs.30 Million.

2404) **Committee observations and findings**

(i) The Committee observed that the pending bills were occasioned as result of low budgetary allocation to the project; and
(ii) The matter remained unresolved.

2405) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2406) **Conclusion**

618. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2407) **Conclusion**

619. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PROJECT FOR DUALLING OF NAIROBI - DAGORETTI CORNER ROAD C60/C61 (PHASE 1) - JICA GRANT AGREEMENT NO. 1260210 – KENYA URBAN ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2408) **Unqualified Opinion**

620. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2409) **Conclusion**

621. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2410) **Conclusion**

622. There were no material issues relating to effectiveness of internal controls, risk management and governance.

EAST AFRICA TRADE AND TRANSPORT FACILITATION PROJECT CREDIT NO. 4148-KE (IDA) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2411) **Unqualified Opinion**

623. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

624. Pending Bills

2412) Note.9 to the financial statements reflects pending bills amounting to Kshs.161,784,366 as at 30 June, 2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2413) The Accounting Officer submitted that the East Africa Trade and Transport Facilitation Project -EATTFP project was co-financed by GoK and the International Development Association (IDA) whose credit and financing ended on 30 September 2015 prior to completion of the project. With the exhaustion of development partner financing, it is the sole responsibility of the Government ensure the project is completed for use by the public and to make good the liabilities arising thereof through exchequer budgetary allocations.

2414) The Authority has subsequently settled an amount of Kshs.114,820,273 and the balance of 46,964,093 is to be settled upon receipt of exchequer funds.

2415) **Committee observations and findings**

(i) The Committee observed that the pending bills were occasioned as result of low budgetary allocation to the project; and
(ii) The matter remained unresolved.

2416) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2417) **Conclusion**

625. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2418) **Conclusion**

626. There were no material issues relating to effectiveness of internal controls, risk management and governance.

SIRARI CORRIDOR ACCESSIBILITY AND ROAD SAFETY IMPROVEMENT PROJECT: ISEBANIA-KISII-AHERO (A1) ROAD REHABILITATION-CREDIT NO.2000130015238 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2419) **Unqualified Opinion**

627. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

628. Pending Bills

2420) Note 9.1 to the financial statements reflects pending bills amounting to Kshs.1,695,411,275 as at 30 June, 2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2421) The Accounting Officer submitted that the Pending bills arose due to inadequate budgetary provisions. We however wish to note that the project has been ongoing hence has been generating additional bills which the available exchequer allocations have not been sufficient to settle. As at 30 June 2021, the closing pending bills stood at Kshs1,781,929,830 which will be partly settled using the current year GoK budgetary allocation of Kshs200,000,000. The Authority will continue to liaise with the Parent ministry and The National Treasury to ensure adequate resources are availed to clear off these amounts.

2422) **Committee observations and findings**

(i) The Committee observed that the pending bills were occasioned as result of low budgetary allocation to the project; and

(ii) The matter remained unresolved.

2423) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2424) **Conclusion**

629. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2425) **Conclusion**

630. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MOMBASA-NAIROBI-ADDIS ABABA ROAD CORRIDOR DEVELOPMENT PROJECT NO. P-ZI-DBO-018 (ISIOLO-MERILLE SECTION) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENT

Basis for Qualified Opinion

631. Unsupported Bank Balance

2426) The statement of financial assets and liabilities reflects a bank balance of Kshs.18,682,650 as at 30 June, 2019 which is however, not supported by certificate of bank balance. Although Management explained that the project account was closed and the amount transferred to Kenya National Highways Authority (KENHA) GoK Exchequer account, it is not possible to ascertain existence of funds since the GoK exchequer account certificate as at 30 June, 2019 reflects a balance of Kshs.3,169,418,106 which has not been supported by analysis of Projects for which the balance represents.

Submission by the Accounting Officer

2427) The Accounting Officer submitted that the amount cannot be supported by the bank certificate since the Authority maintains only one exchequer account for funds received across all projects. However, the availed bank statement indicated that indeed this amount was received from the Parent ministry, was held in the Department's exchequer account and forms part of the Kshs3.1 billion closing cash balance.

2428) **Committee Observations and Findings**

2429) The Committee observed that Accounting Officer failed to ensure that the records are reconciled and analyzed with necessary supporting documents and submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

2430) **Committee Recommendations**

The Accounting Officer should always ensure that the records are reconciled and analyzed with necessary supporting documents and submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

Other Matter

632. Pending Bills

2431) The Project reflects pending bills amounting to Kshs.57,675,003 as at 30 June, 2019 under Note 9 to the financial statements. Although the project was completed in July, 2010, the pending bills has remained outstanding and Management has not indicated how they intend to settle the long outstanding bills.

Submission by the Accounting Officer

2432) The Accounting Officer submitted that the Project had outstanding bills amounting to Kshs.57,675,003 as at 30 June 2019. As at 30 June 2021 however, the pending bills had been cleared.

2433) **Committee Observations and Findings**

(i) The Committee observed that the pending bills have since been settled; and

(ii) The Committee marked the matter as resolved.

2434) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2435) **Conclusion**

633. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2436) **Conclusion**

634. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NORTHERN CORRIDOR REHABILITATION PROGRAMME PHASE III (ELDORET-TURBO-WEBUYE-MALABA ROAD IMPROVEMENT PROJECT) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2437) **Unqualified Opinion**

635. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

636. Pending Bills

2438) Note 9 to the financial statements reflects pending bills amounting to Kshs.552,705,680 as at 30 June, 2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2439) The Accounting Officer submitted that the Project had outstanding bills amounting to Kshs.552,705,680 as at 30 June 2019 which arose from inadequate budgetary allocations. The Department noted that as at close of FY 2020/21, this pending bill had been reduced to Kshs.4,101,454 which is anticipated to be settled in the current financial year.

2440) **Committee Observations and Findings**

i. The Committee observed that part of the pending bills have since been settled and the balance of Kshs.4,101,454 remains outstanding; and
ii. The matter remained unresolved.

2441) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2442) **Conclusion**

637. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2443) **Conclusion**

638. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA TRANSPORT SECTOR SUPPORT PROJECT CREDIT NO.4926-KE AND NO.5410-KE– KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2444) **Unqualified Opinion**

639. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

640. Pending Bills

2445) Note 9 to the financial statements reflects pending bills amounting to Kshs.4,259,055,378 as at 30 June, 2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2446) The Accounting Officer submitted that the project had outstanding bills amounting to Kshs.4,259,055,378. The KTSSP project was co-financed by GoK and the International Development Association (IDA) whose credit and financing ended on 30 December 2018 prior to completion of all the project components. Following the exhaustion and lapse of the credit from the Development Partner, the Government took up the responsibility of ensuring the projects are financed in order to facilitate their completion for use by the public.

2447) In subsequent financial year 2019/20 however, the Authority reduced the pending bills to Kshs1,693,303,263 with the balance settled in FY 2020/21. Due to ongoing nature of the projects however, the projects generated additional bills amounting to Kshs.2,156,451,703 as at close of FY 2020/21 which have been planned for settlement in the current financial year upon receipt of exchequer financing.

2448) **Committee observations and findings**

i. The Committee observed that the pending bills were occasioned as result of low budgetary allocation to the project; and
ii. The matter remained unresolved.

2449) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2450) **Conclusion**

641. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2451) **Conclusion**

642. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REGIONAL ROADS COMPONENT (MERILLE-MARSABIT ROAD) (KE/001/09) PROJECT LOAN AGREEMENT NO. KE/FED/2009/021-655 – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2452) **Unqualified Opinion**

643. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

644. Pending Bills

2453) Note 9.1 to the financial statements reflects pending bills amounting to Kshs.403,057,264 as at 30 June, 2019. Although Management has committed to liaising with the line Ministry and The National Treasury for adequate budgetary allocation and timely exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer.

2454) The Accounting Officer submitted that the project had pending bills amounting to Kshs.403,057,264 as at 30 June 2019 which arose due to inadequate budgetary provisions.

We however wish to confirm that the Authority settled an amount of Kshs.261,490,503 in FY 2020/21 and the balance has been cleared in FY 2021/22.

2455) **Committee Observations and Findings**

i. The Committee observed that the pending bills have since been settled; and
ii. The Committee marked the matter as resolved.

2456) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2457) **Conclusion**

645. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2458) **Conclusion**

646. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NAIROBI MISSING LINK ROADS AND NON-MOTORISED TRANSPORT FACILITIES (GRANT NO. KE/FED/022-951)– KENYA URBAN ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2459) **Unqualified Opinion**

647. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

648. Pending Bills

2460) Notes 9.1 to the financial statements reflects pending accounts payable totalling Kshs.424,116,845 as at 30 June, 2019. Management has not provided reasons for non-payment of the bills even though the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2461) The Accounting Officer submitted that the Pending bills under the project have been caused by limited budgetary allocation due to overall budget ceiling. Also budget cuts in the previous financial years caused carryover of pending bills. Part of the pending bills amounting to Kshs.288 Million have since been settled and management anticipates to settle the balance within Financial Year 2019/2020.

2462) **Committee Observations and Findings**

(i) The Committee observed that the pending bills amounting to Kshs.288 Million have since been settled and the balance is anticipated to be settled in the subsequent financial year; and

(ii) The matter remained unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2463) **Conclusion**

649. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2464) **Conclusion**

650. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA NAIROBI SOUTHERN BYPASS PROJECT LOAN NO. CHINA EXIM BANK PBC NO. (2011) 32 TOTAL NO. (183) NO. (1420303052011211528) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2465) **Unqualified Opinion**

651. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

652. Pending Bills

2466) Note 9 to the financial statements reflects pending bills amounting to Kshs.3,126,057,307 as at 30 June, 2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2467) The Accounting Officer submitted that the project had outstanding bills amounting to Kshs.3,126,057,307 as at 30 June 2019 which arose from insufficient GoK budgetary allocations. In FY 2019/20 however, the Authority settled an amount of Kshs.308,259,741 and the balance is anticipated to be settled upon receipt of exchequer financing. However, it's worth noting that the pending bill includes an amount of Kshs.2.474bn relating to land compensation to Kenya Wildlife Services. There are however envisioned inter-ministerial discussions on how this amount can be waived since both are government entities.

2468) **Committee Observations and Findings**

i. The Committee observed that part of the pending bills have since been settled and an outstanding balance amounting to Kshs.2.474bn is yet to be settled ; and
ii. The Committee marked the matter as resolved.

2469) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2470) **Conclusion**

653. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2471) **Conclusion**

654. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA NAIROBI-THIKA HIGHWAY IMPROVEMENT PROJECT (LOT 3) GOVERNMENT CONCESSIONAL LOAN AGREEMENT NO.(2009) 39 TOTAL NO.(290)– KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2472) **Unqualified Opinion**

655. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

656. Pending Bills

2473) Note 9 to the financial statements reflects pending bills amounting to Kshs.230,252,472 as at 30 June, 2019. Although Management has committed to liaising with the line Ministry and The National Treasury for adequate budgetary allocation and timely exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2474) The Accounting Officer submitted that the pending bills arose as a result of inadequate budgetary allocations. We however wish to confirm that the bill has been fully settled in FY 2020/21 and FY 2021/22.

2475) **Committee Observations and Findings**

i. The Committee observed that the pending bills have since been settled; and
ii. The Committee marked the matter as resolved.

2476) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2477) **Conclusion**

657. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2478) **Conclusion**

658. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT IDA CREDIT NO.5140-KE– KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2479) **Unqualified Opinion**

659. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

660. Pending Bills

2480) The statement of financial assets and liabilities as at 30 June, 2019 reflects cash and cash equivalents balance totaling Kshs.7,728,397 while Note 9.1 to the financial statements discloses pending bills totaling Kshs.847,640,836; (2018-Kshs.839,334,672) owed by the Project as of that date. The Project's duration ended on 31 December, 2018. Although Management has explained that the Authority has requested The National Treasury to allocate funds to pay the pending bills, no evidence has been presented to show if funds have been allocated in the 2019/2020 financial year budget. The bills are therefore likely to remain unpaid.

Submission by the Accounting Officer

2481) The Accounting Officer submitted that the pending bills resulted from insufficient budgetary allocation as well as lapse of development partner financing. In FY 2019/2020 however, the Authority through the Line Ministry and National Treasury secured a budgetary allocation of Kshs.12,869,214,643 which was able to reduce the pending bills to Kshs.359,885,751. We however wish to note that the project is ongoing and has therefore generated additional bills which stood at Kshs.4,542,434,807 as at 30 June 2021. The current year's budgetary allocation of Kshs.2,050,000,000 will be utilized to part settle the pending bills while the Authority continues to liaise with the Ministry and the National Treasury towards securing additional budgetary allocations.

2482) My opinion is not qualified with respect to this matter.

2483) **Committee observations and findings**

i. The Committee observed that the pending bills were occasioned as result of low budgetary allocation to the project; and

ii. The matter remained unresolved.

2484) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2485) **Conclusion**

661. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2486) **Conclusion**

662. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT NO. IDA 5140-KE – KENYA URBAN ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2487) **Unqualified Opinion**

663. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

664. Pending Bills

2488) Note 9.1 to the financial statements reflects pending bills amounting to Kshs.600,233,589 as at 30 June, 2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation, timely exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2489) The Accounting Officer submitted that the project was financed through The National Urban Transport Improvement Project (NuTRIP) with a funding arrangement of 80% and 20% for the Development partner (World Bank – IDA) and Government of Kenya (GoK) respectively.

2490) The NuTRIP credit facility was cancelled in December, 2018 consequently reverting full financing of the project through GoK counterpart.

2491) The reported pending bills include those which were due for payment by the development partner and also those of GoK funds. The development partner financing was cancelled mid-financial year and consequently the approved GoK counterpart budget in FY 2018-2019 was not sufficient to cater for the increased funding requirements on part of GoK.

2492) **Committee Observations and Findings**

i. The Committee observed that the pending bills remains outstanding to date; and
ii. The Committee marked the matter as resolved.

2493) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2494) **Conclusion**

665. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2495) **Conclusion**

666. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NORTHERN CORRIDOR TRANSPORT IMPROVEMENT PROJECT IDA CREDIT NO.3930-KE AND NO.4571-KE – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2496) **Unqualified Opinion**

667. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

668. Pending Bills

2497) Note 9 to the financial statements reflects pending accounts payable totalling Kshs.702,771,811 as at 30 June, 2019. Management has not provided reasons for non-payment of the bills even though the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2498) The Accounting Officer submitted that as explained during the audit these bills relate to individual projects under the Northern Corridor Transport Improvement Project that had attained their budgetary allocations for the year 2018/2019, hence remained as pending to be settled in subsequent financial years. It is however important to note that as at close of FY 2020/21, the outstanding bills had been reduced to Kshs.7,902,558 which is anticipated to be cleared in the current financial year.

2499) **Committee Observations and Findings**

i. The Committee observed that part of the pending bills has since been settled and the balance of Kshs.7,902,558 is anticipated to be settled in the subsequent financial year; and

ii. The matter remained unresolved.

2500) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

669. Budget Control and Performance

2501) The statement of comparative budget and actual amounts reflects total receipts of Kshs.425,918,337 against estimated receipts of Kshs.139,276,985 resulting into excess receipts of Kshs.286,641,352 or 304%. Similarly, the statement reflects actual expenditure totalling Kshs.423,895,396 against estimated expenditure of Kshs.139,276,985 resulting into an over-expenditure of Kshs.284,618,411 or 304% which mainly occurred under acquisition of non-financial assets. The over-expenditure was attributed to late processing of the 2nd Supplementary Budget for the year 2017/2018 whose Exchequer releases were received and paid in 2018/2019.

Submission by the Accounting Officer

2502) The Accounting Officer submitted that the situation which resulted from the late processing of FY 2017/18 exchequer hence the exchequer release was received and expended by the Authority in FY 2018/19. This treatment is in line with the IPSAS cash accounting treatment.

2503) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to Budget Control and Performance was persuasive; and

ii. The Committee marked the matter as resolved.

2504) **Committee Recommendations**

Accounting Officers must at all times ensure that they prepare annual cash flow which shall be broken down into a three months rolling basis and shall be adjusted to reflect any implementation realities in consultation with the National Treasury pursuant to the provisions of regulation 44 (3) of the Public Finance Management (National Government) Regulations, 2015.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2505) **Conclusion**

670. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2506) **Conclusion**

671. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REGIONAL MOMBASA PORT ACCESS ROAD PROJECT (LOAN NO. 27459, FI NO. 84010 AND GRANT NO. 202061919) – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2507) **Unqualified Opinion**

672. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2508) **Conclusion**

673. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2509) **Conclusion**

674. There were no material issues relating to effectiveness of internal controls, risk management and governance.

UPGRADING OF "GILGIL MACHINERY" ROAD PROJECT– KENYA RURAL ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2510) **Unqualified Opinion**

675. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

676. Pending Bills

2511) Annex 2A to the financial statements reflects pending accounts payable totaling Kshs.44,316,541 as at 30 June, 2019. Management has not provided reasons for non-payment of the bills even though the Project is at risk of incurring significant interest costs and penalties, with the continued delay in making payments.

Submission by the Accounting Officer

2512) The Accounting Officer submitted that the pending bill was for the donor portion of IPC no. 1 (Advance Payment) which could not be settled due to inadequate budgetary provision in FY 2018/2019. However, it was fully settled in FY 2019/2020.

2513) **Committee Observations and Findings**

i. The Committee observed that the pending bills have since been settled; and
ii. The Committee marked the matter as resolved.

2514) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2515) **Conclusion**

677. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2516) **Conclusion**

678. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DUALLING OF NAIROBI - DAGORETTI CORNER ROAD C60/C61 (PHASE 2)-PROJECT-JICA GRANT NO. 1760220– KENYA URBAN ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2517) **Unqualified Opinion**

679. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2518) **Conclusion**

680. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2519) **Conclusion**

681. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA NAIROBI WESTERN BYPASS PROJECT CREDIT NO. CHINA EXIM BANK GCL NO. (2017) 28 TOTAL NO. (633)– KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2520) **Unqualified Opinion**

682. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2521) **Conclusion**

683. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2522) **Conclusion**

684. There were no material issues relating to effectiveness of internal controls, risk management and governance.

ARUSHA-NAMANGA-ATHI RIVER ROAD DEVELOPMENT PROJECT NO. P-Z1-DB0-040– KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2523) **Unqualified Opinion**

685. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

686. Pending Bills

2524) Note 9 to the financial statements reflects pending bills amounting to Kshs.83,809,765 as at 30 June,2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2525) The Accounting Officer submitted that the project had pending bills amounting to Kshs.83,809,765 as at 30 June 2019 which arose after exhaustion of development partner financing, hence the GoK took up the responsibility of ensuring adequate financing to the project in order to ensure delivery to the public. The Authority subsequently made payments amounting to Kshs.464,810 in FY 2019/20 with the balance of Kshs.83,344,955 not adequately supported for payment. The Authority is duty bound to ensure that all claims made for payment are fully supported and meet all the necessary requirements to facilitate payments. The supporting documents were not availed by the contractor hence the claim remained outstanding as at close of the financial year.

2526) Further, the bills do not attract interest on delayed payments until they are duly supported to enable settlement, hence such will not lead to any escalation of project costs. Any further delay in proper documentation of the claim will lead to a write back which will extinguish any liability thereon.

2527) **Committee Observations and Findings**

i. The Committee observed that the pending bills were as a result of the contractor failing to avail supporting documents to support payments; and
ii. The matter remained unresolved.

2528) **Committee Recommendations**

The Accounting Officer should ensure that contractors and other service providers avail proper supporting documents to enable processing of payments in good time to avoid pending bills.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2529) **Conclusion**

687. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

688. Budget Control and Performance

2530) The statement of comparison of budget and actual amounts for the year ended 30 June, 2019 reflects actual receipts totalling Kshs.152,982,733 against an approved budget of Kshs.56,050,000 hence an over-collection of Kshs.96,932,733 or 273% of the total budget. Further, actual expenditure for the year amounted to Kshs.158,175,831 against a budget of Kshs.56,050,000 resulting in an under expenditure of Kshs.102,125,831 or 282% of the total budget. The over-expenditure occurred mainly under acquisition of non-financial assets. The over-collection and under-expenditure are attributed to carryover funds allocated towards settlement of development pending bills.

Submission by the Accounting Officer

2531) The Accounting Officer submitted that issue arose from the late processing of FY 2017/18 exchequer hence the exchequer release was received and expended by the Authority in FY 2018/19. This treatment is in line with the IPSAS cash accounting treatment.

2532) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to Budget Control and Performance was persuasive; and
ii. The Committee marked the matter as resolved.

2533) **Committee Recommendations**

Accounting Officers must at all times ensure that they prepare annual cash flow which shall be broken down into a three months rolling basis and shall be adjusted to reflect any implementation realities in consultation with the National Treasury pursuant to the provisions of regulation 44 (3) of the Public Finance Management (National Government) Regulations, 2015.

EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT IDA CREDIT NO.5638-KE – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2534) **Unqualified Opinion**

689. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

690. Pending Bills

2535) Note 9.1 to the financial statements reflects pending bills amounting to Kshs.3,052,886,730 as at 30 June, 2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2536) The Accounting Officer submitted that the pending bills arose from insufficient GoK budgetary allocations. We however wish to note that this is an ongoing project hence has continuously been generating additional bills. As at 30 June 2021 however, the pending bills had reduced to Kshs.1,540,700,413 which will be partly paid using the current GoK budget allocation of Kshs.280,000,000 while the Authority continues to engage the parent ministry and the National Treasury towards securing additional budgetary allocations.

2537) **Committee observations and findings**

i. The Committee observed that the pending bills were occasioned as result of low budgetary allocation to the project; and

ii. The matter remained unresolved.

2538) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2539) **Conclusion**

691. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2540) **Conclusion**

692. There were no material issues relating to effectiveness of internal controls, risk management and governance.

19. STATE DEPARTMENT OF TRANSPORT

REPORT ON THE FINANCIAL STATEMENTS – VOTE 1092

Mr. Solomon Kitungu, the Principal Secretary and Accounting Officer for State Department for Transport (Vote 1092) appeared before the Committee 15th July, 2021 to adduce evidence on the audited financial statement for the State Department of Transport (Vote 1092) for the Financial Year 2018/2019. He was accompanied by the following officers:

1.	Ms. Priscila Karanja	–	Head of accounting unit.
2.	Ms. Esther Gachange	–	Principal economist.
3.	Mr. Nahum Nyawara	–	Principal finance officer.

And submitted as follows

697. Pending Bills

2541) Note 15 to the financial statements reflects pending bills balance of Kshs.13,694,139; (2018-Kshs.95,458,484). Had the bills been settled, the reported surplus of Kshs.805,795 would have reduced to a deficit of Kshs.12,888,344. Failure to settle bills in the year for which they relate will adversely affect the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge to that year's budget provision.

Submission by the Accounting Officers

2542) The Accounting Officer submitted that it was true that Note 15 to the Final Statement reflects pending Bills balance of Kshs.13,694,139 (2018- Kshs.95,458,484). These bills were settled in the subsequent Financial Year 2019/2020 as they formed a first charge on the budget.

2543) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to pending bills was satisfactory; and

(ii) The Committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2544) **Conclusion**

698. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2545) **Conclusion**

699. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECTS

NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT CREDIT NO. 5140-KE (MOT COMPONENT)

REPORT ON THE FINANCIAL STATEMENTS

2546) **Unqualified Opinion**

700. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

701. Under Absorption of Project Funds

2547) Out of the total commitment of Kshs.1,152,400,000 from International Development Association (IDA), the Project had withdrawn Kshs.935,649,481 or 81% as at 30 June, 2019. Similarly, out of the total commitment from GoK counterpart funding of Kshs.347,600,000, the Project had received only Kshs.97,686,797 or 28%. In view of the funding deficit and with the Project period having lapsed on 31 December, 2018, the strategic goals of the Project may not be fully achieved.

Submission by the Accounting Officers

2548) The Accounting Officer submitted that it was true that out of the total commitment of Kshs.1,152,400,000 from International Development Association (IDA), the Project had withdrawn Kshs.935,649,481 or 81% as at 30 June, 2019. Similarly, out of the total commitment from GoK counterpart funding of Kshs.347,600,000, the Project had received only Kshs.97,686,797 or 28%.

2549) It was also true that the strategic goals of the project may not have been fully achieved then. The Project was unexpectedly terminated in December 2018 at the request of the Government vide letter Ref. No EA/FA/62/240/75 (64) dated 21st December 2018. The reason given, among others, was poor performance of the project.

2550) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to pending bills was satisfactory; and
(ii) **The Committee marked the matter as resolved.**

702. Procurement of Services

2551) The Project procured conference facilities at a cost of Kshs.1,800,000 through the request for quotations method of procurement. Although the request was sent to three bidders, only one bidder responded. The single quotation was evaluated and the bidder consequently awarded the contract contrary to Section 106 (2) (d) of Public Procurement and Asset Disposal Act, 2015 which provides that at least three persons shall submit their quotations prior to evaluation and Section III of the Financing Agreement that requires competitive bidding. In addition, no evidence was provided on the procurement procedure followed to identify the resource persons who facilitated the training and who were paid Kshs.1,353,000.

2552) Under the circumstances, the regularity and value for money on the expenditure totaling Kshs.3,153,000 could not be confirmed.

Submission by the Accounting Officers

2553) The Accounting Officer submitted that this activity was organized under the State Department of Housing on behalf of Nairobi Metropolitan Area Transport Authority (NaMATA). NaMATA was one of the beneficiary institutions of the project under the State Department of Transport component. The objective of the workshop was to build capacity and create awareness for the stakeholders in the PSV industry on the establishment and the role of NaMATA.

2554) It was true that the project procured conference facilities at a cost of Kshs.1,800,000 through the request for quotations method of procurement. Three bidders were invited to participate in the bidding process and all of them responded. Two indicated that they were fully booked. The Leopard Beach Resort South was recommended and given the go ahead to offer the Conference Facility. World Bank gave no objection of the same vide Letter dated 24th October 2018.

2555) The State Department for Housing and Urban Development initiated and finalized the procurement process, paid the bills and sought reimbursement from the State Department for Transport. Kenya Bus Rapid Transport (BRT) stakeholder workshop was to be facilitated by experts specialized in the area of transport who had carried out such training before.

2556) The resource persons were identified through a proposal submitted by Africa Rapid Transit Systems. The request for submission was done vide letter referenced MTIHUD/HUD/ADM/1/1/1200 of 17th October, 2018. Submission by the Accounting

Officer indicating the areas to be covered was submitted vide letter dated 24th October 2018.

2557) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to Procurement of Services was satisfactory; and

ii. The Committee marked the matter as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2558) **Conclusion**

703. There were no material issues relating to effectiveness of internal controls, risk management and governance.

EAST AFRICA TRADE AND TRANSPORT FACILITATION PROJECT IDA CREDIT NO. 4148 KE-(MOT COMPONENT)

REPORT ON THE FINANCIAL STATEMENTS

2559) **Unqualified Opinion**

704. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

705. Construction of Transport Data Centre

2560) The State Department of Transport entered into an agreement with a local firm on 30 September, 2014 for supply, installation, testing, commissioning of a Transport Data Centre, networking, software and hardware at a cost of Kshs.130,739,261. The State Department of Transport further entered into another agreement with a local university firm for consultancy services for the establishment of the Transport Data Repository Centre Resolution at a contract sum of Kshs.22,390,000. The consultancy services included; designing of the Transport Data Repository Centre system; preparation of bid documents for supply and installation; supervision and capacity building of staff to man the data center. The consultancy agreement dated 4 July, 2012 was to run for a period of sixty-four (64) weeks with effect from the commencement/agreement date ending on 25 September, 2013.

2561) A review of the Project in 2018/2019 financial year revealed that the contract agreement had expired. Further, the contractor had not completed the project to warrant the issuance of completion certificate and official hand over of the project. The contractor had been paid

Kshs.120,252,245 (92% of the contract sum) while the consultant had been paid Kshs.16,792,500 (75% of the contract sum). In addition, the project had pending bills from the Transport Data Centre contract and the same had not been disclosed in the financial statements. The Project did not, therefore, recognize or disclose its liabilities/pending bills in full.

2562) Under the circumstances, it was not possible to ascertain whether the State Department of Transport obtained value for the total amount of Kshs.137,044.745 paid to the contractor and the consultant.

Submission by the Accounting Officers

2563) The Accounting Officer submitted that with regard to the Status on Transport Data Centre, it was true the Data Centre stalled in 2016 upon expiry of the World Bank Donor Credit and that the GoK was to finance completion of the project.

2564) It was also true that the project was not fully completed. It was 95% completed. Last Financial Year (2020/2021, the State Department for ICT was invited to evaluate the equipment in the data centre. Following the evaluation, they recommended replacement of one server, training of technical staff and renewal of licenses. From the evaluation, it was also clear that the data centre has significant capacity that can be used by a number of Ministries and State Departments in addition to the one earlier proposed for it. There is also room for expansion to cater for additional functions.

2565) Following the advice by the ICT State Department, agreement has been reached with the contractor and consultant to complete the project upon payment of Ksh.15 million (total) to the contractor and the consultant. This will enable the contractor to replace one of the servers and to procure current licenses and undertake technical training. In the financial year 2020/2021, an approval for a reallocation of Ksh.15 million was obtained from the National Treasury to meet this expenditure but the amount was not paid due to delay in exchequer release. The State Department for Transport is reorganizing its budget for the financial year 2021/2022 to meet the expenditure and to settle the other remaining amount. Letter of variations and brief on whether the variation was within 15% threshold required in law were availed for perusal by the Committee.

2566) **Committee Observations and Findings**

i. The Committee observed that the data center is at 95% completion; and,
ii. The Committee further observed that despite resources amounting to Kshs.137,044.745 being incurred by 2016, the public has not derived any value to date; and,
iii. In addition, the Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012.

2567) **Committee recommendations**

1) **The Committee severely reprimands the Accounting Officer for failure to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012; And**
2) **The Accounting Officer should within three (3) months of tabling and adoption of this report to Parliament on results of measures taken to ensure the data center is operational.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2568) **Conclusion**

706. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL ONTROLS, RISK MANAGEMENT AND GOVERNANCE

2569) **Conclusion**

707. There were no material issues relating to effectiveness of internal controls, risk management and governance.

EAST AFRICA TRADE AND TRANSPORT FACILITATION PROJECT (MOT/KRC COMPONENT) CREDIT NO.4148-KE AND 4977-KE

REPORT ON THE FINANCIAL STATEMENTS

2570) **Unqualified Opinion**

708. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

709. Undisclosed Value Added Tax (VAT) Pending Bills

2571) Note.8.8.1 of the financial statements reflects pending bills amounting to Kshs.97,782,181 as at 30 June, 2019. However, detailed analysis of the pending bills was not provided for audit review.

2572) Further, the project status report as at June, 2019 indicated that VAT amounting to Kshs.1,578,916,127 on the completed works remained unpaid. The State Department for Transport, in consultation with The National Treasury and KRA, had been advised to reconcile the outstanding VAT payments on the Project. Although Management has explained that some contractors had taken the issue of exemption or refund of the VAT component to the arbitration tribunal, the pending VAT payments are not recognized as pending bills nor a disclosure made in the financial statements.

Submission by the Accounting Officer

2573) The Accounting Officer submitted that the Pending Bill of Kshs.97,782,181 was an outstanding balance on certificate No. 26 payable to H. Young and company East Africa Ltd as per the attached document.

2574) It was true that disclosure on unpaid VAT of Kshs.1,578,916,127 had not been made in the Financial Statement as at 30th June 2019. However this was disclosed in the Financial Year 2019/2020 as a contingent Liability whose payment is subject to verification and certification by both Kenya Railway Corporation and Kenya Revenue Authority.

2575) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to Non-disclosure of pending bills was satisfactory; and
ii. The Committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2576) **Conclusion**

710. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2577) **Conclusion**

711. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA TRANSPORT SECTOR SUPPORT PROJECT CREDIT NO. 4926-KE AND NO. 5410-KE (MOTI COMPONENT)

REPORT ON THE FINANCIAL STATEMENTS

2578) **Unqualified Opinion**

712. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

713. Pending Bills

2579) Annex 2A to the financial statements reflects pending bills totaling Kshs.31,386,582 as at 30 June, 2019. Management has not provided reasons for non-payment of the bills even though the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer:-

2580) The Accounting Officer submitted that it was true that Annex 2A to the financial statements reflects pending bills totaling Kshs.31,386,582 as at 30 June, 2019. The bills were settled in the financial year 2019/2020 before the project was closed.

2581) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to pending bills was satisfactory; and

ii. The Committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

714. Budgetary Over-expenditure

2582) The statement of comparative budget and actual amounts reflects total receipts of Kshs.130,781,699 against estimated receipts of Kshs.144,358,330 resulting into excess receipts of Kshs.13,576,631 or 10%. Similarly, the statement reflects actual expenditure totaling Kshs.147,727720 against estimated expenditure of Kshs.130,781,699 resulting into an over-expenditure of Kshs.16,946,021 or 13% which occurred under purchase of goods and services. The legality of the unapproved over-expenditure of Kshs.16,946,021 could not be confirmed.

Submission by the Accounting Officer

2583) The Accounting Officer submitted that it was true that the financial statement reflects actual expenditure totaling Kshs.147,727,720 against estimated expenditure of Kshs.130,781,699 resulting into an over-expenditure of Kshs.16,946,021 or 13% which occurred under purchase of goods and services.

2584) This over expenditure was occasioned by a budget cut from Kshs.410,000,000 to the final approved budget of Kshs.120, 781,699.00. The budget cut was made after the expenditure had been incurred.

2585) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to Budgetary Over-expenditure was satisfactory; and
ii. The Committee marked the matter as resolved.

715. Ineligible Expenditure

2586) The Project Management procured various ICT equipment's at a total cost of Kshs.3,970,000. However, the total cost of the items procured exceeded the ceiling of Kshs.1,801,600 approved by the World Bank by an amount of Kshs.2,168,400. In the circumstance, the eligibility of the unapproved over-expenditure of Kshs.2,168,400 could not be confirmed.

Submission by the Accounting Officer

2587) The Accounting Officer submitted that it was true that the project expenditure on the ICT items procured by the project exceeded the estimated amount approved by the donor in the procurement plan. The procurement of the quantities procured was initiated on basis of the approved requisitions and procurement plan.

2588) Procurement through the World Bank funded projects is monitored through the STEP platform. At every stage of the procurement process, documents are uploaded on the platform to support the process. From the time of plan approval to the actual procurement, the market changed which led to price fluctuations thus the higher prices.

2589) At each stage of the procurement through STEP, the approvals in STEP represented approval of the actual market price.

2590) **Committee observations and findings**

i. The Committee observed the Accounting Officer incurred unapproved over-expenditure of Kshs.2,168,400.

ii. The Accounting Officer did not provide evidence to clearly demonstrate the price fluctuations by 120%.

2591) **Committee recommendations**

1) **The Committee reprimands the Accounting Officer for failure to seek approval on the expenditure amounting to Kshs. 2,168,400**
2) **Within three months of tabling and adoption of this report, the DCI should institute investigations on the legality of the expenditure.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2592) **Conclusion**

716. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NORTHERN CORRIDOR TRANSPORT IMPROVEMENT PROJECT CREDIT NO.3930-KE (MOT COMPONENT)

REPORT ON THE FINANCIAL STATEMENTS

2593) **Unqualified Opinion**

717. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

718. Project Closure

2594) A review of the Project Funding Summary indicates that the Project was to run for a period of eleven (11) years from 2004 to 2015. Management has however, not availed for audit review, documentary evidence to show that the closure process has been initiated and whether the bank balance of Kshs.18,335,645 as at 30 June, 2019 has been refunded to The National Treasury.

Submission by the Accounting Officer

2595) The Accounting Officer submitted that it was true that the Funding Summary indicated that the project was run for a period of eleven (11) years from 2004 to 2015. As evidenced by the bank certificates herein attached, the Bank Account has been closed and the balances transferred to the National Treasury.

2596) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to Project Closure was satisfactory; and
ii. The Committee therefore marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2597) **Conclusion**

719. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2598) **Conclusion**

720. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR TRANSPORT

NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT CREDIT NO. IDA 5140-KE (KRC COMPONENT)– KENYA RAILWAYS CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

2599) **Unqualified Opinion**

721. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

722. Pending Bills

2600) Note 9.1 to the financial statements reflects pending bills amounting to Kshs.48,976,777 as at 30 June, 2019. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2601) The Accounting Officer submitted that it was true that the pending bills were as a result of cost incurred on capacity building, Nairobi Commuter Master plan development and consultancy services. These pending bills were settled in the subsequent years in FY2019/20 and FY 2020/21 and currently the balance is Ksh.3,900,000.00 as at 30th June 2021. This balance is planned for payment in FY 2021/22. We confirm that the project did not incur additional interest cost or penalty due to delay in payments.

2602) The table below shows the makeup of the pending bills and their settlement:

Pending bills as at 30th June 2021

Supplier of Goods or Services	Date Contracted	Outstanding Balance
1. Land use Management Training	14-06-18	3,820,893.00
2. Senior Project Management Training	12-06-18	3,460,938.00
3. FIDIC Contract Management Training	21-05-18	4,143,770.00
4. Management Development For Executive Assistants	11-04-18	673,278.00
5. Team Leader Consultancy Fee	01-12-18	10,518,964.00
6. Consultancy Fee – Commuter Rail Master plan	11-09-18	26,358,934.00
Pending Bills as at 30th June 2019		**48,976,777.00**
7. Consultancy Fee – Commuter Rail Master plan	11-09-18	146,735,494.00
Settlement of Pending Bills - GOK Funding		(87,000,000.00)
Settlement of Pending Bills - KR Internal Funds		(41,054,920.00)
Pending Bills as at 30th June 2020		**67,657,351.00**
Settlement of Pending Bills - KR Internal Funds		(63,757,351.00)
Pending Bills as at 30th June 2021		**3,900,000.00**

2603) **Committee Observations and Findings**

The committee observed the Accounting Officer had made effort to settle the pending bills.

2604) **Committee recommendations**

Within three months of tabling and adoption of this report, the Accounting Officer to ensure the outstanding balance of Kshs. 3,900,000 is settled.

723. Low Absorption of Project Funds

2605) Note 1.7 on the funding summary indicates that the Project was to be implemented within a duration of six (6) years from 2012 to 2018, with a total expected credit of Kshs.1,071,552,600 equivalent to US$11,930,000. However, only Kshs.117,813,333 or

11% of the total expected credit had been received from the Donor as at 30 June, 2019, leaving a balance of Kshs.953,739,267 or 89% undrawn. No explanation has been provided for the anomaly even though the Project is unlikely to complete its activities and attain its objectives and expected outcomes.

Submission by the Accounting Officer

2606) The Accounting Officer submitted as follows:

- The NUTRIP KRC component was majorly comprised of consultancy work/studies on the Nairobi and Mombasa Commuter Master Plan and procurement of a track recording car which were still ongoing by the time of the project closure. It was expected that the project will be extended owing to the fact that the KRC components took more time to start than envisaged.
- The tendering for the Track Recording Car which commenced in October 2015 took longer than expected, it was challenged at the Public Procurement and Review Board (PPRB) and intention to award had to be reviewed. The track recording car was to absorb over 50% of the budget amount – Ksh.500 Million.

Chronology of events on procurement of Track Recording Car

Date	Event
October 2015	Procurement of Track Recording Car commenced
February 2016	Evaluation of tender completed
December 2016	Tender terminated by KRC
August 2017	Re-tender of Procurement of Track Recording Car
November 2017	Evaluation of the tender completed
January 2018	Notification to enter into contract issued
January 2018	Suspension of procurement proceedings from Notification from PPARD
August 2018	Lifting of suspension of procurement proceedings
August 2018	Notification to enter into contract re-issued
December 2018	KRC entered into contract for Track Recording Car

- Due to budgetary challenges experienced in the financial year 2018/19 amounts in the Designated Account could not be drawn thereby leading to amounts being held till the closure of the credit for KRC NUTRIP.

2607) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to low absorption of project funds was satisfactory; and
ii. The Committee however expresses displeasure on the Accounting Officer failing to take measures to ensure activities identified as important were not carried out impacting on service delivery despite availability of funds.

iii. The Accounting Officer entered into contract at the tail end of the project period leaving the contract unfinanced risking interest and penalties.

2608) **Committee recommendations**

1) **The Accounting Officer to ensure that proper measures are taken to ensure challenges to project implementation are addressed in time and activities carried to ensure service delivery is not compromised.**
2) **Within three (3) months of tabling and adoption of this report, the Accounting Officer to provide information to Parliament on how the contract entered at the tail end of the project in December 2018 will be financed to avoid future penalties and interest by public.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2609) **Conclusion**

724. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2610) **Conclusion**

725. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA AVIATION MODERNIZATION PROJECT (PREPARATION ADVANCE NO.V0440) - KENYA AIRPORTS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2611) **Unqualified Opinion**

726. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

727. Consulting Services for the Rehabilitation of Existing Passenger Terminal Facilities at Jomo Kenyatta International Airport (JKIA)

2612) The contract for consulting services for provision of preliminary and detailed design for the rehabilitation of existing passenger terminal facilities at JKIA was awarded on 19 April, 2017 at a sum of Kshs.454,337,996 (USD 4,498,396). However, examination of the records availed for audit review, revealed the following unsatisfactory issues:

727.1 Outstanding Claim

2613) An outstanding claim by the consultant but disputed by Management as at 30 June, 2019 amounted to Kshs.79,799,191 (USD 790,091). Management has indicated the claim as disputed, having been disapproved by the Project steering committee. However, there is no evidence of this having been communicated to the consultant or subsequent concurrence by the consultant. Consequently, the project is faced with penalties or legal action with the continued delay in settling the account.

Submission by the Accounting Officer

2614) The Accounting Officer submitted that the Communication regarding Management decision on outstanding claim of USD 790,091 was communicated to the Consultant vide our letter Ref: KAA/ES/JKIA/824/CON/B OL.III(73) dated 24th March 2020. Copy of the letter was availed for perusal.

2615) The Consultant confirmed receipt of our letter vides their letter Ref: PR-ADP-ALAL-LET – 0046 dated 1st April 2020 and noted the claims were disapproved. No other request on the claim has been received since then.

2616) **Committee Observations and Findings**
The committee observed the Accounting Officer communicated to the consultant the dispute in regard to outstanding claim.

2617) **Committee recommendations**
Within three months of tabling and adoption of this report, the Accounting Officer ensure the dispute is resolved with the consultant to protect the public from future escalated claims with heavy penalties and interest and report the outcome to National Assembly.

727.2 Incomplete Works

2618) The works were certified complete vide completion certificate dated 12 July, 2019. However, information available indicates that design works relating to new baggage reconciliation system and virtual reality valued at Kshs.1,363,500 and Kshs.9,898,000 respectively, were incomplete. Although Management has explained that the incomplete works were not in the original scope of works but incremental proposals, to add value to the designs, failure to include the works in the contract led to the delay in obtaining a No Objection letter from the World Bank. As a result, Management resolved to put on hold the incremental proposals with an intention to procure under a separate contract in future.

2619) In the circumstances, the value for money in implementation of the Project could not be confirmed.

Submission by the Accounting Officer

2620) The Accounting Officer submitted that it was true that the two items on Baggage Reconciliation System and Virtual Reality valued at USD 13,500 and USD 98,000 respectively were not in the original scope but additional proposals to add value to the designs. However the World Bank delayed in granting a No-objection to these additional items, therefore affecting completion of the contract. There were several extensions of time awaiting clearance by World Bank; first to 10th June 2018, then to 31st December 2018. Consequently to avoid further costly delays to the project the Management decided to proceed and close the project without the two additional items with the intention to have them procured under separate contracts in future.

2621) The work was therefore completed according to the scope and specifications in the Contract.

2622) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to incomplete works was satisfactory; and
ii. The Committee therefore marked the matter as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2623) **Conclusion**

728. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA TRANSPORT SECTOR SUPPORT PROJECT (IDA CREDIT NO. 4926-KE AND 5410-KE) - KENYA CIVIL AVIATION AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

2624) **Unqualified Opinion**

729. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2625) **Conclusion**

730. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2626) **Conclusion**

731. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA TRANSPORT SECTOR SUPPORT PROJECT (CREDIT NO. 4926-KE AND NO. 5410-KE) - KENYA AIRPORTS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

732. Unreconciled Special Account Statement

2627) The statement of receipts and payments for the year under review reflects grants and loans from development partners of Kshs.190,728,000 and Kshs.27,248,000 respectively as also disclosed under Notes 2A and 2B to the financial statements. However, the Special Account Statement (Part A) prepared by the Central Bank of Kenya reflects nil disbursements from the special account during the year. Management has not reconciled the variance of Kshs.217,976,000 between the two sets of records. Consequently, the accuracy and completeness of the reported balances for grants and loans from development partners of Kshs.190,728,000 and Kshs.27,248,000 respectively cannot be confirmed.

Submission by the Accounting Officer

2628) The Accounting Officer submitted that the It is true that the special account statement reflected that no money was withdrawn from special account to project account. This is so because all the three tranches of reimbursement we received one was to the project account and the remaining two were to Authority's bank accounts. They did not come through the exchequer.

2629) The amounts received during the year under review was as per the table below: the said amounts were received through reimbursement to project account and the Authority's Bank accounts and not special accounts.

CREDIT NO	REF.	AMOUNT IN US$	AMOUNTIN KSHS
54100	KAA 63	260,931	20,897,600
54100	KAA 65	1,671,535	169,830,774
49260	KAA 66	272,477	27,247,728
TOTAL		**2,150,943**	**217,976,102**

2630) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to unreconciled special account was satisfactory; and
ii. The reconciliation was not availed at the time of audit contrary to Section 9 (1) (e) of the Public Audit Act, 2015 which constitutes dereliction of duty.

2631) **Committee recommendations**

The Accounting Officer to ensure that reconciliations are done in time and submitted to the Auditor General in time as provided Regulation 90 of the Public Finance Management (National Government) Regulations, 2015 and availed at the time of audit in accordance to Section 9 (1) (e) of the Public Audit Act, 2015.

Other Matter

733. Pending Bills

2632) Annex 2A to the financial statements reflects pending bills totalling Kshs.9,123,079 as at 30 June, 2019. Management has not provided reasons for non-payment of the bills even though the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

2633) The Accounting Officer submitted that the pending bills relates to the various training of the employees which were paid using the Authority's funds and had not been refunded at the end of the financial year under review. The same was reimbursed in the subsequent year and copies availed for perusal.

2634) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to pending bills was satisfactory; and

ii. **The Committee therefore marked the matter as resolved**

734. Low Absorption of Project Funds

2635) Note 1.7 on the funding summary indicates that the Project was to be implemented within a duration of eight (8) years from 2011 to 2018, with a total expected credit of Kshs.10,038,000,000 equivalent to US$110,000,000. However, only Kshs.5,395,000,000 or 54% of the total expected credit had been received as at 30 June, 2019, leaving a balance of Kshs.4,643,000,000 or 46% undrawn. Although, a one (1) year extension period to December, 2019 was granted, the Project is unlikely to complete its activities and attain its objectives and expected outcomes.

Submission by the Accounting Officer

2636) The Accounting Officer submitted that the World Bank approved the Original Credit for the Kenya Transport Sector Support Project (KTSSP) in 2011 with an allocation of USD 15.04 Million for five (5) activities namely: Electrical Supply and Distribution System Upgrade at Moi International Airport Mombasa (Works), three (3) consultancies and Training.

2637) The component of Electrical Supply and Distribution System Upgrade at Moi International Airport Mombasa which was over 50% of the entire credit did not proceed. The floated tender was non responsive and therefore the amount of USD 6.56 Million was undisbursed.

2638) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to low absorption of project funds was satisfactory; and
ii. The Committee however expresses displeasure on the Accounting Officer failing to take measures to ensure activities identified as important were not carried out impacting on service delivery despite availability of funds.

2639) **Committee recommendations–**

1) **The Accounting Officer to ensure that proper measures are taken to ensure challenges to project implementation are addressed in time and activities carried to ensure service delivery is not compromised.**
2) **Within three (3) months of tabling and adoption of this report, the Accounting Officer to provide information to Parliament on how the component not implemented (of Electrical Supply and Distribution System Upgrade at Moi International Airport Mombasa which was over 50% of the entire credit) will be addressed since the project period has expired.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

735. Procurement of Fire Fighting Equipment

2640) A contract for the supply of firefighting equipment was awarded to an international firm in January, 2018 at a contract sum of Kshs.209,000,000 through direct procurement. However, the specifications of the equipment to be supplied were varied on 13 October, 2018 - nine (9) months into the contract – contrary to Section 139(4) of Public Procurement and Asset Disposal Act, 2015 which provides that a variation of a contract should only be considered after twelve (12) months from the date of signing the contract and only if specified conditions are met. Under the circumstances, it was not possible to confirm whether public resources were applied in an effective and lawful way.

Submission by the Accounting Officer

2641) The Accounting Officer submitted that the procurement of the two fire tenders was done under the World Bank guidelines of January 2011, revised in July 2014 – justification for direct procurement.

2642) The Authority used the World Bank tender document and thus, the project was procured under the purview of World Bank Regulations. The World Bank gave a No-objection to procure the two fire engines through direct procurement. The supplier of the two fire trucks was previously procured under a competitive World Bank process. The contract sum was based on a price market survey done by the evaluation committee on fire trucks with similar specification. The survey results were as follows:-

a. Marce Rhino 6 by 6 Kshs.108M DDP (South Africa)
b. Margerus Dragon 6 by 6 Kshs.124M DDP (Italy)
c. Kronenburg 6 by 6 640,000 Euros CIF MSA (Netherland)
d. BAI 6 by 6 740,000 Euros CIF (Italy)
e. GIMAEX 6 by 6 Ksh.104.5M.

2643) The variation process was governed by the World Bank regulations as per the tender document. The reason for variation and approval by the World Bank was detailed in Appendices V,VI,VII and VIII.

2644) The Authority received value for money for the procured two fire trucks as the proposed specifications were met and surpassed both ICAO and KAA requirements. There was no variation/increase in cost due to provision of a higher performance product.

2645) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to procurement of firefighting equipment was satisfactory; and

ii. **The Committee therefore marked the matter as resolved.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2646) **Conclusion**

736. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MULTINATIONAL LAKE VICTORIA MARITIME COMMUNICATIONS AND TRANSPORT PROJECT– KENYA MARITIME AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

737. Inaccuracies in the Statement of Receipts and Payments

2647) As disclosed under Note 8.8 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.8,679,671 in respect of purchase of goods and services. However, examination of supporting schedule revealed various discrepancies between the financial statements and schedule which has not be reconciled as detailed below:

No	Components	Financial Statements Amount (Kshs.)	Schedule Amount (Kshs.)	Variance (Kshs.)
1	Domestic travel and Subsistence	6,664,814	6,830,559	(165,745)
2	Foreign travel and subsistence	1,151,508	1,133,648	17,860
3	Training payments	556,500	614,800	(58,300)
4	Hospitality supplies And Services	298,559	275,400	23,159

2648) In the circumstances, the accuracy and completeness of the statement of receipts and payments for the year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

2649) The Accounting Officer submitted that the variance between the financial statement and the schedule was as a result of auto reconciliation, which were corrected in the subsequent annual report and financial statement, reconciled eventually as shown below:

Component	Financial Statement (RESTATED) Amount (KSHS.)	Schedule Amount(Kshs.)	variance
Domestic travel and subsistence	6,226,625	6,226,625	-
Foreign travel and substance	1,151,508	1,151,508	-
Training payments	556,500	556,500	-
Hospitality, supplies and services	298,559	298,559	-

2650) As evident in the financial year 2019/20 with restated position for the financial year 2018/19. As per the revised 2019/2020 Financial Statement.

2651) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to inaccuracies in statement of receipts and payments was satisfactory; and
ii. The reconciliation of variances was not availed at the time of audit contrary to Section 9 (1) (e) of the Public Audit Act, 2015 which constitutes dereliction of duty.

2652) **Committee recommendations**

The Accounting Officer to ensure that reconciliations of variances are done in time and submitted to the Auditor General in time at the time of audit in accordance to Section 9 (1) (e) of the Public Audit Act, 2015.

Other Matter

738. Budget Control and Performance

2653) The statement of comparative budget and actual amounts reflects on comparable basis an approved receipts budget and actual receipts of Kshs.160,000,000 and Kshs.22,093,000 resulting to under-collection of receipts of Kshs.137,0076,000 or 86.2% of the approved receipts. Similarly, the Project recorded actual expenditure of Kshs.8,680,000 against an approved budget of Kshs.160,000,000 resulting to under-utilization of Kshs.151,320,000 or 94.6% of the approved budget.

2654) Although Management has attributed the huge overall under-collection and under-absorption to delayed completion of project scoping exercise, the dismal performance is indicative of poor planning, ineffective Project's management and weak budget execution process.

Submission by the Accounting Officer

2655) The Accounting Officer submitted that the Project's Kshs.160 Million budget was mainly to undertake two activities namely:

i. Purchase of 5 Emergency Search and Rescue Boats at an estimated Cost of Kshs.100 Million; and

ii. Design, Supervision and Construction of 2 Search and Rescue Centres at an estimated cost of Kshs.60 Million;

2656) The implementation of the two activities were depended on completion of Project Scoping activity which was a regional activity being undertaken by Lake Victoria Basin Commission (LVBC).

2657) In their letter ref: PP/MLVMCT/13/20 dated 6th August 2020, copy of which was availed for perusal. LVBC invited partner States to nominate technical officers to undertake technical evaluation of tender for consultancy services for Project Scoping, Detailed Designs and Technical Specification. After the technical evaluation was undertaken between 28th and 30th September 2020, the procurement process was put on hold pending the conclusion of Mid-Term Review which was ongoing at that time. By the time the financial year was ending on 30th June 2021, the mid-term review had not yet concluded.

2658) The foregoing explains why the delayed conclusion of the delayed project scoping exercise affected absorption of the Project's budget.

2659) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to budget control and performance was satisfactory; and

ii. The Committee therefore marked the matter as resolved

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis of Conclusion

739. Opening and Operating an Account Without Approval

2660) During the year under review, the Management opened and operated a bank account at the Kenya Commercial Bank (Kilindini Branch) for Project related activities. However, the approval by The National Treasury was not provided for audit review contrary to Section 28(1) of the Public Finance Management Act, 2012 which states that 'The National Treasury shall authorize the opening, operating and closing of bank accounts and sub accounts for all National Government entities in accordance with the regulations made under this Act'.

2661) In the circumstances, the Management is in breach of the law.

Submission by the Accounting Officer

2662) The Accounting Officer submitted that the It is true that Kenya Maritime Authority opened an account after signing a subsidiary financing agreement with the National Treasury and subsequently sought approval from the National Treasury for the opened bank account. The National Treasury has since granted approval for the Authority to continue operating the account. Attached as evidence; is the loan agreement and subsidiary financing agreement, the approval request letter and the authorization letter.

2663) Committee Observations and Findings

i. The committee observed the Accounting Officer opened the bank account without the approval by The National Treasury contrary to Section 28(1) of the Public Finance Management Act, 2012.
ii. The Approval by National Treasury has since being obtained to regularize.

2664) **Committee recommendations**

The Accounting Officer to ensure approval by The National Treasury in accordance to Section 28(1) of the Public Finance Management Act, 2012 is obtained prior to opening bank account.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2665) **Conclusion**

740. There were no material issues relating to effectiveness of internal controls, risk management and governance.

RAILWAY DEVELOPMENT LEVY FUND (OPERATIONS ACCOUNT)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

741. Unreconciled Transfers from Government Entities

2666) The statement of receipts and payments reflects transfer from government entities amount of Kshs.25,635,706,065 which differ with the amount reflected in the Railway

Development Levy Fund Holding Account of Kshs.31,999,674,958 maintained by The National Treasury. The difference of Kshs.6,363,968,893 has not been explained or reconciled.

Submission by the Accounting Officer

2667) The Accounting Officer submitted that the difference of Kshs.6,363,968,893 relates to amounts released by RDLF Holding Account at the beginning of the 2018/2019 Financial Year to settle bills under RDLF – Operations Accounts which had been approved by the RDLF Advisory Committee against the 2017/2018 Financial Year Budget. This amount was accounted for in the Receipts of RDLF- Operations Account Financial Year 2017/2018.

2668) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to unreconciled transfers from government entities was satisfactory; and
ii. The reconciliation of variances was not availed at the time of audit contrary to Section 9 (1) (e) of the Public Audit Act, 2015 which constitutes dereliction of duty.

2669) **Committee recommendations**

The Accounting Officer to ensure that reconciliations of variances are done in time and submitted to the Auditor General in time at the time of audit in accordance to Section 9 (1) (e) of the Public Audit Act, 2015.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2670) **Conclusion**

742. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2671) **Conclusion**

743. There were no material issues relating to effectiveness of internal controls, risk management and governance.

20. STATE DEPARTMENT FOR MARITIME AND SHIPPING AFFAIRS

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1093

Ms. Nancy Karigithu, the Principal Secretary and Accounting Officer for State Department for Shipping & Maritime (Vote 1093), appeared before the Committee on 15th September, 2021 to adduce evidence on the audited financial statement for the State Department for Shipping & Maritime (Vote 1093) for the Financial Year 2018/2019. She was accompanied by the following officers:

1. Mr. Mr. Adan G. Harakhe, HSC - Director Administration
2. Mr. John Bosco M. Maingi - Principal Accountant
3. Mr. Mustafa Yassin - Senior Shipping & Maritime Officer
4. Mr. Ferdinand Wandera - Head Procurement

And submitted as follows

Basis for Qualified Opinion

744. Variances Between Financial Statements and Integrated Financial Management Information Systems (IFMIS) Balances

2672) The financial statements presented for audit and IFMIS trial balance presented in support had significant variances amounting to Kshs.1,266,253,221 as detailed below:

Item	Financial Statements Balance (Kshs.)	IFMIS Balance (Kshs.)	Variance (Kshs.)
Cash and Cash Equivalents	8,332,456	434,421,804	426,089,348
Other Debtors and Prepayments	0	52,941,558	52,941,558
Recurrent Bank Account	5,969,083	341,687,905	335,718,822
Exchequer Releases	247,739,582	699,243,075	451,503,493
Total	**262,041,121**	**1,528,294,342**	**1,266,253,221**

2673) Management has not provided explanations or reconciliations for the variances casting doubt on the accuracy and completeness of the financial statements for the year ended 30 June, 2019.

Submission by the Accounting Officers

2674) The Accounting Officer submitted that the variances between the IFMIS balance and the financial statements balance was as result of delayed auto reconciliations. The reconciliations eventually tallied as shown by the updated trial balance and Statements of Cash flow with the financial statement balances.

2675) **Committee Observation and Findings**

(i) The Committee observed that the variances between the IFMIS balance and the financial statements balance was as result of delayed auto reconciliations;

(ii) The Committee further observed that the reconciliations were eventually done and tallied the trial balance and Statements of Cash flow with the financial statements balances updated.

(iii) The Committee therefore marked the matter as resolved.

2676) **Committee Recommendations**

The Accounting Officer should always ensure that the records are reconciled and analyzed with necessary supporting documents and submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

745. Unconfirmed Motor Vehicle Maintenance Cost

2677) The statement of receipts and payments reflects a balance of Kshs.86,282,596 under use of goods and services which as disclosed under Note 3 to the financial statements includes an expenditure of Kshs.3,784,997 on routine maintenance – vehicles and other transport equipment. The latter balance includes an expenditure of Kshs.1,974,371 on account of motor vehicles repairs to GKA 665V. However, there was no proof of the repairs having been undertaken by way of pre and post repairs report by the engineer, Mechanical and Transport Fund detailing out the nature of repairs to be undertaken and confirmation of works done. Further, the vehicle has continued to remain grounded since July, 2018 casting doubt on whether the repairs were undertaken.

2678) Consequently, the accuracy of the expenditure on use of goods and services of Kshs.86,282,596 for the year ended 30 June, 2019 cannot be ascertained.

Submission by the Accounting Officers

2679) The Accounting Officer submitted that the motor vehicle registration number GKA 665V was allocated to the Principal Secretary, State Department for Shipping and Maritime when the State Department was established in May 2016 by the State Department for Transport. The vehicle was old with numerous mechanical problems. The pre-repair inspection of the vehicle was done by the Chief Mechanical Transport Engineer vide inspection report dated 14th June 2018 and post repair inspection was done vide inspection report dated 12th July 2018.

2680) The vehicle was repaired by the dealer (Toyota Kenya) at the cost of Kshs1,974,371 and payment was made vide payment voucher number (0449) as reflected in bank statement dated 11th April, 2019. Copies of payment vouchers were availed for perusal by the Committee.

2681) The vehicle has been operational as shown by the work tickets.

2682) **Committee Observation and Findings**

(i) The Committee observed that the motor vehicle registration number GKA 665V was old with numerous mechanical problems and was allocated to the Principal Secretary, State Department for Shipping and Maritime when the State Department was established in May 2016 from the State Department for Transport;

(ii) The Committee further observed that the pre-repair inspection of the vehicle was done by the Chief Mechanical Transport Engineer vide inspection report dated 14th June 2018 and post repair inspection was done vide inspection report dated 12th July 2018;

(iii) The Committee observed that the vehicle was repaired by Toyota Kenya at the cost of Kshs1,974,371 and payment was made on 11th April, 2019; and

(iv) The Committee therefore marked the matter as resolved.

2683) **Committee Recommendations**

Accounting Officers must at all times ensure that they are responsible for the management of the entity's assets in a way which ensures that the national government entity achieves value for money in acquiring, using and disposing of those assets pursuant to the provisions of section 72(1) of the Public Finance Management Act, 2012.

Other Matter

746. Pending Bills

2684) As disclosed under Note 14 to the financial statements, the State Department for Shipping and Maritime had pending bills totalling Kshs.674,800 as at 30 June, 2019 that were not settled during the year 2018/2019 but were instead carried forward to 2019/2020. Failure to settle bills during the year in which they relate to distorts the financial statements for that year and adversely affects the provisions of the subsequent year to which they have to be charged

Submission by the Accounting Officers

2685) The Accounting Officer submitted that the pending bill totaling to Kshs.674,800.00 for the State Department was disclosed under Note 14 to the financial statement for the year ended 30th June 2019. However, the budget for ICT was consolidated under the State Department for ICT through a Cabinet memo Ref no. OP/CAB/39/1A dated 1st March 2018.

2686) The State Department as a result wrote to the State Department of ICT on 22nd August 2018 to settle the cited bill. In response, the State Department for ICT vide a letter dated 4th September 2018 advised the State Department to liaise with the State Department for National Treasury to settle the bill. The State Department wrote to the National Treasury forwarding the outstanding bill amounting Kshs.670,480.00 for necessary action. The National Treasury advised the State Department vide letter dated 30th July 2019 to rationalize the budget for 2019/20 and provide for the pending bill.

2687) Further, the State Department wrote to National Treasury requesting for re-allocation to cater for payment of the pending bill which was granted and the amount subsequently paid vide payment voucher number 239 for Kshs.640,000 and voucher number 240 for Kshs.34.800 respectively.

2688) **Committee Observation and Findings**

(i) The Committee observed that the Accounting Officer rationalized the budget for 2019/20 and provided for the pending bill amounting to Kshs.670,480.00 which was subsequently paid vide payment voucher number 239 for Kshs.640,000 and voucher number 240 for Kshs.34.800 respectively; and

(ii) The Committee therefore marked the matter as resolved.

2689) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

747. Contracts Without Performance Security

2690) During the year under review, the State Department contracted the provision of cleaning, sanitary and security services at contract sums of Kshs.3,250,520 and Kshs.1,760,000 respectively for its offices at NSSF Annex Building. However, there was no performance security from the service providers. This was contrary to Clause 3.6 of the conditions of the contract which stipulated that within thirty (30) days of receipt of the notification of contract award, the successful tenderer shall furnish to the procuring entity the performance security where applicable in the amounts specified in the special conditions of contract.

2691) To the extent, the State Department is in breach of the law.

Submission by the Accounting Officers

2692) The Accounting Officer submitted that it was true that the State Department entered into contract with Aimat Company Ltd for provision of cleaning and sanitary services and Gyto Success Company Ltd for provision of security services at contract sums of Kshs.3,215,520 and Kshs.1,776,000 respectively.

2693) In the tender document, under special conditions of contract, the firms were required to provide ten percent (10%) of the contract sum as performance security. Section 142(3) of the Public Procurement and Disposal Act 2015 waives the requirement of submitting performance security to firms registered under AGPO. The firms were registered under AGPO.

2694) **Committee Observation and Findings**

(i) The Committee observed that the State Department entered into contract with Aimat Company Ltd for provision of cleaning and sanitary services and Gyto Success Company Ltd for provision of security services at contract sums of Kshs.3,215,520 and Kshs.1,776,000 respectively;

(ii) The Committee further observed that the tender document, under special conditions of contract, contracted firms were required to provide ten percent (10%) of the contract sum as performance security;

(iii) The Committee also observed that the two contracted firms were registered under AGPO pursuant to Section 142(3) of the Public Procurement and Disposal Act 2015 and therefore qualified for waiver of ten percent (10%) of the contract sum as performance security; and

(iv) The Committee therefore marked the matter as resolved.

2695) **Committee Recommendations**

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2696) **Conclusion**

748. There were no material issues relating to effectiveness of internal controls, risk management and governance.

21. STATE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1094

Mr. Charles Hinga, the Principal Secretary and the Accounting officer State Department for Housing and Urban Development (Vote 1094) appeared before the Committee 22nd April, 2021, 21st July, 2021 and 8th September, 2021 to adduce evidence on the audited financial statement for the State Department of Housing and Urban Development (Vote 1094) for the Financial Year 2018/2019. He was accompanied by the following officers:

1.	Ms. Evalyn O. Nyakwara	-	Senior Chief Finance Officer
2.	Eng. B. K. Njenga	-	Secretary U & MD
3.	Ms. Joyce Mutugi	-	Senior Deputy Accountant General
4.	Mr. Abala M. Wanga	-	Ag. City Manager Kisumu
5.	Mr. David Kinyae	-	Administration Kisumu
6.	Mr. Charles Omollo	-	Project Administrator
7.	CPA O. Japeth	-	Project Accountant
8.	CPA Emmanuel Opetu	-	Finance Director Kisumu
9.	Mr. Bonoface Ngochi	-	Dep Director CSHSD
10.	Mr. Christopher Kinai	-	Assistant Accountant General

And submitted as follows:

Basis for Qualified Opinion

749. Unresolved Prior Year Matters

2697) The following prior year matters which have a bearing on the accuracy of the financial statements for current period remained unresolved as at 30 June, 2019;

749.1 Inaccuracies in the Financial Statements

749.1.1Suspense and Clearance Account

2698) The trial balance presented in support of the financial statements for the comparative period did not balance and had an amount of Kshs.101,740,405 in the suspense and clearance account. The difference has not been investigated nor reconciled. Consequently, the accuracy and completeness of the comparative financial statements balance could not be established.

Submission from the Accounting Officer

2699) The Accounting Officer submitted that it was correct that the Trial Balance as at 30th June, 2018 did not balance as it reflected Kshs.101, 740,405 under suspense account. This amount represented the AIEs which were issued to the Districts and had not been accounted for by the time the financial reports were submitted for audit. The Districts later submitted the expenditure returns which were given to the auditors for verification. The Financial Reports for 2017/2018 were revised appropriately and submitted to the Office of the Auditor General for review

2700) **Committee Observation and Findings**

(i) The Trial Balance as at 30th June, 2018 did not balance as it reflected Kshs.101, 740,405 under suspense account.

(ii) The financial statements for financial year 2017/2018 were revised and submitted for audit review and verification.

2701) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Auditor-General should review the revised financial statements and report the findings to the National Assembly.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

749.1.2Cash and Cash Equivalent

2702) As disclosed under Note 10A to the financial statement, the statement of financial position reflects comparative bank balance of Kshs.307,147,816. The following unsatisfactory observations were made: -

749.1.2.1 Variance in Recurrent and Development Bank Balances

2703) Included in the comparative bank balance is recurrent and development balance of Kshs.7,034,044 and Kshs.3,703,183 respectively. However, the trial balance presented in support of the financial statements reflects a balance of Kshs.697,948,449 for the recurrent account and Kshs.786,532,000 for the development account resulting to unexplained variances of Kshs.690,914,405 and Kshs.782,828,817 respectively. Further, the bank confirmation certificate as at 30 June, 2018 reflected a balance of Kshs.38,413,152 for the recurrent account and Kshs. 14,944,099 for the development account for which no bank reconciliation statements have been provided to explain the discrepancies.

Submission from the Accounting Officer

2704) The Accounting Officer submitted that it was true, that the trial balance as at 30th June, 2018 showed a balance of Ksh.697,948,449 which differed with the Financial Statements balance of Ksh.7,034,043 resulting to the difference highlighted of Ksh.690,914,405. This difference was as a result of partially reconciled the total recurrent payments and the total recurrent receipts for the period under review. This delay was occasioned by late transmission of bank statements from the internet banking and IFMIS platforms.

2705) All pending receipts and payments were reconciled and the Recurrent bank balance now reflects the actual position of Ksh.7, 034,044 as supported in the financial statements. The same can be seen in the notes to the Financial Statements attached herewith.

2706) It was also true that the trial balance as at 30thJune, 2018 showed a balance of Kshs.786,532,000 which differed with the financial statements which showed Kshs.3,703,183 resulting to a difference of Kshs.782,828,817. This was as a result of partially reconciled the total development total payments and receipts for the 2017/2018 financial year. This delay was occasioned by late transmission of bank statements from the internet banking(IB) and IFMIS platforms.

2707) The Accounting Officer reported that the Development bank balance now reflects the actual position Kshs.3,703,183 as supported in the financial statements the same can be seen in the notes to the financial statements attached herewith. The State Department engaged the National Treasury for technical support and as a result we successfully managed to reconcile all pending receipts and corresponding payments as a result eliminating the system required liabilities.

2708) **Committee Observation and Findings**

(i) The Trial Balance as at 30th June, 2018 did not balance as it reflected Kshs.101, 740,405 under suspense account.

(ii) The financial statements for financial year 2017/2018 were revised and submitted for audit review and verification.

2709) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Auditor-General should review the revised financial statements and report the findings to the National Assembly.**
2) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**

749.1.2.2 Variance in Deposits Bank Account Balance

2710) Also included in the comparative bank balance is the deposit account balance of Kshs.296,410,590 whereas the trial balance reflected a balance of Kshs.417,668,946 resulting to unexplained variance of Kshs.121,258,356.

Submission from the Accounting Officer

2711) The Accounting Officer submitted it was true that the balance deposit bank account balance in the Trial balance and the financial statements had a difference of Kshs.121,258,356. This was as a result of the State Department not completing the Auto-reconciliation process as at the time of the audit review. This was mainly caused by delays in receiving bank statements from the Internet banking and IFMIS platforms.

2712) However, the same was resolved in conjunction with the National Treasury IFMIS directorate and the State Department successfully managed to fully reconcile the deposit bank account and the reports therefore reflect the correct position as per attached notes to the financial statements attached herein

2713) **Committee Observation and Findings**

(i) The balance deposit bank account balance in the Trial balance and the financial statements had a difference of Kshs.121,258,356.

(ii) The financial statement for financial year 2017/2018 were revised and submitted for audit review and verifications.

2714) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Auditor-General should review the revised financial statements and report the findings to the National Assembly.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

749.1.2.2 Cash in Hand and Cash in Transit

2715) The statement of financial position reflects comparative cash in hand of Kshs.627 while the trial balance in support reflects a balance of Kshs.10,177,007,503 resulting to an unreconciled variance of Kshs.10,177,006,876. Further, the Trial Balance reflects cash in transit balance of Kshs.9,971,930,237 that has been omitted from the financial statements.

2716) In the circumstance, it was not possible to ascertain the completeness and accuracy of the comparative bank and cash balances of Kshs.307,147,816 and Kshs.627 respectively as at 30 June, 2019.

Submission from the Accounting Officer

2717) The Accounting Officer submitted that it was true that the trial balance reflected the cash balances of Ksh.10,177,007,503 while the financial position reflected comparative cash on hand of Kshs.627 resulting to a variance of Kshs.10,177,006,876. It is also true that the trial balance reflected cash in transit of Kshs.9,971,930,237 which was omitted from the financial statements. This was due to non-completion of receipting process where receipts captured during 2017/2018 financial year were not remitted a step that is key in the IFMIS receipting process. I wish to report that all the receipts for that period were done in the remittance process and thus the cash balance reflects the correct position of Ksh.307,147,816 which was in agreement with the balance in the financial reports as well as the actual balance that was in the bank accounts held at Central Bank of Kenya as at 30th June, 2018.

2718) In addition, all receipts captured and remitted but pending Auto-reconciliation are aggregated under the Cash in transit item in the IFMIS system thus the total difference indicated of Kshs.10,177,006,876 sums up to the total exchequer receipts captured and not reconciled in the period under review the same have now been fully remitted and reconciled after statements were made available from the IB and IFMIS platforms. The cash and cash in transit items now reflect the correct position.

2719) **Committee Observation and Findings**

(i) The balance deposit bank account balance in the Trial balance and the financial statements had a difference of Kshs.10,177,006,876 .

(ii) The financial statement for financial year for 2017/2018 were revised and submitted for audit review and verifications.

2720) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Auditor-General should review the revised financial statements and report the findings to the National Assembly.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

749.2 Accounts Receivables

749.2.1District Suspense and Prepayments

2721) The trial balance availed for audit included District Suspense and other debtors - pre-payments balances of Kshs.101,740,405 and Kshs.5,742,838 respectively that have not been incorporated in the financial statements.

Submission from the Accounting Officer

2722) The Accounting Officer submitted that it was correct that Kshs.101,740,405.00 was not included in the financial report since it was under District suspense account and hence not appropriated. This amount represents the AIEs issued to the Districts which were accounted for after the financial reports had been supported for audit. However, the District data was later submitted and incorporated in the financial report.

2723) It was also correct that the trial balance reflected a credit balance on prepayments amounting to Kshs.5,742,838. This was as a result of outstanding imprests for the period being erroneously applied to the prepayments instead of temporary imprests. This anomaly was addressed and the correct balance reflected in the Trial Balance

2724) **Committee Observation and Findings**

The committee observed that the District Suspense and other debtors - pre-payments balances of Kshs.101,740,405 and Kshs.5,742,838 respectively had not been incorporated in the financial statements for financial year 2017/2018. The financial statements have been revised and submitted for audit review and verifications.

2725) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Auditor-General should review the revised financial statements and report the findings to the National Assembly.

749.2.2Temporary Imprest

2726) Note 11 to the financial statements discloses comparative Government Imprests balance of Kshs.2,069,419. However, the trial balance in support reflected a negative balance of Kshs.14,079,569 resulting to a difference of Kshs.16,148,988 which has not been explained or unreconciled.

2727) From the foregoing, the accuracy and fair statement of the comparative accounts receivables balance of Kshs.2,069,419 could not be established.

Submission from the Accounting Officer

2728) The Accounting Officer submitted that it was correct that the financial statements reflected outstanding imprests of Kshs.2, 069,419 while the trial balance reflects Kshs.14,079,569 resulting to unexplained and unreconciled difference of Kshs.12,010,150. The difference of Kshs.12,010,150 represents imprests surrendered through vouchers but had not been processed in the IFMIS system to reduce the imprests by the time of submitting the financial reports for audit. The vouchers were later fully processed in the system and the balances in the two records reconciled.

2729) The outstanding temporary imprests of Kshs.2,069,419 were surrendered in 2018/2019 Financial Year and were cleared from the Financial Reports.

2730) **Committee Observation and Findings**
The committee observed that the outstanding temporary imprests of Kshs.2,069,419 were surrendered in 2018/2019 Financial Year and were cleared from the Financial Reports. The financial statements for 2017/2018 had since been revised and submitted for audit review and verifications.

2731) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Auditor-General should review the revised financial statements to confirm the reconciliations of the imprest records and report the findings to the National Assembly.

749.3 Accounts Payables

2732) Note 12 to the financial statements discloses comparative accounts payables balance of Kshs.296,410,591 which varies with the trial balance figure of Kshs.114,124,090 resulting to a difference of Kshs.182,286,501 which has not been explained or unreconciled.

2733) From the foregoing, the accuracy and fair statement of the comparative accounts payables balance of Kshs.296,410,591 could not e established.

Submission from the Accounting Officer

2734) The Accounting Officer submitted that it was true that payables balance of Kshs.296,410,591 as at 30thJune, 2018 varied with the trial balance figure of Kshs.114,124,090 resulting to unreconciled and unexplained difference of Kshs.182,286,500.

2735) The difference of Kshs.182,286,500 is contractors' retention monies transferred to the deposit bank account at the closure of the financial year but had not been captured in the IFMIS. This retention was captured, records reconciled and the ledger updated.

2736) **Committee Observation and Findings**
The committee observed that the accounts payables variance of Kshs.182,286,501 were contractors' retention monies transferred to the deposit bank account at the closure of the financial year which had not been captured in the IFMIS. The financial statements for 2017/2018 had since been revised and submitted for audit review and verifications.

2737) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Auditor-General should review the revised financial statements to confirm the status of the accounts payables records and report the findings to the National Assembly.

749.4 Exchequer Releases

2738) The statement of receipts and payments reflects comparative Exchequer releases amount of Kshs.10,477,169,945 which differs from the trial balance figure of Kshs.10,818,621,490 resulting to unexplained and unreconciled difference of Kshs.341,451,545. Further, supporting documents availed on Exchequer releases were for Kshs.10,150,397,275 while the balance of Kshs.326,772,670 was not supported.

2739) In the circumstances, the accuracy and completeness of the comparative Exchequer releases amounting to Kshs.10,477,169,945 as at 30 June, 2019 could not be ascertained.

Submission from the Accounting Officer

2740) The Accounting Officer submitted that it was correct that the exchequer releases of 2017/2018 financial year amounted to Kshs.10,477,169,945. These are the actual receipts which were credited in the bank and received through the system during the financial year. There was no variance in both records.

2741) **Committee Observation and Findings**

The committee observed that the Accounting officer disputes the Exchequer releases variance of Kshs.341,451,545 and did not address the issue on lack of supporting documents for the balance of Kshs.326,772,670. The financial statements for 2017/2018 had since been revised and submitted for audit review and verifications.

2742) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Auditor-General should review the revised financial statements to confirm the accuracy of the Exchequer releases and report the findings to the National Assembly.

749.5 Rent Income

2743) The statement of receipts and payments reflects comparative rent income of Kshs.156,530,113 while the trial balance in support reflects a nil balance. Further, the rent income declined from Kshs.249,561,252 in 2016/2017 to Kshs.156,530,113 in 2017/2018 with no satisfactory explanation being rendered for the reduction.

2744) In the circumstances, the accuracy and completeness of the comparative rent income for the period ended 30 June, 2019 could not be confirmed.

Submission from the Accounting Officer

2745) The Accounting Officer submitted that it was correct that the statement of receipts and payments reflected rental income of Kshs.156,530,113 while the trial balance reflected nil balance. The rental receipts of Kshs.156, 530,113 in the Statement of Receipts and Payment have since been received in the system and the ledger updated. The decline in 2017/2018 financial year was due to rents arrears by the financial statements were being prepared.

2746) The collection of A.I.A has greatly improved since then as for 2018-2019 and 2019-2020 A.I.A realized amounted to Kshs.260,044,855.50 and Kshs.724,299,194.60 respectively.

2747) **Committee Observation and Findings**

2748) The committee observed that the rent income of Kshs.156, 530,113 had been received in the system and the ledger updated. The decline in 2017/2018 financial year was due to rents arrears not captured in the system when the financial statements were being prepared.The financial statements for 2017/2018 had since been revised and submitted for audit review and verifications.

2749) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Auditor-General should review the revised financial statements to confirm the accuracy of the rent income, review the collection of rent arrears presumed to have caused the decline in the subsequent year and report the findings to the National Assembly.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer to provide the National Assembly with details of the measures instituted to collect rent income in time.**

Other matters

750. Budget Control and Performance

2750) The summary statement of appropriation recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs. 39,405,937,539 and Kshs. 30,991,916,611 respectively resulting to a shortfall of Kshs. 8,414,020,828 or 21% of the approved budget.

2751) The revenue under performance may have negatively affected service delivery to citizens due to failure to implement the planned programmes and activities.

Submission by the Accounting Officer

2752) The Accounting Officer admitted that during 2018/2019 financial year the State Department had a shortfall in receipts of Ksh.8,414,020,828 which negatively affected service delivery to the citizens. This was due to exchequer under issue of Ksh.8,013,194,177and shortfall in collection of A.I.A of Ksh.400,426,651.

2753) **Committee Observation and Findings**

The Committee observed that the shortfall in receipt was due to exchequer under issue and shortfall in collection of A.I.A; and

2754) **Committee Recommendations**

1) **The National Treasury should ensure that the revenue collection targets from Kenya Revenue Authority (KRA) and the Appropriations In Aid (AIA) factored by the Accounting Officers in annual budgets are realistic and achievable.**
2) **The Accounting Officers must at all times adhere to their annual work plans, procurement plans and cash disbursement schedule to increase their level of exchequer requests from the National Treasury.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

751. Disputed Ownership of property

2755) The ownership of the above property is in dispute though the State Department has developed a block of apartments on it and sold them to civil servants who are now occupying them. The court awarded the other claimant Kshs.100,000,000 for the land. The amount has remained unpaid to date. It has earned interest of Kshs.36,953,342 as at 30 June 2019.

2756) The award and the interest could have been avoided had management acquired title for the property on time. Further, interest could be avoided had management paid the award on time.

Submission by the Accounting Officer

2757) The Accounting Officer admitted that there was a dispute on the ownership of government property LR No. 209/3217 Makueni Road , Kileleshwa and there was an ongoing court case no Nairobi HC ELC No. 476 of 2012, Khimji Bhimji Seyani and others vs- Attorney General. The Accounting Officer submitted that the State Department received an allotment letter in the year 2005 but could not process the title because of the ongoing court case. The case ended in 2017 and the State Department applied for a title which is being processed.

2758) At the time the State Department received the court decision, there was no budgetary allocation to enable payment without delay. However, the State Department paid the claimant Khimji Bhimji a total of Ksh.136,953,347.00 through the State Law office during 2019/2020 Financial Year as follows:- 21/7/2019 Ksh.33,046,057,70 vide payment voucher number H1880 and 29/6/2020 Ksh.103,907,285.00 vide payment voucher number H2586.

2759) **Further Interrogations**

1. The committee wondered why the State Department didn't acquired the title for the above land in 2012 many years before the issue ended up in court.
2. The Accounting Officer informed the Committee that the State Department has been certain that the Land belonged to the Government, it has never been sold nor has it been available for sale. Unfortunately the State Department lost the suit.
3. The Committee further wondered why the State Department didn't appeal for the lost suit if they were certain that the Land belonged to the Government.
4. The Committee was further informed that the compensation was based on land alone (without improvements) and additional Ksh.36,953,342 for the interest incurred on delayed payment

Further submissions by the Seyani Brothers

2760) **HIRJI SEYANI & KARSAN KHIMJI SEYANI** of Post Office Box Number 60070 Nairobi submit as follows in response to the letter dated 9 June 2021 from the National Assembly on the subject inquiry/examination:

1. Sometime in the year 1999, KHIMJI BHIMJI SEYANI, HIRJI SEYANI & KARSAN KHIMJI SEYANI (hereinafter "**the Claimants**") entered into an Agreement for Sale of land with one Mr. Peter Kipchirchir Magut. Under the said agreement, Mr. Magut, who was the registered proprietor of the parcel of land known as L.R. No. 209/3217, agreed to sell the same to the Claimants for the sum of Kshs. 5,000,000.00. It was a term of the Agreement that the property would be sold with vacant possession.
2. Upon payment of the agreed purchase price, the Claimants executed a transfer dated 6th October 1999 which was registered in the Lands Office on 13th December, 2000 and a title to the property issued as a result of which the Claimants became the registered proprietors of the property.
3. Subsequent to the transfer, the Claimants sought to take vacant possession of the property but discovered that the property was occupied by one Mr. Winston Orege. The Claimants requested Mr. Orege to vacate the premises to enable them to take vacant possession of

the property but he refused to do so stating that the land had been allocated to him by the then Ministry of Roads, Public Works and Housing.

4. Consequently, on 10th April 2002, the Claimants instituted HCCC No. 639 of 2002 against Mr. Orege and the Chief Lands Registrar seeking, among other orders, a mandatory injunction to compel Mr. Orege to give vacant possession of the property. On 14th January 2009, the Court issued a mandatory injunction and directed Mr. Orege to vacate the property. The Claimants attempted in vain to have Mr. Orege vacate the property, notwithstanding the Court order.
5. On 11th March, 2004, the Attorney General applied and was enjoined as the 2nd Defendant in the said suit on behalf of the then Ministry of Roads, Public Works and Housing and by an application dated 15th March 2004, the Attorney General sought to set aside the mandatory injunction issued by the Court on the basis that the then Ministry of Roads, Public Works and Housing was the legal proprietor of the property and that the title had been fraudulently obtained.
6. During the pendency of the said suit, sometime in or about September 2008, the Claimants became aware of the construction of a boundary wall and building foundation on the property. Upon making enquiries, the Claimants were informed that the Ministry of Housing had taken possession of the property and was in the process of constructing flats for residential purposes.
7. By a letter dated 18th September 2008, the Claimants' Advocates requested the Ministry of Housing to cease construction on the property in light of the existing litigation, to which no response was received.
8. The Claimants consequently filed Misc. Civil Appln. No. 80 of 2008 and Misc. Civil Appln. No. 84 of 2008 but withdrew the same when it became apparent that the orders of prohibition sought would have the same effect as an injunction, which could not issue against the Minister of Housing or the Government for that matter.
9. When it became apparent that the original suit, HCCC 639 of 2002, could not serve the purpose of stopping the construction that the Ministry of Housing had embarked on the Claimants' property, the Claimants filed Petition No. 772 of 2008 seeking conservatory orders. In a ruling delivered on 23rd March 2009, the High Court dismissed the Claimants' application on the basis that the constitutional issues ought to have been raised in HCCC No. 639 of 2002. As such, the Claimants also withdrew Petition No. 772 of 2008. In view of the fact that the dispute had now taken a different dimension and was no longer limited to the vacation of Mr. Orege, the Claimants also withdrew HCCC No. 639 of 2002.
10. The Claimants thereafter filed a fresh Petition in Petition No. 334 of 2009 seeking various declarations and compensation for the takeover by the Ministry of Housing. In a judgment delivered on 24th February 2012, the Court declined to make findings on merit on the basis that the Claimants ought to have filed a Plaint and not a Constitutional Petition.
11. The Claimants thereafter filed a Plaint in the Environment and Land Court being ELC No. 476 of 2012, Khimji Bhimji Seyani & 2 Others vs. The Attorney General in which final judgment was issued in the Claimants' favour.

12. The Claimants as the registered proprietors of the property had an indefeasible right over the premises and the take-over by the Ministry of Housing amounted to compulsory acquisition without lawful compensation. Prior to taking possession of the property, the Commissioner of Lands did not notify the Claimants of the Ministry's intention despite knowing that the Claimants had an interest in the property.
13. In the absence of compliance with the acquisition procedures as set out in the Land Acquisition Act, the Ministry's action contravened Section 75 of the previous Constitution, now Article 40, as the same amounted to compulsory acquisition without lawful compensation.
14. The Ministry's act of taking possession of the said property before an award on compensation had been issued to the Claimants was premature. At that point in time, the property had not vested in the Ministry for acquisition purposes. The same could only so vest once an award of compensation had been made.
15. The Claimants confirm that the property is not among the properties listed in the Ndungu report and the Claimants held a valid title properly issued by the Lands office after a lawful purchase and Transfer.

2761) **Committee Observation and Findings**

(i) The Committee observed that the amount has since been paid in full

(ii) The Committee further observed that the State Department occasioned wastage on public resources by not appealing the suit and accruing interest amounting to Kshs.36,953,342

(iii)The Committee also observed that the public funds were not spent in a lawful and effective way as required under Article 229(6) of the Constitution of Kenya, and in compliance with Article 232(1)(b) of the Constitution on utilization of public resources;

2762) **Committee Recommendations**

Within three months of tabling and adoption of this report, the DCI should initiate an investigation into the whole matter with a view to establishing possible culpability on the part of all responsible persons and take the necessary follow-up action in accordance with the law.

752. Abandoned Projects

2763) The State Department has five (5) project with a total contract sum of Kshs.639,402,174 which stalled and abandoned as listed below.

County	Project Name	Scope	Contract Sum	Status

Mombasa	Construction of Housing Units for National Police and Prison Services - Shimo La Tewa Prison	Construction of 100 Housing units	137,395,968	Abandoned
Makueni	Construction of Housing Units for National Police and Prison Services - Emali AP Training Camp	Construction of 100 Housing units	136,705,536	Abandoned
Kakamega	Construction of Housing Units for National Police and Prison Services - Kakamega Prison	Construction of 60 Housing units	118,621,630	Abandoned
Narok	Construction of Housing Units for National Police and Prison Services - Narok Prison	Construction of 60 Housing units	123,718,295	Abandoned
Kajiado	Construction of Housing Units for National Police and Prison Services - Kajiado Police Post	Construction of 100 Housing units	122,960,745	Abandoned
Total			**639,402,174**	

2764) No measures have been put in place to restart the projects and ensure their logical completion. In the circumstances, it has not been possible to confirm if and when value for money will be realized from the public funds committed to the five projects.

Submission by the Accounting Officer

2765) The Accounting Officer admitted that some projects were abandoned during the time of the audit. The abandonment of the projects was occasioned by insufficient budgetary provision during the financial year. However, the projects have been revived and are in various completion stages as shown below:-

Construction of Housing Units at Shimo La Tewa GK Prison, Mombasa County

2766) This project consists of construction of 2 blocks with 50 units of 32 bedsitters and 14 two bedroomed units. The contractor has resumed works and the Project is at 90% complete. The finishing works are ongoing which includes wardrobes fixing, painting, plumbing fittings, electrical works, ceiling and drainage works.

Construction of 50 housing units at Emali AP Camp, Makueni County

2767) The Contractor resumed and works are ongoing and the project is at 85% complete. This project consists of construction of 2 blocks with 50 units of 32 bedsitters and 14 two bedroomed units.

Construction of Housing units at Kakamega Main prison, Kakamega County

2768) The Project comprised of Construction of 60 no. housing units at Kakamega Main Prison, Kakamega County. The project is 100% complete and has been handed over on 9th March 2021.

Construction of Housing Units at Kajiado, Kajiado County

2769) This project comprises construction of 100 units at Kajiado Police Station. The Contractor has resumed works on 15th February 2021 and is progressing on well. The Project is at 60% complete.

Construction of Housing units at Narok Police station, Narok County

2770) Project comprised of Construction of 60 no units at Narok Police Station, Narok County. The project is 100% complete and was handed over on 12th February 2021.

2771) **Committee Observations and Findings**

(i) The Committee observed that two of the above projects have since been completed and handed over to respective entities;

(ii) The Committee further observed that the construction of the three of the remaining projects above had resumed and are at various stages of completion;

2772) **Committee Recommendations**

1) **The Cabinet Secretary National Treasury should undertake a commitment to fund all the incomplete housing projects before initiating new projects.**
2) **The Accounting Officer should within three months of the adoption of the report, ensure that they fast track the completion of the remaining works in the housing projects and forward completion certificate to the Auditor General for audit verification.**
3) **Within three months of tabling and adoption of this report, the Auditor-General should review the verify the status of the housing projects and report the findings to the National Assembly.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2773) **Conclusion**

753. Report on Effectiveness of Internal Controls, Risk Management and Governance

The Committee observed that Paragraph 753 on Effectiveness of Internal Controls, Risk Management and Governance did not have material issues and thus satisfactory.

DONOR FUNDED PROJECTS

KENYA INFORMAL SETTLEMENT IMPROVEMENT PROJECT (IDA CREDIT NO.4873-KE)

REPORT ON THE FINANCIAL STATEMENTS

2774) **Unqualified Opinion**

754. Report on the Financial Statements

The Committee observed that the project got Unqualified Opinion Paragraph 754 and did not have material issues and thus satisfactory.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2775) **Conclusion**

755. The Committee observed that Paragraph 755 on lawfulness and effectiveness in use of public resources did not have material issues and thus satisfactory.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2776) **Conclusion**

756. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KOROGOCHO SLUM UPGRADING PROJECT (KENYA-ITALY DEBT FOR DEVELOPMENT SWAP PROGRAMME) CREDIT NO. CN/1246

REPORT ON THE FINANCIAL STATEMENTS

2777) **Unqualified Opinion**

757. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2778) **Conclusion**

758. The Committee observed that Paragraph 758 on lawfulness and effectiveness in use of public resources did not have material issues and thus satisfactory.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2779) **Conclusion**

759. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NAIROBI METROPOLITAN SERVICES IMPROVEMENT PROJECT CREDIT NO. 5102-KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

760. Unsupported Expenditure-Construction of Ngong Market

2780) The statement of receipts and payments reflects a total expenditure of Ksh.6,677,711,997 under acquisition of non-financial assets. Included in the amount of Ksh.6,677,711,977 is the cost of construction of Ngong market in Kajiado county comprises construction of a 5 storied building development and upgrading of the existing open air market into a permanent facility. The cost of the construction could not be determined as the supporting documents by way of tender process documents, signed contract and payment vouchers were not availed for audit with management indicating that the records had been taken by the Ethics and Ant corruption commission.

2781) In the circumstance, it has not been possible to confirm the accuracy and fair statement of the reported expenditure on the acquisition of non-financial assets totaling to Ksh.6,677,711,997 for the financial year ended 30 June 2019.

Submission by the Accounting Officer

2782) The Accounting Officer admitted that the tender process documents and signed contract documents were not provided to the audit office for examination. The tender process documents and signed contract documents were with the Anti-Corruption Commission during the time of audit. The same documents are still with the Anti-Corruption Commission. However, the payments vouchers are now available for audit.

2783) **Committee Observation and Findings**

(i) The Committee observed that the supporting documents are still held EACC;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) The Committee further observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015.

2784) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents to the Auditor General in time as provided for in Article 229 (4)(h), section 81(4)(a) of the Public Finance Management Act 2012 and pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the EACC should provide the Auditor General with the documents withheld for audit review and reporting to the National Assembly. The EACC should provide the report of their findings to the National Assembly with the same 3 months period.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

761. Unremitted taxes

2785) Note 9.1 discloses pending accounts payable balance of Ksh.61,146,089.90 .This amount comprise Kenya Revenue Authority amounting to Ksh.53,699,245.95 as VAT Ksh.33,359,529.35, WH Taxes Ksh.20,339,716.60 and Ksh.7,446,842.95 other vendors as listed below:-

Details	Amount (Ksh)
KRA VAT	33,359,529.35
KRA WHTaxes	20,339,716.60
Nanchang Foreign Engineering	6,872,816.60
Jiangxi Water Hydro	395,835.75
JB Gauff Consultant	178,190.60
Total	61,146,088.90

Submission by the Accounting Officer

2786) The Accounting Officer admitted that the project had pending bill totaling to Ksh.61,146,088.90 being unremitted taxes as at 30th June 2019. These pending bills were occasioned by budget cuts in GOK component and hence the taxes could not have been expensed during the financial year.

2787) The Accounting Officer reported that all the pending bills formed the first charge in the 2019/2020 Budget and were all cleared.

2788) **Committee Observation and Findings**

(i) The Committee observed that all pending bills have since been cleared in the Financial Year 2019/20; and

(ii) The Committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

2789) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

762. Retention Bank Account

2790) As reported previously, the project retained money amounting to Ksh.752,826,327 for construction works undertaken by the project to safeguard against shoddy workmanship during the defect liability period. However, contrary to the provisions of section 28(1) of the Public Finance Management Act, 2012 and section 151 (2)(H) of the public Procurement and Disposal Act, 2015, no dedicated bank account has been opened for the purpose of receiving retention money as provided for in the law.

Submission by the Accounting Officer

2791) The Accounting Officer admitted that the project did not have a dedicated bank account for retention monies. The World Bank recognizes payment to beneficiary's net of retention. The World Bank will separately honor retention money payment to contractors once the works are certified complete or defect period certified for payment.

2792) **Committee Observation and Findings**

(i) The Committee observed that the project did not maintain a dedicated account for retention monies as envisaged in law;

(ii) The Committee further observed that the World Bank had agreed to honor retention money payment to contractors once the works are complete and certified;

2793) **The Committee recommended that:**

The Accounting Officer should provide the status report for the project, the commitment letter and other correspondences between the department and the World bank.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2794) **Conclusion**

763. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA URBAN SUPPORT PROGRAM – IDA CREDIT NO.6134-KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

764. Unsupported Transfers to Counties

2795) As disclosed under Note 8.7A to the financial statements, the statement of receipts and payments reflects transfers to counties amounting to Kshs.13,318,702,500. However, there was no expenditure returns from the County Governments to show utilization of the funds transferred to them. Consequently, the accuracy of transfers to the counties amounting to Kshs.13,318,702,500 for the year ended 30 June, 2019 could not be ascertained.

Submission from the Accounting Officer

2796) The Accounting Officer admitted that the statement of Receipts and Payments as at 30 June 2019 are transfers to the 45 County Governments amounting to Ksh.13,318,702,500 these amounts comprise of Urban Development Grant (UDG) funds Ksh.11,464,702,500 and Urban Institutional Grant (UIG) funds Ksh.1,854,000,000. The amounts were expensed wholly during the Financial Year ending 30th June, 2019.

2797) The State Department does transfers to the Counties. It is the County Governments which have the projects to implement without State Department's supervision. The County Governments are supposed to prepare separate reports for audit. During further deliberations, the Accounting Officer reported that the State Department acts as a channel only.

2798) **Committee Observation and Findings**

The Committee observed that there is no clear framework on how the above monies are disbursed, supervised and accounted for;

2799) **Committee Recommendations**

1) **The Cabinet Secretary National Treasury should develop and have approved framework on how the monies are disbursed, supervised and accounted for.**
2) **The Accounting Officer should within three months of the adoption of the report, ensure that the expenditure returns are provided to the Auditor General for audit verification.**
3) **The Cabinet Secretary National Treasury should determine whether the situation constitutes a serious material breach or persistent material breach requiring stopping of transfer of funds under Article 225(3) of the Constitution.**

Other Matters

765. Pending Bills

2800) Notes 9.1 and 9.2 to the financial statements reflect pending accounts payable totaling Ksh.131,641,771 as at 30 June, 2019. Management has not provided reasons for non-payment of the bills even though the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

Submission from the Accounting Officer

2801) The Accounting Officer reported that all pending bills of Ksh.131,641,771.00 were cleared during the Financial Year 2019/2020.

2802) **The Committee observed and found that:**
The Committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

2803) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

766. Disbursement of Funds to Counties

2804) According to Section V (Withdrawal of Proceeds) of the Financing Agreement between the International Development Association (IDA) and the Republic of Kenya, funds were to be disbursed in two tranches. The first tranche was to facilitate formation of County Program Coordination Teams, which, among other responsibilities is to manage the use of Urban Institutional Grants (UIG) and also to provide support to participating County Governments for the formulation of Urban Development Plans including the establishment and operation of Urban Institutional Arrangements such as charters, board's administrations and operation of Urban Institutional Arrangements and for the initial preparation of Urban Infrastructure Investments.

2805) However, the first tranche was for Urban Development Grants (UDG) of Ksh.11,464,702,500 which was released to the participating counties on 10 December, 2018 the second tranche for Urban Institutional Grants (UIG) of Ksh.1,854,000,000 was released on 28 June, 2019 meaning that the first tranche release was Urban Development Grants (UDG) instead of Urban Institutional Grants (UIG) contrary to the Financing Agreements.

Submission from the Accounting Officer

2806) The Accounting Officer admitted that the 2nd tranche came ahead of the 1st tranche. The 2nd tranche was retained until the 1st tranche was received to establish the structures so that they can utilize the 2nd tranche. This is because the UIG had been omitted by the National Treasury in CARA. However, this was regularized during the financial year 2018/19 supplementary budget.

2807) **Committee Observation and Findings**

The Committee observed that the matter has since been regularized.

2808) **Committee Recommendations**

The National Treasury should ensure that the Donor Funding factored by the Accounting Officers in annual budgets are realistic and achievable.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2809) **Conclusion**

767. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KISUMU URBAN PROJECT - (PROJECT ADVANCE ACCOUNT) – CKE 1035.01.G

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

768. Inaccuracies in the Financial Statements

768.1 Non- Adherence with the Reporting Framework

2810) The review of financial statements revealed non-compliance with the International Public Sector Accounting Standards (Cash Basis) reporting framework as roles and responsibilities did not indicate the key qualification for the City Manager. In addition, the summary of overall projects performance did not include physical progress based on outputs, outcomes and impact since project commencement or comments on value for money achievements as required.

Submission from the Accounting Officer

2811) The Accounting Officer submitted it was true that the management did not include the roles and responsibilities of the City Manager and the overall summary project's performance which includes the physical progress based on outputs, outcomes and impact since inception.

2812) The key qualification for the City Manager has now been included in the roles and responsibilities table in the financial report of 2019/2020. Sofreco firm has since procured a Technical Assistance Team(TAT) in charge of monitoring and evaluation who will conduct a value for money audit to determine the outputs, outcomes and impact the project has had since inception.

2813) **Committee Observations and Findings**
The Committee observed that the Accounting Officer did not prepare financial statements for the financial year in a form prescribed by the Accounting Standards Board.

2814) **Committee Recommendations**

The Committee reprimands the accounting officer for failing to comply with the requirements of the Accounting Standards Board when preparing the financial statements for the financial year.

768.2 Funding Summary

2815) The funding summary table at Note 2.2 to the financial statements is inconsistent with the previous year's format. It did not indicate the financial year for the amount received to date and undrawn balance to date. Further, the summary balance reflects the AFD amount received to date as Kshs.3.962 billion yet it had an opening balance of Kshs.1.932 billion and receipts received during the year of Kshs.1.242 billion all totalling Kshs.3.174 billion.

2816) Consequently, the accuracy and validity of the funding summary could not be confirmed.

Submission from the Accounting Officer

2817) The Accounting Officer submitted it was true that the funding summary table at Note 2.2 to the Financial Statements were inconsistent with the same format of the funding summary as was used in the previous the financial year.

2818) The Funding summary has since been revised and corrected to reflect the dates for the drawdowns and the balance to date and is now consistent with the previous year.

2819) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not prepare financial statements for the financial year in a form prescribed by the Accounting Standards Board.

2820) **Committee Recommendations**

The Committee reprimands the accounting officer for failing to comply with the requirements of the Accounting Standards Board when preparing the financial statements for the financial year

768.3 Inaccuracies in the Statement of Receipts and Payments

2821) Total amount withdrawn from the special account during the year was EURO 11,616,240 translating to approximately Kshs.1,347,483,840 at exchange rate of Kshs.116 to the Euro. However, the statement of receipts and payments disclosed an amount of Kshs.1,242,803,200 thus understating it by Kshs.104,680,640. It is not clear whether the AFD funding was received during the year. Further, purchase of goods and services disclosed in the statement of receipts and payments of Kshs.215,736,820 is overstated by Kshs.5,595,720, while acquisition of non-financial assets of Kshs.395,571,657 is overstated by Kshs.294,333. Thus, the surplus for the period of Kshs.625,593,476 is understated by Kshs.5,890,053. As a result, the accuracy and validity of the statement of receipts and payments could not be confirmed.

2822) In addition, the references to Notes to the financial statements were also omitted on the face of the statement of receipts and payments.

Submission from the Accounting Officer

2823) The Accounting Officer submitted it was true that there were inaccuracies in the Statement of Receipts and Payments as outlined by the auditor. The amount withdrawn from the special account EUR 11,616,240 may have been translated at different rates since the project received two exchequer releases in the year under review, one in September 2018 and another in January 2019. Further, the project only accounts for the actual transfers in Kenya Shillings received from the Ministry. The financial statement for the subsequent reporting period FY 2019/2020 has been adjusted to include the correct ledger balance of purchase of goods, acquisition of non-financial assets and the resulting surplus.

2824) **Committee Observations and Findings**

The Committee observed that the Accounting Officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit. Also, the Accounting Officer breach of section 68 (2) (b) of the PFM Act, 2012 for failing to prepare and keep proper accounting records.

2825) **Committee Recommendations**

The Committee reprimands the Accounting Officer for dereliction of duty and breach of section 68 (2) (b) of the PFM Act, 2012 for failing to prepare and keep proper accounting records and also, ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

768.4 Inaccuracies in the Statement of Financial Assets

2826) The statement of financial assets as at 30 June, 2019 had the following anomalies:-

i) The bank balance disclosed at Kshs.669,144,199 is understated by Kshs.4,517,540 since the Management cancelled a cheque of a similar amount but did not proceed to reverse the entire transaction from the books of accounts.
ii) Accounts receivables - imprest and advances of Kshs.282,800 was not supported by payment vouchers in the Project cashbook, thereby resulting to an overstatement of Kshs.282,800.
iii) Fund balance brought forward of Kshs.45,351,614 is at variance with the reconciled cash book balance brought forward of Kshs.42,205,209, resulting to an overstatement of fund balance brought forward by Kshs.3,146,405.
iv) The financial assets of Kshs.669,426,999 are not equal to the fund balance shown as Kshs.670,945,090 by an unexplained variance of Kshs.1,518,091.
v) Notes 8.13A to 8.15 in the statement of financial assets are not provided to support the figures in the face of the statement.

2827) Consequently, the accuracy of the statement could not be confirmed.

Submission from the Accounting Officer

2828) The Accounting Officer submitted it was true there were inaccuracies in the Statement of Financial Assets as outlined by the auditor below:

1. The management has reversed the cancelled cheque of KShs.4,517,540.00 and received back the cash into the cash book.
2. We have the imprest warrants supporting the surrendered imprests.
3. The management has in the subsequent reporting period disclosed the correct ledger balance of fund balance brought forward, financial assets and also notes to the financial statements in Financial Year 2019/2020 Report.
4. The management has now completed the Electronic Document Management System (EDMS) that scans and stores a mirror image of all accountable documents of the project. This will help resolve the cases of missing documents since their mirror image will be available in the EDMS.
5. Currently, the management prepares financial reports on a manual basis supported by excel. This is prone to many errors which would have been avoided if we were using a Financial Management Software(FMS).The management is currently transiting from manual accounting to use of quick books which is more reliable than the manual system.

2829) **Committee Observations and Findings**

The Committee observed that the Accounting Officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit. Also, the Accounting Officer breach of section 68 (2) (b) of the PFM Act, 2012 for failing to prepare and keep proper accounting records.

2830) **Committee Recommendations**

The Committee reprimands the Accounting Officer for dereliction of duty and breach of section 68 (2) (b) of the PFM Act, 2012 for failing to prepare and keep proper accounting records and also, ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

768.5 Inaccuracies in the Statement of Cash Flows

2831) The following anomalies were observed:

i) Cash and cash equivalents at the end of the period of Kshs.723,901,685 is overstated by Kshs.54,474,686 when compared with the figure of Kshs.669,144,199 reflected in the statement of financial assets as at 30 June, 2019.
ii) The net increase of cash and cash equivalent of Kshs.681,696,476 is overstated by Kshs.50,239,947.
iii) The net increase in cash and cash equivalent of Kshs.681,696,476 differs with the net surplus figure of Kshs.625,593,476. The difference of Kshs.56,103,000 is not explained nor supported.

2832) Consequently, the accuracy of the statement of cash flows is in doubt. In view of the foregoing, the accuracy and completeness of the financial statements for the year ended 30 June, 2019 could not be ascertained.

Submission from the Accounting Officer

2833) The Accounting Officer submitted he was in agreement with the auditor concerning the inaccuracies in the Statement of Cash flow.

1. The management has now completed the Electronic Document Management System (EDMS) that scans and stores a mirror image of all accountable documents of the project. This will help resolve the cases of missing documents since their mirror image will be available in the EDMS.
2. Currently, the management prepares financial reports on a manual basis supported by excel. This is prone to many errors which would have been avoided if we were to use a Financial Management Software(FMS).The management is currently transiting from manual accounting to use of quick books which is more reliable than the manual system.

2834) **Committee Observation and Findings**

The Committee observed that the Accounting Officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit. Also, the Accounting Officer breach of section 68 (2) (b) of the PFM Act, 2012 for failing to prepare and keep proper accounting records.

2835) **Committee Recommendations**

The Committee reprimands the Accounting Officer for dereliction of duty and breach of section 68 (2) (b) of the PFM Act, 2012 for failing to prepare and keep proper accounting records and also, ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

769. Unsupported Expenditure on Purchase of Goods and Services

2836) Included in the purchase of goods and services figure of Kshs.215,736,828 is a payment of Kshs.19,033,440 made to SOFRECO for Technical Assistance Team (TAT) offered to Kisumu Urban Project (KUP) for consultancy vide cheque No.451 against invoice No.18252-008 dated 4 July, 2018 equivalent to Euros 104,350. However, the following anomalies were noted:

i. Three letters dated 4 April, 2017, 26 April, 2017 and 18 May, 2017 were written to SOFRECO complaining of the absence of the TAT's, long after a 20% advance payment of the contract sum was made as per the contract. This has in turn slowed down implementation of projects.

ii. Despite several correspondences between KUP and SOFRECO, there has been no response from SOFRECO explaining the reason for breach of contract.

iii. There was neither a validation report provided nor a TAT inventory (to show the presence and availability of the TAT's) in the year under review, to regularize the payment. It was therefore not possible to ascertain whether the payment made was for services that were offered.

iv. An Addendum No.1 dated July 2017 (adjustment of tax and replacement of key experts) was made between KUP and SOFRECO adjusting the total contract sum to Euros 2,087,000 to cater for all local taxes, fees, levies and other impositions levied under the applicable law. The client was in turn to withhold and pay to the concerned local administration on behalf of the consultant. The breakdown of additional taxes of Euros 417,400 was not provided. Furthermore, the addendum was not signed by both parties.

2837) Under the circumstances, it has not been possible to confirm the propriety of the expenditure of Kshs.19,033,440 for the year ended 30 June, 2019.

Submission from the Accounting Officer

2838) The Accounting Officer submitted It's true that there were some contractual obligations on the part of the consultant which were not fulfilled even after paying the 20% advance payment.

2839) At the time of audit, the consultant had not mobilized the various experts needed in the project. The experts were later mobilized and the project is on course. To date, the project has received all the credit funds under the financing agreement, absorbed 79.4% of the receipts as at the last review mission conducted by AFD in January, 2021.We have completed 26 No contracts, 29 No are ongoing,6 No are yet to be awarded and 9 No have pending addendum. Attached is the latest AFD mission report.

2840) In addition, Kisumu City requested the Ministry to be providing technical support to the Project, first as the supervising Ministry and secondly, when the consultant has challenges.

2841) As per the addendum signed between CoK and Sofreco, the following is the breakdown of the tax element amounting to 417,400.

- Euros 1,669,600 this figure is exclusive of withholding tax which represent 80%.
- 100% which includes withholding tax is equivalent = 1,669,600 x 100/80 = 2,087,000 Euros
- Therefore 20% withholding tax is equivalent to 20% of Euros 2,087,000 = 417,400 Euros.

➢

2842) **Committee observations and Findings**

(i) The Committee observed that Accounting Officer breached section 150. (1) of the Public Procurement and Asset Disposal Act 2015 that requires him/her or his or her appointed representative shall be responsible for ensuring that the goods, works and services are of the right quality and quantity.

(ii) The Committee further observed that project had delayed after having paid Ksh.19,033,440 to the contractor. This may lead to wastage of funds through wear and tear of stalled project and litigations from breach of the contract.

2843) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Accounting Officer should provide the status report, payment certificates and public works report on the status of the project to the National Assembly.

Other Matter

770. Budgetary Performance

2844) Approved budget was not provided to support the original budget figure of Kshs.2,478,671,465, adjustments on original budget of Kshs.1,037,781,723 and the final budget figure of Kshs.1,440,889,742.

2845) Consequently, the accuracy and validity of budget statement could not be confirmed.

Submission from the Accounting Officer

2846) The Accounting Officer submitted it was true that at the time of audit, the management had not received the approved budget. We received the final approved copy from the parent ministry and submitted to the auditor office for examination. In the subsequent reporting period, the management prepared financial report in compliance with approved budget from the Ministry.

2847) **Committee Observation and Findings**

The Committee observed that the Accounting Officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate documents supporting the original budget during the audit. Also, the Accounting Officer breach of section 68 (2) (b) of the PFM Act, 2012 for failing to prepare and keep proper accounting records.

2848) **Committee Recommendations**

The Committee reprimands the Accounting Officer for dereliction of duty and breach of section 68 (2) (b) of the PFM Act, 2012 for failing to prepare and keep proper accounting

records and also, ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

771. Under Absorption of Budgeted Funds for Acquisition of Non-Financial Assets

2849) An analysis of the statement of comparative budget and actual amounts attached to the financial statement revealed that the entity had planned to spend Kshs.927,519,434 in the acquisition of non-financial assets but spent only Kshs.395,571,657 thus leaving a balance of shs.531,947,777 unutilized. The entity under-spent by fifty-seven (57%) percent on acquisition of non-financial assets component denying Kenyan citizens services.

2850) **Submission from the Accounting Officer**
The Accounting Officer submitted it was true that we had planned to spend KShs.927,519,434 in the acquisition of non-financial assets but spent only KShs.395,571,657 thus leaving a balance of KShs.532,947,777 unutilized due to lack of exchequer. This impacted on the project's ability to meet its obligation as and when they arise.

2851) However, the project has received all the credit funds under the financing agreement, absorbed 79.4% of the receipts as per the last review mission conducted by AFD in January, 2021.We have completed 26 No contracts, 29 No are ongoing, 6 No are yet to be awarded and 9 No have pending addendum. The City of Kisumu has already requested for a one-year time. extension of the Project up to June 2022 to complete all the pending contracts. Copy of the was Letter attached for perusal by the Committee.

2852) **The Committee observations and Findings**
The Committee observed that the under absorption was as a result underfunding or in-adequate Exchequer releases.

2853) **Committee Recommendations**

The Accounting Officer for National Treasury should always ensure that the money belonging to the other state Departments is released in good time to enable implementation of development projects and provision of services.

772. Progress on Follow up of Auditor Recommendations

2854) Progress on follow up of previous year's auditor recommendations did not include action taken to address the following issues: wastage of funds, floodlight relocation, delay in projects implementation, pending bills, budget performance, invalid transactions, unsupported receivables from related parties, and unapproved KUP operations manuals. No explanation has been provided for the anomaly.

Submission from the Accounting Officer

2855) The Accounting Officer submitted It is true that the progress on follow up of previous year's recommendation did not include action taken to address the following issues: wastage of funds, floodlight relocation, delay in projects implementation, pending bills, budget performance, invalid transactions, unsupported receivables from related parties, and unapproved KUP operations manual.

2856) Some of the actions taken to address prior year findings include:

1. Carrying out due diligence to all performance bonds and bank guarantees issued by various service providers to determine their validity prior to advance payment and contract period extension.
2. To date, the project has received all the credit funds under the financing agreement, absorbed 79.4% of the receipts as per the last review mission conducted by AFD in January, 2021.We have completed 26 No contracts, 29 No are ongoing, 6 No are yet to be awarded and 9 No having pending addendum
3. Appointed project management committee for each contract as required by the procurement act .This committee approves deliverables, inspect works and advise on contract extension
4. City of Kisumu had already submitted to the donor a request for No objection on the draft Operations manual. However, the TAT advised that we use the draft operations manual as we the response from the donor. To date, we have not received the No objection from the donor on the draft operations manual.
5. City of Kisumu requested the Ministry to be providing technical support to the project in case the consultant faces difficulties in mobilizing the TATs.

2857) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not include action taken to address the following issues: wastage of funds, floodlight relocation, delay in projects implementation, pending bills, budget performance, invalid transactions, unsupported receivables from related parties, and unapproved KUP operations manuals and thus did not prepare financial statements for the financial year in a form prescribed by the Accounting Standards Board.

2858) **Committee Recommendations**

The Committee reprimands the accounting officer for failing to comply with the requirements of the Accounting Standards Board when preparing the financial statements for the financial year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

773. Late Submission of Financial Statements

2859) The Project's financial statements were submitted to the Office of the Auditor-General for audit on 9 October, 2019. The advance account failed to meet the statutory deadline set for 30 September, 2019. No authority for exemption or reason leading to late submission was provided.

Submission from the Accounting Officer

2860) The Accounting Officer submitted it was true that the financial statements were submitted late to the office Auditor General. This is highly regretted and we give an assurance that this will not be repeated. I am happy to report that the financial statements for the period ended 30th June, 2020 were submitted to the office of the Auditor General on 30th September, 2020.

2861) **Committee Observation and Findings**

The committee observed that the Accounting officer was in breach of section 68 (2) (k) of the Public Financial Management Act 2012 that requires him/her to prepare annual financial statements for each financial year within three months after the end of the financial year, and submit them to the Controller of Budget and the Auditor-General for audit, and in the case of a national government entity, forward a copy to the National Treasury.

2862) **Committee Recommendations**

The Committee reprimands the accounting officer for breach of section 68 (2) (k) of the PFM Act 2012 for failing to provide supporting documentation to the financial statements within (3) three months after the end of the financial year.

774. Roads and Hospital Constructions

774.1 Construction of Car Wash-Sije Road

2863) During 2016/2017 financial year, the City of Kisumu through the Kisumu Urban Project proposed to construct to bitumen standard 2.12kms Car Wash-Sije Road. The proposed project was advertised in the local daillies, as per the tender minutes opening minutes of 14 December, 2016 and two (2) firms bided for the above works. The tender evaluation minutes of January, 2017, recommended an engineering works company for the award of the contract at a sum of Kshs.97,166,159 being the lowest responsive bidder. The donor (AFD) gave a no objection for the Project vide an email on 4 April, 2017.

2864) A letter of award notification was on 4 May, 2017 issued to the contractor to carry out the above works, while the contract agreement was dated 5 July, 2018. The donor (AFD) gave no objection on the draft contract vide their email of 3 July, 2018. The contract period was expected to be forty (40) weeks from 19 July, 2018 to 25 April, 2019. The expenditure records indicated that a total of Kshs.18,850,235 had been paid. However, examination of the payment vouchers, project files and physical verification of the project on 7 November 2019, revealed the following anomalies:

i. Audit review of the tender opening minutes revealed that five (5) members who were present did not initial each page of the tender opening minutes contrary to Section 78 (11) of the Public Procurement and Asset Disposal Act, 2015.

ii. On 9 April, the contractor requested for an extension of the contract period by 220 days but no documentary evidence was availed to confirm whether the request for the extension was approved.

iii. The advance payment bond and performance guarantee No. MD1824779231 and MD1824753691 had expired on 04 March, 2019 and 04 September, 2019 respectively and had not been renewed.

iv. The Project implementation status report of 30 June, 2019 indicated that the works were eighteen percent (18%) complete.

v. There is an ongoing court case stopping the demolition of Young Generation Centre hence expansion of the road along that section measuring about seventy (70) meters could be hindered.

vi. Physical verification of the Project revealed that the contractor was on site and carrying out the works although at a slow pace and therefore, unlikely to complete the works in the stipulated time.

Submission from the Accounting Officer

2865) The Accounting Officer submitted it was true that the tender opening minutes were not initialized by 5 members who were present during the opening ceremony that a letter of extension was not given to the auditors for verification and that at the time of audit both advance payment bond and performance guarantee No MD1824779231 and MD1824753691 had expired but not renewed.

2866) The management took the following actions:

1. The tender opening minutes were later initialized by all members of the tender opening committee as provided by section 78(11) of the Public Procurement and Asset Disposal Act, 2015.

2. An interim time extension was processed by the Client to keep the contract alive as validation of the process was on going for forwarding to No-Objection from the donor.
3. Both the advance payment bond and performance guarantee No MD1824779231 and MD1824753691 had expired but not renew.

2867) Currently, the contract is substantially completed and is still in Defect Liability period(DLP).We have released the first half moiety funds for the DLP.

2868) **Committee Observation and Findings**

The committee observed that;

(i) The interim time extension was processed by the Client to keep the contract alive as validation of the process.

(ii) The advance payment bond and performance guarantee No MD1824779231 and MD1824753691 had expired but not renewed.

(iii)The contract was substantially complete and in Defect Liability period(DLP) and had released the first half moiety funds for the DLP.

2869) **Committee Recommendations**

Within three (3) months upon adoption of this report, the Accounting officer should provide the completion certificate for the project to the National Assembly and the Auditor-General should verify the status of the project and report the findings to the National Assembly.

774.2 Proposed Completion of Low Volume Access Roads - Tender No. CK/KUP/W/4/2018/037

2870) During 2018-2019 financial year, the City of Kisumu through the Kisumu Urban Project proposed to complete low volume access roads. A local company was recommended for the award of the contract being the lowest responsive evaluated bidder at a contract sum of Kshs.63,687,970. The contract was awarded on 01 November, 2018 but the contract agreement was not availed for audit review.

2871) Audit of expenditure of 2018/2019 financial year reflected a total of Kshs.11,518,321 had been paid out to the contractor. However, examination of the payment vouchers, project files and physical verification of the project on 07 November, 2019, revealed the following anomalies:

i. Audit review of the tender opening minutes revealed that five (5) members who were present did not initial each page of the tender opening minutes contrary to Section 78 (11) of the Public Procurement and Asset Disposal Act, 2015.

ii. The performance security that the contractor provided from a local bank was valid up to 28 July, 2019 hence it had already expired yet the contractor had done16% of the works as at 30 June, 2019.

iii. On 10 August, 2019, the contractor requested for extension of contract period for three (3) months from 30 September, 2019 to 31 December, 2019, which approval had not been granted.

iv. On 17 October, 2019 the city engineer noted that the contractor could not complete the works within the three (3) months extension period requested for due to the slow pace and poor workmanship.

Submission from the Accounting Officer

2872) The Accounting Officer submitted it was true that there was failure by the management to observe key result areas in this works contract. We however have;

1) Reminded the contractor to provide an updated work program for the purposes of Extension of Time and also to improve his pace of work execution which is the major cause of the delays. (Management minutes attached).
2) Processed an interim time extension of time as the review of the documents provided by the Contractor is on-going.

2873) The contractor has been reminded to update his performance bond in the management meetings. The contract is at 65% completion.

2874) **Committee Observation and Findings**

The committee observed that;

(i) That there was failure by the management to observe key result areas in this works contract;
(ii) That the contractor provided an updated work program for the purposes of Extension of Time.
(iii) That the project was at 65% completion.

2875) **Committee Recommendations**

Within three (3) months upon adoption of this report, the Accounting officer should provide the completion certificate for the project to the National Assembly and the Auditor-General should verify the status of the project and report the findings to the National Assembly.

774.2.1Kemri-Otonglo-Tiengere-Rota Road

2876) The road was about four (4) KM and the following anomalies were noted;

i. Poor workmanship in the drainage works in all the sections along the road was noted and some sections of the murram had been cut off by floods.
ii. Poor workmanship in stone pitching was noted and some sections were falling off.
iii. There was an electric pole in the middle of the road and no explanation was provided why it was left intact.
iv. Construction works of the bridge/box culvert had been abandoned.
v. The contractor was not on site and the site office had been abandoned.

2877) Consequently, the value for money and the regularity of the expenditure could not be confirmed.

Submission from the Accounting Officer

2878) The Accounting Officer submitted that due to contractual challenges including cash flow, poor workmanship, abandonment of works, the contract was eventually terminated and consolidated into Low volume access roads which are currently at 65% completion.

2879) **Committee Observation and Findings**

The committee observed that;

(i) That there was Poor workmanship in the drainage works in all the sections along the road was noted and some sections of the murram had been cut off by floods.
(ii) That there was poor workmanship in stone pitching and some sections were falling off.
(iii)That there was an electric pole in the middle of the road as at the time audit no mention on the status of the pole was provided in the submissions.
(iv)That the Construction works of the bridge/box culvert had been abandoned.
(v) That the contract was terminated and consolidated into Low volume access roads which were at 65% completion.

2880) **Committee Recommendations**

Within three (3) months upon adoption of this report, the Accounting officer should provide the contract termination documents that are legally binding between the parties thereto, completion certificate for the project to the National Assembly and the Auditor-General should verify the status of the project and report the findings to the National Assembly.

774.2.2Western-Namthoe Road (800m)

2881) The following anomalies were observed;

i. No drainage covers had been installed on top of the drainage channels and drainage works were incomplete.

ii. No major works were on going and only three casual laborers were on site and the site office was closed.

iii. The contract period had lapsed and no evidence was availed to show if the contract period had been extended.

Submission from the Accounting Officer

2882) The Accounting Officer submitted that due to contractual challenges including cash flow, poor workmanship, abandonment of works, the contract was eventually terminated and consolidated into Low volume access roads which are currently at 65% completion.

Committee Observation and Findings

2883) The committee observed that;

(i) The drainage covers had not been installed on top of the drainage channels and drainage works were incomplete.
(ii) The major works had stalled.
(iii) The contract period had lapsed and later terminated and consolidated into Low volume access roads which were at 65% completion.

2884) **Committee Recommendations**

Within three (3) months upon adoption of this report, the Accounting Officer should provide the contract termination documents that are legally binding between the parties thereto, completion certificate for the project to the National Assembly and the Auditor-General should verify the status of the project and report the findings to the National Assembly.

774.3 Proposed Extension of Lumumba Health Centre Phase 1 - Tender No. CCK/KUP/W/5/2017/042

2885) During 2017-2018 financial year, the City of Kisumu through the Kisumu Urban Project proposed for the extension of Lumumba Health Centre Phase 1 and fourteen (14) firms bided for the above works. A local company was awarded the contract at a sum of Kshs.113,899,049 being the lowest responsive bidder.

2886) Examination of the expenditure records indicated that a total of Kshs.58,268,637 had been paid and the following anomalies were noted:

i. Audit review of the tender opening minutes revealed that five (5) members who were present did not initial each page of the tender opening minutes contrary to Section 78(11) of the Public Procurement and Asset Disposal Act, 2015

ii. As per the progress report of 30 June, 2019, the Project was substantially complete but external works (furniture, landscaping, boundary fencing, incinerator, driveways and parking) were incomplete.

iii. The contract period was unknown because no monthly progress reports and contract agreement was made available for our audit review.

Submission from the Accounting Officer

2887) The Accounting Officer submitted it was true there were some lapses on the part of the management in adherence to the rules and regulations governing the contract management. The tender opening minutes were later initialized all by the members of the opening committee, all the external works were checked and certified before release of the final moiety money. All the contract agreements including monthly progress reports and contract agreements are available for verification by the Auditor.

2888) The project is already completed and handed over to the client. The final retention money has also been released.

2889) **Committee Observation and Findings**

The committee observed that;

(i) There were some lapses on the part of the management in adherence to the rules and regulations governing the contract management.

(ii) The project was already completed and handed over to the client.

2890) Committee Recommendations

Within three (3) months upon adoption of this report, the Accounting officer should provide the completion certificate for the project to the National Assembly and the Auditor-General should verify the status of the project and report the findings to the National Assembly.

774.3 Construction of Impala-Dunga-Nanga-Five Ways Road

2891) During 2016/2017 financial year, the City of Kisumu through the Kisumu Urban Project proposed to construct to bitumen standard Impala-Dunga-Nanga-Five Ways road. A construction company was awarded the contract at a sum of Kshs.301,145,590, being the lowest responsive bidder. The contract was expected to be completed within twelve (12) months from 13 April, 2018 to 12 April, 2019.

2892) Expenditure records and Project files revealed that a total of Kshs.133,558,585 had been paid. However, the following observations were noted during a physical verification of the Project on 6 November, 2019:

i. Audit review of the tender opening minutes revealed that five (5) members who were present did not initial each page of the tender opening minutes contrary to Section 78(11) of the Public Procurement and Asset Disposal Act, 2015
ii. On 22 May, 2019, the contractor requested for an extension of the contract period and an extension of 78 days up to 30 June, 2019 was approved by the engineer. However, approval by the Tender Evaluation Committee and a no objection from the Donor were not availed for audit review.
iii. On 15 March, 2019, the consultant requested the city manager for authority to expend contingency funds totalling Kshs.27,440,877 but no evidence was availed that the Tender Evaluation Committee approved use of the contingency amount.
iv. Site meeting minutes No. 15 held on 17 July ,2019 indicates that the contractor had only carried out 38.62% overall physical progress even though the extended contract period had expired on 30 June, 2019.
v. No explanation was availed on why the notification of award was dated 7 May, 2017 while the contractor accepted to carry out the works on 6 May, 2016.
vi. On 19 July, 2018, the city manager requested the Public Procurement and Regulatory Authority (PPRA) for advice on the contract for the extension of Impala-Dunga-Nanga-Five Ways Road which was to be 4.5kms. On 4 October, 2019, the city manager also requested the Director Kenya Wildlife Service to allow the contractor to complete a section of the road measuring about 0.098KM. No response has been received to date.
vii. Physical verification of the Project on 6 November, 2019 revealed that the contractor was on site and the works were around eight five (85%) percent complete.

Submission from the Accounting Officer

2893) The Accounting Officer submitted it was true that the management failed to carry out the above contractual obligations as outlined by the Auditor:

1. The minutes of the opening committee were later signed by all members of the opening committee.
2. The No objection from the Donor for time extension was finally granted.
3. There was confusion on the dates of the notification of award and the date of acceptance. The contract was however signed after acceptance.
4. The City of Kisumu obtained AFD's No objection for the construction of the KWS fence. However, there was no extension of Dunga Road as was requested by the City Manager.

2894) The initial contracted works have been completed and handed over to the client. Additional (addendum) works for installation of street lights, protection works and reinstatement of KWS wall is currently ongoing.

2895) **Committee Observation and Findings**

The committee observed that;

(i) There were some lapses on the part of the management by failing to observe contractual obligations as observed by the Auditor General.

(ii) The initial project was already completed and handed over to the client.

2896) **Committee Recommendations**

Within three (3) months upon adoption of this report, the Accounting Officer should provide the completion certificate for the project to the National Assembly and the Auditor-General should verify the status of the project and report the findings to the National Assembly.

774.4 Construction of Family Planning-Naselica Roads - Lot 5 Bid Number CCK/KUP/W/5/2014/050

2897) During 2016-2017 financial year, the City of Kisumu through the Kisumu Urban Project proposed to construct bitumen standard Family Planning-Naselica Roads. A contract was awarded to a construction company at a contract sum of Kshs.15,803,864, being the lowest responsive bidder and the Donor (AFD) gave a no objection on 6 August, 2018. The contract was expected to be completed within twenty-six (26) weeks from 27 August, 2018 to 25 February, 2019.

2898) A review of expenditure records indicated that a total of Kshs.2,243,514 was paid on 20 March, 2019. However, examination of the payment vouchers, project files and physical verification of the Project on 7 November, 2019, revealed the following observations:

i. Audit review of the tender opening minutes revealed that five (5) members who were present did not initial each page of the tender opening minutes contrary to Section 78 (11) of the Public Procurement and Asset Disposal Act, 2015.

ii. On 19 June, 2019, the consultant recommended for the extension of the contract period by 114 days from 9 May, 2019 to 31 August, 2019. However, approval for the extension by Tender Evaluation Committee and a no objection from the Donor were not availed.

2899) In addition, on physical verification of the road on 7 November, 2019, the following anomalies were noted:

i. A hundred (100) meters of the road had not been fitted with gabbros (towards Khetias).

ii. Stone pitching was done halfway and was incomplete.

iii. No drainage works had been done in some sections of the road.

iv. There were complaints from the owners of the buildings along the road that during the rainy periods, their business premises were getting flooded. The contractor did not therefore do quality work in the drainage system.

v. The contractor was not on site and the site office was closed.

Submission from the Accounting Officer

2900) The Accounting Officer submitted it was true that at the time of audit the contractor had not fitted about 100m length with cabros, that there was poor drainage along the road leading to flooding of business premises in the vicinity and that the contractor was not on sight.

2901) The minutes of the tender committee were later initialized by the all the committee members. No objection was obtained from the Donor for extension of time. Management addressed all these defects which were noted during the audit period.

2902) The initial signed contract works are already complete and a completion certificate issued. Addendum works are currently ongoing.

2903) **Committee Observation and Findings**

The committee observed that there was poor workmanship on the part of the contractor and the contractor failed to fulfill his/her contractual obligations as observed by the Auditor General.

2904) **Committee Recommendations**

The Committee reprimands the accounting officer for failing to adhere to the rules and regulations governing the contract management.

774.5 Construction of Nairobi Road-Nyamasaria KFW Primary School-Sije Road - Lot 4 CCK/KUP/w/3/2014/047

2905) During 2016-2017 financial year, the City of Kisumu through the Kisumu Urban Project proposed to construct the Nairobi Road-Nyamasaria KFW Primary School-Sije Road to bitumen standard. A construction company was awarded the contract at a sum of Kshs.99,489,639 and the contract was expected to take nine (9) months from 15 January, 2018 to 14 October, 2018.

2906) The audit review of 2018/2019 financial year expenditure records indicated that payments totalling Kshs.37,709,203 had been paid and a physical verification of the Project on 7 November, 2019, revealed the following:

i. Audit review of the tender opening minutes revealed that five (5) members who were present did not initial each page of the tender opening minutes as contrary to Section 78 (11) of the Public Procurement and Asset Disposal Act, 2015.

ii. On 16 May, 2019, the contractor requested for extension of the contract period which was approved by the consultant on 21 May, 2019 whereby the contract period was extended to 27 September, 2019.

iii. On 12 July, 2018, the project engineer requested the city manager for authority to use a contingency amount of Kshs.8,792,315 but no evidence was availed as to whether the Tender Evaluation Committee approved the use of the contingency sums.

2907) In view of the circumstances, the value for money and propriety of expenditure is in doubt.

Submission from the Accounting Officer

2908) The Accounting Officer submitted that it was true that there were some issues in the management of the contract as outlined above.

2909) The management has taken the following initiatives to address the gaps;

1. The minutes of the tender opening committee were later initialized by the committee members.
2. The time extension was necessary to allow the contract time to complete the contract. The management prepared an addendum for extension and submitted it to the donor for No objection.
3. The use of contingency amount of KShs.8,792,315 was approved by the tender committee.

2910) The road is 95% completed. The contractor has applied for the release of the first half of moiety money.

Committee Observation and Findings

2911) The committee observed that;

(i) There were some lapses on the part of the management in adherence to the rules and regulations governing the contract management.

(ii) The project was 95% completed.

2912) **Committee Recommendations**

Within three (3) months upon adoption of this report, the Accounting Officer should provide the completion certificate for the project to the National Assembly and the Auditor-General should verify the status of the project and report the findings to the National Assembly.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2913) **Conclusion**

775. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KISUMU URBAN PROJECT (CASH EXPENDITURE FUND) – CREDIT NO. CKE 1035.01.G

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

776. Financial Statements

776.1 Failure to Properly Identify the Reporting Period

2914) The statement of financial assets presented for audit indicate that it was drawn as at 30 June, 20XX instead of as at 30 June, 2019. Similarly, the statement of receipts and payments, and statement of cash flows are for the period ended 30 June, 20XX instead of for the period ended 30 June, 2019. This is contrary to the requirements of the revised annual reports and financial statements reporting template issued on 30 June, 2019 by the Public Sector Accounting Standards Board (PSASB).

Submission from the Accounting Officer

2915) The Accounting Officer submitted that the statement of receipts and payments, and statement of cash flows were revised to reflect the correct reporting period and copies were reviewed and verified by the auditors.

2916) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not prepare financial statements for the financial year in a form prescribed by the Accounting Standards Board.

2917) **Committee Recommendations**

The Committee reprimands the Accounting Officer for failing to comply with the requirements of the Accounting Standards Board when preparing the financial statements for the financial year.

776.2 Failure to Indicate Approval Date of Financial Statements

2918) The financial statements for the year 2018/19 presented for audit had no approval date contrary to Treasury Circular Ref PSASB 1/12/Vol.1/44 of 25 June, 2019 on revised annual financial reporting templates which requires that the financial statements are approved, dated and signed.

Submission from the Accounting Officer

2919) The Accounting Officer submitted that proper financial statements were submitted, approved, dated and signed.

2920) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not prepare financial statements for the financial year in a form prescribed by the Accounting Standards Board.

2921) **Committee Recommendations**

The Committee therefore recommends that:

The Committee reprimands the Accounting Officer for failing to comply with the requirements of the Accounting Standards Board when preparing the financial statements for the financial year.

776.3 Incomplete Disclosure of the Financial Statements

2922) The objective of the Project is not stated under Project information and overall performance section of the Financial Statements. Further, the progress on follow-up of the Auditor-General's recommendations is not accurate since no audit evidence had been availed for audit verification by the time of the audit. In addition, Management has not specified the action taken to address the issues raised in the report for the year ended 30 June, 2018.

Submission from the Accounting Officer

2923) The Accounting Officer submitted that the financial statements were revised and full disclosures made to reflect the correct position. The revised statements were reviewed and verified by the auditors.

2924) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not prepare financial statements for the financial year in a form prescribed by the Accounting Standards Board.

2925) **Committee Recommendations**

The Committee reprimands the Accounting Officer for failing to comply with the requirements of the Accounting Standards Board when preparing the financial statements for the financial year.

776.4 Late Submission of the Financial Statements

2926) Section 47(1) of Public Audit Act, 2015 requires Management to prepare and submit financial statements for audit within three (3) months after the end of each financial year. However, the Project Management submitted the financial statements for audit on 9 October, 2019 contrary to the stipulated required date, on or before 30 September, 2019. Management was therefore in breach of the law.

Submission from the Accounting Officer

2927) The Accounting Officer submitted that indeed the financial statements were submitted late. Proper measures have been put in place to prevent and deter any late submission of financial statements in future.

2928) **Committee Observation and Findings**

The committee observed that the Accounting officer was in breach of section 68 (2) (k) of the Public Financial Management Act 2012 that requires him/her to prepare annual financial statements for each financial year within three months after the end of the financial year, and submit them to the Controller of Budget and the Auditor-General for audit, and in the case of a national government entity, forward a copy to the National Treasury.

2929) **Committee Recommendations**

The Committee reprimands the Accounting Officer for breach of section 68 (2) (k) of the PFM Act 2012 for failing to provide supporting documentation to the financial statements within (3) three months after the end of the financial year.

777. Trial Balance

2930) The annual report and financial statements presented for audit were not accompanied with a trial balance. Consequently, the accuracy and completeness of the figures presented in the financial statements and notes to the financial statements could not be confirmed.

Submission from the Accounting Officer

2931) The Accounting Officer submitted that the financial statements were revised and trial balance corrected and attached. The revised statements were reviewed and verified by the auditors.

2932) **Committee Observation and Findings**

The committee observed that the Accounting officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit.

2933) **Committee Recommendations**

The Committee reprimands the Accounting Officer for breach of section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit.

778. Purchase of Goods and Services

778.1 Unsupported Payments

2934) Included in Note 1.5 to the financial statements is purchase of goods and services totalling Kshs.6,753,745. The amount includes travelling and subsistence allowances amount of Kshs.2,224,870, out of which an amount of Kshs.267,820 was not supported by payment schedules. Further, included in the purchase of goods and services amount was an amount of Kshs.1,427,303 in respect to Kisumu Urban Project secretariat expenses. Out of this figure, an amount of Kshs.204,762 was not supported by payment schedules. In addition, included in purchase of goods and services balance of Kshs.6,753,745 were various payments totalling Kshs.2,687,628 which were not supported with documentary evidence like payment vouchers and travel tickets as required.

2935) As a result, the propriety of purchase of goods and services expenditure of Kshs.6,753,745 could not be ascertained as at 30 June, 2019.

Submission from the Accounting Officer

2936) The Accounting Officer submitted that the receipts and payment vouchers supporting the payments of Kshs.2,687,628 were provided to the auditors. The receipts and payment vouchers were reviewed and verified.

2937) **Committee Observation and Findings**

The committee observed that the Accounting officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit.

2938) **Committee Recommendations**

The Committee reprimands the Accounting Officer for breach of section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit.

778.2 Unaccounted for Purchases

2939) During the year under review, a local firm was paid Kshs.628,827 for the supply of stationery and office accessories. However, examination of the stores receipt voucher (S13) and stores issue vouchers (S11) revealed that supplies amounting to Kshs.263,000 were not received in the stores nor issued out.

2940) Under the circumstances, the propriety of the expenditure of Kshs.263,000 could not be ascertained.

Submission from the Accounting Officer

2941) The Accounting Officer submitted that purchases of stationery and office accessories worth Kshs.628,827 was properly supported stores receipt voucher (S13) and stores issue vouchers (S11) which were provided to the auditors. The stores receipt voucher (S13) and stores issue vouchers (S11) were reviewed and verified.

2942) **Committee Observation and Findings**

The committee observed that the Accounting officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit.

2943) **Committee Recommendations**

The Committee reprimands the Accounting Officer for breach of section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit.

779. Cash and Cash Equivalents

779.1Cash at Hand and at Bank

2944) The statement of financial assets reflects a cash and cash equivalents credit balance of Kshs.254,364 composed of an overdrawn bank balance of Kshs.248,721 and an overdrawn cash at hand balance of Kshs.5,643. On the other hand, Note 1.6 to the financial statements, reflects a net cash and cash equivalent balance of (Kshs.936) made up of a debit bank balance of Kshs.4,707 and a credit cash at hand balance of Kshs.5,643 as at 30 June, 2019.

2945) In addition, the actual cash at hand balance could not be confirmed as a board of survey cash count certificate as at 30 June, 2019 was not provided. Further, offsetting of cash and cash equivalents by a credit balance is contrary to paragraph 48 of the International Public Sector Standards (IPSAS) 1 on presentation of financial statements, which requires that assets and liabilities, and revenue and expenses, shall not be offset unless required or permitted by an IPSAS.

2946) Consequently, the accuracy and completeness of the cash and cash equivalents balance of Kshs.254,364 as at 30 June,2019 could not be confirmed.

Submission from the Accounting Officer

2947) The Accounting Officer submitted that the financial statements were revised and cash and cash equivalents error corrected. Revised financial statements were availed for audit review and verification.

2948) **Committee Observations and Findings**
The Committee observed that the Accounting Officer did not prepare financial statements for the financial year in a form prescribed by the Accounting Standards Board.

2949) **Committee Recommendations**

The Committee reprimands the Accounting Officer for failing to comply with the requirements of the Accounting Standards Board when preparing the financial statements for the financial year.

779.2Unsupported Imprest

2950) The statement of financial assets reflects a balance of Kshs.6,263,663 as outstanding imprest and advances. However, this figure could not be confirmed as imprests schedules and warrants were not produced for audit. Further, examination of the imprest register revealed that it was not updated with imprests issued and surrendered during the financial year. In addition, Note 1.7 to the financial statements reflects a nil balance under outstanding imprest and advances.

2951) Consequently, the accuracy and completeness of the outstanding imprest and advances balance of Kshs.6,263,663 as at 30 June, 2019 could not be ascertained.

Submission from the Accounting Officer

2952) The Accounting Officer submitted that all the outstanding Imprest of Kshs.6,263,663 was full surrendered and recovered from the holders. Copies of surrender vouchers and recoveries were attached for perusal by the Committee.

2953) **Committee Observations and Findings**
The committee observed that the Accounting Officer did not take any action in line with Regulation 92 (5), (6) and (8) of the PFM (National Government) Regulations, 2015 for the failure to account for or surrender the imprest on the due date and issuing a second imprest before surrender of the first one.

2954) **Committee Recommendations**

The Accounting Officer must at all times ensure that;

1) **The holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.**
2) **In the event of the imprest holder failing to account for or surrender the imprest on the due date, the he/she shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.**
3) **In order to effectively and efficiently manage and control the issue of temporary imprests, no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary.**

780. Receipts

780.1 Stale Cheques

2955) The statement of receipts and payments reflects receipts amounting to Kshs.6,387,917 which included an amount Kshs.486,670 in respect of stale cheques. Further, it was observed that most of the stale cheques were issued to members of staff in form of imprest to undertake official duties. No reason was provided as to why members of staff held the cheques till past their validity period. Recognition of stale cheques as revenue is contrary to the accounting principle of prudence which requires that revenue should not be overestimated nor expenses underestimated. Stale cheques should be reversed in the cash book during bank reconciliation process.

Submission from the Accounting Officer

2956) The Accounting Officer submitted that it was true that including stale cheques as part of receipts during the year is contrary to the accounting principle of prudence which requires that revenue should both be overestimated nor expenses underestimated. The cheques have since been removed from revenue and reversed in the cash book as they were not funded.

2957) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not prepare financial statements for the financial year in a form prescribed by the Accounting Standards Board.

2958) **Committee Recommendations**

The Committee reprimands the Accounting Officer for failing to comply with the requirements of the Accounting Standards Board when preparing the financial statements for the financial year.

780.2 Understatement of Amount Received

2959) Paragraph 1.6 on the Project Funding Summary indicates a total amount of Kshs.50,545,119 received as at 30 June, 2019. However, when the amount of Kshs.5,901,247 received in the current financial year is added to the balance brought forward of Kshs.48,845,119 as reported in 2017/18 financial year, the total amount received as at 30 June, 2019 adds up to Kshs.54,746,366 resulting to unexplained difference of Kshs.4,201,247.

Submission from the Accounting Officer

2960) The financial statement were revised, reviewed and verified by the auditors

2961) **Committee Observation and Findings**
The financial statements for financial year 2017/2018 were revised and submitted for audit review and verification.

2962) **Committee Recommendations**

1) **The Committee reprimands the Accounting Officer for breach of section 9 (1) (e) of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Auditor-General should review the revised financial statements and report the findings to the National Assembly.**

781. Misstated Fund Balance Brought Forward

2963) The statement of financial assets reflects a fund balance amount of Kshs.6,883,855.00 brought forward from the previous year. However, the corresponding Note 1.8 reflects a nil balance brought forward from 2017/18 financial year casting doubt on the accuracy of the statement of financial asset as at 30 June, 2019.

Submission from the Accounting Officer

2964) The financial statement were revised, reviewed and verified by the auditors

2965) **Committee Observation and Findings**
The financial statements for financial year 2017/2018 were revised and submitted for audit review and verification.

2966) **Committee Recommendations**

1) **The Committee reprimands the Accounting Officer for breach of section 9 (1) (e) of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Auditor-General should review the revised financial statements and report the findings to the National Assembly.**

782. Pending Bills

2967) Annex 2A attached to the financial statements reflects pending bills amounting to Kshs.2,161,857. However, the pending bills were not disclosed in the notes to the financial statements under "other important disclosures' as required by the revised annual reports and financial statements reporting template issued on 30 June, 2019 by the Public Sector Accounting Standards Board (PSASB).

Submission from the Accounting Officer

2968) The financial statement were revised, reviewed and verified by the auditors

2969) **Committee Observations and Findings**
The Committee observed that the Accounting Officer did not prepare financial statements for the financial year in a form prescribed by the Accounting Standards Board.

2970) **Committee Recommendations**

The Committee reprimands the Accounting Officer for failing to comply with the requirements of the Accounting Standards Board when preparing the financial statements for the financial year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2971) **Conclusion**

783. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2972) **Conclusion**

784. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

CIVIL SERVANTS HOUSING SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

785. Unsupported Payments for Machakos Project

2973) The statement of financial performance reflects general expenses of Kshs.37,735,391.00. A review of payment vouchers relating to the Fund housing Project located in Machakos Town revealed that payments totaling Kshs.10,639,982.00 were not adequately supported with schedules and signed agreements.

2974) In the absence of the supporting documents, the propriety of the expenditure of Kshs.10,639,982.00 could not be confirmed.

Submission from the Accounting Officer

2975) The Accounting officer admitted that the supporting documents were inadvertently omitted at the time of payment. The Accounting Officer submitted that the supporting documents were available for audit.

2976) **Committee Observation and Findings**

(i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Committee further observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

(iii) However, the Committee observed that the supporting documents have since been availed and verified by the Office of the Auditor General; and

2977) **The Committee recommends that:**

Within three months of tabling and adoption of this report, the Auditor-General should review the revised financial statements and report the findings to the National Assembly.

Other Matter

786. Unresolved Matters for the previous Year-Cash and cash Equivalent

2978) It was true that the bank reconciliation statement as at 30 June, 2018 revealed long outstanding balances in the bank reconciliation totaling to Kshs.201,183,649.0 as receipts in cash book not in bank statement. I wish to report that as at August 2019 we had reconciled an amount of Kshs.201,016,525.4. The bank reconciliation statement has been updated and outstanding balances cleared.

2979) It was also true that bank reconciliation statement showed unexplained payments in the bank not in cash book amounting to Ksh.31,553,576.00. These were payments not posted in cash book at the time of audit review. However, the management has since posted all the pending payments.

2980) The Auditor's observation that the bank reconciliation statement reflected balances of Ksh.180,596,212.00 being payments in the cash book not in bank is correct. The bank reconciliation has been updated and all the un-presented cheques of Ksh.180,596,212.00 cleared.

2981) **Committee Observations and Findings**

(i) The Committee observed that since Audit exercise is conducted some months after the close of the year, the balances ought to have been reconciled before the Auditors questioned the balances. Therefore, the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Committee also observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

2982) **Committee Recommendations**

The Committee reprimands the Accounting Officers for failing to ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also failed to ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2983) **Conclusion**

787. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2984) **Conclusion**

788. There were no material issues relating to effectiveness of internal controls, risk management and governance..

STATE OFFICERS HOUSE MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

2985) **Unqualified Opinion**

789. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2986) **Conclusion**

790. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2987) **Conclusion**

791. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA SLUM UPGRADING LOW COST HOUSING AND INFRASTRUCTURE TRUST FUND (KENSUF)

REPORT ON THE FINANCIAL STATEMENTS

2988) **Unqualified Opinion**

792. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2989) **Conclusion**

793. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2990) **Conclusion**

794. There were no material issues relating to effectiveness of internal controls, risk management and governance.

22. STATE DEPARTMENT FOR PUBLIC WORKS

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1095

Maj. Gen (Rtd). Gordon O. Kihalangwa, the Principal Secretary and Accounting Officer for State Department for Public Works (Vote 1095), appeared before the Committee on 21st September, 2021 to adduce evidence on the audited financial statement for the State Department for Public Works (Vote 1095) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Ms. Emma Kirungu - Deputy Director Supply Chain Management
2. Mr. Michael O. Nzigo - Deputy Head of Accounting Unit
3. Mr. Samwel Kungu - Head of Accounting Unit
4. Arch. James Murigu - Senior Principal Superintending Architect
5. Mr. George N. Magoye - Head of Supplies Branch

And submitted as follows:

795. Unresolved Prior Year Issues

2991) The following prior year issues that have impact on the accuracy of current period financial statements were outstanding as at 30th June, 2019: -

795.1. Inaccuracies in the Financial Statements

2992) The cash, bank and payable balances reflected in the statements of financial position as at 30th June, 2018 differed with the balances reflected in the trial balance below. A comparison between the financial statements and the trial balance revealed a difference of KSh.586,182,304 under cash and bank balances and a difference of KSh.553,457,103 in payables balances.

Item	**Financial Statement (Kshs.)**	**Trial Balance (Kshs.)**	**Variance (Kshs.)**
Cash and Bank			
Recurrent Account	1,821,467.00	(757,611,463.00)	759,432,930.00
Development Account	368,986.00	(1,353,408,928.00)	1,353,777,914.00
Deposit Account	629,570,230.00	880,726,524.00	(251,156,294.00)
Cash in Hand	40,314.00	1,634,718,693.00	-1,634,678,379.00
Cash in Transit	0	813,558,475.00	(813,558,475.00)
Payable			
General Deposits	629,211,010.00	635,418,037.00	(6,207,027.00)
Salary Deductions	3,700.00	0	3,700.00
Withholding Tax	0	1,702,309.00	(1,702,309.00)
VAT	0	3,332,884.00	(3,332,884)

Cash Clearing	0	495,341,767.00	(495,341,767.00)
System Liabilities	0	46,649,715.00	(46,649,715.00)
Imprest		227,100.00	(227,100.00)

2993) These variances have not been reconciled. Consequently, the accuracy and fair statement of the 2018/2019 Financial Statements comparative balances could not be established.

Submission by the Accounting Officer

2994) The Accounting Officer submitted that the Committee the query was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation made that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within one (1) month after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

795.2. Cash and Cash Equivalents

2995) The bank and reconciliation statement presented in support of the reported in cash and cash equivalents balance of Kshs.631,800,997.00 had the following inconsistencies.

795.2.1Recurrent Bank Account

2996) Reflected in the bank reconciliation statement for the recurrent bank account under payments in cash books but not in bank statements (unpresented cheques), were stale cheques totaling to Kshs.2,660,483.00 which had not been written back. Further, no explanation has been provided or action taken to clear payments in bank but not posted in the cash book amounting to Kshs.3,188,624.00 and unbanked receipts of Kshs.1,724,899.00. Further, the bank reconciliation statement reflects a bank balance of Kshs,1,190,399.00 described as closing balance under-cast whose validity could not be established.

Submission by the Accounting Officer

2997) The Accounting Officer submitted that the Committee the query was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation made that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

795.2.2Development Bank Account

2998) The bank reconciliation statement for the development bank account included unbanked receipts amounting to Kshs.5,537,584.00 and stale cheques amounting to Kshs.5,585,081.00 which had not been not been written back into the cashbook. No explanation was provided as to why the payment had not been reversed in the cashbook and how the unbanked receipts were accounted for.

Submission by the Accounting Officer

2999) The Accounting Officer submitted that the Committee the query was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation made that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

795.2.3Deposit Bank Account

3000) The bank reconciliation statement for the deposit bank account included payments in cash book but not in bank statement amounting to Kshs.10,640,280 out of which Kshs.600,000 related to an unsupported cash book error adjustment. The accuracy of the reconciliation was therefore in doubt.

Submission by the Accounting Officer

3001) The Accounting Officer submitted that the Committee the query was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation made that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

795.2.4Cash in Hand

3002) Note 9B to the financial statements reflects a comparative cash in hand balance of Kshs.40,314.00 whereas the trial balance in support reflected a balance of Kshs.2,448,277,169.00 resulting in an unexplained difference of Kshs.2,448,236,855.00.

3003) In the circumstance, it has not been possible to confirm the completeness and accuracy of the reported cash and cash equivalents balances of Kshs.725,780,997.00.

Submission by the Accounting Officer

3004) The Accounting Officer submitted that the Committee the query was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation made that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

796. Pending Bills

3005) Notes 15.1 and 15.2 to the financial statements reflect pending bills totaling to Kshs.526,694,677.00 as at 30th June, 2019. Failure to settle pending bills in the year to which they relate distorts the financial statements for the year and also affects the budgetary provisions for the subsequent year. Further, the supporting documents provided for the pending staff payables were inadequate.

Submission by the Accounting Officer

3006) The Accounting Officer submitted that it was true that the pending bills totaling to Kshs.526,694,677 as at 30th June 2019 was due to lack of budgetary provisions for certificates issued to various works performed in various project. This has led to increase of pending bills. The pending bills usually forms the first charge in the new financial year and as at 30th June 2020 the State Department had a total pending bill of Kshs.697,022,447 which occurred due to Austerity measures following the COVID19 pandemic that led to annual budget of Kshs.3.5B being reduced the Kshs.1.2B during the supplementary 2 Estimates. It is true that the pending bills will affect the budgetary provisions for subsequent year.

3007) In our internal reconciliation of commitments not considered for payments, the payment for staff allowances not paid were inadvertently included in the schedule of pending bills. A total of Kshs.3,483,853 has been removed from the schedule of pending bills. The current amount of pending bills is Kshs.693,538,594. The error is regrettable.

3008) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to pending bills was satisfactory; and
(ii) The Committee marked the matter as resolved.

3009) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

797. Construction projects.

3010) A number of sampled projects being undertaken by the State Department were behind schedule leading to penalties due to delays in settlement of contractors' payment as detailed out below:

797.1. Completion of Voi Pool Housing Contract

3011) The proposed completion of Voi Pool Housing contract was awarded at a contract sum of Kshs.747,290,699.00 for a contract period of one Hundred and Four (104) weeks commencing 1 December, 2012. The estimated completion date of 30th November,2014 was revised to 31st December,2019. However, as at 30th June, 2019 the works progress was at 40% clearly indicating that the project was behind schedule. Further, an amount of Kshs.19,479,450.00 had already been incurred on interest payments due to late settlement of certified works.

Submission by the Accounting Officer

3012) The Accounting Officer submitted that the project is behind schedule but this is mainly occasioned by inadequate funds available for the project. The Works were prioritized based on available funds. Currently, eleven (11) No. 3 Bedroomed Maisonettes together with all the Site Works, Plumbing, Drainage and Electrical Installations are complete ready for handing over but await power and water connection. The remaining 3 Blocks of 36 No. 3 Bedroomed flats are ongoing and scheduled for completion in early 2022 though the said flats shall be completed based on available funding.

3013) In regard to interest on delayed payments, the Conditions of Contract item 23 Sub-Clause 23.3 provides for the time within which the employer is to pay the Contractor Interim Payment Certificates issue by the Project Manager. Sub- Clause 23.3 specifically states as follows:

- Payments shall be adjusted for deductions and retentions. The Employer shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of issue of each certificate. If the Employer makes a late payment, the Contractor shall be paid simple interest on the late payment in the next payment. Interest shall be calculated on the basis on number of days delayed at a rate three percentage points above the Central Bank of Kenya's average rate for base lending prevailing as of the first day the payment becomes overdue.

3014) Several certificates issued by the Project Manager have been delayed beyond the stipulated period of 30 days as per the Contract and thus interest is calculated based on the number of days the delays that have occurred so as to compensate the contractor.

3015) **Committee Observations and Findings**

i. The Committee observed that the explanation given by the Accounting Officer with regards to construction of Voi pool house was satisfactory; and
ii. The Committee observed the public continued to incur unnecessary interest on delayed payments which escalate the cost of projects.

3016) **Committee recommendations**

1) **The Accounting Officer should ensure payment for certified works is prioritized to avoid interest on delayed payment which can lead to project cost escalation.**
2) **The Accounting Officer should consider not entering into further contracts without assurance of full financing of the project.**
3) **The National Treasury should, within three months, come up with strategy to fully fund for these delayed payments to avoid further interest and/or charges on delayed payments and report to Parliament on the progress.**

797.2. Completion of Lamu Police Station and Management Housing

3017) As reported previously, the proposed completion of Lamu Police Station and Management Housing project was awarded at a contract sum of Kshs.615,848,997.00, for a duration of Seventy-Two (72) weeks with the estimated completion date of 19th February, 2014 which was later revised to 19th January, 2017. However, the progress report dated 14th December, 2017 indicated that Kshs.267,196,753.00 representing 46% of the contract sum had been certified and the project was behind schedule as at 30th June,2017. Further, Kshs.12,952,170.00 had been incurred on interest of payments due to late settlement of certified works. Management did not avail any progress reports on the project and it was not possible to ascertain the status of the project as at 30th June 2019.

Submission by the Accounting Officer

3018) The Accounting Officer submitted that the original scope of works was as follows:

- Police Station
- 4 No Blocks (24units) of Type "E" flats each having 6 no. 2 bedroom Units
- 2 No 3-bedroom Bungalows
- 2 No Blocks (24units) of Type "D" flats each having 4 No 3-bedroom units
- Mother Child Health Block & Outpatient Centre Including Fence, Gates, Walkways, Pit Latrine and Placenta Pits

- Club House and Guest wing
- 2 No External Toilets including pit latrines and ablution block
- External Works Comprising of Civil works and landscaping
- Electrical Installations, EPABX, telephone & structured cabling installation works
- Internal plumbing, drainage, sanitary and firefighting equipment
- Kitchen and laundry equipment and L.P. gas installation works, Kitchen cold room, mechanical ventilation and air conditioning installation works

3019) The progress achieved as at 2019 was as follows

- The Police station was completed and handed over on 5th February 2019 to the user client for use.
- 4no. (16units) Blocks of type E flats were completed and handed over on 5th February 2019 to the user client for use.(attached partial completion certificates)
- 2no. (8units) Blocks of type D flats at 75%
- 2no. Bungalows at 80%
- The Club house and Guest wing at 90%,
- The MCH and OP Block (Dispensary) at 90%
- Ablution block and gate house at 10%
- External works at 50%
- The electrical and mechanical works are in tandem with the builders' works

3020) The contractor undertook additional works upon receiving instructions from the Project Manager as follows;

- at the helipad area in preparation for the presidential launch of the project.
- Construction of access roads from the junction going into the port area
- Clearing of the bushes in the vicinity of the project areas
- Repairs to the apron at Kenya Naval base runway
- Construction of the various commemorative plaques for the 12 no. Heads of States at the Plaza Headquarters and clubhouse
- Temporary murram parking between the NYS Boundary wall and club house and dispensary
- Access roads and walkways between plaza headquarters and police station and from plaza headquarters and port management houses
- Planting flowers and trees around the various buildings.
- Clearing of bush at Manda bay Naval base
- Perimeter wall measuring 300metres.

3021) The funding component of the project was handed over to Kenya Ports Authority in October 2017. However, processing of payments has been hindered by freezing of KPA payments by EACC thus slowing down activities on the site.

3022) In regard to interest on delayed payments, the Conditions of Contract item 23 Sub-Clause 23.3 provides for the time within which the employer is to pay the Contractor Interim Payment Certificates issue by the Project Manager. Sub- Clause 23.3 specifically states as follows:

- Payments shall be adjusted for deductions and retentions. The Employer shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of issue of each certificate. If the Employer makes a late payment, the Contractor shall be paid simple interest on the late payment in the next payment. Interest shall be calculated on the basis on number of days delayed at a rate three percentage points above the Central Bank of Kenya's average rate for base lending prevailing as of the first day the payment becomes overdue.

3023) Several certificates issued by the Project Manager have been delayed beyond the stipulated period of 30 days as per the Contract and thus interest is calculated based on the number of days the delays that have occurred so as to compensate the contractor.

3024) **Committee Observations and Findings**

The Committee observed the query was discussed during the examination of the State Department account for financial year 2016/17 and recommendations made that:

1) **The Accounting Officer must ensure that the construction of Lamu Port Police Station and Management Housing is undertaken following the right standards; and**
2) **The Ministry of Public Works should inspect the building and table their report to Parliament within a period of six months of the adoption of this report.**

3025) **<u>Progress Reports as at 9th February 2018, 4th September 2018, 20th December 2018 and 5th February 2019 were availed to the Committee.</u>**

797.3. Construction of Mathare Nyayo Hospital

3026) As reported previously, the Project was awarded at a contract sum of Kshs.1,212,414,732.00 for a duration of one Hundred and Fifty-Six (156) weeks. The expected completion date was 27th August, 2015. The contract was granted an extension time of Seventy-Six (76) weeks ending 27th December, 2018. However, the Project progress report as at 18th May, 2019 indicated that the value of work done was at 56% of the contact sum the payment certified for valuation No. 20 dated 11th July, 2017 reflected Kshs.46,570,658.00 being interest on delayed payments. Further, the Project Management expenses of Kshs.25,294,298.00 had exceeded the contracted Bill of Quantities amount of Kshs.16,413,600.00 by 8,880,698.00 which has not been explained.

Submission by the Accounting Officer

The Accounting Officer submitted that: -

1. Progress as at October 2020 was 70% as per the attached project brief.
2. Project manager's expenses; the PM's expenses is Kshs.25,523,600.00 as per the BQ and not Ksh.16,413,600.00 as captured by the report. This then implies that the amount has not been exceeded. Extracts of the BQ with the item is provided in Annex 9.
3. Interest in delayed payments;

3027) The delay in payment was caused by inadequate budgetary allocation, budget cuts (Austerity measures) and irregular exchequer release by the National Treasury. Payments under the contract are guided by clause 23 of the conditions of contract, which stipulate under clause 23.3 that -

> "The Employer shall pay the contractor the amounts certified by the Project Manager within 30 days of the date of issue of each certificate. If the Employer makes late payment, the Contractor shall be paid simple interest on the late payment in the next payment. Interest shall be calculated on the basis of the number of days delayed at a rate three percentage points above the Central Bank of Kenya's average rate for base lending prevailing as of the first day the payment becomes overdue."

3028) The project execution has been affected by inadequate funding and thus the reason why substantial works still remain outstanding. The Nairobi Metropolitan Services has committed to fund the project to completion.

3029) **Committee Observations and Findings**

The Committee observed the query was discussed during the examination of the State Department account for financial year 2016/17 and recommendations made that:

1) **The Accounting Officer must ensure that the construction of Mathare Nyayo Hospital is undertaken following the right standards; and**
2) **The Ministry of Public Works should inspect the building and table their report to Parliament within a period of six months of the adoption of this report.**

797.4. Kenya Institute of Business Training Contract

3030) As previously reported, the contract was awarded at a sum of Kshs.629,909,101(later revised to Kshs.767,533,439.00) for duration of one Hundred and Fifteen (115) weeks ending 28th June, 2011. The project was completed and handed over on 16th September, 2018. However, interest on delayed payments amounting to Kshs.16,676,563.00 had been incurred.

3031) **Committee Observations and Findings**

The Committee observed the query was discussed during the examination of the State Department account for financial year 2016/17 and resolved the query.

797.5. Proposed Headquarters for Nyandarua County at Ol Kalou

3032) The contract was awarded at a sum of Kshs.617,644,564.00 for a contract duration of 104 weeks beginning 16th March,2017 and ending on 23rd May, 2019 and was terminated on 25th March,2019 at completion stage of 16%. At the time of termination, payments amounting to Kshs.101,623,125.00 had already been made to the contractors of which Kshs.13,078,306 was for lifts installation for a structure that stalled all the foundation level. Further, the contractor had filed claims amounting to Kshs.112,871,385.00 for idle labor and removal of equipment which management indicated was under arbitration.

Submission by the Accounting Officer

3033) The Accounting Officer submitted that the initial completion date was15th March 2019 but was terminated on 25th March 2019 with completion status of 16%. The contractor M/s High Point Agencies Ltd. referred the matter to arbitration citing breach of the contract by the client. The contractor further obtained an injunction barring the client from procurement of a contractor to complete the outstanding works.

3034) The parties to the contract namely the Nyandarua County Government, State Department for Public Works and the Contractor Highpoint Agencies under the initiative of the Ministry of Interior negotiated for the resumption of the works. Under this agreement, the Contractor withdrew the arbitration and the court injunction while the client lifted the termination. The works resumed in June 2020 under assignment from M/s High Point Agencies Ltd to M/s Solitaire Construction Ltd. The works are currently in progress with columns and walling on third floor ongoing but have been hampered by delays in payment with an amount of Kshs.50,269,850.38 being unpaid as at 30th June, 2021. Materials for the construction of the roadworks have also been delivered to the site and the physical progress is 35%.

3035) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer has not provided explanations in regard to an amount of Kshs.13,078,306 for lifts installation for a structure that stalled at the foundation level;

(ii) The Committee further observed that the Accounting Officer has not provided explanations in regard to an amount of Kshs.112,871,385 being claim filed by the Contractor; And

(iii) The works have resumed but have been hampered by delays in payment with an amount of Kshs.50,269,850.38 being unpaid as at 30th June, 2021.

(iv) The query remained unresolved.

3036) **Committee recommendations**

The Committee recommended that –

1) **The Accounting Officer should within three months of tabling and adoption of this report provide information to the National Assembly on how the amount of Kshs13,078,306 paid for lifts installation for a building that stalled at foundation will be recovered.**
2) **The Accounting Officer should report to National Assembly within three months of tabling and adoption of this report on measures taken to resolve the claims of Kshs.112,871,385 filed by the Contractor.**
3) **The Accounting Officer should ensure payment for certified works is prioritized to avoid interest on delayed payment which can lead to project cost escalation.**
4) **The National Treasury should, within three months upon adoption of this report, come up with strategies to fully settle these delayed payments to avoid further interest and/or charges on delayed payments and report to Parliament on the progress.**

797.6. Nyanza Headquarters Phase II

3037) The above contract was awarded on 17th May, 2010 at contract sum of Kshs.508,579,213.00 (later revised to Kshs.624,761,082.00) for a duration of 16 weeks starting 17th May,2010 and ending on 8th August, 2011.The total payments of Kshs.624, 761,082.00 as at 30th June, 2019 included Kshs.13,390,187.00 for materials stolen on site, fluctuation of Kshs.20,000,000 and Kshs.76,618,367 being interest on late payments. Although the building was occupied and the contract sum paid in full, the completion status could not be established as the final and handing over certificates were not provided.

Submission by the Accounting Officer

3038) The Accounting Officer submitted that it was true that the building was completed and occupied. The relevant certificates were issued as attached.

3039) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Nyanza Headquarters Phase II was satisfactory; and
(ii) The Committee marked the matter as resolved.

797.7. Proposed Completion Works at Kagumo Teachers Training College

3040) The contract was awarded on 14th February, 2012 at a contract sum of Kshs.170,300,000.00 for a contract duration of 68 weeks ending on 31st July, 2013. However, as at 30th June, 2019, the project was 20% complete with Kshs.30,984,686.00 having been paid. Further, the contractor was not on site and had stalled.

3041) From the foregoing, the projects are behind schedule and the likelihood of cost escalations is high. Further, no satisfactory explanation have been provided for the delays in completing the projects and in settlement of contractor payments. Consequently, it has not been possible to confirm whether public resources have been used in effective manner.

Submission by the Accounting Officer

3042) The Accounting Officer submitted that the project stalled after 18% of works had been done and the Main Contractor abandoned the site hence a default notice was issued accordingly and the project recommended for termination; the MC consented on 3rd February, 2015. However, the Contractor did not submit an application for final account as required under the contract despite several reminders.

3043) **Committee observations and findings**

The matter remained unresolved.

3044) **Committee recommendations**

1) **The Accounting Officer should within three months of tabling and adoption of this report provide information to the National Assembly on how the stalled project will be completed.**
2) **The Accounting Officer should within three months of tabling and adoption of this report provide information to the National Assembly on how he intends to enforce contract clauses in case of default by contractor in accordance with the contract signed between the State Department and the Contractor.**

798. Irregular Contracts for Construction of Bridges

3045) As reported previously, included in the acquisition of assets balance of Kshs.473,284,876.00 reflected in statement of receipts and payments for the period ended 30th June, 2018 is an amount of Kshs.48,110,666.00, paid out for the construction of bridges in several regions in the country. The works were procured through restricted tendering contrary to the provision of section 54(2) of the Public procurement and Disposal Act, 2005 that requires such procurements to be undertaken through open tender. To the extent, the State Department is in breach of the law.

3046) **Committee Observations and Findings**

The Committee observed the query was discussed during the examination of the State Department account for financial year 2016/17 and resolved.

799. Competitiveness of Service Contracts

3047) A scrutiny of contract documents maintained by the State Department showed that the State Department did not initiate procurement process for expiring contracts of cleaning and security services in a timely manner. As a result, the contracts that had ran for two years from January, 2017 to January, 2019 were extended for a period of six (6) months and the service providers were still providing the services as at the time of audit in October, 2019 without evidence of a competitive procurement process. In the circumstances, it has not been possible to confirm whether the department received value for the money on payments totaling to Kshs.5,164,008.00 made to an extended contract as at 30th June, 2019.

Submission by the Accounting Officer

3048) The Accounting Officer submitted that it was true that the contracts for the cleaning and security services were extended for additional period above the two years provided in the contract. The contracts for the provision cleaning and security services had been extended to allow for an open tendering procedure to be finalized based on key processing activities in the approved procurement plan, however the open tender procedure which had been advertised reference SB/43/2019-2020 had been found non responsive to the tender conditions contained in the tender documents and pursuant to Sec 63 (1) (f) of the Public Procurement Act 2015 –An accounting officer of a procuring entity, may at any time, prior to notification of tender award, terminate or cancel procurement or asset disposal proceedings without entering into a contract where all evaluated tenders are non-responsive. This necessitated a re-tendering process to be initiated through an advertisement in the Government tender portal and the local daily newspapers under tender reference SB/78/2019-2020 the process was fast tracked and concluded on 28th January 2020 based on the provisions of the Public Procurement and Disposal Act 2015 ,but contracts could not be signed until the appeal window of the mandatory fourteen days were over this necessitated for a further extension of the existing contracts which had provisions for amendments without price variations as provided for under Sec 139 of the Act.

3049) The department hereby confirmed that it obtained value for money for the services since the extensions did not involve a price variation and it complied with all the relevant procurement laws.

3050) **Committee observations and findings**

(i) The Committee observed that the Accounting Officer failed to carry out proper planning to ensure new cleaning and security contracts were properly entered into on completion of existing contract.

(ii) The Accounting Officer further allowed service to be rendered without a legal contract after the extended period had expired exposing the public to extra claims by the service provider.

3051) **Committee recommendations**

1) **The Committee reprimands the Accounting Officer for failure to properly plan for procurement of cleaning and security services and allowing services to be rendered without a formal contract.**
2) **The Accounting Officer should within three months of tabling and adoption of this report provide information to the National Assembly on measures taken to regularize the procurement and provide guarantee that no irregular claims have been paid.**

800. There were no material issues relating to effectiveness of internal controls, risk management and governance.

Paragraph 801 – 811

THE PARAGRAPHS RELATES TO STORE FUNDS WHICH SHALL BE EXAMINED BY SPECIAL FUND ACCOUNTS COMMITTEE

23. STATE DEPARTMENT FOR HOUSING, URBAN DEVELOPMENT AND PUBLIC WORKS

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1096

Mr. Charles Hinga, the Principal Secretary and the Accounting officer State Department for Housing and Urban Development (Vote 1096) appeared before the Committee 22nd April, 2021, 21st July, 2021 and 8th September, 2021 to adduce evidence on the audited financial statement for the State Department of Interior (Vote 1096) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Ms. Evalyn O. Nyakwara - Senior Chief Finance Officer
2. Eng. B. K. Njenga - Secretary U & MD
3. Ms. Joyce Mutugi - Senior Deputy Accountant General
4. Mr. Abala M. Wanga - Ag. City Manager Kisumu
5. Mr. David Kinyae - Administration Kisumu
6. Mr. Charles Omollo - Project Administrator
7. CPA O. Japeth - Project Accountant
8. CPA Emmanuel Opetu - Finance Director Kisumu
9. Mr. Bonoface Ngochi - Dep Director CSHSD
10. Mr. Christopher Kinai - Assistant Accountant General

And submitted as follows:

3052) **Unqualified Opinion**

812. There were no material issues noted during the audit of the financial statements of the State Department.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3053) **Conclusion**

813. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3054) **Conclusion**

814. There were no material issues relating to effectiveness of internal controls, risk management and governance.

24. MINISTRY OF WATER AND SANITATION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1107

Mr. Joseph W. Irungu, the Principal Secretary and Accounting Officer for the State Department for Water Services (Vote 1107) appeared before the Committee on 17th May, 2021 to adduce evidence on the Audited Financial Statements for the State Department for Water Services (Vote 1107) for the Financial Year 2018/2019. He was accompanied by the following officials:

1. Eng. Samuel A. O. Alima - Water Secretary
2. Ms. Agnes Waweru - Assistant Accountant General
3. Eng. Simon G. Mwangi - FM- KWSCRE
4. Mr. Kihara Ndungu - Personal Assistant to Principal Secretary

And submitted as fololows

815. Unconfirmed Direct Payment

3055) The Statement of receipts and payments reflects transfers to other government units amounting to Ksh.27,501,227,464 which as disclosed in Note 7 to the financial statements includes direct payments totalling Ksh.9,702,013,707 made on behalf of various self-reporting entities. However, corresponding confirmations of the payments by the beneficiary institutions were not provided for audit verification.

3056) In the absence of the confirmations, it has not been possible to ascertain the completeness and accuracy of the reported direct payments figure of Ksh.9,702,013,707.

Submission by the Accounting Officer

3057) The Accounting Officer admitted that the amount of Ksh.27,501,227,464 reflecting in the statement of receipts and payments as direct payments include an amount of Ksh.9,702,013,307 made on behalf of various self-reporting entities. He further admitted that corresponding confirmations of the payments by the beneficiary institutions were not provided for audit verification.

3058) Direct payments are made on request from the self-reporting entities based on their allocation as contained in the Ministry's printed estimates. The entities forward the certificates of completed works together with all other documents that support the works. The documents are verified and a payment voucher is processed after which a journal is passed to capture the expenditure in the ministry's books.

3059) The original payment voucher and supporting documents are forwarded to the National Treasury for onward transmission to the development partners for settlement of payment to the contractor. Copies of these documents are retained in the ministry and filed with respect to each project and have been availed to the auditor for verification. Confirmation for settlement of payments by the development partner is done by the respective entities.

3060) **Committee Observations and Findings**

(i) The Committee observed that although the State Department has provided copies of the supporting documents forwarded to National Treasury, there was still no confirmations from the benefiting entities to confirm whether payments have been properly accounted for by those entities;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) The Committee also observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and

(iv) The matter therefore remained unresolved.

3061) **Committee Recommendation**

1) **Within three (3) months upon adoption of this report, the Cabinet Secretary National Treasury must ensure that all the benefiting entities have confirmed that the payments were properly accounted forand report forwarded to the National Assembly.**
2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

816. Variance between Financial Statements and Confirmations from Other Government Agencies.

3062) Comparison of balances reported in the financial statements under transfers to other government agencies and acquisition of assets, and related confirmations from the respective agencies revealed unreconciled variances, as detailed in the table below:

Government Agency	Item	Financial Statements (Ksh.)	Amount Confirmed (Ksh.)	Variance (Ksh.)

Coastal Region Water Security and Climate Resilience Project	Transfers to other Government Agencies	392,925,101	319,143,537	73,781,564
Kenya Water Security and Climate Resilience Project	Transfers to other Government Agencies	1,570,895,644	1,585,314,732	(14,419,088)
Thwake Multipurpose Water Project	Acquisition of Assets	4,884,073,774	4,880,708,235	3,365,539

3063) Management did not explain or reconcile the variances. It has therefore, not been possible to ascertain the accuracy of the reported figure for transfers to other government agencies of Ksh.27,501,227,465 and acquisition of assets of Ksh.4,886,362,901 respectively. It was also not possible to confirm whether all the funds disbursed were received and properly accounted for by the agencies.

Submission by the Accounting Officer:

3064) The Accounting Officer submitted that Coastal Region Water Security and Climate Resilience Project (CRWSCRP) and Thwake Multipurpose Water Project GoK funds are managed from the Ministry headquarters. These projects have a budget line in the ministry's development vote book and their transactions are done through the IFMIS. Funds for some activities that relate to these projects are charged from the respective vote book heads without necessarily having to transfer the amounts to the commercial bank accounts of the projects. These amounts will thus not reflect as funds transferred to the projects and hence the variances. Further, out of Ksh.73,781,564 for CWSCRP, only Ksh.2,225,091 belongs to the above category while Ksh.71,556,473 relate to direct payments.

3065) The variance of Ksh.(14,419,088) in Kenya Water Security and Climate Resilience Project (KWSCRP) was as a result of funds that were disbursed to the project after June 2018 and related to the financial year 2017/2018 but reflected in the project bank account in July 2018 and thus treated as receipts for financial year 2018/2019 in the project accounts.

3066) Analysis for these transactions was done and availed to the auditor for justification.

3067) The Committee also heard that records maintained at the project do not agree with the records reported at the Ministry. The Ministry ought to have provided project (agencies) with direct expenses incurred on their behalf to ensure updating ensure updated recording at the project level.

3068) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Committee further observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012; and

(iii) The Committee marked the matter resolved.

3069) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**

Other Matter

817. Budgetary Performance

3070) The summary statement of appropriation recurrent and development combined reflects total budgeted receipts of Ksh.41,116,122,141 against actual receipts of Ksh.33,304,530,482 resulting into underfunding of Ksh.7,807,560,691 or 19%. Similarly, out of the budgeted expenditure of Ksh.41,116,122,141, the Ministry spent Ksh.33,272,819,842 resulting to a budgetary expenditure deficit of Ksh.7,843,302,299 or 19%. Management has attributed the underutilization to lack of Exchequer releases from the National Treasury and lengthy procurement process.

3071) Consequently, the Ministry may not have implemented all planned activities and this may have negatively impacted service delivery to the public.

Submission by the Accounting Officer

3072) The Accounting Officer admitted that the summary statement of appropriation Recurrent and Development combine reflects total budget of receipts of Ksh.41,116,122,141 against actual receipt of Ksh33,272,819,842 resulting into underfunding of Ksh.7,807,560,691 as 19%. He further admitted that out of budget expenditure of Ksh.41,116,122,141 the Ministry spent Ksh.33,272,819,842 resulting into budgetary expenditure deficit of Ksh.7,843,302,299 or 19%. The underfunding of

Ksh.7,807,560,691 or 19% was occasioned by lack of exchequer disbursement by the National Treasury despite the Ministry requisitioning for the same.

3073) The low disbursement is also attributed to low donor budget absorption as a result of delays in finalizing the procurement process under the donor funded projects.

3074) The Committee also heard that the State Department does not have budget monitoring system in place to ensure that the planned activities/ processes are are started on time to ensure that the budgeted funds are absorbed.

3075) **Committee Observations and Findings**

(i) The Committee observed that the situation recurred in the financial year 2019/2020 whereby the 19% of the budget funds were not received; and
(ii) The matter therefore remained unresolved.

3076) **Committee Recommendation**

The Committee reprimands the Accounting Officer for failure to provide supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015.

818. Pending Bills

3077) Note 16.1 to the financial statements reflects pending bills amounting to Ksh.56,362,558. The bills were not paid during the year but were instead carried forward to 2019/2020 financial year. Failure to settle bills in the year to which they relate adversely affects the subsequent year's provisions since the bills form the first charge to that year's budget provisions.

Submission by the Accounting Officer

3078) The Accounting Officer submitted that these pending bills was an accumulation from prior periods which had arisen due to insufficient exchequer funding. The Ministry's recurrent budget for FY 2018/2019 was insufficient to accommodate these bills which were recurrent in nature. In an effort to solve this issue, the Ministry wrote to the National Treasury requesting for budget allocation however, the additional budget was not granted. The Accounting Officer reported `that these bills have been substantially cleared leaving a balance of Ksh.20,631,070.

3079) **Committee Observations and Findings**

(i) The Committee observed that a balance of Ksh.20,631,070 remains outstanding; and
(ii) The matter therefore remains unresolved.

3080) **Committee Recommendation**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

819. Delay Completion of Ground Water Mapping and Assessment Project for Wajir County

3081) The Ministry engaged a local consulting firm to provide ground water mapping and assessment services for Wajir County at a cost of Ksh.85,205,000. The contract was signed on 6th April, 2018 and the expected completion date was 6th April, 2019 which was later extended to 5th October, 2019. However, as at the time of audit, the project had not been completed. The delayed completion of the project has denied the Ministry the benefits envisaged under the contract and could also lead to coast overruns.

Submission by the Accounting Officer

3082) The Accounting Officer submitted that the contract completion date was extended from 6th April2019 to 5th October 2019. In 2019, the local consultant faced challenges in accessing sites to carry out test pumping exercise due to insecurity which was a key output for the study. The foreign counterpart needed all the data obtained from the field including the test pumping results to complete the process which included preparation of maps and groundwater database for Wajir County.

3083) The field verification process was finalised and submitted to the Ministry on 19th September, 2019, but the process of documentation and reporting plus database preparation and verification has taken long, because the Consultant delayed in carrying out test pumping exercise due to insecurity in some part of Wajir County. The process was further delayed by Covid 19 which limited the foreign partner from accessing the site for verifying key inputs from the ground to enable completion of the process.

3084) The consultant presented the final acceptable report and maps on 4th March, 2021 and the consultancy is currently closed. Attached is the letter from the consultant presenting the final acceptable report and the memo from the technical evaluation committee clearing the report.

3085) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to delay completion of ground water mapping and assessment project for Wajir county was persuasive; and

(ii) The Committee marked the matter as resolved.

3086) **Committee Recommendation**

The Accounting Officer must at all times ensure that in the event there is a delay in the implementation of any project he/she avails all the necessary correspondences and documents giving reasons for the delay and the same should be availed to the Auditors for review during audit.

REPORT ON LAWFUNESS AND EFFECTIVENESS INUSE OF PUBLIC RESOURCES

Basis for Conclusion

820. Poor Management of Vehicles for Water Tribunal

3087) Review of the documents availed for audit by the Water Tribunal revealed that the Tribunal had been assigned eight (8) vehicles. However, the audit revealed that only four (4 vehicles were with the Tribunal in the year under review. Although Management explained that two (2) vehicles were transferred to the Ministry while two (2) vehicles were grounded after being involved in accidents, reports of handing over the vehicles to the Ministry and the accident reports for the grounded vehicles were not provided for audit verification. Further, no evidence of insurance of the six (6) vehicles registered in the name of the Tribunal or evidence of compensation received for the two grounded accident vehicles was provided.

3088) Under the circumstances, effectiveness in the management of the Tribunal's vehicles could not be confirmed.

Submission by the Accounting Officer

3089) The Accounting Officer admitted that the Water Tribunal had been assigned eight (8) vehicles, however, during the audit review four (4) vehicles were with the Tribunal. During the period under review, the Water Tribunal had been assigned eight (8) vehicles, out of these, four (4) were returned to the Ministry Headquarters. Since Water Appeal Board is a statutory body under the Ministry, there was no handing over agreement between the two.

3090) The Ministry has already initiated the process of registering the seven (7) motor vehicles to have GK number plates since one (1) is having GK registration.

3091) One of the Motor vehicle was involved in an accident and has since been inspected by mechanical department and repairs have started. The other motor vehicle which had an engine-knock is in the process of being repaired after it has been inspected. The water tribunal has no provision for insurance cover and all vehicles are covered under the Ministry's policy.

3092) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer on poor management of vehicles for water tribunal was persuasive; And

(ii) The Committee marked the matter as resolved.

3093) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3094) **Conclusion**

821. There were no material issues relating to effectiveness of internal controls, risk management and governance.

UPPER TANA NATURAL RESOURCES MANAGEMENT PROJECT IFAD LOAN NO.1-867-KE AND SPANISH TRUST FUND LOAN NO. 1-E-8-KE

REPORT ON THE FINANCIAL STATEMENTS

3095) **Unqualified Opinion**

822. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

823. Budget Control and Performance

3096) The statement of comparative budget and actual amounts for the year under review reflects total budgeted receipts of Ksh.1,100,000,000 and actual receipts of ksh871,845,761 resulting to a budget shortfall of Ksh.228,154,239 or 21%. Further, the statement reflects approved final budgeted expenditure of Ksh.1,100,000,000 and actual expenditures of Ksh967,426,540 resulting to under absorption of Ksh.132,573,460 or 12%.

3097) Overall, the management of Upper Tana Natural Resources Management Project failed to actualize its budget by Ksh.228,154,239 or 21% an indication that some of the programmes and activities that been planned were not implemented . there is need therefore for the Management of Upper Tana Natural Resources Management Project to review its budget making process with a view to formulating a realistic budget that would be actualized for service delivery to the stakeholders of Upper Tana Delta.

3098) In addition to Upper Tana Natural Resources Management Project under spent its budget by Ksh.132,573,460 of the total budget allocation. The funds could have been allocated to other deserving areas that would have improved delivery of goods and services to the residents of Upper Tana Delta. There is need therefore for the management to re-look at its budgeting mechanism with a view to focusing on priority areas for higher positive impact and improved service delivery t the residents of Upper Tana Delta.

Submission by the Accounting Officer

3099) The Accounting Officer admitted that it was true the approved total revenue budget was Ksh. 1,100,000,000 and actual receipts of Ksh. 871,845,761 resulting to a budget shortfall of Kshs. 228,154,239 or 21%. It is also true that the actual expenditure was Ksh. 967,426,540 (88%) resulting to an under expenditure of Ksh 132,573,460 or 12%.

3100) Since the Project is supported by the Development Partners (IFAD/Spanish Food Security Trust Fund), there was an opening balance of Ksh.104,917,791 as at the beginning of the financial year which was spent, effectively reducing the deficit from Ksh. 228,154,239 or 21%. to Ksh. 132,573,460 or 12%. The effective underutilization of the budget of Ksh. 132,573,460 is attributed to the following challenges:

3101) Delayed funding of approved beneficiary community activities;- this is due to slow pace of the communities meeting the Project's requirements of their contribution that would prompt release of Project portion. This delays absorption and timely replenishment by communities, consequently makes it difficult for the projects to utilize the funds and seek for replenishment as per the approved budget. Delays in getting procurement processes cleared by various stakeholders leading to delay in absorption of available funds; and Lengthy funds flow process.

3102) Committee Observations and Findings

(i) The Committee observed that the explanation given by the Accounting Officer with regrad to Budget Control and Performance was persuasive; and
(ii) The Committee marked the matter as resolved.

3103) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3104) **Conclusion**

824. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3105) **Conclusion**

825. There were no material issues relating to effectiveness of internal controls, risk management and governance.

COASTAL REGION WATER SECURITY AND CLIMATE RESILIENCE PROJECT (IDA CR. NO.5543-KE)

REPORT ON THE FINANCIAL STATEMENTS

3106) **Unqualified Opinion**

826. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

827. Low Absorption of Funds

3107) The annual report for the year under review indicates that the Project has been in operation for four (4) years and has exhausted 67% of its six (6) year duration expected to end in May 2021. However, as at 30 June 2019, the project has only absorbed Ksh.916,579,560 out of the total loan amount of Ksh20,000,000,000 (USD 200 Million) translation to 4.6% of the total funding in the year under review the Project failed to utilize ksh.460,854,464 (59%) of its annual budget.

3108) In view of the experience, it is unlikely that the Project will have used up the whole loan amount before its ends and its expected outputs and objectives may not be achieved.

Submission by the Accounting Officer

3109) The Accounting Officer admitted that the Project has been in operation for four (4) years and has exhausted 67% of its six (6) years duration. However the expected end date for the project is 31st December 2021. He further admitted that as at 30th June, 2019, the project had only absorbed Ksh.916,579,560 out of the total loan amount of Ksh.20,000,000,000 (USD 200 million) translating to 4.6% of the total funding. In the year under review the project failed to utilize Ksh.460,854,464 (59%) of it annual budget.

3110) The low budget absorption is attributed to delay in issuing Letter of Commencement for Kwale Rehabilitation works values at Kshs.400M and signing of Mwache Multi-purpose dam work contract of 14B. Kwale rehabilitation works contract required that all Project Affected persons (PAPS) are compensated before the letter of commencement is issued.

3111) The contractor for Kwale works commenced in September 2020 with an advance payment of KSh.85 million already paid to the contractor and with works expected to be completed before the end of 2021 the contract amount of KSh.426 million will be paid.

3112) Mwache dam contract was signed on 14th August 2019 and an advance payment of 1.9 billion was paid in March 2020 and Order for Commencement of works will be issued on 12th July 2021 whereby large payments will start. However, the Ministry and the World Bank were aware that both financing period and funding would need to be amended and this process has commenced with the World Bank Implementation Support Mission of 19th to 21st April 2021 that will lead to financing extension to December 2026 and additional IDA financing of US$150 million required to complete the project.

3113) **Committee Observations and Findings**

(i) The Committee observed that lack of proper planning reflected lack of essential technical knowhow on the technical capacity of the State Department;

(ii) The Committee further observed that the final extension approval has not been granted and it may not be possible to complete the project as expected;

(iii) The Committee also observed that the overall absorption increased by 18% as at 30th June 2020: and

(iv) The matter therefore remains unresolved.

3114) **Committee Recommendation**

Within three (3) months upon adoption of this report, the Accounting Officer must ensure that he/she avails the revised project work plan and budget giving details of the project end and closure dates.

828. Unsatisfactory Implementation of Rain-Water Harvesting Projects

3115) In 2017, the Ministry of Water and Sanitation entered into contracts for construction of rain-water harvesting and construction of sanitation blocks for schools in Kwale County. The contracts were valued at Ksh.58,781,125 for Phase I, and Ksh.55,113,821 for Phase II. The works were to be completed our (4) months after the signing of the contract.

3116) An audit inspection done in September, 2019 indicated that the contractor for Phase 1 works was paid 38,079,185 for certified works and Ksh.5,878,111 as advances. However, at Yapha Primary School the contractor did not paint the sanitation blocks and the tanks installed were not collecting water since the gutter systems were not properly done. This was in spite the contractor's report dated 18 September, 2019 showing that the work were complete and all payments due paid. Therefore, the payments made for work not done may result in loss of public funds.

3117) In Phase II, the works stalled with only a few aspects of the project done. The contractor abandoned the project sites in April, 2019 and was reportedly owed Ksh.16,332,891 for work done. Thus, the project had not attained its outputs and objectives more than two (2) years after its due date of completion.

Submission by the Accounting Officer

3118) Phase I: The contractor was discharged after final inspection at the end of the defects liability period when works were confirmed as satisfactorily competed in accordance with the contract.

3119) Phase II: The contractor had been paid an Advance Payment of KSh.9,502,383 and Interim Payment Certificate No. 1 of KSh.6,830,508.85. The Ministry eventually issued Notice of Termination of this contract on 15th April 2020 with a demand for reimbursement to Government of KSh.27,752,838.73. The matter in the hands of the Ministry's legal office for arbitration.

3120) **Committee Observations and Findings**

(i) The Committee observed that Phase of the project has since been completed;
(ii) The Committee further observed that Phase 2 of the project has stalled and no compensation has been received for non- performance; and
(iii)The matter therefore remains unresolved.

3121) **Committee Recommendation**

Within three (3) months upon adoption of this report, the Accounting Officer must report to the National Assembly on the current implementation status of the Rain-Water Harvesting Projects. The report should entail revised project work plan and budget giving details of the project end and closure dates.

829. Doubts and Sustainability of Livelihood programme

3122) The project disbursed grants totalling to Ksh.22,465,136 to sixty-two (62) community groups in Kwale County under the livelihood programme. The programme was to carry out a series of activities aimed at improving sustainable livelihoods and sharing the Project's benefits in the rural areas of the County. The activities included establishment of tree nurseries, greenhouses and horticulture, dairy and poultry farming among other economic activities. However, an audit inspection carried out in September, 2019 revealed that some beneficiary's groups diverted funds to activities not stated in their respective grant agreements. In addition, the groups did not keep proper records and their incomes did not cover expenses as a result, the activities were unlikely to be sustained for long.

3123) In view of these shortcomings, the funds disbursed to the groups did not achieve the desired objectives.

Submission by the Accounting Officer

3124) The Accounting Officer submitted that the Ministry together with Kwale County (PIU) undertook an assessment of the 62 community groups and managed to get expenditure returns from 40 groups.

3125) To bridge the identified gaps the Ministry has developed an action plan to improve the management of the Kwale livelihood grant. Further the Kwale County PIU through its department of social services will provide continuous support to ensure sustainability of the program.

3126) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Committee further observed that the public funds were not spent in a lawful and effective way as required under Article 229(6) of the Constitution of Kenya, and in compliance with Article 232(1)(b) of the Constitution on utilization of public resources; and

(iii) The matter therefore remains unresolved.

3127) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that the public funds were not spent in a lawful and effective way as required under Article 229(6) of the Constitution of Kenya, and in compliance with Article 232(1)(b) of the Constitution on utilization of public resources**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3128) **Conclusion**

830. There were no material issues relating to effectiveness of internal controls, risk management and governance.

THWAKE MULTI-PURPOSE WATER DEVELOPMENT PROGRAM PHASE I (PROJECT ID P-KE-E00-008: ADF LOAN NO.2100150029993 & GRANT NO.2100155025973)

REPORT ON THE FINANCIAL STATEMENTS

3129) **Unqualified Opinion**

831. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

832. Low Funding of the Program by the Government of Kenya (GoK)

3130) The program financing agreement provides that the Government of Kenya (GoK) was to contribute AU116,400,000 (approx. Ksh,14.78 Billion) being 65% while African Development Bank (AfDB) was to contribute AU62,890,000 (approx. Ksh.7.9 Billion) being 35% of the total funding and the Program was to be completed by December, 2022. A review of the Program funding over the last four (4) years showed that although AfDB had contributed AU 54,342.045 which is 86% of its share of the program funding, GOK had contributed UA29,969,500 which is 26% of its share of the program funding. Arising from the low funding from the GoK, there is a possibility that the Program may not be completed on time or as per the financing agreement, with only three (3) budget cycles remaining.

Submission by the Accounting Officer

3131) The Accounting Officer admitted that over the last four (4) years AfDB had contributed AU 54,342,045 which is 86% of its share of the program funding while GoK had contributed AU29,969,500 which 26% of its share of funding. The cumulative contribution as at 30th June 2019 by AfDB and GOk was (Unit of Account) UA 54,342,045 and UA 29,969,500 respectively. This is equivalent to Ksh.7,708,961,709 and Ksh.3,822,065,409 by AfDB and GOK respectively.

3132) The initial funding arrangement had provided for funding on the basis of 35% from AfDB and 65% from GOK which was realized to be costly to the Government. The

Government of Kenya engaged AfDB for additional financing leading to the signing of the Additional Financing Agreement on 19th June, 2019 with AfDB contributing 89.4% and GOK 10.6 %. The new arrangement has therefore secured funds for the Program ensuring that activities are carried out as scheduled.

3133) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to the low funding of the program by the Government of Kenya was persuasive; and

(ii) The Committee marked the matter as resolved.

3134) **Committee Recommendation**

Within three (3) months upon adoption of this report, the Accounting Officer must report to the National Assembly on the current implementation status of the Thwake Multi-Pupose Water Development Program Phase I. The report should entail revised project work plan and budget giving details of the project end and closure dates.

833. Funding and Continuity of the Program

3135) As report in the previous year, Phase I of the Project, which entails construction of the dam and associated structures, is currently under implementation at an estimated cost of Ksh.42,365 billion. The cost of the four (4) phases of the Project, whose projected completion dated 31 December, 2022, is tabulated below:

Program Phase	**Billions of Ksh.**		
	GoK/Others	**AfDB**	**Total**
Multi-purpose Dan and RAP	34.342	8.023	42.365
Hydropower Generation	0.52	3.83	4.35
Water supply, Sanitation and Waste Water Infrastructure	5.27	5.36	10.63
Irrigation Development	19.18	5.10	24.13
Total (Phase 1-4)	59.312	22.313	81.475

3136) Although AfDB and GoK funding for the first phase of Ksh.42.365 billion has been approved, funding amounting to Ksh.39.845 billion with respect to the remaining three phases is yet to be secured or sought from financiers.

3137) Consequently, it is not clear how the three phases will be financed in the ensuring period, up to completion of the program.

Submission by the Accounting Officer

3138) The management concurs with the Auditor's observation that negotiations on financing the remaining phases of the Program should be planned for. This would ensure continuity and achievement of the objectives of the multipurpose program. The Ministry is in the process of reviewing designs for Phase 2 (Hydropower Generation) and Phase 3 (Water Supply, sanitation and Waste Water Infrastructure) as basis for engagement with the National Treasury to ensure its financing.

3139) Other Phases shall be negotiated at the appropriate time as committing funds early before the phases are ready for implementation would subject the government into paying commitment fees and interests on idle funding.

3140) **Committee Observations and Findings**

(i) The Committee also observed that the continued non utilization of the Multi-purpose land does not yield Value for Money from this expenditure; and
(ii) The Committee marked the matter as resolved.

3141) **Committee Recommendation**

Within three (3) months upon adoption of this report, the Accounting Officer must report to the National Assembly on the current implementation status of the Thwake Multi-Pupose Water Development Program Phase I. The report should entail revised project work plan and budget giving details of the project end and closure dates.

834. Irregular Signing of Contract without Adequate funds

3142) Regulations 51 (c) of the Public Finance Management (National Government) Regulations, 2015 requires that contracts imposing financial obligations in excess of one (1) year should only be concluded by an accounting officer only if the accounting officer secures the resources required in line with the financing requirements set out in the contracts. According to the original financing agreement for the Program, both parties had an approved budget of UA179,290,000 equivalent to about Ksh.22,873,970,000, where the borrower was to fund 65% and the lender was to loan the borrower the remaining 35%. As at 30 June 2018, the Program had received Ksh.6,651,802,683 of the approved budget hence having a balance of Ksh.16,222,167,317. However, the Ministry entered into a contract for civil works and associated works for Ksh.36,791,358,148 with a contractor on 15 November, 2017 and issued orders to commence the works on 28 March, 2018 without setting out or having a plan or an agreement on how the extra Ksh.20,569,190,831 would be raised. Although, according to management, there was negotiation for additional funding, this had not been finalized at the time of concluding the audit.

3143) In the circumstances, the management is in breach of the law.

Submission by the Accounting Officer

3144) The Accounting Officer admitted that the Ministry entered into a contract for Civil works and associated works for ksh.36,791,358,148 with a contractor on 15th November 2017 and issued orders to commence work on 28th March 2018. The initial Financing Agreement had an appraisal budget of Ksh.22.87 billion which was not sufficient to complete Phase I of the program that involves dam construction. The contractual sum for the construction is Ksh.36.9 billion. The contract was signed only after AfDB had expressed its willingness to approve the additional financing. The Government of Kenya (GOK) engaged the African Development Bank (AfDB) for additional financing of EURO235.76 million (Approx.Ksh.27.6 billion). The additional Financing Agreement was signed between the National Treasury and AfDB on 19th June, 2019 and is operational. The dam construction contract has therefore been safe guarded. In addition, the project received all the approvals required from the ADB before the contract was executed.

3145) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to irregular signing of the contract without adequate funds was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

3146) **Committee Recommendation**

Within three (3) months upon adoption of this report, the Accounting Officer must report to the National Assembly on the current implementation status of the Thwake Multi-Pupose Water Development Program Phase I. The report should entail revised project work plan and budget giving details of the project end and closure dates.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3147) **Conclusion**

835. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA ITALY DEBT FOR DEVELOPMENT PROGRAMME

REPORT ON THE FINANCIAL STATEMENTS

3148) **Unqualified Opinion**

836. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

837. Long Outstanding Advances

3149) According to Article III.1 of the programmes funding agreement, the funds should be utilized by the Government of Kenya on goods and services for implementation of jointly agreed initiatives within the framework of the poverty eradication strategies.

3150) As disclosed in Note 8.11 to the financial statements, the statements of financial assets and liabilities as at 30 June 2019 reflects imprest and advances amounting to Ksh12,991,890. This amount as reported in the prior year was advanced to the Ministry of Water and Irrigation vide requisition MEWNR/ACCT/233 of 17 September 2014 to pay an outstanding travel bill due to a service provider. The advanced amount had not been refunded to the Programme by the time of concluding this audit in November, 2019, more than five (5) years since the advance was made.

3151) In the circumstance, the advance was not utilized for the programme activities and the Ministry risks being required by the Government of Italy to make refund as provided for under Article II.6 of the funding agreement.

Submission by the Accounting Officer

3152) The Accounting Officer submitted that the amount was advanced to the Ministry with anticipation that the Ministry will refund after receiving exchequer funding from the National Treasury within the year. However, the exchequer did not come forth hence the amount went unpaid during that time.

3153) In the subsequent years the amount was recognized as a pending bill under outstanding payments to airlines. The Ministry has been requesting for additional funding to settle the pending bills from the National Treasury with no avail. This Ministry commits to refund the advance once there is sufficient budget to avoid any negative consequences.

3154) **Committee Observations and Findings**

(i) The Committee observed that the refund of the advances has not been made to date; and
(ii) The matter therefore remains unresolved.

3155) **Committee Recommendation**

1) **Accounting Officers must at all times ensure that they take appropriate measures to resolve any issues arising from audit which may remain outstanding pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.**
2) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3156) **Conclusion**

838. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA WATER SECURITY AND CLIMATE RESILIENCE PROJECT (IDA CR. NO.5268/5674-KE AND GRANT NO. TFOA0761A)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

839. Transfer of Funds to National Lands Commission

3157) During the year under review, the Project disbursed Ksh.500,000,000 to National Lands Commission bringing the total amount disbursed to the Commission to Ksh.650,000,000 for compensation of Project Affected Persons (PAPs) for the construction of Mwache Dam. The basis for the disbursement was not clear since the project had not provided requisition from the Commission. In addition, it was noted that the National Lands Commission had not provided any expenditure returns for the advances made since June, 2016 while there was no evidence that any of the intended beneficiaries had been compensated. These funds would have been applied to other deserving Project activities or be invested to earn interest for the Project.

Submission by the Accounting Officer

3158) The Cabinet Secretary Ministry of Water, Sanitation and Irrigation vide letter Ref. KWSCRP/025 (36) dated 11th July 2018 requested the National Land Commission to acquire land for the project consequently amounts of Kshs.500,000,000 and 150,000,000 were budgeted in the years 2017/18 and 2018/19 respectively with anticipation that the NLC would finish the valuation and awarding process. These amounts were transferred to NLC in readiness for compensation of PAPs immediately the process was completed.

3159) The NLC through their letter Ref. NLC/VAL.1561/75 dated 18th January, 2021 forwarded a compensation schedule and requested authority to disburse Kshs.577,024,375 to 629 PAPS. To date NLC has disbursed and submitted returns for an amount of Kshs.432,757,009.75 to 500 PAPs.

3160) **Committee Observations and Findings**

(i) The Committee observed that the land acquisition processes has not been concluded to date; and

(ii) The matter therefore remained unresolved.

3161) **Committee Recommendation**

Within three (3) months upon adoption of this report, the Accounting Officer must report to the National Assembly on the current status of acquisition of land for Mwache Dam Project. The report should entail details of all Project Affected Persons, the acreage of land acquired and the actual amounts to be compensated for each.

Basis for Qualified Opinion

Other Matter

840. Budget Control and Performance

3162) The Statement of comparative budget and actual amounts reflects approved receipts budget and actual and comparable basis of Ksh.1,445,000,000 and Ksh.1,959,633,234 respectively resulting to an over funding of Ksh.55,018,766 or 36%. Further, the Project spent an amount of Ksh.1,602,028,703 against an approved budget of Ksh,1,445,000,000 again resulting to an over absorption of Ksh.157,028,703 or 11% of the budgeted amounts.

Submission by the Accounting Officer

3163) The Accounting Officer submitted that the Management has attributed the over-funding to timing difference where the 2017/2018 financial year money was released to the Project during the 2018/2019 financial year while the under-absorption was attributed to reduction of the initial budget during the supplementary II budget when the expenditure had already been incurred.

3164) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Budget Control and Performance was persuasive; and

(ii) The Committee marked the matter as resolved.

3165) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

841. Pending Bills

3166) The Project reported pending bills amounting to Ksh.216,281,409 which comprised of Ksh.89,756,377 in respect to construction works, Ksh102,594,338 for consultancy services of the Lower Nzoia Irrigation project and Ksh.23,930,694 in respect to outstanding staff payments.

3167) Failure to settle bills during the year to which they related distorts the financial statements for the year and adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

3168) The Accounting Officer admitted that the Project reported pending bills amounting to Ksh.216,281,409 which comprised of Ksh.89,756,377 in respect to construction works, Ksh.102,594,338 for consultancy services of the Lower Nzoia Irrigation project and Ksh23,930,694 in respect to outstanding staff payments. The project was experiencing funds flows challenges due to the delay releasing the additional budget provision (supplementary II) which was done in the beginning of June 2019. Consequently, the project requested for an exchequer which was received in July 2019 leading to the pending bills cited above. Had the project been allocated a budget as requested, there wouldn't have been pending bills in the financial year under review.

3169) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to pending bills was persuasive; and

(ii) The Committee marked the matter as resolved.

3170) **Committee Recommendation**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

842. Irregular Engagement of Project Consultant

3171) As reported in the previous year, the Project through the Ministry of Water and Irrigation entered into a contract with a consultant on 31 January, 2017 for individual consultancy services. The officer, who was a finance officer at the National Treasury was supposed to apply for unpaid leave follow her appointment. Although the officer applied for leave on 6 February 2017, there was no evidence that the leave was granted. This implies that the officer was on two (2) employment terms and enjoyed Government pension benefits within the period she served in the project contrary to section J 13(2) (v) of the Human Resource Policy and Procedure Manual for Public Service, 2016. There was no evidence that the Pension was remitted to the relevant authorities. Further, it was not clear why the officer was engaged and contracted before the official release by the National Treasury.

3172) Consequently, the Management is in breach of Human Resource Policy and Procedure Manual for Public Service, 2016.

Submission by the Accounting Officer

3173) The Accounting Officer submitted that the Ministry of Water and Sanitation under the Kenya Water Security and Climate Resilience Project (KWSCRP) advertised for the position of Accountant II which Ms. Jackline Kipkapto a Finance Officer I at the National Treasury applied for and was successful. She accepted the offer on a 3-year contract with effect from 3rd March 2017.

3174) On getting the appointment on a three-year contract, the officer requested for unpaid leave, which was referred to the Ministry of Public Service, Youth and Gender Affairs but DPSM returned the same to the National Treasury to be handled under the MHRMAC.

3175) The delay in resolving the issue led to the officer terminating her contract with the project after a years' service with effect from 31st March 2018. The officer then requested for the period she served at the KWSCRP be treated as secondment period upon which Public Service granted belated secondment vide letter PSC/GEN/13/III/(56) dated 13th March, 2018 for the period 3rd March, 2017 up to and including 31st March, 2018.

3176) The Accounting Officer admitted that during that time at the KWSCRP the officer continued to receive a salary from the National Treasury, however as the officer was paid her eight (8) months consultant fees, it was less her Gross Salary received from The National Treasury while her pension continued to be remitted to the National Treasury too.

3177) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to irregular engagement of project consultant was persuasive; and
(ii) The Committee marked the matter as resolved.

3178) **Committee Recommendation**

Upon conducting of interviews for any position advertised in the public service, the Directorate of Personnel Services Management should at all times ensure that they process the deployment of the successful candidates in time.

843. Delayed Compensation of Project Affected Persons

3179) A review of the project documents indicates that the Project Monitoring Unit, transferred to the National Lands Commission Ksh.250,000,000 and Ksh,200,000,000 on 13 December, 2016 and 4 December, 2017 respectively. These funds were meant for compensation of Project Affected Persons, for Lower Nzoia Irrigation Project. However, by the time of concluding the audit in 2019 the compensation process was yet to be completed and the Commission had only utilized Ksh.183,487,149 for the compensation. Consequently, delays in compensation have resulted to change in the construction methodology for the dykes with an estimated project cost of Ksh.42 million and leasing of land with a projected cost of Ksh.19 million, according to project records reviewed.

3180) There is therefore, lack of effectiveness in the use of Public resources since the expenditures would have been avoided and utilized on other Project activities.

Submission by the Accounting Officer

3181) The Accounting Officer admitted that the Ministry transferred to the National Lands Commission Ksh.250,000,000 and Ksh,200,000,000 on 13 December, 2016 and 4 December, 2017 respectively. The funds were meant for compensation of Project Affected Persons, for Lower Nzoia Irrigation Project However, by the time of concluding the audit in 2019 the compensation process was yet to be completed and the Commission had only utilized Ksh.183,487,149 for the compensation. Following on the setbacks outlined under Budget Control and Performance, the Ministry has streamlined the compensation process by procuring consultancy services for surveying, legal succession matters as well as social workers and the combined team has achieved enhancement in land and PAPs records enabling the NLC to make compensation payments more speedily to open up access to the contractor.

3182) While the Ministry approved the request from the Engineer for change of construction methodology, which itself was aimed at avoiding contractor's claims, no additional cost in construction was anticipated or approved or paid and no land was required to be leased. There was therefore no payment made related to change of methodology or for lease of land. The revision of dyke methodology not only enabled works on this Contract to commence even with non-availability of land on the landside, but also saved lives protected by the rehabilitated Northern Dyke which has not been breached since. This cost increase that eventually resulted to new methodology amount to KES. 30 million for (2% of the contract Sum), but halted the escalation of claims by the contractor averaging KES 455,000 monthly for the 9 (nine) interim submissions the contractor had submitted. It is noteworthy that acquisition of land for complete construction of these dykes is yet to be achieved.

3183) The revised methodology was only to allow the Contractor commence Works on the side of the Dyke verging on the River Nzoia. Originally, the assumption against which the Contractor based his methodology was availability of land in total for the entire scope of works. This was not the case and works on the Dykes only commenced in April/May 2019 after a ten (10) month delay since commencement date of 12th June 2018. This delay had occasioned a claim from the Contractor of US$ 1.3 million against the Employer, Ministry of Water, Sanitation and Irrigation for lack of access to land.

3184) On the Northern dyke, 12 km has been rehabilitated on the riverside out of 17km while 17km on landside will be completed on or before 30th November 2021. On the Southern dyke, 11km has been rehabilitated on riverside out of 17km while the remaining works will be completed on or before 30th November 2021.

3185) The Committee however wondered why the contractor was engaged by the State Department before the compensation process was concluded.

3186) **Committee Observations and Findings**

(i) The Committee observed that the compensation process has not been completed; And
(ii) The matter therefore remains unresolved.

3187) **Committee Recommendation**

Within three (3) months upon adoption of this report, the Accounting Officer must report to the National Assembly on the current status of acquisition of land for Lower Nzoia Irrigation Project. The report should entail details of all Project Affected Persons, the acreage of land acquired and the actual amounts to be paid as compensation for each.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

844. Non-utilization of Available Grant

3188) The Government of Kenya signed a grant agreement on 7 September, 2015 with the International Bank for Reconstruction and Development and International Development Association acting as administrator of the Korea World Bank Partnership Facility Trust Fund. The grant which amounted to US$3.5 Million was for the purpose of supporting and improving flood early warning system for Lower Nzoia, and its expected end date as per the agreement is 31 December, 2020. However, as at 30 June, 2019, one and a half years to the expiry of the grant period the Project had not started utilizing the grant in the circumstances, the Project may not fully utilize the grant within the grant availability period, which may result to failure to achieve the intended Project objective.

Submission by the Accounting Officer

3189) The Accounting Officer admitted that the Government of Kenya signed a grant agreement on 7 September, 2015 with the International Bank for Reconstruction and Development and International Development Association acting as administrator of the Korea World Bank Partnership Facility Trust Fund. It is also true as at 30 June, 2019, one and a half years to the expiry of the grant period the Project had not started utilizing the grant. Though the agreement for the grant was signed on 7/09/2015, there was no budget provision until financial year 2 019/2020. During financial year 2018/19 the Ministry wrote to the National Treasury for budget requirements of components under this grant vide letter Ref. KWSCRP/004/Vol.II/(2) dated 26th July 2018. However this was not provided causing further delays to commencement of activities.

3190) Considering that 75% of this grant is for procurement of equipment and technical support consultancy services, the bidding documents were concluded. The final stages of procurement and execution together with staff training and capacity building will be completed in one-and-half year.

3191) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to non- utilization of Available grants was persuasive; and

(ii) The Committee marked the matter as resolved.

3192) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she utilizes any grant issued for development of any project within the Department on time to avoid scenarios of delayed services and benefits to the public.

845. Inconsistence Project Implementation Activity

3193) The Ministry of Water and Irrigation, through Kenya Water Security and Climate Resilience Project entered into a contract with Suhufi Agencies Ltd on 2 February 2017, for improvement works of water services in Likoni, Mombasa County. This Project whose contract price was Ksh542,441,544 formed phase I of the entire project. The project was meant to address the problem of non-revenue water in Likoni area and to supply water from Tiwi borehole. Included in the contract was a pipeline designed to carry at least 2000m3 of water.

3194) However, it was observed that the Tiwi borehole currently produces 1000m3 of water per day, which is far less than the minimum required capacity of the new pipeline.

According to Management, the extra capacity of water was to be provided by sinking more boreholes, and this had been agreed between the Ministry and the relevant water stakeholders, at the time of design of the pipeline. However, Management has not provided any documentary evidence to this effect. As a result, the project may not achieve value for money in the 50% capacity underutilization.

Submission by the Accounting Officer

3195) The Accounting Officer admitted that the current capacity of Tiwi boreholes is 1,000m3, but at the time of the design of the Likoni Improvement works it was agreed between the Ministry, Coast Water Services Board (now Coast Water Works Development Agency-CWWDA) and Mombasa Water Supply and Sanitation Company Limited (MOWASSCO) that CWWDA would undertake improvements and drill additional boreholes at the Tiwi wellfield by the time the Likoni works are completed.

3196) The drilling and rehabilitation work whose scope includes additional two boreholes have not yet been done by CWWDA. These works were to be funded by AfDB. The financing agreement was signed between CWWDA and AfDB in March 2018 but the signing of the Subsidiary Agreement to operationalize the FA was delayed until 2020 due to processes at the AfDB home office. The tender for the boreholes was advertised and the evaluation report was completed and submitted to AfDB for No-Objection. The No Objection has not yet been received from the financier. Upon receipt, the contract should be signed and consequently works are expected to commence.

3197) The Committee did not understand why the State Department did not engage with the Coastal Work Development Agency to ensure that the project was consistent with Agencies master plan.

3198) **Committee Observations and Findings**

(i) The Committee observed that the capacity has not been fully utilized; and

(ii) The Committee marked the matter as resolved.

3199) **Committee Recommendation**

Within three (3) months upon adoption of this report, the Accounting Officer must report to the National Assembly on the current implementation status of the Kenya Water Security and Climate Resilience Project for improvement works of water services in Likoni, Mombasa County. The report should entail revised project work plan and budget giving details of the project end and closure date.

WATER AND SANITATION DEVELOPMENT PROJECT (IDA CR. NO.60290/60300-KE)

REPORT ON THE FINANCIAL STATEMENTS

3200) **Unqualified Opinion**

846. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

847. Budget Absorption

3201) The Project Financing Agreement between the Republic of Kenya and the International Development Association, was signed on 21 June,2017. Further, the Project's duration is five (5) years effective March, 2018 to October, 2022 with an approved budget of USD 330 Million (approx. Ksh.33 billion). However, one and a half years after signing the agreement, the Project had only absorbed Ksh.346,544,532 representing 1.06% of the total project funding. In addition, a comparison of the budget and actual amount indicates that the Project utilized on 13/73% of the total budget for the year under review. The low budget absorption could result t non-achievement of the Project objectives.

Submission by the Accounting Officer:

3202) The Accounting Officer submitted that Water and Sanitation Development Project (WSDP) was in the Initial year of implementation and financial resources were only availed in May 2019. The delays were due to the extensive consultations that were held between the National Treasury, Attorney General's office, Ministry of Water $ Sanitation and Irrigation and the Implementing Agencies on the Country Participation Agreements. The process started in 2018 and was only concluded on 3rd May 2019 when they were signed. The agreements were condition precedent to the transfer of funds to the participating counties.

3203) In 2019/20 financial year the First disbursement was made on 8th January 2020 to the CRF accounts and delays experienced in transferring the funds from the CRF to Special Purpose Account and to the WSP project account taking 16-54 working days. In addition, delays have been experienced in submission of Statement of Expenditure (SOE) supporting documents for replenishment of the funds utilized.

3204) Trainings have been organized including technical and steering committee meetings where the participating counties have been trained and informed on the need to submit SOE supporting documents in time and the absorption is expected to improve in the current financial year 2020/21. The second disbursement that happened in November 2020, there was improvement in transfer of funds from CRF to WSP's project accounts that took 8-16 working days.

3205) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Budget Absorption was persuasive; and

(ii) The Committee therefore marked the matter as resolved.

3206) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

848. Delays in signing the Subsidiary Agreement with Participating Counties

3207) According to Article V of the Financing Agreement, the Project implementing Entity was required to execute subsidiary agreements with each of the participating Counties, within 120 days after signing of the financing agreement. However, these subsidiary agreements were executed in May, 2019 more than one and a half year after the deadline. The delay in signing the agreements has negatively impacted on the disbursement of the project funds to the implementing entities and consequently delayed by the achievement of the project objective.

Submission by the Accounting Officer

3208) The Accounting Officer submitted that the proposed content and execution procedure of the County Participation Agreements as detailed in the Signed Financing Agreement could not be executed as envisioned. This required extensive consultations among the World Bank, National Treasury and the Ministry of Water, Sanitation and Irrigation that resulted in developing Subsidiary/County Participation Agreements in line with the required provisions that were eventually finalized and signed on 3rd May, 2019.

3209) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to the above paragraph was persuasive; and

(ii) The Committee marked the matter as resolved.

3210) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she signs any Subsidiary Agreement with Participating Counties for development of any project within the respective counties on time to avoid scenarios of delayed services and benefits to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3211) **Conclusion**

849. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis of Conclusion

850. Internal Audit Review

3212) According to Section 8 10 (424) of the Water and Sanitation Development Project Financial Management Manual, the Ministry of Water and Sanitation's internal auditors are responsible for the Project internal audit activities at the Project Coordination Unit. However, according to information obtained from the internal audit department, no such internal audit review was performed on the Project during the year under review.

3213) In the absence internal audit reviews, it was possible to rule there is existence of weaknesses in internal controls and related risks during the year under review.

Submission by the Accounting Officer

3214) The Accounting Officer submitted that only three out of the 16 implementing agencies had received funds to commence implementation of approved work plans. In 2019/2020 and current financial year Internal Audit Review is integrated in the operation of the project to be conducted bi-annually up to closure of the project.

3215) **Committee Observations and Findings**

(i) The Committee observed that the internal Audit reviews were carried out in the Financial Year 2019-2020; and

(ii) The Committee marked the matter as resolved.

3216) **Committee Recommendation**

Accounting Officers must at all times ensure that they have appropriate arrangements in place for conducting internal audit according to the guidelines of the Accounting Standards Board pursuant to the provisions of section 73(1)(a) of the Public Finance Management Act, 2012.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE MINISTRY OF WATER AND SANITATION

LAKE VICTORIA WATER SUPPLY AND SANITATION PROGRAM (PHASE II) GRANT NO. 2100155019967 – LAKE VICTORIA SOUTH WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Paragraph 851 to 924 are projects implemented by Agencies under the Ministry which were audited independently and the accounts are examined by another Committee.

25. MINISTRY OF ENVIRONMENT AND FORESTRY

REPORT ON THE FINANCIAL STATEMENTS – VOTE 1108

Dr. Chris Kiptoo, the Principal Secretary and Accounting Officer for State Department for Environment & Forestry (Vote 1108) appeared before the Committee 27th September, 2021 to adduce evidence on the audited financial statement for the State Department for Environment & Forestry (Vote 1108) for the Financial Year 2018/2019. He was accompanied by the following officers:

1.	Mr. George Gachuru	- Head of Accounts
2.	Mr. Joseph Mutuma	- Head of Finance
3.	Mr. Richard Yator	- Head of Procurement
4.	Mr. Jero Mwanzia	- Project Manager Green Zone support Project
5.	Mr. David Chege	- Water Towers Project
6.	Mr. Joshua Cheboyo	- Director Kenya Forest Research Service
7.	Mr. Patrick Kariuki	- Ag. Senior Chief Conservator of Forestry
8.	Mr. John Ochuka	- Director Finance NEMA
9.	Mr. David Gikungu	- Deputy Director Kenya Metrological Department
10.	Mr. Peter Nduma	- Carda Project Kenya Forestry Service
11.	Mr. Antony Weru	- Finance Manager Kenya Forestry Service
12.	Mr. Isack Kangila	- Head Quality Management Systems
13.	Ms. Regina Maonge	- Planning Office
14.	Ms. Wangare Kirumba	- Adaptation Fund & Climate fund Project
15.	Mr. Mambo Mburu	- Ministry

And submitted as follows:

925 Fixed Assets Register

925.2 Incomplete Assets Register

3217) Examination of the summary of fixed assets register at Annex 4 to the financial statements revealed that the Ministry did not have an updated fixed asset register showing all the property, plant and equipment owned by the Ministry and their valuation as at 30 June, 2019. In addition, some assets at the Kenya Meteorological Department were not tagged and did not bear the office identity markings.

3218) In absence of an updated fixed assets register, it was not possible to confirm that assets acquired and owned by the Ministry as reflected in the financial statements are fairly stated.

Submission by the Accounting Officer

3219) The Accounting Officer submitted that the Ministry has started updating a comprehensive fixed asset register. In order to develop a complete asset register, the following actions have been taken;

(i) Request for the procurement of a consultant to undertake the digitization, registration, valuation and tagging of moveable and immoveable assets across the country has been made. However, the procurement of the same did not proceed due to lack of funds.

(ii) As we look for solutions on this matter, the Ministry has taken an internal measure by requesting all HoDs to ensure that new assets are posted in the asset register on a continuous basis.

(iii) Asset Register for assets procured during financial year 2019/2020 and prior years has been updated.

3220) **Committee Observations and Findings**

(i) The Committee observed this issue was also discussed in the year 2017/18 and recommended that within nine months of the adoption of this Report, the Accounting Officer should avail to the Auditor General a comprehensive fixed asset register of the State Department for Environment and Forestry for review and verification, and;

(ii) The Committee observed that the State Department did not have a complete asset register; and,

(iii) The Committee further observed the Accounting Officer failed to prepare and maintain a register of assets as required by Regulation 143 of Public Finance Management (National Government) Regulations, 2015.

3221) **Committee recommendations**

1) **The Committee reprimands the Accounting Officer for failure to prepare and maintain a register of assets as required by Regulation 143 of Public Finance Management (National Government) Regulations, 2015; And**
2) **The Accounting Officer should within three (3) months of tabling and adoption of this report to avail to National Assembly and Auditor General a complete register of assets prepared in accordance with Regulation 143 of Public Finance Management (National Government) Regulations, 2015.**

925.3 Loss of Government Vehicle

3222) As previously reported, A Ministry vehicle registration No. GK A152Q (civilian number plate KAY 953F) valued at Kshs.5,460,000 was lost at Mlolongo area in Machakos County under unclear circumstances on 24 August, 2013 and was at the time being driven by an unauthorized person. Management has not initiated any measures to recover the loss of Kshs.5.460,000 from the responsible parties.

Submission by the Accounting Officer

3223) The Accounting Officer submitted that the Ministry of Environment and Forestry lost a vehicle GKA 152Q Toyota Prado on 24th August 2013 through carjacking. The incident was reported at Kilimani Police station under OB No.CR 142/64/2013. We wish also to state as follows: -

(i) The case has been under police investigation since then.

(ii) The Ministry has been writing letters to the Inspector General of Police to provide update(s) on the investigation.

(iii) The vehicle was being driven by an official driver as per

(iv) Directorate of Criminal Investigation officers have concluded their investigation and forwarded the file to the office of the Directorate of Public Prosecution for further necessary action and guidance as communicated to us by the Principal Secretary/Interior and Citizen Services vide his letter Ref. No.OP.PA/23/1A dated 27th October 2020.

3224) **Committee Observations and Findings**

The Committee observed this matter was considered by the Committee in the report of 2016/2017.

925.4 Land and Buildings

925.4.1Un-Surveyed Land without Ownership Documents

3225) Records maintained by the Ministry revealed that the Ministry owns forty-nine (49) parcels of land spread throughout the Country which had not been valued. Further, ownership documents of these parcels of land were not availed for audit review. Consequently, it was not possible to confirm whether the parcels of land are owned by the Ministry. In addition, physical verification of selected parcels of land revealed ongoing encroachment by informal settlers.

Submission by the Accounting Officer

3226) The Accounting Officer submitted that it was true the Ministry is in possession of various parcels of land spread across the country which have not been valued yet. It is also true that some of the land parcels have been encroached by informal settlers. We however wish to respond further as follows:-

i. The Ministry is currently undertaking a comprehensive Asset Inventory and this will update the information highlighted in the report to include houses and land. A draft asset inventory has been prepared;
ii. The KMD land ownership documents that are available have since been forwarded to the auditors for audit review. A list of KMD properties including the status of ownership

is attached indicating a total of 25 parcels of land owned by KMD and 20 No. KMD weather observatories hosted by other institutions.

iii. All KMD parcels of land have been fenced in one way or another, however, a more permanent type of fencing is planned in phases to pre-empt encroachment by unscrupulous people.

3227) **Committee Observations and Findings**

(i) The Committee observed the State Department owned various pieces of land that had not been valued, and;

(ii) The Committee further observed that some parcels had been encroached by informal settlers; and,

(iii) The Committee in addition observed the Accounting Officer had commenced process of preparing a complete asset inventory.

3228) **Committee recommendations**

1) **Within nine (9) months of tabling and adoption of this report, the Accounting Officer to ensure all State Department parcels of land are fenced to keep off intruders.**
2) **Within nine (9) months of tabling and adoption of this report, the Accounting Officer to work with National Land Commission to obtain ownership documents for parcels of land without title deeds.**

925.4.2Encroachment on Ministry's land off Enterprise Road

3229) The Ministry through the Kenya Meteorological Department (KMD) owns land Block/209/24794/81 situated in Industrial Area on Road B off Enterprise Road measuring approximately 21.04 hectares. Other information indicated that the Ministry through tender No.DW0/D21/88/2013-2014 and local purchase order No.0313046 dated 5 June, 2014 awarded a contract to a company to fence off the land at a contract sum of Kshs.5,662,122. Physical verification of the land revealed that the land was partially fenced making it an easy target for private developers to grab or encroach. In addition, a private developer had recently erected a concrete fence on a portion of the land. The parcel of land is under-utilized and the Kenya Meteorological Department does not appear to be carrying any activity on the land.

3230) Scrutiny of the land boundary along Road A revealed that unknown people had encroached, fenced and hived off five parcels of land of unknown acreage from the Department's land. Moreover, a storey building was illegally under construction on one parcel of land. However, the Ministry does not appear to have raised the issue or obtained an injunction to stop encroachment and construction on the land. Further, a portion of land of unknown acreage which was purported to belong to the Department appeared to have been fenced off from the main land.

3231) Under the circumstances, it has not been possible to confirm the total acreage of the Department's land and its status.

Submission by the Accounting Officer

3232) The Accounting Officer submitted that the Ministry through Kenya Meteorological Department (KMD) owns land block/209/24794/81 situated in Industrial area on Road B off Enterprise Road measuring approximately 21.4 hectares. It is also true that the Ministry awarded a contract to a company to fence the said land.

3233) He further stated as follows:

(i) KMD has never lost possession of the said land as a single parcel. However, five parcels of land had been illegally/irregularly hived off from the Ministry's land off Enterprise Road in Industrial area, Nairobi and titles issued to the following entities: Beacon Towers ltd; Hillbrow Properties limited; Brentwood Traders Limited; Pamba Properties limited; and Varun Industrial Credit Limited all which have since been revoked vide court judgment ELC Case No.275 of 2009.

(ii) The stone wall fence erected on the premises was demolished after the judgment;

(iii) The land is in the process of being handed over to the Ministry of Housing as per Executive Order dated 23rd June 2020. KMD has been allocated 5 acres of alternative land at J.K.I.A.

(iv) **KMD land at JKIA**
The lease for alternative land, between Kenya Airports Authority and KMD was forwarded to State Department of Housing (Chief Building Surveyor) who is charged with the mandate of Government leasing as required by Government procedures;

(v) **Fencing of the Transmission Station(TX)**
On recommendation from the EACC the Ministry undertook to secure the land by erecting a perimeter wall vide contract No. D110/NB/NB/1901, Job No.10685A;

(vi) There is/was no storey building being constructed on KMD land as alleged. A management team appointed by the Accounting Officer accompanied by auditors visited the site and confirmed this.

3234) **Committee Observations and Findings**

(i) The Committee observed that five parcels of land had been illegally/irregularly hived off from the Ministry's land off Enterprise Road in Industrial area, Nairobi and titles issued to the following entities: Beacon Towers ltd; Hillbrow Properties limited; Brentwood Traders

Limited; Pamba Properties limited; and Varun Industrial Credit Limited all which have since been revoked vide court judgment ELC Case No.275 of 2009, and;

(ii) There was no information availed on further actions by Office of Director of Public Prosecutions on the illegal hiving of land to deter future attempts.

3235) **Committee recommendations**

Within three (3) months of tabling and adoption of this report, the DCI should initiate investigations into this matter with a view to determining possible criminal culpability on the part of all concerned officers and take appropriate action in accordance with the law.

925.4.3 Land Hived off Ngong Meteorological Station

3236) The Kenya Meteorological Department owns a station located near Ngong Town along Kibiku road, Kajiado County. The station is on LR/24302 measuring 44.32 hectares. However, twelve (12) acres of the land have been hived off to pave way for the recently constructed Standard Gauge Railway (SGR) to Naivasha that traverses through the parcel of land. The Chinese company constructing the SGR has also set a construction site within the said property. Management has not indicated whether it had been gazetted for compensation.

Submission by the Accounting Officer

3237) The Accounting Officer submitted that the Kenya Meteorological Department owns Ngong Meteorological Station near Ngong town along Kibiku road, Kajiado County on land number LR/24302 measuring 44.32 hectares.

i. The Chinese company constructing the SGR set up a campsite at Bulbul area for the SGR project on the veterinary farm adjacent to the KMD land and a project site for the SGR tunnel breather on the KMD land. A lease agreement between KMD and the Chinese company was drafted and sent to the State Law Office for legal advice.

ii. The State Law Office advised that KMD seeks advice of the National Land Commission (NLC) as the Commission charged with the responsibility of administration of public land following which the Ministry referred the matter to NLC as advised. However, the SGR contractor completed the construction works; handed over the breather and left the site before the lease agreement was signed;

3238) **Compensation:**

i. The SGR section 2A project Nairobi-Naivasha railway line is tunneled at the point where the station land is located. The railway line does not transverse the KMD station land. However, a breather/emergency inclined shaft exits on the station land. A portion of the land measuring approximately 12 acres around the mouth of the shaft has been

earmarked for compulsory acquisition and has since been gazetted vide special issue dated 25th June, 2021.
The Ministry does not expect any compensation from Kenya Railways since this is public land which has been repurposed for a different public use.

3239) **Committee Observations and Findings**

(i) The Committee observed part of the State Department Land has been gazetted for compulsory acquisition for SGR with no expectation for compensation , and;
(ii) The SGR contractor set a project site for the SGR tunnel breather on the KMD land but a lease agreement drafted and sent to State Law Office was never signed and the contractor has already completed the works and left, which may have led to loss of lease fees for the use of the land by the contractor.
(iii)The Committee further observes there is no formal policy that was availed on how to deal with land owned by one public entity being acquired by another public entity for state projects.

3240) **Committee recommendations**

1) Within nine (9) months of tabling and adoption of this report, the National Land Commission to prepare and provide to the National Assembly a policy on dealing with land acquisition by one public entity from another.

925.4.4 Encroachment on Ministry's Land in Mombasa

3241) A private developer has encroached on two (2) plots in Mombasa, serial No.MN/VI3746 and No. MN/VI/3747, next to the Mombasa International Airport. Further, four (4) parcels of land owned by the Kenya Meteorological Department (KMD) in Bamburi with allotment letters numbers MN/1/2405, MN/1/2407, MN/1/2409 and MN/1/2411 all dated 16 February, 2011 have on-going court cases being prosecuted by the Ethics and Anti-Corruption Commission(EACC)at the High Court of Mombasa. The Ministry's legal department seemed unaware of these court cases since no communication relating to the court cases was available at the headquarters. In the circumstances, it was not possible to confirm ownership of the above parcels of land.

Submission by the Accounting Officer

3242) The Accounting Officer submitted as follows: -

i Parcels adjacent to Mombasa International Airport

ii The two parcels adjacent to the Moi International Airport (Mombasa) which are reserved for upper air stations are also subject of asset recovery proceedings in the Mombasa High Court which is being prosecuted by EACC;

Bamburi Staff Quarters

(i) The properties in reference in Bamburi area are 5 executive bungalow staff quarters irregularly transferred to private entities and the same have been cited in the report of the **'Ndungu'** Commission of Inquiry on Land for revocation of titles;

(ii) KMD is currently occupying one of the executive bungalows, however, there is someone holding an irregular title on the same. The Kenya Civil Aviation Authority (KCAA) staff quarters are co-located with KMD quarters in Bamburi and were similarly affected by the irregular transactions. The two Agencies are pursuing recovery of the quarters through the Mombasa High Court in cases being prosecuted by the EACC. A status report is as per**.**

3243) He further stated that after the audit, KMD liaised with Ministry's Legal Department which is now following up on these land cases.

3244) **Committee Observations and Findings**

(i) The Committee observed that the EACC had taken measures to recover the assets, and;
(ii) There are ongoing court cases to recover parcels of land.

3245) **Committee recommendations**

1) **The EACC should liaise with the Judiciary for the cases to be expedited in order to realize the recovery of the assets in question.**
2) **Within six (6) months upon tabling and adoption of this report, the Accounting Officer should to report to National Assembly on the outcome of the Court cases.**

925.4.5 Lack of Ownership Documents for Embu Meteorological Station

3246) The Ministry through Kenya Gazette Notices No. 8781 and No. 8782 dated 3. November, 2005 gave notice of intention to acquire the following parcels of land; Ngandori/Kirigi 2708, 2709, 2710, 2723, 2728, 2729, 2730 and 2745 for the construction of Embu Meteorological Station, the registered owner of the land being Samuel Mbugua (deceased). Thereafter, the Ministry through the Kenya Meteorological Department contracted construction company to construct a Model County Office in Embu in 2009 at a contract sum of Kshs.11,532,396 which was later revised upwards in 2012 to Kshs.14,548,499. However, the process of succession and formalization of ownership of the said property where the building was constructed had not been completed. In the circumstances, the Ministry risks losing the land and the building due to lack of ownership documents.

Submission by the Accounting Officer

3247) The Accounting Officer submitted that the Ministry through Kenya Gazette Notices Nos.8781 and 8782 dated 3rd November 2005 gave notice of the intention to acquire eight parcels of land for construction of Embu Meteorological Station. However, the land parcels in question were acquired through the compulsory acquisition and the relevant ownership documents were surrendered to the Commissioner of Lands before compensation. The function of Compulsory acquisition has since been transferred to the National Land Commission where the Department has referred the matter. The Principal Secretary Ministry of Environment & Forestry wrote to the Principal Secretary Ministry of Lands and Physical Planning to facilitate the issuance of Title deeds for all land Parcels owned by the Kenya Meteorological Department including Embu Meteorological station land.

3248) **Committee Observations and Findings**

(i) The Committee observed that the State Department commenced construction of building without having completed the land acquisition process.
(ii) The process of land acquisition has taken too long since as it started in 2005.

3249) **Committee recommendations**

Within three months of tabling and adoption of this report, the Accounting Officer to liaise with National Land Commission and complete the process of acquisition and report to National Assembly on the progress.

925.4.6 Unsupported Acquisition of Assets

3250) As disclosed in Note 18 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.632,108,885 under acquisition of assets which includes an amount of Kshs.459,373,093 against purchase of specialized plant, equipment and machinery. Included in the latter balance is an expenditure of Kshs.90,536,342 being part payment for an Airborne Lidar Photographic System procured for the Department of Remote Survey and Remote Sensing(DRSRS). Information available indicate that the Airborne Lidar Photographic System was procured at a total cost of Kshs.224,896,833. The procurement of the equipment was initiated in August, 2016 when the Department was domiciled at the Ministry of Mining and concluded in November, 2018 when the Department had been transferred and domiciled at the Ministry of Environment and Forestry. It was not possible to properly verify the expenditure as the original bid document showing the specifications of the equipment, the contract and systems were not availed for audit verification.

3251) In the circumstances, it was not possible to verify the propriety of the expenditure on purchase of Airborne Lidar Photographic System of Kshs.90,536,342.

Submission by the Accounting Officer

3252) The Accounting Officer submitted that the procurement of the equipment was initiated in August 2016 when the Department of Remote Survey and Remote Sensing (DRSRS) was domiciled at the Ministry of Mining and concluded in November, 2018 when the

Department had been transferred to Ministry of Environment and Forestry. The original bid documents showing specifications of the equipment were not presented for audit review since they were at the Ministry of Mining and Petroleum at the time of the audit. However, the documents were later received from the Ministry of Mining and Petroleum and forwarded for audit review.

3253) **Committee Observations and Findings**

(i) The procurement documents were not availed at the time of audit contrary to Section 9 (1) (e) of the Public Audit Act, 2015 which constitutes dereliction of duty.

(ii) The documents have since been availed for audit review.

3254) **Committee recommendations**

The Accounting Officer must always ensure that documents are availed to the Auditor General at the time of audit in accordance with Section 9 (1) (e) of the Public Audit Act, 2015.

926 Disclosure of a Contingent Liability in the Financial Statements

3255) Note 28.4 to the financial statements shows that the Ministry had a court petition Ref. ELC No.22 of 2018 with a petitioner and two others. The petition is in respect to seven (7) acres medical and hazardous waste land situated in Ruai, Nairobi valued at Kshs.245 million purchased on 26 October, 2016.

3256) The petitioner cited breach of contract by the Ministry after the Ministry cancelled the above land purchase contract on 13 February, 2017, three months after both parties had signed it. In the legal suit, the petitioner claimed for the retention of Kshs.24.5 million which was 10% advance payment by the Ministry (buyer), balance of the purchase price amounting to Kshs.220.5 million, costs of the suit and a further Kshs.15 million compensations for the breach of contract. The Ministry, on the other hand, was claiming for the refund of Kshs.24.5 million advance paid to the petitioner (seller) plus interest and cost of the suit.

3257) Examination of the documents availed for audit review revealed the following;

(i) The Ministry had advertised for the purchase of the above land in January, 2016 upon which a law firm representing the petitioner and two others was awarded the contract.

(ii) In the month of June, 2016, the Ministry sought for due diligence from the National Land Commission (NLC) and a response on the same was served in October, 2016. The National Land Commission raised several issues among them, the land size being less than seven (7) acres and the parcel being made up of seven (7) separate parcels of land.

(iii) The Ministry disregarded the National Land Commission's advice and went ahead to sign the agreement in November, 2016 followed by payment of 10% deposit amounting to Kshs.24.5 million on 24November, 2016. In February, 2017, the Ministry cancelled the contract and in March of the same year demanded refund of the deposit which was not honored by the seller.

(iv) In October, 2017, the Principal Secretary to The National Treasury raised salient questions on the land among them cost of contract cancellation, budget allocation and efforts for recovery of the deposit paid to the seller. These were not addressed by the Ministry.

(v) An independent valuation dated 7 February, 2018 conducted by the Office of the Director, Land Valuation at the Ministry of Lands and Physical Planning put the total value of the land at Kshs.166 million (Kshs.23.7 million per acre) resulting to unexplained variance of Kshs.79 million.

(vi) As at the time of the audit, the case was still pending in court and both parties were preparing for the hearing and determination of the petition.

(vii) Management did not avail the valuation report which valued the seven (7) acre piece of land situated in Ruai at Kshs.245 million (Kshs.35 million per acre). Further, Management has not explained why due diligence on the above matter was not done, why advice from the National Land Commission was ignored and whether the officers who negligently signed and cancelled the contract without taking into consideration expert opinion from the National Land Commission were held accountable.

3258) In the circumstances, the government risks losing over Kshs.39.5 million in terms of the deposit paid of Kshs.24.5 million, unknown costs of the suit and compensation costs of Kshs.15 million which the petitioner is claiming.

Submission by the Accounting Officer

3259) The Accounting Officer submitted that it was true that the Ministry has a court Petition Ref. ELC No. 22 of 2018 with M/S James Kiongi and two others in respect to seven (7) acres Medical and Hazardous Waste land situated in Ruai Nairobi valued at Kshs.245 Million (35 million per acre). The petitioner cited breach of contract by the Ministry after the Ministry cancelled the above land purchase contract, three months after both parties had signed it.

3260) On 29th January, 2016, the Ministry of Environment, Natural Resources and Regional Development Authorities advertised online through an open tender for supply of seven (7) Acres of Land for the construction of a medical and hazardous waste plant Tender No.213118. Two (2) firms submitted their respective bids as follows: -

1. M/s Ikua Mwangi and Company Advocates
2. M/s Giray General Supplies

3261) The petitioners responded to the tender for the purchase of the Land under the name of Ikua Mwangi and Company Advocates and gave the description of the land they were selling to the Government as 0.3375 Ha in 7 portions at the price of Kshs.35 million (each portion) totaling to Kshs.245 million.

3262) After evaluation the tender was awarded to Ms Ikua Mwangi and Company Advocates to supply 7 acres at a unit cost of 35 million totaling 245 million. Pursuant to a request by the Ministry to the National Land Commission (NLC) vide letter DENR/EMC/25/2 dated 1st July, 2016. The NLC sent officers for field reconnaissance on 17th October 2016 to initiate the valuation process.

3263) The NLC field inspection revealed that: -

- The proposed part of Land to be acquired lies to the riparian fringes of the mother parcel bordering Nairobi River.
- The quantum of 7 acres proposed for acquisition are in 7 No. blocks of ¾ acre in a proposed sub division scheme where processing is yet to be completed. That, the portion to be acquired is without separate title.
- That the total area proposed to be acquired as denoted in the scheme is less than 7 acres (7 position of ¾ acres) and therefore need to survey and accurately demarcate the portion of land to be acquired. This was to determine the exact area to be acquired and provide access.
- In addition, the National Land Commission requested the Ministry to urgently prepare and submit an acquisition map for the consolidated area to be acquired by the Ministry of Environment and Natural Resources out of the original Land LR 9363/25 to enable publication in the Kenya Gazette as per provisions of part VIII of the Land Act 2012.

3264) In the meantime, the Ministry signed a contract of sale of the land on 17th November, 2016 under which the sellers purported to sell 7 acres of land to the Ministry and paid a deposit of Ksh.24.5 million to M/S Ikua Mwangi & Company Advocates, who represented the sellers. Due to the issues raised in the National Land Commission's letter Ref. NLC/val.1514/4 DATED 26TH October, 2016, the Ministry wrote to Ikua Mwangi & Company advocates for the sellers informing them that the procurement process had been halted due to misrepresentation by the sellers.

3265) The Ministry cancelled the procurement process for the public good due to the following reasons: -

- The sellers had misrepresented that they were selling 7 acres of Land to the Ministry while indeed they were selling 7 portions measuring ¾ acres each which was less than 7 acres as advised by National Land Commission.

- The plots that were being sold (i.e. plot No.14,15,15,25,26,27 and 28 were indeed part of LR 9363/25 in a proposed subdivision scheme whose processing was yet to be completed and that the portion to be acquired did not have a separate title.
- The sellers were registered trustees for the family of late Erastus Mwangi Kiongi and that they did not present the consent of the other beneficiaries to sell the land. Further, In the authority to sell given by the purported sellers, the said sellers had indicated that they had no interest in the land as they had sold it to one Bernard Maina and therefore it was fraudulent for the sellers to purport to sell the land to the Ministry. This brought into question the issue of the rightful owner of the property.

3266) Consequently, the Ministry re-advertised afresh but the re-advertisement was later abandoned with a decision to approach the National Land Commission to assist the Ministry with the land acquisition.

3267) Additionally, on 6th September, 2017 the Ministry, vide letter to Ministry of Lands and Physical Planning Ref DENR/EMC/25/2 requested for valuation of the land. The said Ministry responded on 3rd October 2017 vide letter Ref: MOLPP/ADM/LND7/1 indicating that: -

a) The current user of the parcel Number 9363/25 is agricultural with a sub-division proposal into thirty two (32) sub plots and change of user from agricultural to residential (30 plots) and nursery school (2 plots).
b) The proposed use by the Ministry of Environment and Natural Resources is medical and hazardous waste facility, which use may pose compatibility challenges with the neighborhood user proposals of residential and educational users.
c) The proposed purchase intention indicated that it related to some seven (7) acres of land whereas the attached sub-division scheme did not show any stand-alone seven (7) acre sub-plot which meant that there was need to undertake an amalgamation and change of user to the intended use.
d) In the event that the valuation had to be carried out at the moment, then it would have to be in respect of individual small residential sub plots and not a block of seven (7) acres hence the value would invariably be much higher.

3268) On 30th January 2018, the Ministry wrote to the Ministry of Lands and Physical Planning vide letter Ref: DENR/EMC/25/2 responding to the issues raised by the said ministry in their letter of 3rd October, 2017 and requested the said Ministry to value the parcel in the selected plots for purpose of possible purchase by the Ministry.

3269) On 7th February, 2018 the Ministry of Land and Physical Planning responded vide letter Re: VAL/852/XV/37 submitting a valuation report. According to the said report, the value then was Kshs. 166,000,000.00 (Kenya Shillings One Hundred Sixty Six Million Only) This value was much lower than the amount of money quoted in the Sale Agreement of Kshs.245,000,000.00 (Kenya Shillings Two Hundred Forty Five Million Only).

3270) The Ministry also wrote to the National Treasury on 5th March, 2017 vide letter Ref: DENR/L/2/2 Vol.II (41) indicating that the Ministry had realized that the size of the Land was less than it had tendered and that as part of continuous due diligence, and to prevent loss of public funds the ministry had halted the entire procurement process in order to begin the process and retender a fresh.

3271) On 29th June, 2018, the Ministry wrote to the National Land Commission vide letter Ref. DENR/L/2/2/Vol. II (60) requesting the said commission to acquire land through compulsory acquisition to enable the Ministry undertake the project.

The Petitioner`s Case

3272) The petitioners filed a constitutional petition in the Environment and Land Court contending that the purported cancellation of the procurement and demand for the deposit was actuated by malice and bad faith on the part of the 1st Respondent. The petitioners sought a declaration that the cancellation of the procurement process and that demand for the refund of the deposit paid to the petitioners violated their rights under Articles 27, 28, 35, 40 and 47 of the constitution and sought compensation of Kshs.15,000,000 (Kenya Shillings Fifteen Million) only as well as damages for breach of contract. In addition, they sought a Mandatory injunction to compel the Ministry to pay the balance of the purchase Price, costs of the petition and any other relief that court may deem fit to grant.

The Ministry`s Response

3273) The Attorney General filed a cross-petition on behalf of the Cabinet Secretary Ministry of Environment and Forestry. The Ministry admitted having advertised tender for the purchase of seven (7) acres of land for the construction of a medical and hazardous waste facility through public procurement. The Ministry contended that the beacon certificate prepared by Joseph Mureithi Mugendi was signed by one Bernard Maina who referred to himself as the owner of the suit land contrary to the petitioner contention that they owned the land. No beacon certificate was submitted for the preparation of documents authorizing the sale.

3274) The Ministry averred that the NLC`s filled reconnaissance report showed that part of the suit property was in the riparian fringes of Nairobi river and that the seven plots measured ¾ of an acre each bringing the overall total to less than 7 acres as represented by the petitioners. That the petitioners had not presented the consent from the other beneficiaries of the estate of the late Erastus Mwangi Kiongi. Further, In the authority to sell given by the purported sellers, the said sellers had indicated that they had no interest in the land as they had sold it to one Bernard Maina and therefore it was fraudulent for the sellers to purport to sell the land to the Ministry.

3275) Based on the misrepresentation of facts as to ownership and the exact size of the property as well as failure to subdivide the land the Ministry contended that the petitioners wanted to defraud the Government and acquire public funds fraudulently since they did not own title to the suit land. In a cross-petition, the Ministry sought a declaration that the petitioners were bound to indemnify the government to the tune of Kshs.24,500,000 (Kenya Shillings Twenty four Million, Five Hundred Thousand) only.

3276) The Ministry also sought a declaration that the petitioners lack power to transact on the suit land since they had no interest in it and that the petitioners intended to defraud the government. The Ministry sought a refund of 24.5 million plus interest and cost of the petition.

Judgment

3277) On 15th November, 2018 the court, among other things dismissed both the petitioner`s petition and held that the petitioners had failed to prove that their constitutional rights were breached by cancellation of the procurement process. The petitioners were therefore ordered to deposit the 10% deposit purchase price (24.5 million) in a court or an interest earning account in the joint names of the advocates for petitioners and Respondents within 30 days of the date of the judgment, pending filing and determination of suit on the issue of alleged breach of the sale agreement.

3278) There are no restraining orders against the Government undertaking the project. The Ministry has been following up with the Office of the Attorney General on the joint account and deposit on the cash as ordered by Court.

Current Status of the Court Matter

3279) The ministry was served with an application (ELC SUIT NO.16 OF 2019) by the petitioners seeking a stay of execution of the judgment of the court on 15 November 2018. Subsequent thereto and on instructions of the Ministry, the Office of the Attorney General filed a response to the said application supported by an affidavit signed by the accounting officer. Further on 11th March 2020 the Ministry through the office of the Attorney General filed the Ministry`s Statement of Defense and a Counter Claim supported by an affidavit of verification to the counterclaim signed by the accounting officer.

3280) As this matter is still in court and according to the rules of procedure for court, it is not allowed to discuss and attaché court documents of the present matter that is currently active before the court.

3281) **Committee Observations and Findings**

(i) The Committee observed the Accounting Officer in charge then failed to take into consideration objections raised by National Land Commission in October 2016 before entering into a contract and paying Kshs.24.5 Million in November 2016 and also getting the State Department into unnecessary litigations.

(ii) The committee further observes even the contract price was overvalued by Kshs.79 Million in accordance to an independent valuation dated 7 February, 2018 conducted by the Office of the Director, Land Valuation at the Ministry of Lands and Physical Planning put the total value of the land at Kshs.166 million (Kshs.23.7 million per acre) resulting to unexplained variance of Kshs.79 million.

(iii) The actual Land area was even less than the 7 acres purported to have been acquired as it consisted on 7 parcels of land of ¾ acres each.

(iv) The Accounting Officer acted negligently and failed to safeguard public interests by failing to adhere to National Land Commission advice.

(v) There is an ongoing court case on recovery of the amount paid of Kshs.24.5 million.

3282) **Committee recommendations**

1) **Within three (3) months of tabling and adoption of this report, the DCI should institute investigations on possible conspiracy to defraud the Government in the whole transaction by the Accounting Officer in charge then and other public officers involved together with the purported vendors. Upon establishment of criminal culpability, the DPP should proceed and initiate prosecutions.**
2) **The Accounting should within three (3) months of tabling and adoption of this report liaise with State Law Office on the recovery of Kshs.24.5 million paid as deposit and interest thereof and report back to the National Assembly.**

Other Matters

927 Pending Bills

3283) Note 28 to the financial statements reflects pending bills amounting to Kshs.115,781,578 as at 30 June, 2019. These bills were not paid during the year under review but were instead carried forward to 2019/2020 financial year. Failure to settle bills in the year to which they relate adversely affects the following year's provision to which they form the first charge.

Submission by the Accounting Officer

3284) The Accounting Officer submitted that it was true that the pending bills for this financial year amounted to Kshs.115,781,578.00. These resulted from inadequate exchequer funding. These bills were subjected to verification and bills amounting to Kshs.101,036,527.00 were paid during financial year 2019/2020 whereas bills worth Kshs.14,745,051.00 were not paid since they were not adequately supported. Notification was done to all the concerned claimants. No complaints/contest were raised and the matter was closed.

3285) **Committee Observations and Findings**

The Committee observed that the explanation given by the Accounting Officer on how the pending arose was satisfactory; and

(i) Pending bills amounting to Kshs. 101,036,527 was been settled in financial year 2019/20.

(ii) Pending bills worth Kshs.14,745,051 were not paid since they were deemed not adequately supported.

(iii) The Committee expresses concern on the amount deemed unsupported and not paid on whether the department has implemented proper safeguards to prevent litigation which would in future lead to huge awards as observed in similar cases reported in other departments.

3286) **Committee recommendations**

Within one (1) month of tabling and adoption of this report, the Accounting Officer to liaise with the State Law Office to ensure no loopholes exist for exploitation in future for the amount deemed unsupported and not paid of Kshs.14,745,051 leading to huge awards against the State Department. The measures taken should be reported to the National Assembly.

928 Budget Performance and Analysis

928.1 Excess Revenue

3287) During the year, the Ministry received Exchequer/other receipts amounting to Kshs.13,187,813,194, while the approved budget was Kshs.1,431,380,000 resulting in unexplained excess budget receipts of Kshs.11,756,433,194. Further, the Ministry had budgeted to receive Kshs.915,108,000 from the sale of assets whose actual receipt was Kshs.910,108,000 resulting to a shortfall of Kshs.5,642,000.

Submission by the Accounting Officer

3288) The Accounting Officer submitted that in the initial Financial Statements prepared and submitted for audit review, budget allocation for exchequer releases of Kshs.13,137,653,375 had erroneously been omitted (i.e. For Budget Execution - Recurrent and Development votes combined, Summary statement of Appropriation: Recurrent and Development vote combined).

3289) This error resulted to the unexplained excess budget receipt of Ksh.11,756,433,194/= However, the omission was corrected, and the budget allocation for the exchequer releases was captured. (Kshs.13,137,653,375 for Development and Recurrent Votes Combined, Kshs.3,959,987,585 For Development vote and Kshs.9,177,665,790 for Recurrent vote). Thereafter, the financial Statements were amended and submitted for audit review.

3290) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to excess revenue was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

Expenditure Budget Analysis

3291) During the year under review, the Ministry had a low absorption of the approved budget in the following items as shown below:

Expenditure Item	Approved Budget Kshs.	Actual Expenditure Kshs.	Under Expenditure Kshs.
Use of Goods and Services	733,331,156	592,694,868	140,636,288
Transfers to Other Government Units	11,110,415,586	10,649,744,111	460,671,476
Social Security Benefits	5,100,000	2,752,949	2,347,051
Acquisition of Assets	1,450,896,991	632,108,885	818,788,106
Total	**13,299,743,733**	**11,877,300,813**	**1,422,442,921**

3292) In view of the foregoing, the Ministry did not achieve its planned objectives for the year under review.

Submission by the Accounting Officer

3293) The Accounting Officer submitted that the Ministry under absorption of the budget as indicated was due to:

(i) Procurement process for some specialized equipment had not been concluded by 30th June, 2019 hence payment could not be made on the same.

(ii) Delays in donor releasing development projects fund

(iii) Inadequate exchequer funding.

3294) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to expenditure budget was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

929 RANET-Kenya Community Radio

3295) RANET is a radio network which was established as a flagship project under the Kenya Meteorological Department (KMD) of the Ministry of Environment and Forestry, as a source of information on early warning system for communities affected by climate and weather-related phenomena. The radio station aims at delivering and disseminating climate knowledge to the local community to encourage them to foster climate action. The Climate Resource Centre serves as a learning institution for students on environmental and climate related studies. The stations are located in Isiolo, Kwale, Narok, Busia, Vihiga and Murang'a Counties and others were being constructed. An audit inspection to various stations revealed the following observations:

929.1 Isiolo (Garbatulla) Community Radio

3296) The community radio and the meteorological station was inaugurated on 29th October, 2012. However, during the field audit inspection in October, 2019, the Garbatulla RANET station was not operational. Further enquiry revealed that although the studio equipment is intact, the broadcasting services were discontinued effective 1 July, 2019 and the staff who were manning the facility had not been paid salaries.

3297) Consequently, the ownership of the land, building and safety of the equipment could not be confirmed.

Submission by the Accounting Officer

3298) The Accounting Officer submitted that the community radio and meteorological station was inaugurated on 29th October 2012.

(i) The land was allotted to KMD through the defunct County Council of Isiolo. Minutes of the council meeting are available at the County and the ministry is making efforts to get the same. The ministry is presently making follow up on acquisition of ownership documents. The building was constructed and equipped through a collaborative project with the Aircraft Meteorological Data Relay consortium, the National Drought Management Authority and the defunct Ministry for Northern Kenya and Arid lands.

(ii) The station ceased operation since the staff manning the station were engaged on casual basis and the vote for payment of casual workers was withdrawn in the FY 2018/2019, consequently it was not possible to continue their services for the Radio broadcast. These casual staff have since been paid all their dues.

3299) **Committee Observations and Findings**

(i) The Committee observed with concern the facilities are no longer in use and were lying idle without generating any value; and,

(ii) The Committee further observed the intended beneficiaries no longer receive the service.

3300) **Committee recommendations**

Within three (3) months of tabling and adoption of this report, the Accounting Officer to come up with measures to ensure the station is operational and the community receives the benefits as intended and report to the National Assembly on the progress.

929.2 Siaya and Matungu-Mumias Radio Station

3301) The construction of a radio station was on-going at the former Ministry of Information and Broadcasting site. It was not clear what agreement the Ministry had with the Ministry of Information, Communication and Technology as all works were said to have been contracted by the latter's Headquarters. As at the time of audit, an amount of Kshs.6.6million had been paid to the construction company and a certificate of completion had been issued. However, physical inspection confirmed that work was incomplete as construction of generator room was still in progress. Further, in Matungu - Mumias the structural works was complete but equipment to host the RANET station had not been installed.

Submission by the Accounting Officer

3302) The Accounting Officer submitted that it was true that the construction of the radio station was on-going at the former ministry of Information and Broadcasting site at the time of the audit.

3303) However,

(i) The construction of the radio station and generator room have since been completed for Siaya and a certificate of practical completion issued.

(ii) It is true that in Siaya and Matungu- Mumias stations the structural works is complete however the Ministry is awaiting allocation of Frequency and procurement of the necessary radio broadcast equipment for operationalization of both stations.

(iii)The land where Matungu station stands was acquired through compulsory acquisition by the commissioner of lands vide gazette notice Nos. 1274 & 1275 of February 2010.

3304) **Committee Observations and Findings**

(i) The Committee observed with concern the despite significant investment for the two facilities, they were not in use and were lying idle without generating any value; and,

(ii) The Committee further observed the intended beneficiaries no longer receive the service.

3305) **Committee recommendations**

Within three (3) months of tabling and adoption of this report, the Accounting Officer to come up with measures to ensure the two stations are operational and the community receives the benefits as intended and report to the National Assembly on the progress.

929.3 Construction of RANET Building at Nyamache Sub-County, Kisii County

3306) The tender for the proposed construction of RANET building at Nyamache Sub-County was awarded to a general painting and building construction company at a contract sum of Kshs.23,738,320 for a period of twelve (12) months. The building was constructed on a three (3) acre piece of land donated by the County Government but the land transfer documents to the Department were not availed for audit review. Site inspection done on 04 October, 2019 revealed the following anomalies:

(i) Contrary to Section 139(2) of the Public Procurement and Asset Disposal (PPAD) Act, 2015, the contractor was irregularly awarded a 10% variation amounting to Kshs.2,373,832 without authority from the Accounting Officer.

(ii) The contract term expired in 2018 and was not renewed, but the contractor was still on site without a valid contract agreement. As a result of the expiry of the contract term, works and variation were executed outside the contract period contrary to Section 139(4d) of the Public Procurement and Asset Disposal Act, 2015.

(iii) The project file containing correspondences between the contractor and the client was not provided for audit review. It was not, therefore, possible to make follow up on key issues like the performance bond, insurance, bills of quantities, contract documents and award documents.

3307) In the circumstances, the Management was in breach of law.

Submission by the Accounting Officer

3308) The Accounting Officer submitted as follows:

(i) The tender for the proposed construction of RANET building at Nyamache sub-County was done at the county level. The building was constructed on a 3 acre piece of land donated by the County government to the Ministry. Copy of the title for the land is hereby attached.

(ii) The contractor applied for a variation to the county works office amounting to kshs.2.8million and the works office approved an amount of kshs.2million. The variation was necessitated by the area being marshy and the firm had to introduce ground beams and reinforcements. Site minutes and contractors letter on variation of contract price were attached for perusal by the Committee. However, the works officer inadvertently forgot to seek accounting officer's approval. Attached letter ref: KCG/PW/RNT/01/2017 DATED 19TH December 2017.

3309) **Committee Observations and Findings**

(i) The Committee observed the despite the contract term having expired, there was no evidence of approval of extension of contract period; and,

(ii) The contract variation was done outside contract period and also was not approved by the Accounting Officer hence had no legal effect.

(iii) The Committee further observed the intended beneficiaries no longer receive the service.

3310) **Committee recommendations**

1) **Within one (1) month of tabling and adoption of this report, the Accounting Officer to issue written reprimand to the works officer for granting contract variation without approval of Accounting Officer.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3311) **Conclusion**

930 There were no material issues relating to the effectiveness of internal controls, risk management and Governance.

DONOR FUNDED PROJECTS

SOUND CHEMICALS MANAGEMENT AND UPOP REDUCTION IN KENYA PROJECT (GRANT NO.99820).

3312) **Conclusion**

931 There were no material issues noted during the audit of the financial statements of the project.

REPORT OF LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCE

3313) **Conclusion**

932 There were no material issues relating to lawfulness and effectiveness in use of Public Resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3314) **Conclusion**

933 There were no material issues relating to effectiveness of internal controls, risk management and governance

SYSTEM FOR LAND BASED EMISSIONS ESTIMATIONS IN KENYA PROJECT

3315) **Unqualified Opinion**

934 There were no material issues noted during the audit of the financial statements of the project.

Other Matter

935 Budget Control and Performance

3316) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.18,594,000 and Kshs.2,999,076 respectively resulting to an under-funding of Kshs.15,594,924 which represents 84% of the budget. Similarly, the Project spent Kshs.5,567,409 or 29% of the approved budget of Kshs.18,594,000. The management has attributed the slow absorption to staff reduction as the Project nears the end.

Submission by the Accounting Officer

3317) The Accounting Officer submitted that Under-absorption of the budget was occasioned by:-

- Delayed release of funds from the donor.
- Resignation of the staff members for the PMU during the financial year. This affected absorption majorly because the PMU budget is entirely loaded with staff compensation and office operations expenditure.

3318) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to budget control and performance was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

936 Unresolved Prior Year Matter

936.1 Irregular Payments

3319) As previously, reported in 2017/2018 financial year, an amount of Kshs.2,396,400 was irregularly incurred on salaries and allowances to officers whose contracts had expired. An officer in charge of ICT and another designated as Administrative Assistant were paid salaries and allowances even though their contracts had expired in June, 2017 and December, 2017 respectively.

3320) A review of the matter indicated that none of the contracts had been renewed during the year under review.

Submission by the Accounting Officer

3321) The Accounting Officer submitted that it was true that Kshs.2,396,400 relate to salaries and allowances paid to officers who continued working for the project when their contracts had ended. There was delay by the ministry in renewing the Officers' contracts and unfortunately the project ended before this was done. This was an omission and the ministry has put in measures to ensure it does not occur again.

3322) **Committee Observations and Findings**

(i) The Committee observed the Accounting Officer incurred expenditure of Kshs.2,396,400 irregularly by paying salaries and allowances for officers who continued working for the project when their contracts had ended ; and;

(ii) The expenditure has never been regularized post facto.

(iii)The matter remained unresolved.

3323) **Committee recommendations**

1) The Committee reprimands the Accounting Officer during the material time for incurring expenditure of Kshs 2,396,400 irregularly by paying salaries and allowances for officers who continued working for the project when their contracts had ended; and

2) The Accounting Officer should within three (3) months of tabling and adoption of this report to avail to the National Assembly and Auditor General measures taken to regularize the expenditure.

937 Late Submission of Annual Report and Financial Statements

3324) The management submitted, for audit purpose, the annual report and the financial statements for the year ended 30 June, 2019 on 18 October 2019 instead of 30 September, 2019. This was despite the fact that the Project was expected to have terminated by 31 December, 2018. This was contrary to Section 81(4) (a) of the Public Finance Management Act, 2012. Late submission of the financial statements interferes with the audit process.

3325) Consequently, the Management was in breach of the law.

Submission by the Accounting Officer

3326) The Accounting Officer submitted that the Late Submission of the Financial Statements was occasioned by the resignation of PMU staff without replacement leaving only two officers (Project Coordinator and Project Accountant) in the project. Considering that the project was nearing termination of its tenure, it's worth noting that the entire project was being managed by the project co-coordinator as the only full time officer. The accountant was a part-time officer who had other mandates across the Ministry. The part-time accountant was not able to complete preparation of the Financial Statements on 30th September 2019 due to time constraint hence the late submission. Measures have since been put in place to ensure that financial statements are submitted as per Sec 81(4) of the PFM Act, 2012.

3327) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to late submission of financial statements was not satisfactory; and

(ii) The financial statements were submitted late contrary to Section 81(4) of the PFM Act, 2012 which constitutes dereliction of duty.

3328) **Committee recommendations**

The Accounting Officer must always ensure financial statements are submitted in time in accordance with Section 81(4) of the PFM Act.

3329) **Conclusion**

938 There were no material issues relating to the effectiveness of internal controls, risk management and governance.

INSTITUTIONAL STRENGTHENING OF THE OZONE DEPLETING SUBSTANCES PROJECT (UNEP PROJECT ACCOUNT NO.UNEP/KEN/SEV/80/INS/63)

3330) **Conclusion**

939 There were not material issues noted during the audit of the financial Statements of the project.

REPORT ON THE LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3331) **Conclusion**

940 There were no material issues relating to lawfulness and effectiveness in use of public resources

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE.

3332) **Conclusion**

941 There were no material issues relating to effectiveness of internal controls, risk management and governance

LAKE VICTORIA ENVIRONMENTAL MANAGEMENT PROJECT – (PHASE III) PROJECT PREPARATION ADVANCE NO.V1570-KE

942 Phase II Expenditures

3333) The statements of receipts and payments reflect purchase of goods and services amounting to Kshs.33, 129,298. However, included in this amount were payments totaling Kshs.4,135,800 incurred on domestic travel and subsistence (Kshs.3,162,700) and office general supplies (Kshs.973,100) that related to activities under phase II of the Project. However, details of how the project transitioned from Phase II to Phase III, and the basis for inclusion of the expenditure in the financial statements of Phase III of the Project were not provided. Under the circumstances, the eligibility of the expenditure of Kshs.4, 135, 800 could not be confirmed.

Submission by the Accounting Officer

3334) The Accounting Officer submitted as follows:

- LVEMP II closed on 31st December 2017 and the Government of Kenya and the World Bank agreed on a grace period of six (6) months from 1st January to 30th June, 2018 to allow for conclusion of project activities that had already been initiated before closure of project but whose contracts had not been concluded. This included gas production on the already constructed 30 bio toilets and conclusion of the procurement of a water hyacinth harvesting equipment.
- The Kshs.3,162,700 was utilized as follows;
  I. Kshs.1,182,000 was spent on monitoring performance of the 30 bio toilets and training staff of the beneficiary institutions on gas tapping, utilization and general management of the bio gas system. This was necessary to ensure value for money for the specialized toilets.
  II. Kshs.1,980,700 was spent on meetings to deliberate on the various challenges encountered in the procurement of the water hyacinth harvesting equipment. The meetings were held both in Kisumu and Nairobi involving various Government agencies. The procurement of the equipment was concluded after the closure of LVEMP II as reflected on the acceptance certificate attached as.

- Kshs.973, 100 was used to fund office general supplies for the project operations awaiting Project Preparatory Advance (PPA) funds which were released after signing of the PPA Financing Agreement in June, 2018. This was real time during the PPA period, and not during LVEMP II which had closed in December, 2017.
- All the funds referred to in the audit report were sourced from GoK counterpart funds.

3335) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to phase II expenditures was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

943 Cash and Cash Equivalents

3336) The statement of financial assets as at 30th June, 2019 reflects a comparative cash and cash equivalent balance of Kshs.1, 415, 506 as at 30th June, 2018. However, the balance differs with the cash and cash equivalents balance of Kshs.1, 398, 115 reflected in the audited 2017/2018 financial statements for phase II by Kshs.17, 391. The difference of Kshs.17, 391 has not been reconciled or explained. Further, the statement of financial assets reflects a cash and cash equivalents balance of Kshs.10, 378, 235 as at 30th June, 2019. However, bank statements for the Project bank account were not provided for audit review.

Under the circumstances, the accuracy and ownership of cash and cash equivalents balance of Kshs.10, 378, 235 as at 30th June 2019 could not be confirmed.

Submission by the Accounting Officer

3337) The Accounting Officer submitted that the statements of financial assets as at 30thJune, 2019 initially forwarded for audit review reflected a comparative cash and cash equivalent balance of Ksh.1,415,506 as at 30th June, 2018 instead of Ksh.1,398,115 reflected in the audited 2017/18 financial statements. This was an oversight and the financial statements were amended to reflect the correct comparative cash and cash equivalent of Ksh.1,398,115.

3338) The statement of financial assets reflects a cash and cash equivalents balance of Kshs.10,378,235 as at 30th June, 2019. This amount comprised of bank balances totaling to Kshs.10,316,996 and cash at hand balance of Kshs.61,239. Bank reconciliation statements, cash books and the board of survey reports for IDA and GOK bank accounts as at 30thJune, 2019 were prepared and submitted for audit review.

3339) Committee Observations and Findings

(i) The Committee observed that the explanation given by the Accounting Officer with regards to cash and cash equivalents was satisfactory; and

(ii) The reconciliation was not availed at the time of audit contrary to Section 9 (1) (e) of the Public Audit Act, 2015 which constitutes dereliction of duty.

3340) **Committee recommendations**

The Accounting Officer to ensure that reconciliations are done in time and submitted to the Auditor General in time as provided Regulation 90 of the Public Finance Management (National Government) Regulations, 2015 and availed at the time of audit in accordance with Section 9 (1) (e) of the Public Audit Act, 2015.

944 Special Account Statement and Reconciliation

3341) The statement of receipts and payments reflects receipts of Kshs.39,891,146 under loan from external development partners. On the other hand, the special account statement, prepared by the National Treasury, indicates a total of Kshs.47, 354,069 was withdrawn from the special account to finance the project activities during the year under review.

3342) However, the financial statements submitted for audit do not have a disclosure note on the special deposit accounts movement, neither was the special deposit account reconciliation statement attached to the financial statement as required by the reporting template prescribed by the Public Sector Accounting Standard Board. In the circumstance, the accuracy and completeness of the receipts from external development partners of Kshs.39,891,114 could not be confirmed.

Submission by the Accounting Officer

3343) The Accounting Officer submitted that the funds received during the Financial Year 2018/2019 from Development partners (IDA) in form of loan disbursed to the Project by the National Treasury are as follows:

1. 11th February2019 - Kshs.20,120,993.90
2. 27tt May 2019 - Kshs.19,770,152.00

Total- Kshs.39,891,145.90

3344) Copies of cashbook showing the funds received into the project Bank account are attached. The ministry has written to the PS National Treasury to provide an explanation of the variance between funds withdrawn from the special deposit account and the funds the project received during the year under review.

3345) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to unreconciled special account did not explain the variance; and

(ii) The reconciliation was not availed at the time of audit contrary to Section 9 (1) (e) of the Public Audit Act, 2015 which constitutes dereliction of duty.

3346) **Committee recommendations**

1) **Within one (1) month of tabling and adoption of this report, the Accounting Officer to provide reconciled statements to National Assembly and Auditor General for verification.**
2) **The Accounting Officer to ensure that reconciliations are done in time and submitted to the Auditor General in time as provided Regulation 90 of the Public Finance Management (National Government) Regulations, 2015 and availed at the time of audit in accordance to Section 9 (1) (e) of the Public Audit Act, 2015.**

945 Surplus for the year shown under Prior Year Adjustments

3347) The statement of receipts and payments for the year ended 30th June, 2019 reflects surplus for the year of Kshs.8,962,729 which was erroneously reflected as a prior year adjustment in the statement of financial assets as at 30th June 2019. In view of the transposition of the surplus balance of Kshs.8,962,729, the accuracy of the statement of financial assets could not be confirmed.

Submission by the Accounting Officer

3348) The Accounting Officer submitted that the statement of Financial Assets as at 30th June, 2019 initially prepared and submitted for audit review reflected a surplus of Kshs,8,962,729.00 as prior year adjustments (note 8.16). This was a transposition error.

The financial statements were amended to reflect the correct surplus for the year and the same was forwarded for audit review.

3349) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to surplus for the year shown under prior year adjustments; and

(ii) The corrected financial statements was not availed at the time of audit contrary to Section 9 (1) (e) of the Public Audit Act, 2015 which constitutes dereliction of duty.

3350) **Committee recommendations**

The Accounting Officer to ensure that correct financial statements are completed and submitted to the Auditor General at the time of audit in accordance with Section 9 (1) (e) of the Public Audit Act, 2015.

946 Follow up of Auditor's recommendations

3351) The financial statements submitted for audit has no information on progress on prior year of auditor's recommendations, a requirement by the reporting template prescribed by the Public Sector Accounting Standards Board. Under the circumstances, it was not possible to confirm how issues raised in the Audit report for the year 2017/18 under phase II of the project were resolved.

Submission by the Accounting Officer

3352) The Accounting Officer submitted that the financial statements initially submitted for audit review erroneously omitted progress on follow-up of prior year auditor's recommendations. This was an oversight. However, the recommendations were included in the amended financial statements for the FY 2018/2019.

3353) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to follow up of auditor's recommendations; and

(ii) The corrected financial statements was not availed at the time of audit contrary to Section 9 (1) (e) of the Public Audit Act, 2015 which constitutes dereliction of duty.

3354) **Committee recommendations**

The Accounting Officer to ensure that correct financial statements are completed and submitted to the Auditor General at the time of audit in accordance with Section 9 (1) (e) of the Public Audit Act, 2015.

Other Matters.

947 Unexplained Budgetary Variances

3355) The statement of comparative budget and actual amounts for the year ended 30th June, 2019 reflects actual receipts of Kshs.60,563,146 against budgeted receipts of Kshs.66,400,000 resulting to under-collection of Kshs.5,836,854 or 9% of the budget receipts. Similarly, the statement reflects total actual expenditure of Kshs.51,600,417 against the budgeted expenditure of Kshs.66,400,000 resulting to an under-expenditure of Kshs.14,799,583 or 22% of the budgeted expenditure. Explanations for the material difference between the budgeted and actual amounts were not provided contrary to the reporting requirements prescribed by the public Sector Accounting Standards Board.

Submission by the Accounting Officer

3356) The Accounting Officer submitted that the Project budgeted for Kshs,66,400,000.00 from both IDA and GOK for the year 2018/2019. However, the Project received Kshs.60,563,146.00. The variance of Kshs.5,836,854.00 was as a result of underfunding of GOK component due to lack of exchequer funding from the National Treasury. Similarly, the Project budgeted to spend Kshs.66,400,000.00 but the actual expenditure was Kshs.51,600,417.00 leading to under expenditure of Kshs.14,799,583. The under-absorption was due to:

- Reduction on spending on employees' salaries for that particular year due to staff transfer and exit from service particularly casuals and interns.
- The project also experienced delays in release of exchequer occasioned by the previous phase II closure process. The project received its first exchequer in the third quarter of the financial year 2018/2019.
- Under-funding of GoK component.

3357) In the amended financial statements, the reasons for under expenditure were captured under annex 1- variance explanations-comparative budget and actual amount.

3358) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to unexplained budgetary variances; and

(ii) The explanations for the variances were not availed at the time of audit contrary to Section 9 (1) (e) of the Public Audit Act, 2015 which constitutes dereliction of duty.

3359) **Committee recommendations**

The Accounting Officer to ensure that budget variances are done in accordance to the reporting requirements prescribed by the public Sector Accounting Standards Board and submitted to the Auditor General at the time of audit in accordance with Section 9 (1) (e) of the Public Audit Act, 2015.

948 Cessation of Phase III Funding and Project Performance

3360) As reflected under the funding summary, out of the total commitment by IDA of Kshs.190,000,000, only Kshs.39,891,145 or 21% had been released to the Project as at 30th June, 2019. Similarly, out of the total GoK counterpart funding commitment of Kshs.52,800,000 only Kshs.20,672,000 or 39% had been received by the Project as at the same date. However, the international Development Agency IDA vide its letter dated 2 October, 2019 addressed to The National treasury and the Ministry of Environment and Forestry communicated its decision to stop the Project activities and funding. Through the same letter, the Project was required to document all eligible expenditures and ensure unjustified and unspent funds were refunded to the bank by 30th October, 2019. Under the circumstances, the ability of the Project to continue to sustain services is in doubt. Further, it was not possible to confirm whether value for money on the total expenditure of Kshs.51,600,417 incurred by the Project was obtained.

Submission by the Accounting Officer

3361) The Accounting Officer submitted that the USD 1.9M equivalent to Kshs.190,000.000.00 was committed by the Word Bank in Legal and Financing agreement dated 10th April, 2018. The funds were to be utilized for preparation of proposed LVEMP III. Similarly, the GoK appropriated counterpart funding of Kshs.52,800,000.00. IDA in its letter dated 2nd October, 2019 made a decision to stop Project activities and funding. The Government was requested to document eligible expenditures and refund unspent balances by 30th October, 2019. The decision to stop project preparation was informed by the change in World Bank Regional Integration (RI) strategy and prioritization of regional IDA resources.

3362) Upon termination of the LVEMP III PPA, the Ministry of Environment and Forestry prepared a concept for a National Project, named Lake Victoria Climate Resilience and Environmental Management Project (LVCREMP). A cabinet memorandum was prepared and approved on 15th December 2020 by the National Development Implementation and Communication Cabinet Committee (NDICCC) for the establishment of the LVCREMP. This planned project will continue to address the myriad of challenges which LVEMP program was addressing. A Cabinet memo was attached for perusal by the Committee.

3363) The utilized amount of Kshs.51,600,417.00 was reviewed by the World Bank as per the financial review conducted on October 14th - 16th, 2019. Further, the Financial Statement for the utilized funds was prepared, audited and report issued on 31st December, 2020. All the funds were utilized as per the approved work plans and budget and as per the Financing agreement with IDA. The World Bank issued a closure letter upon successful documentation of expenditures. Closure letter attached and report.

3364) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Cessation of Phase III Funding and Project Performance; and

(ii) The funding was withdrawn due to changes in priorities of the donor; and,
(iii)The needs identified by the Country have not yet been met.

3365) **Committee recommendations**

The Accounting Officer should provide information to the National Assembly within three months on how the State Department will achieve intended objectives and source of new funding to complete the activities that remain outstanding.

949 Closure of Lake Victoria Environmental Management Project Phase II.

3366) The Project under review was preceded by Lake Victoria Environmental Management Project (LVEMP) phase II. The following matters were noted with regard to LVEMP II Project:

3367) The Project financial statements for the year ended 30th June, 2019 were not submitted for audit neither do the financial statements for Phase III provide information on closure of phase II or the transition from Phase II to phase III. The relationship between the two Projects has therefore not been established.

Submission by the Accounting Officer

3368) The Accounting Officer submitted that the financial statements for the year ended 30th June, 2019 for LVEMP II was not prepared because the project was already closed.

3369) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to submission of financial statements for the year ended 30th June, 2019 was satisfactory; and,

(ii) The Committee therefore marked the matter as resolved.

3370) Further, a review of the special account statement for Phase II for the year ended 30th June, 2019 indicates that Kshs.48,112,543 (USD 474,271.74) was deposited into the special account out of which Kshs.47, 354,059 (USD 475,013.11) was transferred to the Project bank account for purpose of financing activities during the year under review. However, we could not confirm the eligibility of the Kshs.47,354,059 as no expenditure documents nor returns were provided to indicate how the funds were utilized by the Project.

Submission by the Accounting Officer

3371) The Accounting Officer submitted that the Phase II of the Project and the preparation of Phase III were mutually exclusive to each other. These were projects created by two different legal agreements with separate set of work plans and budgets. During the year under review, only Kshs.39,891,146 was transferred to the Project Account. Payment vouchers to support the expenditure were forwarded to the Auditors for audit review.

3372) As already stated, it is important to note that the official closure date for LVEMP II was 31st December 2017. Upon expiry of this date, The World Bank only allowed a grace period of 6 months till 30th June 2018 to enable project documentation and successful closure of the project.

3373) The Financing Agreement for LVEMP III preparation was then signed on 26th June, 2018. Additionally, the disbursement of funds delayed till January 2019 when the first exchequer was released. Phase II closed separately and closure review was done as per attached Project Closure Report.

3374) **Committee Observations and Findings**
The Committee observed that the explanation given by the matter of disbursement to project funds and variance with special account was discussed and recommendations made paragraph The Accounting officer to act on those recommendations.

3375) The LVEMP phase II closure financial statements were not presented for audit and no evidence was provided that expenditure returns were submitted to the National Treasury by the close of financial year ended 30th June, 2019.

Submission by the Accounting Officer

3376) The Accounting Officer submitted that as already stated, the financial statements for the year ended 30th June, 2019 for LVEMP II was not prepared because the project was already closed. A copy of the closure Letter was attached for perusal by the Committee.

3377) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to submission of financial statements for the year ended 30th June, 2019 was satisfactory; and,

(ii) The Committee therefore marked the matter as resolved.

3378) iv. Notes 9.1 and 9.2 to the 2017/18 financial statements of LVEMP II reflected pending accounts payable and pending staff payables of Kshs.3, 182,056 and Kshs.13,080,000 respectively as at 30th June 2018 while the 2018/19 financial statements for Phase III indicated that there were no pending bills as at 30th June, 2019.

Submission by the Accounting Officer

3379) The Accounting Officer submitted that it was true that during the closure of financial year 2017/18 pending bills of Ksh.3,182,056 and staff payables totaling to Ksh.13,080,000 were carried forward to the financial year 2018/19. However, pending bills of Ksh.2,365,865.30 and staff payables totaling to Ksh.12,515,600 were settled during the financial year 2018/19 leaving an outstanding balance Ksh.816,190.70 and Ksh.564,400 respectively.

3380) The outstanding pending bills and staff payables of Ksh.816,190.70 and Ksh.564,400 respectively, were disclosed in the amended 2018/19 financial statements.

3381) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards pending bills was satisfactory; and

(ii) The amendments to the financial statements were not availed at the time of audit contrary to Section 9 (1) (e) of the Public Audit Act, 2015 which constitutes dereliction of duty.

3382) **Committee recommendations**

The Accounting Officer to ensure that amendments to the financial statements are done in time and submitted to the Auditor General at the time of audit in accordance to Section 9 (1) (e) of the Public Audit Act, 2015.

950 Summary of Fixed Assets Register

3383) Annex 3 to the financial statements provide the summary of fixed assets register. However, the title headings do not indicate the years to which the figures relate to and therefore the accuracy of the summary could not be confirmed.

Submission by the Accounting Officer

3384) The Accounting Officer submitted that it was true that Annex 3 to the financial statement initially prepared provided a summary of fixed assets register that had title headings that did not indicate the year to which the figures related to. This was an omission and was later corrected and the financial statements were amended and submitted for an audit review.

3385) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards summary of fixed assets was satisfactory; and

(ii) The amendments to the financial statements were not availed at the time of audit contrary to Section 9 (1) (e) of the Public Audit Act, 2015 which constitutes dereliction of duty.

3386) **Committee recommendations**

The Accounting Officer to ensure that amendments to the financial statements are done in time and submitted to the Auditor General at the time of audit in accordance with Section 9 (1) (e) of the Public Audit Act, 2015.

951 Non-Remittance of Statutory Deductions

3387) From a review of the records maintained by the Project, it was noted that statutory deductions totaling Kshs.1, 888,526 comprising Pay As You Earn (PAYE), Value Added Tax (VAT) and National Hospital Insurance Fund (NHIF) deduction of Kshs.1,872,898, Kshs.8,828 and Kshs.6,800 respectively had not been remitted to the relevant authorities as at 30th June 2019. Non remittance of statutory deductions within the due dates is against the law and may also result in increased penalties and interest.

Submission by the Accounting Officer

3388) The Accounting Officer submitted that the Project has not remitted deductions totaling Kshs.1,888,526.00 comprising Kshs.1,872,898.00, Kshs.8,828.00 and Kshs.6,800.00for PAYE, VAT and NHIF respectively. The non - remittance was occasioned by:

- Challenges in I-Tax system where the system was being re-engineered by KRA. The Project closed its activities before remittance was done.
- After the project was terminated, the budget of GoK counterpart funds of Kshs.13M was not disbursed to the project as per the Work Plan and Budget for the F/Y 2018/2019, due to lack of exchequer funding.

3389) In the amended financial statements, these deductions were disclosed as pending bills.

3390) **Committee Observations and Findings**

(i) The Committee observed the reasons advanced by the Accounting Officer on no remittance of statutory deductions were not valid; and;

(ii) The Committee further observed the Accounting Officer failed to comply with the laws governing deduction and remittance of VAT, PAYE and NHIF.

3391) **Committee recommendations**

1) **The Committee reprimands the Accounting Officer for failure comply with the laws governing deduction and remittance of VAT, PAYE and NHIF; and**
2) **The Accounting Officer should within three (3) months of tabling and adoption of this report to avail to the National Assembly and Auditor General on compliance by evidence of remittance of these outstanding statutory dues.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3392) **Conclusion**

952 There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL ACTION PLAN ON ARTISANAL SMALL-SCALE GOLD MINING NO.AFR/NAP ASGM PROJECT/C/10-2016

3393) **Conclusion**

953 There were no material issues noted during the audit of the financial statements of the project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

954 Failure to maintain a Separate Bank Account

3394) Examination of project documents reveals that National Action Plan on Artisanal Small –Scale Gold Mining Project uses the Ministry's Development bank account thus exposing the Project financing to the risk of co-mingling of funds with other funds. No reason has been provided why a distinct Project account had not been opened at the initiation of the Project.

Submission by the Accounting Officer

3395) The Accounting Officer submitted that the National Action Plan on Artisanal Small-Scale Gold Mining Project was operated under the Ministry's Development bank account as the Ministry waited for The National Treasury to open the Project bank account. Project's excel sheet cashbook was maintained to control and monitor project funds which used to be operated in the Development Bank Account. However, a separate bank account for this project has since been opened in Central Bank of Kenya.

3396) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer used Ministry development bank account for the project due to delay by National Treasury to authorize opening of project bank account.

(ii) The project bank account has since been opened at Central Bank.

3397) **Committee recommendations**

The National Treasury should ensure project accounts are opened early enough before disbursement of project funds.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3398) **Conclusion**

955 There were no material issues relating to effectiveness of controls, risk management and governance.

GREEN GROWTH AND EMPLOYMENT PROGRAMME (GGEP) –DANISH EMBASSY FILE NO.2015-39790

3399) **Conclusion**

956 There were not material issues noted during the audit of the financial statements of the programme.

Other Matter

957 Budget Control and Performance

3400) The statement of comparative budget and actual amounts reveals that the Programme had budgeted to receive a total of Kshs.308,000,000 from External Development Partners but actual receipts amounted to Kshs.47,188,551 only resulting into a shortfall of Kshs.260,811,449 or 85% of the total budgeted receipts. Similarly, whereas the Programme had budgeted to spend an amount of Kshs.308,000,000, actual expenditure was limited to the actual receipts of Kshs.47,188,551 or 15% of the budgeted operations. The under-utilization of funds implies that the Programme may therefore not be achieving its planned goals and objectives. Management has attributed the under-funding and under-utilization to the untimely release of funds from both the Government and the Donor.

Submission by the Accounting Officer

3401) The Accounting Officer submitted that the Programme had so far spent Ksh.47,188,551.00 representing an absorption rate of 15%. This slow absorption was occasioned by factors outside the control of programme management as indicated here below:

1. Delay in starting off the GGEP/MEF Program: This was occasioned by late closure of Natural Resource Management Program (NRMP) which was also funded by DANIDA. DANIDA pegged the start of GGEP on the closure of NRMP. The project lost one year (2016/2017) and started in 2017/2018. The effect of this was that the National Treasury allocated a budget code to GGEP/NEMA and not GGEP/MEF which later brought a lot of confusion in budget allocation between GGEP/NEMA and GGEP/MEF.
2. Lack of Budgetary allocation from the National Treasury: The Ministry is implementing the same program at two (2) levels namely: NEMA and the Ministry Headquarters. During Ministerial workplan and budgeting, both NEMA and the Ministry headquarters submitted separate budgets to the National Treasury, but since budgeting is program based, and given NEMA had already been allocated a code under GGEP, the two budgets were collapsed into one and allocated to NEMA. GGEP/MEF hence could not access funds until it was rectified during supplementary one (1) of December, 2017.

3. Slow disbursement of funds: Due to lack of budgetary provision from Treasury, the project could not access funds until after supplementary 1 was operationalized, leaving very little time for project execution and hence affecting absorption rate.
4. Slow Procurement of goods and services: 100% of GGEP Donor funds is only utilized through procurement of goods and services, this process is at times very slow and lengthy. Given the short period between passing of supplementary budget and closure of the financial year, GGEP/MEF could not spend much due to time constraint, hence low absorption.
5. Staff shortage: GGEP/MEF has only one staff (The coordinator) assisted by DANIDA's technical advisor. This sometimes bring a lot of challenges in undertaking technical work and following up on office administrative matters.

3402) **Measures put in place to mitigate Low Absorption of Donor Funds**

1. Engagements between the Ministry and the National Treasury have led to separation of the two programs through creation of sub-code for the GGEP/MEF component. For the first time since start of the project, GGEP/MEF was given a budget code at the start of the financial year, 2020/2021.
2. Deployment of a dedicated procurement officer to handle procurement matters of the program has hastened procurement process.
3. Appointment of focal points from other departments and Agencies and aligning the program activities to suit deliverables of departments, while ensuring delivery of program's outputs has helped to ease the staff shortage problem and accelerate implementation.

3403) The program remains optimistic to ensuring enhanced absorption rate of the Donor funds, while maintaining higher quality standards in results and ensuring value for money. The program has indeed succeeded in catalyzing and creating an enabling environment for Green Growth and Circular Economy pathway for the Country.

3404) Committee Observations and Findings

(i) The Committee observed that the explanation given by the Accounting Officer with regards to budget control and performance was satisfactory; and
(ii) The Accounting Officer has put in place measures to ensure budget absorption rate improves; and,
(iii)The Committee therefore marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS ON USE OF PUBLIC RESOURCES

3405) **Conclusion**

958 There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3406) **Conclusion**

959 There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECTS

KENYA WATER TOWERS AGENCY PROJECT – KENYA FOREST SERVICE

REPORT ON THE FINANCIAL STATEMENTS

3407) **Conclusion**

960 There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

961 Material Uncertainty Related to Sustainability of Services

3408) As previously reported, the Project was suspended in January, 2018 by the donor, European Union, citing violation of rights of the people living in forests by Kenya Forest Service while implementing the Project in one of the Kenya Water Towers. As the Project was being implemented in the Mau, the Ogiek Community living in Mau Forest took the Republic of Kenya to the African Court on Human and Peoples' Rights claiming that they were being forcefully evicted from their ancestral land, the Mau Forest. The judgment on this case was delivered in the month of May, 2017 where the Court found that Kenya had violated 7 provisions of the African Charter on Human and Peoples' Rights by evicting the Ogiek from the Mau Forest. In addition, the United Nations Committee on the Elimination of Racial Discrimination, expressed concerns about reports on the eviction in Embobut Forest. The Committee called on Kenya to acknowledge the rights of the Sengwer, Endorois, Ogiek and all other indigenous peoples.

3409) It was concluded that Kenya ought to carry out effective consultations between relevant parties and communities likely to be affected by the Project with a view to obtaining prior and informed consent of indigenous communities before implementing future projects. At the time of audit, the suspension had not been lifted although there were discussions between the Management of the Project and the Donor with a view of resuming the Project.

3410) My opinion is not modified in respect of this matter.

3411) **Submission by the Accounting Officer**

3412) The Accounting Officer submitted that the Water towers project was being implemented in two of Kenya's five major water towers; the Cheregany and Mt. Elgon. Note that the project was never implemented in Mau ecosystem. The project was suspended after an incidence that happened in Cheregany in January 2018 which was purported to be related to human rights violation though it was not related to project activities. Following the suspension, all project activities were affected and KFS through the Ministry of Environment and Forestry has been engaging the Donor in an effort to lift the suspension. KFS facilitated the independent assessment in Embobut as demanded by the donor as one of the conditions for lifting the suspension.

3413) KFS also acknowledges the need to involve all communities in the implementation of forestry projects and programmes and it is for this reason that it has embraced the Participatory Forest Management Framework (PFM) operationalized through the Community Forest Associations (CFA) as required by the Forest Conservation and Management Act 2016. All forests are managed in close collaboration with all stakeholders including forest adjacent communities through a participatory frame work.

3414) Further, in order to address the human rights concerns, and to entrench human rights based conservation approach, KFS in conjunction with Kenya National Commission on Human Rights (KNCHR) has developed a Human Rights Based Approaches (HRBA) curriculum and training manuals to build the capacities of KFS staff and stakeholders. Training has already been conducted targeting forest rangers, and more training will be done in the future.

3415) In addition, KFS has recruited a Social Development Expert (SDE) to address issues of human rights, social safeguards, gender equity, economic empowerment of marginalized groups and other emerging cross-cutting themes in the forestry sector. KFS will ensure that social safeguards to alleviate any potential human rights abuses/conflicts shall be strictly adhered to during the implementation of all forest sector projects. It should be noted that the Ministry of Environment and Forestry has appointed a taskforce on the implementation of the decision of the African Court on Human and Peoples Rights issued against the Government of Kenya in respect of the Ogiek Community of Mau and enhancing the participation of indigenous communities in sustainable management of forests. Two of the twelve-member committee are from KFS. This is intended to strengthen the outputs based on experiences in the forestry sector.

3416) The project was terminated in October 2020 and the Service received directive on project closure from the ministry on 18th November 2020 as guided by the donor after great efforts had been put in to lift the suspension. The donor, European Commission appointed an Auditor to undertake audit verification which was done in the year 2021. As at now, the project is still waiting for the audit findings from the EU.

3417) **Committee Observations and Findings**

(i) The Committee observed that the donor had withdrawn the funding ; and

(ii) The Committee further observed, the donor has appointed the auditor to undertake verification and the Accounting Officer is waiting the audit findings; and,

(iii)The committee in addition observed, the donor raised issues of human rights violations by the State Department Agencies in dealing with communities living within forest.

(iv)The Committee also observed in order to address the human rights concerns, and to entrench human rights based conservation approach, KFS in conjunction with Kenya National Commission on Human Rights (KNCHR) has developed a Human Rights Based Approaches (HRBA) curriculum and training manuals to build the capacities of KFS staff and stakeholders. The training is ongoing.

3418) **Committee recommendations**

1) Within three (3) months of tabling and adoption of this report, the Accounting Officer should to report to the National Assembly on audit findings and actions taken to address anomalies, if any.

2) The Accounting Officer to ensure measures taken to address issues of human rights violation are fully addressed in order not to affect funding of projects.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3419) **Conclusion**

962 There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3420) **Conclusion**

963 There were no material issues relating to effectiveness of internal controls, risk management and governance.

NAIROBI RIVERS BASIN REHABILITATION AND RESTORATION PROGRAMME - SEWERAGE IMPROVEMENT PROJECT (CREDIT NO.2100150023655) – ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

3421) **Conclusion**

964 There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIRESOURCES

3422) **Conclusion**

965 There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3423) **Conclusion**

966 There were no material issues relating to effectiveness of internal controls, risk management and governance.

NORTHERN KENYA CONSERVATION PROJECT CREDIT NO.CKE 1036 01 H - KENYA WILDLIFE SERVICE

REPORT ON THE FINANCIAL STATEMENTS

3424) **Conclusion**

967 There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

968 Budget Control and Performance

3425) During the year under review, the Project had budgeted to receive Kshs.286,000,000. However, only Kshs.69,293,508 or approximately 26% of the budgeted figure was received resulting to receipts shortfall of Kshs.216,706,492 or 76%. As a result, the Project utilized past savings to finance current activities. The Management has not explained measures to ensure funding is available as planned.

3426) In view of the foregoing, the Project may not have achieved its planned activities and its objectives for the year under review.

Submission by the Accounting Officer

3427) The Accounting Officer submitted that the Northern Kenya Conservation Project credit no. CKE 1036-01 H– Kenya wildlife service was under the state department of wildlife. All queries were forwarded to the Accounting Officer State Department of Wildlife to provide a response to National Assembly, the Auditor General and the National Treasury. A letter forwarding the queries was attached for perusal by the Committee.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3428) **Conclusion**

969 There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3429) **Conclusion**

970 There were no material issues relating to effectiveness of internal controls, risk management and governance.

CAPACITY DEVELOPMENT PROJECT FOR SUSTAINABLE FOREST MANAGEMENT IN THE REPUBLIC OF KENYA – KENYA FOREST SERVICE

REPORT ON THE FINANCIAL STATEMENTS

3430) **Unqualified Opinion**

971 There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3431) **Conclusion**

972 There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3432) **Conclusion**

973 **There were no material issues relating to effectiveness of internal controls, risk management and governance.**

INTERNATIONAL PARTNERSHIP PROGRAMME FOREST 2020 -KENYA FOREST SERVICE

REPORT ON THE FINANCIAL STATEMENTS

3433) **Unqualified Opinion**

974 There were no material issues noted during the audit of the financial statements of the Programme.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3434) **Conclusion**

975 There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT GOVERNANCE

3435) **Conclusion**

976 There were no material issues relating to effectiveness of internal controls, risk management and governance.

GREEN GROWTH AND EMPLOYMENT THEMATIC PROGRAMME - NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

3436) **Unqualified Opinion**

977 There were no material issues noted during the audit of the financial statements of the Programme.

Other Matter

978 Budget Control and Performance

3437) The statement of comparative budget and actual amounts reveals that the Programme had budgeted to receive a total of Kshs.227,000,000 from External Development Partners but actual receipts amounted to 151,000,000 resulting into a shortfall of Kshs.76,000,000 or 33% of the total budgeted receipts. Further, of the receipted amount of Kshs.151,000,000, the Programme absorbed Kshs.138,482,051 resulting to an under absorption of Kshs.12,517,949 or 8% of the receipts. The under-utilization of funds implies that the Programme may therefore not be achieving its planned goals and objectives.

3438) Management has attributed the under-funding to the failure by the Government and the donor release of the funds.

Submission by the Accounting Officer

3439) The Accounting Officer submitted that the following on the finding by the Office of the Auditor General. The Management would like to clarify that the total Budget of Kshs.227,000,000 is composed of Kshs.205,000,000 that was meant to be received from the donor and Kshs.22,000,000 from the Government of Kenya as Counterpart funds for the Project.

3440) The reasons for under-expenditure are;

- Delays in release of funds by the donor. In the year 2018/2019, the funds were received in two tranches; Kshs.65 million was received on 4th October 2018 and the second tranche of Kshs.75 million received on 3rd June, 2019. The balance of Kshs.65 million was received on 18th February,2020.
- Delays in release of GOK Counterpart funding due to lack of exchequer. Counterpart funds of Kshs.11 million were received on 3rd June, 2019.

3441) As a result of delayed disbursements, there was delay in implementation of the project activities thus leading to low absorption of funds. Copies of bank statements were attached for perusal by the Committee.

3442) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to budget control and performance was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3443) **Conclusion**

979 There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3444) **Conclusion**

980 There were no material issues relating to effectiveness of internal controls, risk management and governance.

INTEGRATED PROGRAMME TO BUILD RESILIENCE TO CLIMATE CHANGE AND ADAPTIVE CAPACITY OF VULNERABLE COMMUNITIES IN KENYA - NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

981 Non-Performance by Sub-Executing Agency

3445) As disclosed under Note 8.7 the statement of receipts and payments reflects an amount of Kshs.8,946,194 in respect of transfers to other Government entities. The balance includes a cumulative amounts disbursed to the Kenya Forests Research Institute (KEFRI) amounting to 132,040,754. A review of records indicates that the World Vision through KEFRI had been contracted as a subimplementing entity to undertake various activities under Component 1 in Homa Bay County.

3446) The total budget as communicated to the World Vision on 10 March, 2017 was USD 578,480.4. However, World Vision pulled out of the Programme through their letter dated 8 May, 2017 without implementing the activities citing inadequacy of budget, after a request for budget adjustment from USD 578,480.4 to USD 594,531.90 was declined.

3447) The approved Year 1 budget was Kshs.12,876,544 where Kshs.3,338,784 was disbursed to KEFRI for transfer to World Vision at the inception of the project. This amount was not utilized as per the initial project objectives and had not been refunded to NEMA, which is the National Implementing Entity as at 30 June 2019. The Management has explained that a request for refund has been made to KEFRI.

3448) In the circumstances, the utilization of Kshs.3,338,784,532 disbursed to the sub implementing agency cannot be confirmed.

Submission by the Accounting Officer

3449) The Accounting Officer submitted that the management wishes to state that indeed World Vision was tasked to undertake interventions under output 1.1(Increased adoption of drought tolerant food crops and high value crops),1.2 (Diversified alternative livelihood sources) 1.3(Increased food production through appropriate and efficient irrigation methods),1.4(Enhanced efficient food utilization through implementation of post-harvest strategies and value chain approach) and 1.5(Increased animal production through adoption of drought tolerant animal breeds, pasture conservation and emergency fodder banks).

3450) The approved budget was USD 578,480.4 which World Vision indicated was not sufficient and requested it be adjusted upwards to 594,531.90 to enable them implement the project. NEMA was not able to get alternative sources of funding this deficit and therefore World Vision opted to pull out citing the impossibility of successfully executing the implementation of the project deliverables with the initial approved budget.

3451) The Authority decided to implement the project under the supervision of the County Directors of Environment (CDE). This has since commenced and project activities already ongoing and the following have been done;

- Five Adaptation Villages are under construction at Maranyona, Wayaga,Kanyangafi,Malele and Lange areas in Ndhiwa , Homa Bay County.

- Land has already been earmarked where Fish cooling plant will be constructed in Ndhiwa town.

3452) World Vision Kenya was a sub entity under KEFRI and therefore the initial work plan funds for the first quarter of USD 32,797.49 (Kshs.3,338,794 equivalent) was disbursed to KEFRI for onward transmission to World Vision. In the meantime, the funds remained in the KEFRI bank accounts as negotiations was going on for an alternative institution to implement the project. NEMA requested KEFRI Management to refund back the money. KEFRI has since refunded the amount of Kshs.3,279,748.00 vide cheque No.000201 dated 17th September, 2021. A copy of the cheque was attached for perusal by the Committee.

3453) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Non-Performance by Sub-Executing Agency was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

Emphasis of Matter

982 Low Absorption Rate

3454) A review of the Financing Agreement revealed that the initial closing date for the Programme was 1 April, 2019 but this has been extended to 30 June, 2020 at no cost. Further, paragraph 1.7 of the non-financial information indicates that the Programme had drawn Kshs.901,442,454 out of the total Donor commitment of Kshs.1,012,714,450 leaving an amount of Kshs.112,272,110. Further, the statement of receipts and payments indicates that the Programme had cumulatively spent Kshs.411,829,826 as at 30 June 2019 representing an absorption rate of 41% which includes Kshs.61,499,181 being unspent balance advanced to executing entities. Management has not explained how it will absorb the remaining 59% funding within the remaining period although Programme was given an extension up to 30 June, 2020.

3455) My opinion is however not modified in respect of this matter.

Submission by the Accounting Officer

3456) The Accounting Officer submitted that the management has noted the observation and would like to inform the committee that the Adaptation Fund Board has given NEMA a no cost extension to 31st December 2021. The no-cost extension has further been extended to 30th September, 2022.

3457) The initial plan involved the executing entities undertaking procurement of goods and services under this program. This resulted into uncoordinated and delay in the procurement process thus slowing down the absorption rates. In order to enhance the absorption of funds and reduce the delays the Adaptation Fund program procurement activities were centralized at NEMA. This has seen the award of tenders for water infrastructure completed which takes the bulk of the funds. The contractors are now on site and the works are ongoing for completion within the project period.

3458) The sites are in Homabay, Kisumu,Kajiado, Machakos ,Laikipia Wajir and Garissa. Tenders have also been awarded for the sites in the coastal region under Coast Development Authority and the contractors are on site. The implementation of the projects is on course and it is expected that these works will be complete within the project period. No cost extension was attached for perusal by the Committee.

3459) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to low absorption of funds was satisfactory; and

(ii) The Committee further noted project implementation period has been extended.

3460) **Committee recommendations**

The Accounting Officer should ensure the project is implemented within the period extended of up to 30 September 2022 with further delay to ensure service delivery to intended beneficiaries.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3461) **Conclusion**

983 There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

984 Delay in Programme Implementation

3462) As at the time of audit, it was noted that monitoring and evaluation activities of the various projects under the Programme had not been undertaken since the inception of the Programme. In the circumstances, it is not clear and the Management did not explain the action so far undertaken since the inception of the Programme, to ensure that the Programme funds are utilized as earlier intended and within the timeline of the Programme duration. Further, the following projects had unsatisfactory matters: -

984.1 Slow Delivery of Services - Kenya Forestry Research Institute (KEFRI)

3463) KEFRI was expected to implement under Component 2 in Loitokitok, Kajiado South Sub-County as per the initial Programme budget of Kshs.29,510,584. However, the

Institute awarded some six (6) contracts to various firms at a total cost of Kshs.65,110,584 which was over the approved budget resulting to a shortfall of Kshs.35,600,000 contrary to the Public Procurement and Asset Disposals Act, 2015. The expected completion date was 15 March, 2018 and close to twenty (20) months have elapsed since then without the activity being undertaken. It is apparent that at the conclusion of the Programme there will be cost overruns of approximately Kshs.35.6 million raising doubt on how this deficit will be financed. The Management has not indicated how the deficit will be financed. In the circumstances it has not been possible to confirm the action the Management would take on entities which have not implemented their activities as the Programme end date was extended from 30 June, 2019 to 30 June, 2020.

Submission by the Accounting Officer

3464) The Accounting Officer submitted that an annual monitoring of the projects is undertaken by secretariat. To ensure that program funds are utilized as planned an audit is also carried out by the Internal Audit Department in the Authority. Further management has hired a consultant to undertake a mid-term monitoring and evaluation of the programme. Copies of M&E Reports and Tender Award to Consultant were attached for perusal by the Committee.

3465) The management has noted the observation and wish to clarify that Kenya Forestry Research Institute (KEFRI) is implementing output 2.1. Establishing appropriate physical assets and infrastructure for water harvesting, storage and irrigation where six (6) water pans with a capacity of 100,000m each at a total budget of USD 356,000 (equivalent to Kshs.35.6 million at exchange rate of Kshs.100 per dollar).

3466) Output 2.1 also has an item on purchase of water tanks to promote rain water harvesting amounting to Kshs.17,305,950 which has not been utilized. KEFRI plans to consolidate the two interventions since they are all water infrastructure activities. This will amount to Kshs.52,905,950. Since KEFRI awarded the contracts amounting to Kshs.65,110,584 which is above the approved budget, the balance of Kshs.12,204,634 will have to be funded by KEFRI from her own internal budget/sources. KEFRI will fund the balance of Kshs.12 million from its own internal budget/resources and also follow-up its reallocation request with NEMA as per letter Ref. KEFRI/CONF/3/4/VOL.9/(125). Copies of the correspondences were attached for perusal by the Committee.

3467) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer awarded contracts beyond approved budget by Kshs.35,600,000; and,

(ii) The Committee further observed that the Accounting Officer did not have a concrete plan on how to fund a balance of KShs.12,204,634, hoping KEFRI will fund internally yet no evidence of budget allocation by KEFRI to fund the balance was availed which may lead to accumulation of pending bills.

3468) **Committee recommendations**

1) **The Committee reprimands the Accounting Officer - KEFRI for entering into contract agreements without budget contrary to Section 44 (2)(a) which requires the Accounting Officer to ensure that procurements of goods, works and services of the public entity are within approved budget of that entity; and**
2) **The Accounting Officer should within three (3) months of tabling and adoption of this report provide to National Assembly how the balance of Kshs. 12,204,634 will be funded.**
3) **The Accounting Officer should always ensure procurements comply with Section 44 (2)(a) which requires the Accounting Officer to ensure that procurements of goods, works and services of the public entity are within approved budget of that entity.**

984.2 Slow Procurement Process

3469) Caritas Nyeri, one of the Sub-Executing Entity under TARDA as per the initial Programme budget, was expected to implement in Thome, Laikipia County under Component 2 and an amount of Kshs.31,059,782 was transferred to Caritas Nyeri.

3470) The project was launched on 24 April, 2016 and on 6 June, 2016 the advertisement for expression of interest (EOI) for detailed feasibility study and design of the Thome Small Holder Irrigation Project was done and closed on 21 June, 2016. The bidders submitted request for proposals where both technical and financial aspects were evaluated. However, this turned out to be non-responsive due to inadequate budgetary provisions. Caritas Nyeri with the consent of the Management, sought alternative means of carrying out the feasibility study, survey and approval through the Laikipia County Department of Water Services and Storage. The design report was submitted to NEMA on 19 October, 2017 which was later revised and resubmitted on 22 February, 2018 for consideration and approval. The implementation status report as at 30 June, 2019 indicated that the procurement has not been done and that NEMA was in the process of procuring for the works in the year under review. The procurement process has taken an unexceptionally long time to be concluded.

Submission by the Accounting Officer

3471) The Accounting Officer submitted that the management has noted the observation and wish to inform the Committee that the long procurement process was occasioned by non-responsive bids on technical grounds. In order to fast-track the procurement process, the Authority undertook the centralized procurement. As a result of the centralized procurement by the Authority, the procurement process was enhanced. The advertisement was done, bids and tenders evaluated and awarded. The works/ project is complete and awaiting Inspection and Acceptance Committee report before the completion certificate is issued. The contractor has also been paid on the Interim Payment Certificates. The retention balance will be paid once the completion certificate is issued. Interim payment certificate was attached for perusal by the Committee.

3472) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to slow procurement process was satisfactory; and

(ii) The Committee further observed the works were procured and completed but awaiting inspection.

3473) **Committee recommendations**

1) **The Accounting Officer should within three (3) months of tabling and adopting the report to avail certificate of completion to National Assembly and Auditor General**
2) **The Auditor General to verify the project in next audit cycle and report to the National Assembly on any observations made.**

984.3 Construction of Milk Cooling Plant, Fish Cooling Pant and Fruit Processing Plant – TARDA

3474) TARDA was supposed to construct a milk cooling plant, fish cooling plants and a fruit processing plant among other activities. According to the implementation status in the financial statements, the works have not been done and only the Environmental Impact Analysis (EIAs), Bills of Quantities (BQs) and design had been done by 30 June, 2019. At the time of the audit, the construction of a milk cooling plant, fish cooling plants and fruit processing plant had not been done. However, NEMA sought for a no cost extension that was granted by the Adaptation Fund Board and the Programme was given an extension up to 30 June, 2020. In all the above cases no satisfactory explanations have been given for the undue delay and in the circumstances, the citizens have not received the services as planned.

Submission by the Accounting Officer

3475) The Accounting Officer submitted that the delay in the implementation of the project was attributable to the bids being higher than available budget. The authority in conjunction with TARDA is looking for ways of redesigning the project to accommodate the available budget. The county Government of Makueni where the facility is to be done has already set up a milk cooling plant which is within target catchment area of the project milk cooling plant. As a result, TARDA has requested NEMA to drop the milk cooling facility and use the available resources on Fish cooling and fruit processing facility. NEMA and TARDA have also approached KIRDI to provide the necessary technical assistance of setting the two value chain (Fish &Fruit) to enable the project to be completed within the project end date of 31st December 2021. Letters from TARDA and KIRDI were attached for perusal by the Committee.

3476) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Construction of Milk Cooling Plant, Fish Cooling Pant and Fruit was satisfactory; and

(ii) The County Government of Makueni has already constructed a milk cooling plant hence no longer a need.

(iii)The Accounting Officer has yet to take measures to implement a fish cooling plant and fruit processing plant.

3477) **Committee recommendations**

1) **The Accounting Officer should within three (3) months of tabling and adopting the report to avail progress made to implement a fish cooling plant and fruit processing plant.**
2) **The Accounting Officer to put in place strategies to address project challenges to avoid unnecessary delays in project implementation.**

ZUIA UKIMWI IMARISHA AFISA - KENYA FOREST SERVICE

REPORT ON THE FINANCIAL STATEMENTS

3478) **Unqualified Opinion**

985 There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3479) **Conclusion**

986 There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3480) **Conclusion**

987 There were no material issues relating to effectiveness of internal controls, risk management and governance.

26. MINISTRY OF LANDS AND PHYSICAL PLANNING

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1112

Dr. Nicholas Muraguri, the Principal Secretary and Accounting Officer for the Ministry of lands and Physical Planning (Vote 1112) appeared before the Committee on 11th May, 2021 to adduce evidence on the Audited Financial Statements for the Ministry of lands and Physical Planning (Vote 1112) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. Stephen A. Njue - Senior Chief Finance Officer
2. CPA Mary C. Wanyonyi - Senior Director Administration & Governance
3. CPA Jackline N. Naburi - Principal Accountant
4. CPA Lucy W. Gichuru - Senior Accountant
5. CPA Opondo Rosemary - Principal Accountant
6. CPA George M. Obiri - Senior Accountant

And submitted as follows:

988. Discrepancies between Financial Statements and Integrated Financial Management Information System (IFMIS) Figures

3481) The following discrepancies were noted between the figures in the IFMIS statements and financial statements as detailed below:

Item Description	Balance in the Financial Statements (Kshs.)	Balance as per IFMIS Statements (Kshs.)	Difference (Kshs.)
Bank Balances	1,361,326,765	304,215,076	(1,057,111,689)
Cash in Hand	1,265,485,360	142,027	(1,265,343,333)
System Required Liabilities a/c	1,937,296,988	-	(1,937,296,988)
Fund Balance	81,992,613	13,730,176	(68,262,437)

3482) In the circumstances, the accuracy of the financial statements could not be confirmed.

Submission by the Accounting Officer

3483) The Accounting Officer submitted that it was true that there were discrepancies between Financial Statements and Integrated Financial Management Information System (IFMIS).

3484) In this regard, we would like to comment as follows:

i) That this discrepancy was occasioned by missing Auto bank statements issued by Central Bank of Kenya (CBK).
ii) That the Ministry has since liaised with the National Treasury IFMIS Department and these missing statements have been provided by CBK through the National Treasury.
iii) The Auto Bank reconciliation has since been done and we wish to state that the financial statement and IFMIS are now in agreement in the subsequent year.

3485) **Committee Observations and Findings**

(i) The Committee observed that the auto bank reconciliation has since been done and the financial statement and IFMIS were in agreement in the subsequent year. The supporting documents were availed for audit verification; and

(ii) The Committee marked the matter as resolved.

3486) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

989. Bank Balance

3487) The statement of assets and liabilities and Note 8A to the financial statements reflect a total bank balance of Kshs.304,215,076. Included in the figure is a balance of Kshs.387 for the recurrent account, Kshs.643, for the development account and Kshs.304,214,046 for the deposit account. However, the balances relate to the cashbook balance confirmation certificates as at 15 July, 2019 and not as at 30 June, 2019. Further, the Kenya Institute of Surveying and Mapping bank account held at the National Bank of Kenya had a balance of Kshs.6,077,289 as at 30 June, 2019 which has not been disclosed in the financial statements.

3488) In the circumstances, the validity, accuracy and completeness of the reported bank balance of Kshs.304,215,076 could not be confirmed.

Submission by the Accounting Officer

3489) The Accounting Officer submitted that it was true that the assets and liabilities and Note 8A to the financial statements reflect a total bank balance of Kshs.304,215,076. It is also true that included in the figure is a balance of Kshs.387 for the recurrent account, Kshs.643, for the development account and Kshs.304,215,076 for the deposit account. It is also true that the KISM Bank Account held at National Bank of Kenya had a balance of Kshs.6,077,289 which was not disclosed in the financial statements.

3490) He stated that the bank reconciliations for the Recurrent, Development and Deposit accounts have since been revised and are in agreement with the Financial Statement.

3491) As regards the Kenya Institute of Surveying and Mapping (KISM), we wish to state that the Institute was given authority by the National Treasury to open an operational account. Plans are at an advanced stage to make KISM autonomous.

3492) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to prepare a complete financial statements within time as required Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Committee observed that the auto bank reconciliation has since been done and supporting documents were availed for audit verification; and

(iii) The Committee marked the matter as resolved.

3493) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**
2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

990. Accounts Receivable – Outstanding Imprests

3494) The Statement of assets and liabilities reflects accounts receivables balance of Kshs.8,734,579.00 which as disclosed under Note 9 to the financial statements includes Government imprest of Kshs.3,028,253 that have been outstanding for more than one (1) year. This is contrary to Regulation 93 (5) of the Public Finance Management (National Government) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station. Regulation 93(6) further provides that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest charged at the prevailing Central Bank Rate.

3495) Consequently, it has not been possible to confirm the validity and recoverability of the Government imprest balance of Ksh.3,028,253 as at 30 June, 2019.

Submission by the Accounting Officer

3496) The Accounting Officer submitted that it was true that the Statement of assets and liabilities reflects accounts receivables balance of Kshs.8,734,579.00 which as disclosed under Note 9 to the financial statements includes Government imprest of Kshs.3,028,253 that have been outstanding for more than one year.

3497) On this matter the Accounting Officer confirmed that these outstanding imprests have since been surrendered/recovered in full and confirmation by the Auditors were done in the subsequent year 2019/2020. The updated imprest register has been submitted to the Auditor for review.

3498) **Committee Observations and Findings**

(i) The Committee observed that the outstanding imprests had since been surrendered and recovered in full and supporting documents were availed for audit verification; and

(ii) The Committee marked the matter as resolved.

3499) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she recovers the full Imprest amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.**
2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

991. Acquisition of Assets

3500) The statement of assets and liabilities reflects acquisition of assets expenditure of Kshs.1,348,739,044 which as disclosed under Note 7 to the financial statements includes research, studies project preparation, design and supervision expenditure of Kshs.966,728,870. However, the expenditure includes Kshs.17,617,601 paid to Ministry of Public Works Sports Club being morning tea and lunches for casual employees working in different offices at the Ministry. It is not clear why the casuals, in addition to their wages, were provided with meals and tea at a cost of Kshs.1,270 per day per person. Further, it was not clear how the Ministry of Works Sports Club which is not a government entity was identified to deliver the services to the Ministry.

3501) In the circumstances, the accuracy of the reported figure for acquisition of assets and the propriety of the payments totaling to Kshs.17,617,601 could not be confirmed.

Submission by the Accounting Officer

3502) The Accounting Officer submitted that it was true that the statement of assets and liabilities reflects acquisition of assets expenditure of Kshs.1,348,739,044 as disclosed under note 7 to the financial statements. It is also true that the expenditure includes Kshs.17,617,601 paid to the Ministry of Works Sports Club being morning tea and lunches for casuals working in different offices at the Ministry at a cost of Kshs1,270 per day per person in addition to their wages. It is further true that the Sports Club was identified to deliver the services to the Ministry.

3503) In this regard we wish to state that the casuals were hired to assist in preparing documentation in readiness for the Ministry digitization. It was worth noting that the casuals worked in 2 shifts and were handling documents that required very high level of security hence were not allowed to leave their work stations. The meals which included lunch or dinner and 2 teas were provided to retain them within the zoned area throughout their shift.

3504) With regard to the Ministry of Works Sports Club being identified to provide the meals Accounting Officer stated that it was indeed a Government Institution.

3505) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3506) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**
2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

992. Undisclosed Expenditure for Kenya Institute of Surveying and Mapping

3507) Kenya Institute of Surveying and Mapping through its bank account operated at National Bank of Kenya Collected Kshs.24,299,312 as fees. The Institute spent Kshs.12,622,023 on operational expenses and transferred Kshs.5,600,000 to the Ministry as Appropriations-In-Aid leaving a bank balance of Kshs.6,077,289 at the end of the financial year. However, both the expenditure of Kshs.12,622,023 and the bank balance of Kshs.6,077,289 have not been reflected in the Ministry's financial statements.

3508) In the circumstances, the accuracy and completeness of the use of goods and services expenditure of Kshs.1,155,923,714 reflected in the statement of receipts and payments could not be confirmed.

Submission by the Accounting Officer

3509) The Accounting Officer submitted that it was true that the above bank balance and expenditure was not included in the Ministry's financial statements. The reason for non-inclusion is because the funds collected by the Institute are student monies including HELB.

3510) Authority was given to the Institute by the National Treasury to open a bank account with National Bank of Kenya for operations of the institute.

3511) Going forward it was recommended that the Institute should be given autonomy to operate independently and prepare its own financial statements.

3512) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3513) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

993. Undisclosed Legal Pending Bills and Unpaid Bills

3514) As previously reported, the Ministry had legal pending bills amounting to Kshs.946,508,404 for cases determined against the Ministry. However, evidence that the bills were settled was not provided for audit and the bills have not been disclosed in the financial statements.

3515) Further, as disclosed under Note 14.1 to the financial statements, bills totaling Kshs.319,367,601 remained unpaid as at 30 June, 2019. Failure to settle bills in the year they relate to distorts the financial statements for the year and also affects the budgetary provisions for the subsequent year.

Submission by the Accounting Officer

3516) The Accounting Officer submitted that it was true that under Note.14.1 to the financial statement bills totaling Kshs.319,367,601 remained unpaid as at 30th June 2019. It is also true that failure to settle bills in the year they relate to distorts the financial statements for the year and also affects the budgetary provisions for the following year.

3517) He stated that pending bills to the tune of Ksh.310,727,601 were paid in the subsequent year. Pending bills for Kshs.8,640,000 were found to be ineligible and hence not paid.

3518) As regards the legal pending bills it is true that an amount of Ksh.946,508,404/- for cases determined against the Ministry was not disclosed in the financial statements. This is because the amount was based on Judgment received from State Law Office. But ideally, disclosure in the financial statements is based on certificate of order against the government which the Ministry was awaiting.

3519) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer on the status of the previous legal pending bills of Ksh.946,508,404 and how other new legal pending bills of Ksh.319,367,601 arose was not satisfactory; and

(ii) The matter therefore remained unresolved.

3520) **Committee Recommendations**

1) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.**

2) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

3) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

Other Matter

994. Research, Studies, Project Preparation, Design and Supervision

3521) As previously reported, the statement of receipts and payments for the year ended 30 June, 2018 reflected a figure of Kshs.1,256,719,593 relating to acquisition of assets which included research, studies, project preparation, design and supervision expenditure of Kshs. 621,224,359. The balance included payments totaling Kshs.8,613,960 in respect to claims for refund of per diem and expenses incurred on the 4th Joint Kenya – Ethiopia Boundaries

Pillar's Inspection and Maintenance conducted in April and May, 2017 for 30 days. The exercise was carried out in the previous financial year but reimbursements were done in January, 2018. Approval for the team members to conduct the exercise without per diem and refunded later had not been availed for audit review. It was not clear on what basis the activities were allowed to be undertaken in the absence of funds.

Submission by the Accounting Officer

3522) The Accounting Officer submitted that as per the 4th Joint Kenya-Ethiopia International bilateral agreement (JTBC) held at Ethiopia in January, 2017 the inspection and maintenance of International boundary was to commence from 1st April – 31st May, 2017. The Ethiopian team was already on site by 1st April, 2017, notwithstanding the latter the Kenyan Team had not received facilitation despite approval due to lack of exchequer. In order to comply with signed agreement, the Kenya team had to participate in the exercise.

3523) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3524) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

995. Digitization of Land Registries

3525) As previously reported, contracts to digitize Machakos, Kajiado, Nakuru and Kisumu land registries were awarded to three (3) local companies on 30 May, 2015 at a combined contract sum of Kshs.154,280,000. However, lack of appropriate scanners and internet has significantly affected the sustainability of the digitization project in the four registries despite incurring significant expenditure. Consequently, it has not been possible to ascertain if there is value for money on the expenditure of Ksh.154,280,000.00 on the digitization process.

Submission by the Accounting Officer

3526) The Accounting Officer submitted that it was true that contract for digitization for Machakos, Kajiado, Nakuru and Kisumu Land Registries were awarded to three (3) local companies on 30th May, 2015 at a combined contract sum of Ksh.154,280,000. The digitization of the above mentioned Land Registries was successfully completed 14th February, 2018. The scanners and internet provision was provided for.

3527) Digitization in these land registries are functional, however due to delay of implementation of National cadaster which was to guide on legality on actual ground demarcation of Land parcels, these data was infiltrated with un-reconcilable land information raising to national security concerns hence paradigm shift to use multi-agency approach to clean the data.

3528) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3529) **Committee Recommendations**

Within three (3) months upon adoption of this report, the Accounting Officer should submit to the National Assembly a full report on the digitization of the Machakos, Kajiado, Nakuru and Kisumu land registries.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

996. Lack of Register of Assets

3530) As disclosed under Note 7 to the financial statements, the statement of receipts and payment reflects Ksh.1,348,739,044 in respect of acquisition of assets during the year under review. Further, the summary of fixed assets register under Annex 3 to the financial statements reflects fixed assets with a historical value of Ksh.4,025,746,318 as at 30 June, 2019. However, the register of assets containing details such as address, area, dates of acquisition, disposal or major change in use, capital expenditure, lease hold terms, maintenance contracts and other pertinent management details for the assets as required under Regulation 143(2) of Public Finance Management (National Government) Regulations, 2015 was not provided for audit.

3531) In the circumstances, it has not been possible to confirm that the assets of the Ministry had been properly safeguarded.

Submission by the Accounting Officer

3532) The Accounting Officer submitted that it was true that the summary of fixed assets register under Annex 3 to the financial statements reflects fixed assets with a historical value of Kshs.4,025,746,318 as at 30 June, 2019 and that the register did not comply with

Regulation 143(2) of Public Finance Management (National Government) Regulations, 2015.

3533) He also stated that the Financial Statements for the year ended 30th June 2019 were prepared in accordance with cash basis of Accounting as prescribed by the International Public Sector Accounting Standards (IPSAS) and templates as issued by the Public Sector Accounting Standards Board (PSASB) (K) which provides a disclosure format of the Summary of the Fixed Assets Register.

3534) However, following the publication of the policy on Assets and Liabilities Management in the Public sector in June 2020 by the National Treasury and Planning, the Ministry is in liaison with the Department of National Assets and Liabilities Management Department (NALM) under the National Treasury and Planning towards implementation of specific guidelines issued with the aim of coming up with an updated Fixed Assets Register for the Ministry.

3535) The Accounting Officer further stated that a Listing of the Ministry Inventory was provided to the Auditor General during the Audit.

3536) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory;

(ii) The Committee also confirmed that the Asset Register was created and to the required standards; and

(iii) The Committee marked the matter as resolved.

3537) **Committee Recommendations**

1) **The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.**

2) **Within six (6) months of the adoption of this Report, the Accounting Officer should avail to the Auditor General a comprehensive fixed assets register for review and verification for the Ministry of Lands and Physical Planning.**

997. Development of Land Information Management System (LIMS)

3538) During the year under review, the Ministry received Authority to Incur Expenditure (AIE) amounting to Kshs.73,000,000.00 from the Ministry of Information, Communication and Technology- State Department of ICT for development of Land Information Management System (LIMS). However, the amount received on 28 June, 2019 and credited to the Ministry's deposit account was later paid to National Intelligence Service

(NIS) on 2 August, 2019 for digitization of land registries. It was not clear why the money was not paid directly to NIS by the State Department of ICT.

3539) Although Management has indicated that NIS was engaged following a multiagency approach in the digitization of the land registries due to the security nature of documents involved, the Ministry had prior to the engagement of NIS incurred a total of Kshs.700,004,000 in digitization of fourteen (14) land registries up to 2017/2018 financial year.

3540) Under the circumstances, it is not clear why NIS was engaged to undertake a similar exercise that had already been paid for and whether the Ministry obtained value for money for the Ksh.700,004,000 spent on digitation of fourteen (14) land registries up to 2017/2018 financial year.

Submission by the Accounting Officer

3541) The Accounting Officer submitted that it was that the Ministry received AIE amounting to Kshs.73,000,000 from Ministry of ICT – State Departments for ICT for Development of LIMS.

3542) The amount received was credited to the Ministry's deposit account and later paid to NIS for Digitization of land registries. It is important to note that the ICT budget for all government Ministries is domiciled at State Department for ICT. By the time the Digitization programme was commencing, the Ministry did not have a budget line for ICT expenditure and therefore requested the State Department for ICT budget to NIS but they declined citing accountability reasons.

3543) The reason why the money was not paid directly to NIS by the State Department of ICT is because, the State Department of ICT expressed reluctance to pay money to NIS arguing that they did not have any contract of engagement with NIS. They felt, it was proper to transfer money to the Ministry first, then the Ministry pays to NIS according to their existing terms of engagement.

3544) Thereafter, the Ministry applied for a new budget item (other capital grants and transfer) from the National Treasury which was allocated and now in use. It was true that NIS was engaged following a multiagency approach in the digitization of the Land Registries due to security nature of the document involved. It is also true that the Ministry had prior to the engagement of NIS incurred a total of Kshs.700,004,000 in digitizing fourteen (14) Land Registries up to 2017/2018 financial year.

3545) Due to delay in the implantation of National Cadaster for spatial data, the system was infiltrated with data that could not be reconciled with actual parcel of Lands on the ground.

This data since then raised National Security Concerns and therefore necessitated the incorporation of multiagency security departments.

3546) The role of NIS in this digitization was to assist the Ministry in development of National Cadaster, overlay all parcels of Land previously captured in the system, validate the Legality of parcel of land and shift to secure National Land Information Management System (NLIMS) platform ready for transaction.

3547) The approach of cleaning the data by NIS has been successful in securing the Land documents in digital format.

3548) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3549) **Committee Recommendation**

The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

998. Lack of an Audit Committee

3550) As reported in the previous year, the Ministry did not have an independent Audit Committee as required by Section 73(5) of the Public Finance Management Act, 2012, which provides that every National Government public entity shall establish an Audit Committee whose composition and functions shall be as prescribed by the regulations. In the absence of a functioning Audit Committee, monitoring and review of the effectiveness of the internal audit process, review of internal controls, risk management systems and financial statements among other functions of an audit committee were not executed thus hindering good corporate governance at the Ministry.

Submission by the Accounting Officer

3551) The Accounting Officer submitted that it was that the Ministry did not have an independent audit committee as required by section 73(5) of the Public Finance Management Act, 2012 as at the time of the Audit. He stated that 2 members of the committee were appointed on 18th July 2018. The position of the Chairperson was re-advertised and an appointment for the Chairperson made on 8th October 2019.

3552) On 17th January 2020 the National Treasury appointed a representative to the Ministerial Audit Committee. The Audit Committee therefore, is currently established with a Chairman and three (3) members.

3553) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory;

(ii) The Committee also observed that the Audit Committee was established and functional; and

(iii) The Committee marked the matter as resolved.

3554) **Committee Recommendations**

1) **Accounting Officers must at all times ensure that he/she has appropriate arrangements in place for conducting internal audit according to the guidelines of the Accounting Standards Board pursuant to the provisions of section 73(1)(a) of the Public Finance Management Act, 2012.**
2) **Accounting Officer must at all times ensure that he/she adheres to the provisions of Section 73(5) of the Public Finance Management Act 2012.**

REVENUE STATEMENTS –MINISTRY OF LANDS AND PHYSICAL PLANNING

REPORT ON THE REVENUE STATEMENTS

999. Lack of classification of Land Revenues

3555) The statement of revenues and transfers reflects a total of Kshs.1,250,772,191 revenue collected during the year under review. However, revenue collected from County Land Registries (out stations) amounting to Kshs.414,936,988 were commingled and classified as other land revenue instead of classifying them into specific revenue streams such as land registration, valuation, or adjudication and others.

3556) Further, there was no consistency in classifying and reporting revenue collected. In the Head Office, registration fee comprised of searches, preparation fee and opening register fees while other land revenues comprised of all e-Citizen revenue collections, Survey fees, direct banking's and all revenues collected from out stations.

3557) In addition, all revenues collected in relation to searches, opening of registers and any other non-specific revenue collections in Eldoret station were classified as miscellaneous revenue. Consent fee was classified independently as preparation fees and land dispute fee was also classified independently.

3558) Further, in Kakamega, revenue arising from boundary disputes, court orders, survey fee, sale of maps and registration were classified as registration fees.

Submission by the Accounting Officer

3559) he Accounting Officer submitted that it was that the statement of revenues and transfers reflects a total of Kshs.1,250,772,191 revenue collected during the year under review. It was also true that Kshs.414,936,988 being revenue collected by County Land Registries were comingled and classified as either land revenue instead of classifying them into specific revenue streams.

3560) He also stated that the Ministry has rolled out NLIMS which will automatically classify revenue in future this problem will be solved. The Ministry has also sensitized the officers in the field to ensure that revenue is classified as per streams in order to enhance reporting.

3561) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3562) **Committee Recommendations**

Within six (6) months upon adoption of this report, the Accounting Officer should submit to the National Assembly a full progress report on the roll out of the National Land Information Management System (NLIMS) which will play a big role in the classification of revenues.

1000.Undisclosed Deposits to Kenya Commercial Bank (KCB) Revenue Control Accounts

3563) The revenue collected countrywide from Land Registries amounting to Ksh.414,936,988 includes a balance of Ksh.141,274,345 which could not be traced to any specific Land Registry. A review of the bank statements revealed that these were direct deposits from unidentified Land Registries and other sources deposited into the Account No.1122659288 all totaling to Kshs.141,274,345.

3564) Further, the consolidated monthly revenue return schedules that were used to support the revenue statement were incomplete making the verification of the monthly revenue collections from the stations difficult. In the circumstances, it was not possible to confirm the completeness and accuracy of revenue collected from the Land Registries.

Submission by the Accounting Officer

3565) The Accounting Officer submitted that it was that revenue collected country wide from land registries amounting to Ksh.414,936,988 includes an amount of Ksh.141,224,345 which could not be traced to any specific land registry. He to stated that all monies banked in KCB Revenue Collection account are swept to the Central Bank Revenue Account. The amount of Kshs.141,274,345 had not been captured because the returns had not been received. Subsequently the returns were received and the ledgers have been updated.

3566) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3567) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1001.Failure to provide Revenue Collection and Accounting Documents

3568) The Nakuru land station failed to provide revenue collection and processing documents such as the receipts books, collection control sheets (CCS), receipt and payment vouchers (FO17 & FO20/21), bank deposits slips, and Real Time Gross Settlement (RTGS) that were used to collect revenue estimated at Kshs.757,681. As a result, the accuracy and completeness of revenues disclosed could not be ascertained.

Submission by the Accounting Officer

3569) The Accounting Officer submitted that it was that the Nakuru Land station had failed to provide revenue collection and processing documents such as receipt books, collection control sheets (CCS) receipts are payment vouchers FO17/FOR20/21 as at the time during the period of review.

3570) He stated that the Nakuru station has since accounted for the revenue and the same was reported in the revenue statement. The returns are available for review.

3571) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3572) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1002.Failure to Bank Revenue Collected

3573) The audit established that the Eldoret land station utilizes the services of the SubCounty Treasury to collect and bank revenue. However, audit examination of documents such as receipt books, collection control sheets, cash book and bank statements revealed that revenue collected during the months to October, 2018, November 2018, March, 2019, April 2019, May 2019 and June, 2019 amounting to Kshs.7,865,085 was not banked.

Submission by the Accounting Officer

3574) The Accounting Officer submitted that it was that on examination of the Receipt Books, Collection Control Sheets (CCS) and Bank Statements revealed there were significant delays in Banking Revenue in various stations amounting to Kshs.7,865,085.

3575) He confirmed that revenue has since been banked and documents submitted to the Auditor for review. It is worth noting that the delay in banking was caused by lack of transport and shortage of personnel at the station. He also confirmed that the ledgers and returns supporting the collection of Kshs.7,865,085 were subsequently updated and the documents are available for review.

3576) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3577) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1003.Non-Payment of Stamp Duty

3578) The statement of revenues and transfers reflects a total of Kshs.1,250,772,191 revenue collected during the year under review. However, audit examination of land parcel files in Mombasa station revealed that land transfer transactions were effected without the payment of stamp duty totaling to Kshs.740,000.

3579) In the circumstances, it was not possible to confirm the completeness and accuracy of revenue collected from Mombasa Land Registry.

Submission by the Accounting Officer

3580) The Accounting Officer submitted as follows:

(i) MSA BLOCK XIX/1 – Melanie/Mary/Michaela – Stamp Duty Kshs. 40,000.00

3581) It was true that land parcel number Mombasa/Block XIX/ measuring 0.5796 hector was transferred on 9th May, 2019 to Melanie Juliana Miyanji, Mary Mwaura and Michael Priscilla Nicholls. This transfer was as a result of succession cause number 7 of 2012 in respect of the estate of Sylvia Theodora De Souza (deceased).

3582) Transfer of property to a beneficiary upon death of the registered owner is accessed at nominal stamp duty of Kshs.200/- and for any additional copies of the transfer document presented for assessment a charge of Kshs.20 is levied. As regards this case we wish to state that the nominal fee of Kshs.200 was paid alongside Kshs.40 being two additional transfer documents.

(ii) MSA/FREE TOWN/30 – Delina/Momo/Cecilia – Stamp Duty Kshs 460,000.00

3583) The stamp duty payable of Kshs.460,000/= in respect of the transfer of land parcel Mombasa/Freetown/30 was paid on 10th August, 2015 at National Bank of Kenya Mombasa Branch as evidenced by bank slip number M234 980.

3584) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3585) **Committee Recommendations**

1) The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

Other Matter

3586) The following prior year issues remained unresolved as at 30 June, 2019.

1004.Inaccuracies in the Financial Statements

3587) Note 4 to the revenue statements on sale of goods and services reflected transfers to the Exchequer Account by the Ministry of Lands and Physical Planning comparative balance of Kshs.717,658,988 but the 2016/2017 audited revenue statements reflected an amount of Kshs718,956,844 resulting to an unexplained difference of Kshs.1,297,856. Consequently, the accuracy of transfer to the Exchequer comparative balance of Kshs.717,658,988 for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3588) The Accounting Officer submitted that it was that Note 4 to the Financial Statements on Sale of goods and Services reflects transfers to the exchequer Account by the Ministry comparative figure of Kshs.717,658,988.85 but the 2016/17 audited financial statements reflects Kshs.718,956,844.85 resulting in unexplained difference of Kshs.11,297,856.00. The reconciliation and the adjustment were subsequently carried out and the statements are now in agreement.

3589) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3590) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1005.Statement of comparison of Budget and Actual Amounts

3591) The statement of comparative budget and actual amounts for the year ended 30 June, 2018 reflects actual revenue of Kshs.786,517,922 against a revenue budget of

Kshs.841,297,579 resulting in under collection of Kshs.54,779,657. However, no explanations were provided for the material variances as required by the international Public Sector Accounting Standards (IPSAS) No.1.7.8. Non-compliance with this requirement affects understandability of the revenue statement by the users.

Submission by the Accounting Officer

3592) The Accounting Officer submitted that the footnote explaining the reason for the variance were subsequently provided. And verified by the Auditor General.

3593) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and
(ii) The Committee marked the matter as resolved.

3594) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1006.Transfers to the Exchequer Account

3595) The statement of revenues and transfers for the year ended 30 June, 2018 reflected transfers to Exchequer account of Kshs.786,517,923. However, records maintained by the National Treasury indicated total receipts of Ksh.856,030,095 from the ministry resulting in a variance of Ksh.69,512,172 which has not been explained or reconciled. In circumstances, the accuracy and validity of the total revenues collected of Kshs.786,517,923 could not be confirmed.

Submission by the Accounting Officer

3596) The Accounting Officer submitted that it was true that the statement of revenue and transfers for the year 30th June 2018 reflects transfer to exchequer account of Kshs.786,517,923 while the total receipts indicated by the National Treasury was Kshs.856,517,923.

3597) He stated that revenue of Kshs.69,512,172 was deposited directly into the Central Bank Account. However the returns and supporting document were subsequently provided and the reconciliations and statement updated accordingly.

3598) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3599) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1007.Irregular Collection and Remittance of Revenue

3600) As was reported in 2017/18, The National Treasury Circular number 20/47(88) of 28 March, 2017, requires that at the end of every month, all revenues collected should be transferred through RTGS to the central revenue control account held at the Ministry's Headquarters.

3601) However, records availed for Machakos County indicate that as at 30 June,2018, an amount of 4,869,706 had been collected from survey fees, registry index maps fees and sale of maps and remitted to the County Government in contravention of the National Treasury Circular.

Submission by the Accounting Officer

3602) The Accounting Officer submitted that it was true that Machakos Survey Office collected revenue in 2017/18 Financial Year and banked the same in Kenya Commercial Bank Account No. 114693947 Machakos County Government. This was due to a directive to Machakos Survey Office vide Letter Ref. No. GMC 4/27/1/14 dated 27th January, 2014 requiring the office to bank the revenue collection related to Survey in the County Government Account.

3603) Despite correspondence to Machakos County, no response has been received. The Ministry has been handling the matter in consultation with the National Treasury. Further, the anomaly will be corrected once we migrate to cashless mode of payment for all revenues.

3604) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3605) **Committee Recommendation**

Within six (6) months upon adoption of this report, the Cabinet Secretary National Treasury should move to recover at source an amount of Kshs.4,869,706 being revenue collected in 2017/2018 from survey fees, registry index maps fees and sale of maps. The amount was collected and deposited into the Kenya Commercial Bank Account No. 114693947 Machakos County Government.

1008.Non-Maintenance of Cash Book at Bungoma National Sub-County Treasury

3606) As was reported in 2017/18, Bungoma National Sub-County Treasury, did not maintain cash books for the land revenues collected at the station thus casting doubts on the completeness to the revenues collected at the Sub-County Treasury.

Submission by the Accounting Officer

3607) The Accounting Officer submitted that it was true that in 2017/2018 the Bungoma National sub-county Treasury did not maintain cash books for the land revenue collections at the Station.

3608) The Accounting Officer also stated that the National Treasury authorized opening of only one bank account for subcounty lands offices for which both revenue and operational A.I.E.s are deposited. The Ministry is soon rolling out the National Lands Management Information System (NLIMS) to the counties and hence revenue collected at the counties will be captured in a revenue collection account with automated cash books.

3609) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3610) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.

1009.Selective Charging of Official Search Fees

3611) Section 88 of the Land Registration Act Prescribes the fees chargeable on official searches. However, stations such as Kiambu, Kajiado, Mombasa, Muranga, Nyahururu, Kwale, Machakos and Nyeri were not charging search fees.

3612) As a result, revenues arising from an estimated 21,500 searches per station at Kshs.500 each totaling Kshs.10,750,000 per station was not collected in the financial year under review. In addition, in Kisumu and Homa bay Stations, there was no consistency in Charging search fees. No reason has been provided for not charging search fees and the inconsistencies.

Submission by the Accounting Officer

3613) The Accounting Officer point out that the Receiver of Revenue directed the various collectors of Revenue in County Land Registries vide letter Ref. No.MOLPP/ADM/17/Vol.90 of 18th April, 2017 to waive the payment of Land Title Search Fees. Following the directive of the said letter, majority of Land Registries waived the charges for search fees.

3614) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3615) **Committee Recommendation**

Within six (6) months upon adoption of this report, the Accounting Officer should submitte a report to the National Assembly on the total amount collected as fees chargeable on official searches in Kiambu, Kajiado, Mombasa, Muranga, Nyahururu, Kwale, Machakos and Nyeri stations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1010.Delay in Remittance of funds Held in the collection accounts.

3616) The statement of revenues and transfers reflects a total of Ksh.1,250,772,191 revenue collected during the year under review. However, examination of the Revenue Collection Accounts at various stations revealed that there were closing balances amounting to Ksh.34,441,550 as at 30 June, 2019 (2018: Ksh.24,501,012). It was not clear why the said funds were not being transferred to the Central Bank Account No. 1000323922 by the closure of the financial year. This is as enumerated below:

Station	KCB A/C Number	Opening Balance as 1/07/2018 (Kshs.)	Closing Balance as at 30/06/2019 (Kshs.)
Eldoret	1201611660	809,218	2,810,370
Homa Bay	1149342285	912,511	2,154,297

Nakuru	NBK-1001065252300	3,050,007	5,462,437
Nanyuki	1148136533	3,443,041	6,161,790
Meru	1148163743	1,945,985	929,875
Kajiado North (Ngong)	1180348923	795,294	892,820
Kajiado	1148539220	1,407,915	1,259,847
Nyahururu	1102166588	1,216,658	2,599,620
Nyeri	1208103393	1,376,964	1,988,142
Muranga	1148611460	4,255,484	2,667,911
Kisumu	1209552795	1,822,458	1,773,076
Kiambu	1148554955	3,465,479	2,156,639
Kakamega	1148251820		3,584,727
Total		**24,501,014**	**34,441,551**

3617) In the circumstances, the accuracy and completeness of the total revenues collected of Ksh.1,250,772,191 could not be confirmed.

Submission by the Accounting Officer

3618) The Accounting Officer submitted that it was true that the statement of revenues are transfers reflects a total of Kshs.1,250,772,191. It was also true that various stations revealed that there were closing balances amounting to Kshs.34,441,550 as at 30 June, 2019(2018: Kshs.24,501,012).

3619) The financial year closes on 30th June, however the returns and remittances to the Headquarter Revenue collection account are done in July following the closure of the Financial year. The revenue balances are subsequently transferred in July.

3620) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3621) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1011.Under-Assessment of Stamp Duty Fees

3622) In various stations, including Kiambu and Nyandarua, transfers of immovable properties for certificates of title, freehold lands, were all assessed at 2% regardless of being in an urban zone and, the certificates of lease, leasehold lands, were all assessed at 4% regardless of being in rural zones. This is contrary to items 12A and 11 in the schedule to the Stamp Duty Act which states that stamp duty payable on transfer of immovable property should be derived at a rate of 4% of land valuation amount in urban (Municipality) areas and 2% of land valuation amount in rural (Agricultural) areas. This is despite the fact that Kiambu County has re-designated town and rural areas in line with the current urbanization in Ngong, Limuru, Ruaka, Karuri and Kikuyu.

3623) Similarly, in Kajiado land jurisdiction zone, stamp duty is assessed at 2% regardless of the parcels of land existing within urbanized areas like Kajiado town, Kitengela, Rongai and Oloitokitok which would attract chargeable stamp duty of 4% had the stamp duty rating or assessment guide been reviewed. A similar scenario was noted in Homa Bay Since the Ministry has not clearly demarcated and designated areas where 4% and 2% stamp duty are chargeable on transfer of land.

3624) Further, the audit established that land parcels measuring an 1/8-acre plots or 0.045ha or 50m by 100m and below were considered as agricultural lands, yet 1/8-acre plot of land is not viable for agriculture and should therefore not be considered as agricultural land. This translated to the assessment for stamp duty for an 1/8- acre plot and below parcels of land at 2% of value instead of 4% and regardless of being in urban areas.

Submission by the Accounting Officer

3625) The Accounting Officer submitted that it was true that the stamp duty act Provides that Stamp duty payable on transfer of land within a municipality be assessed at a rate of 4% of the market value while land outside a municipality should be assessed at 2%.

3626) However, we note that some of the satellite towns such as Kitengela, Ruaka among others may not be within a gazetted municipality and may be difficult to assess stamp duty payable at 4%. Most of the plots within this satellite towns have not changed the user from agricultural to their current users.

3627) There is need therefore, for Government to redefine the municipality boundaries to include such towns. Freehold and Leasehold are terms referring to land tenure and therefore do not necessary refer to land parcels within or outside municipalities. The acreage of a land parcel/plot is not a guide for determination of the rate at which stamp duty is to be assessed upon transfer.

3628) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3629) **Committee Recommendation**

Within six (6) months upon adoption of this report, the Accounting Officer should submit to the National Assembly a full report on the assessment of Stamp Duty payments in various stations, including Kiambu and Nyandarua.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNMENT

1012.Accounting for Revenue Collections and Exchequer Receipts (AIE) in the Same Cash Book and Bank Accounts

3630) The audit revealed that the revenues collected and funds received by the Ministry of Lands and Physical Planning as Exchequer releases for operations purposes (AIE) were posted in the same cash book and bank account in all the stations visited.

3631) This arrangement encouraged the use of revenue at source as it was difficult to segregate the AIE and revenue collected at source.

Submission by the Accounting Officer

3632) The Accounting Officer submitted that it was true that revenues collected and AIE funds received by the field stations were posted in the same cash book.

3633) He also stated that the Ministry is soon rolling out NLIMS (Digitization) to the sub-county registries hence revenue will not be available to use because no services will be offered for cash. It is also worthy to note the National Treasury grants authority to open only one account per station. This is an issue that cuts across all stations.

3634) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3635) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1013.Use of Non-Designated Accountable Documents

3636) The audit established that approximately 65% of the miscellaneous receipts books were used to collect revenue instead of the Land Fee Receipt Books. The Land Fee Receipt Books are specific for land fees collection as they are itemized to indicate the revenue item or stream of revenue being receipted. However, the miscellaneous receipts books used for collection of revenue are general and are not itemized to indicate the revenue stream being receipted. This hampered proper classification of revenue.

Submission by the Accounting Officer

3637) The Accounting Officer submitted that it was true that revenue collections are done through miscellaneous receipts in addition to the Land fee Receipt books. This occurs when the land fee receipts are not available at the Government printers and the Subcounty Accountant is forced to collect and issue miscellaneous receipts to the lands officers. We wish to state that despite using the miscellaneous receipts to collect revenue, the subcounty registries eventually classify revenue using the remittance analysis sheet.

3638) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3639) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1014.Delay in Depositing of Revenue

3640) Examination of the receipts books, collection control sheets and bank statements in Kiambu station revealed that there were significant delays of up to six (6) months in depositing revenue collected. A similar trend of split or part banking was noted in Homa-Bay. It is not clear why revenue collected was not banked immediately and intact.

Submission by the Accounting Officer

3641) The Accounting Officer submitted that it was true that there is significant delay in depositing revenue collected. We wish to state that the delay in banking of revenue was brought about by lack of vehicles. However, Ministry has entered a lease for vehicle arrangement for the counties and this has greatly improved the situation. In addition the Lands offices do not have revenue clerks as they rely on clerks from the County Commissioner's office.

3642) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3643) **Committee Recommendation**

The Accounting Officer must at all times ensure that within twenty four (4) hours, all revenues collected should be deposited in the respective bank accounts and receipts and bank slip well for kept and availed for audit when required.

1015.Use of Revenue at Source

3644) Examination of accounting documents such as cash book, bank statement and bank reconciliation statement at Kisumu Sub-County Treasury revealed that during the month of November, 2018, an amount of Ksh.350,000 was withdrawn vide cheque No. 127 dated 13 November, 2018 from the Revenue Collection Account when the authority to incur expenditure balance (AIE) was nil. It was not explained why revenue collected and banked was withdrawn.

3645) Similarly, examination of the cash book, bank reconciliation and bank statement held by Ministry of Lands at the Eldoret Sub-County Treasury, Kenya Commercial Bank Account No 1201611660, revealed that during the month of July, 2018, revenue amounting to Ksh.483,440 was withdrawn for office use when authority to incur expenditure (AIE) was nil, therefore resulting in the use of government revenue at source.

Submission by the Accounting Officer

3646) The Accounting Officer submitted that it was true that a withdrawal of Ksh.350,000/- from Revenue Account was done on 13th November, 2018 against financial requirements. Withdrawal amounting to Ksh.483,440/- in Eldoret was done.

3647) The officers in the field stations have been cautioned against use of revenue at source, drawn from the PFM regulation. The Ministry has also done a reminder to the officers concerned to adhere to Treasury Circular. No. Ref: 20/47/(88) dated 28th March, 2017.

3648) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3649) **Committee Recommendation**

The Accounting Officer must at all times ensure that he /she obtains authority from the National Treasury to utilize any revenue collected at source.

1016.Irregular Deposits

3650) The Kwale County Treasury accountant banked Ksh.163,046 on 4 December, 2018 into the Ministry of Land and Physical Planning, KCB Revenue Collection Account. The purpose and source of the deposit has not been disclosed. This raises a red flag over use of revenue at source and practicing of teeming and lading. No explanation was provided for this anomaly.

Submission by the Accounting Officer

3651) The Accounting Officer submitted that it was true that the Kwale County Treasury Accountant banked Ksh.163,046 on 4th December, 2018 into the Ministry of Lands and Physical Planning, KCB Revenue Collection Bank Account in Nairobi.

3652) He stated that the amount of Kshs.163,046 was outstanding in the bank reconciliation as at 30th June 2018 and had been posted in the cash book as cash banked. The banking was eventually done on 4th December 2018 and the item cleared from the bank reconciliation statement. It is worth noting that the revenue account is also the operations account.

3653) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3654) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1017.Transfer of Revenue to a Non-Designate Account

3655) Audit review of bank statements at Muranga station revealed that revenue collected and deposited in KCB Revenue Collection Account No. 1148611460 amounting to Ksh.4,247,795 was transferred to a non-designate Central Bank of Kenya Account No.

1000209534 under the Ministry of Lands, Housing and Public Works instead of the Central Bank Account No. 1000323922 under the current Ministry of Lands and Physical Planning. It has not been explained why the station continues to deposit revenue to the old KCB Account and at the Central bank of Kenya.

Submission by the Accounting Officer

3656) The Accounting Officer submitted that it was true that Ksh.4,247,795 was transferred to a non-designate account. We wish to clarify that although the transfer of the money was to a non-designated account, the account to which the money was transferred belonged to the Ministry of Lands, Housing and Urban Development, domiciled at the Central Bank of Kenya which the Ministry has no access to. The Ministry had done a letter to the National Treasury requesting for the bank statements for this Account.

3657) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3658) **Committee Recommendation**

The Accounting Officer must at all times ensure that revenues collected are transferred or deposited to designated accounts and receipts and bank slips well filed and kept to avoid loss of such revenues.

1018.Shortage of Land Valuers in Counties

3659) As was reported in 2017/2018, it was observed that the Ministry has a shortfall of land valuers which does not only result to inefficiencies in service delivery but also has significant impact on revenues realized from stamp duties. For instance, Migori has only one (1) land valuer based in Kisii County and covering Kisii, Nyamira, Migori and Homa Bay Counties while at the Bungoma Land Registry, the Assistant Senior Land Registrar in charge of the station performs valuation and assessment of stamp duty since the Regional Valuer is based in Kakamega.

Submission by the Accounting Officer

3660) The Accounting Officer submitted that the Ministry recruited more valuers and amended the law to allow private valuers to assist.

3661) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3662) **Committee Recommendation**

Within three (3) months upon adoption of this report, the Accounting Officer should ensure that each County is assigned a Land Valuer to assist in provision of quick services at County Offices.

1019.Inadequate Safety of Collected Revenue

3663) The audit revealed that there is no safe box or strong room for keeping and safeguarding revenue collected and cash at both the Land Registry and Survey Departments in Muranga, Eldoret, Kakamega, Homa bay and Kiambu. At the revenue collection points, revenue is collected and kept in breakable drawers while the designate storage for all the revenue before banking are breakable drawers. Similarly, the strong rooms for storing revenue do not have reinforced glass window panes or doors.

Submission by the Accounting Officer

3664) The Accounting Officer submitted that it was true that an audit revealed that there is no proper safe and strong room for keeping and safeguarding revenue collected and cash at both the Land Registry and Survey Department in Murang'a, Eldoret, Kakamega, Homabay and Kiambu.

3665) He stated that digitization has been rolled out in Nairobi and will soon be done in the field registries and therefore there will be no cash to be collected.

3666) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and
(ii) The Committee marked the matter as resolved.

3667) **Committee Recommendation**

The Accounting Officer must at all times ensure that revenues collected are transferred or deposited to designated accounts and receipts and bank slips well filed and kept to avoid loss of such revenues.

1020.Poor Documentation of Revenue Collection

3668) A review of the revenue documents and files at the Nyandurua, Meru, Nakuru, Ngong, Homa bay, Kakamega, Eldoret, Kiambu and Kajiado Lands offices revealed that the complete sets of Collection Control Sheets, FO17, MR's banking slips and Funds Transfer Documents (RTGS) were not kept in an orderly manner. The audit established that the receipt vouchers – FO17 were not pre-numbered or serialized and the receipt books were used without due regard of serialization. It was also noted that the Collection Control Sheets were not recorded on a daily basis when transactions occurred but rather prepared at the end of the month when surrendering collected revenue.

3669) In Meru and Nakuru stations, not all receipts books used during the year 2018/2019 were availed for the audit verification thereby curtailing the audit review. Further, some receipt books were captured twice on collection control sheets in Nyandurua. The audit review also noted that single receipt books were used to collect revenue from both registry and survey departments in Nyandurua and Kajiado stations.

Submission by the Accounting Officer

3670) The Accounting Officer submitted that it was true that revenue documents and files from various stations revealed that the complete sets of collection control sheet, FO 17, MRs banking slips and funds transfer documents (RTGs) were not kept in an orderly manner. It was further true that in Nyandarua some receipt were captured twice on the collection control sheets. That the poor documentation of revenue collection is across various land offices. The review of Internal Controls is ongoing with a view to strengthening the same. With the roll of NLIMS it is expected that most of the internal control issues will be addressed.

3671) Due to lack of adequate staff at the land offices it is not possible to record transactions on a daily basis hence why the surrender is done at the end of the month. We wish to state that all revenue collected for 2018/2019 from Meru and Nakuru was eventually banked and transferred to the Central Bank and the Revenue ledger updated. .

3672) He further stated that where a single receipt was used to collect revenue from both registry and survey departments, this was due to shortage of receipt books from the Government Printer. We further wish to state that though a single receipt was used to collect revenue for both registry and survey an analysis of the collection is done on daily basis for each department.

3673) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3674) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1021.Failure to Frank Revenue Stamps on Transfer Documents

3675) Section 2 of the Stamp Duty Regulations, 2012 and the Fourth Schedule of the regulation on instruments requires that upon payment, the stamp duty may be denoted by means of revenue stamp impressed by a franking machine. However, in Nyandurua station, land transfer documents were not being franked due to the breakdown of the franking machine for a period of over four (4) years. In the absence of impressed stamp duty by a franking machine on the transfer documents, the legality of these transfers cannot be ascertained.

Submission by the Accounting Officer

3676) The Accounting Officer submitted that it was true that there was a breakdown with the Franking Machine. We wish to report that the Ministry has since procured a digital franking machine for Nyandarua Station.

3677) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3678) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she abides by the provisions of Section 2 of the Stamp Duty Regulations, 2012 and the Fourth Schedule of the regulation on instruments requires that upon payment, the stamp duty may be denoted by means of revenue stamp impressed by a franking machine.

1022.Anomalies in Declaration and Reporting of Monthly Revenue Collections

3679) Audit verification of the consolidated revenue returns and its supporting documents established that only eight (8) out of the fifty-seven (57) stations or approximately 14% of the lands stations consistently declared monthly revenue returns. This made it difficult for the Head Office to Keep complete and accurate records of revenue. It was also noted that the Survey Departments collects revenue independently from the Lands Registry Departments however, they do not prepare monthly revenue returns.

3680) In Kisumu, the Lands station failed to declare revenue to the Head Office during the Months of December, 2018 amounting to Ksh.564,360, March, 2019 Ksh.926,220 and

February, 2019 Ksh.820,360, all totaling Ksh.2,310,940. Similarly, there were also late declaration of revenue returns.

3681) Further, audit examination established mis-reporting of collected revenue. In Kajiado station, revenue collected in October, 2018 vide CCS No. 0118310 totaling to Ksh.218,350 was surrendered or declared two (2) months late in December, 2018 and also mis-reported as part of revenue collected in December, 2018 vide FO.21 No. 6 totaling to Ksh.1,820,100 instead of October, 2018 collections.

3682) Similarly, in December, 2018, revenue collected between 20 December, 2018 to 31 December, 2018 amounting to Ksh.169,500 was surrendered or declared one (1) month later in January, 2019 and mis-reported as part of January, 2019 revenue collections vide FO.21 No. 7 amounting to 1,406,492 instead of December, 2018 collections.

Submission by the Accounting Officer

3683) The Accounting Officer submitted that it was true that the percentage of the Lands station's submitting revenue returns is low. This was attributed to delays in submission of the returns from field stations due to lack of funds to send documentation during the period under review.

3684) He stated that whereas Revenue is banked in the Revenue collection account monthly, the submission of the returns is delayed and hence delays the transfer and the updating of the ledgers of the Revenue from the Ministry's collection account to the Central bank.

3685) He also stated that to address this problem the Ministry has applied a twofold approach.

i) The Ministry has engaged and signed a contract with the postal corporation to provide Expedited Mail Services (EMS) to all the field stations. This has greatly improved the submissions of returns.

ii) A WhatsApp group has been formed between the Ministry and the field offices. The Field offices submit advance copies of the revenue returns via the WhatsApp group and then follow up with the hard copies.

3686) With regard to the stations that had failed to declare revenue to Head office the Accounting Officer stated that the revenue has since been submitted, returns eventually received and the revenue ledgers updated.

3687) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and

(ii) The Committee marked the matter as resolved.

3688) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1023.Shortage of Staffing in Revenue and Accounts Sections

3689) Audit review established that there was shortage of staff in the stations visited and especially in the valuation unit, survey, revenue clerks and accountants in Nyeri, Kajiado, Kakamega, Eldoret, Nyahururu, Kisumu, Ngong, Meru, Nanyuki, Nakuru, Naivasha, Machakos and Mombasa stations. It was noted that a valuer in one station could serve three or more other stations. For instance, one valuer who is based in Kisii County also serves two (2) more counties of Homa Bay and Migori. This caused delays in valuation of transfers and collection of revenue.

Submission by the Accounting Officer

3690) The Accounting Officer submitted that it was true that there is a shortage of staff in the Valuation Unit in the counties of Nyeri, Kajiado, Kakamega, Eldoret, Nyahururu, Kisumu, Ngong, Meru, Nanyuki, Nakuru, Naivasha, Machakos and Mombasa stations which have one Valuer each except Mombasa which has three valuers.

3691) He stated that the recent recruitment of twelve (12) valuers and assistant valuers will address this shortage. Further, the Ministry has appointed Valuers in private practice to carry out valuation for purposes of stamp duty.

3692) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and
(ii) The Committee marked the matter as resolved.

3693) **Committee Recommendation**

Within nine (9) months upon adoption of this report, the Accounting Officer should report to the National Assembly measures put in place to ensure reduction of shortage of staff in the valuation unit, survey, revenue clerks and accountants in Nyeri, Kajiado, Kakamega, Eldoret, Nyahururu, Kisumu, Ngong, Meru, Nanyuki, Nakuru, Naivasha, Machakos, Kisii, Homa Bay, Migori and Mombasa stations.

1024.Lack of Valuation Reports and Inconsistencies in Land Values in Registered Parcel Files

3694) Audit review revealed that all land transfers carried out in Homa Bay relating to land parcels lacked land valuation reports except for the months of April, 2019, May, 2019 and June, 2019. Without valuation reports, it was not possible to ascertain the accuracy of the assessed stamp duty paid for the transferred parcels of land.

3695) In addition, the audit review established that the land valuer in charge of three (3) Counties of Homa Bay, Migori and Kisii is based in Kisii, and does not conduct site visits at the time of effecting a transfer and attaching of land values. Therefore, the land registrar relies on land values declared by venders or those on sale agreements in order to make assessments for the purpose of payment of stamp duty fees.

Submission by the Accounting Officer

3696) The Accounting Officer submitted that it was true that a Valuer based in Kisii is also in charge of Migori and Homa Bay Couties. The Ministry has now posted a Valuer to Migori County. He further stated that the Ministry will deploy an officer to Homa Bay once those employed are fully inducted.

3697) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and supporting documents provided were satisfactory; and
(ii) The Committee marked the matter as resolved.

3698) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

LAND SETTLEMENT FUND

REPORT ON THE FINANCIAL STATEMENTS

<u>Paragraph 1025 to 1030 under the Land Settlement Fund were examined by the Special Funds Account Committee.</u>

27. STATE DEPARTMENT FOR INFORMATION, COMMUNICATION, TECHNOLOGY AND INNOVATION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1122

Mr. Jerome Ochieng, the Principal Secretary and Accounting Officer for the State Department of ICT (Vote 1122) appeared before the Committee on 24th May, 2021 to adduce evidence on the Audited Financial Statements for the State Department of ICT (Vote 1122) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Ms. Jane Masibayi Musundi - Chief Finance Officer
2. Ms. Margaret Kariuki - Deputy Accountant General
3. Mr. Anthony Njenga - Assistant Accountant General
4. Ms. Pamella Ongwae - Director Planning

Information Communication Technology Authority

1. Dr. Katherine W. Getao - Chief Executive Officer
2. Mr. Paul K. Ronoh - Director Projects
3. Mr. Hesborn Malweyi - Director

Telkom Kenya

1. Mr. Mugo Kibati - Chief Executive Officer
2. Mr. Anthony Njenga - Assistant Accountant General

1031. Variances Between the Financial Statements and Trial Balance

3699) The balances reported in the financial statements as at 30 June, 2019 and the supporting balances as per the trial balance differed as detailed below:

	Account Balance	Financial Statements Balance (Kshs.)	Amount as per Trial Balance (Kshs.)	Difference (Kshs.)
1.	Bank balances	111,631,734	1,158,198,194	(1,046,566,460)
2.	Liabilities	0	4,511,344,223	(4,511,344,223)
3.	Cash clearance account	0	(5,555,491,743)	5,555,491,743
4.	Fund balance	148,219,341	28,357,423,752	(28,209,204,411)

Submission by the Accounting Officer

3700) The Accounting Officer submitted that it was true that some balances in the financial statements as at 30th June, 2019 and the IFMIS trial balance figures differed. The cause of the variance was that IFMIS trial balance had figures that are system generated and not a true reflection of the financial status. Consequently, the financial statements were prepared based on revised trial balance.

3701) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer and the supporting documents verified by the Auditor General were satisfactory; and

(ii) The Committee marked the matter as resolved.

3702) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1032. Unexplained Adjustments to the Financial Statements

3703) Whereas the Management presented revised financial statements, adjustments between the first set of financial statements and the final revised set were not supported with the relevant documents to justify the amendments. Details of the unsupported adjustments are as summarized below:

Component	Initial Financial Statements (Kshs.)	Revised Financial Statements (Kshs.)	Total Variance (Kshs.)	Explained Variance (Kshs.)	Variance (Kshs.)
Domestic Travel and Subsistence	34,375,342	41,159,224	6,783,882	0	6,783,882
Foreign Travel and Subsistence	5,439,874	6,107,019	667,045	38,902	628,243

3704) In addition, the statement of assets and liabilities reflects an unexplained prior year adjustments balance of Ksh.1,693,071 which has not been explained/reconciled. In the circumstances, it has not been possible to confirm the accuracy and correctness of the financial statements for the year ended 30 June, 2019.

Submission by the Accounting Officer

3705) The Accounting Officer submitted that the adjustments between the first set of financial statements and the final revised set were supported by journals which indicated the various debits and credits. Copies of the journals have been attached for review.

3706) The prior year adjustment balance of Ksh.1,693,071 resulted from accounting for prior years' imprests within the IFMIS system that had remained outstanding. Attached find the list of these prior years' imprests as extracted from IFMIS.

3707) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Accounts Receivables was satisfactory as journals were provided and verified by the Auditor General; and

(ii) The Committee marked the matter as resolved.

3708) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1033. Proceeds from Foreign Borrowing

3709) As disclosed in Note 2 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.12,747,095,693 in respect of proceeds from foreign borrowings. The amount relates to payments made on behalf of the State Department to various Contractors by the lending institutions. This balance is made up of Kshs.712,997,115, Kshs.1,744,690,132 and Kshs.10,289,408,396 made to contractors by KBC Bank NV Belgium (Financier) relating to County Connectivity Project (CCP), China EXIM Bank relating to National Optic Fibre Backbone Infrastructure (NOFBI) (II) Expansion Project and UNICREDIT S.P.A respectively relating to Konza Technocity Project. However, no details in respect to the date the payments were made by the Banks, details of authorization (whom and the date) to the Banks payments and bank debit advices. In addition, documentation and details of how the contractors were procured were not provided for audit review.

3710) Consequently, the accuracy, validity and existence of proceeds from foreign borrowings totalling Kshs.12,747,095,693 for the year ended 30 June, 2019 could not be ascertained.

Submission by the Accounting Officer

3711) The Accounting Officer submitted that it was true that the statement of receipts and payments reflected an amount of Ksh.12,747,095,693 in respect of proceeds from foreign borrowings. The details in respects to the date the payments were made by the banks have been disclosed by the suppliers' acknowledgement letters copies attached. The details of authorization for these payments were as per the draw-downs copies attached.

3712) Huawei Technologies Co. Ltd and Soulco NV were involved as preferred contractors under Government to Government method of procuring project finance sanctioned by section 4(2)(f) of the public procurement and disposal act, 2015. Government to Government arrangement was entered through framework agreement between the two Governments. Copies of the agreement has been attached. The letter from Belgium indicating Soulco NV as their preferred contractor for County Connectivity Project has been attached. Attached further were the commercial and financial contracts for Huawei Technologies Co. Ltd and Soulco NV for National Fibre Optic Infrastructure (NOFBI) and County Connectivity Project (CCP) projects respectively. Impresa Construczioni Maltauro was procured through international tender copies.

3713) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Accounts Payable was as details of the Bank Payments were provided and verified by the Auditor General; and

(ii) The Committee marked the matter as resolved.

3714) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1034. Use of Goods and Services

3715) As disclosed under Note 4 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.222,350,725 in respect of use of goods and services. However, included in the balance are payments that were posted to incorrect expenditure accounts as shown below:

S/No	Account name (Incorrect)	Amount (Kshs.)	Nature	Correct Account Name
1034.1	Hospitality, Supplies	160,000	Training fees	Training

	and Services			
1034.2	Domestic Travel and Subsistence	2,761,594	Air tickets	Foreign travel
1034.3	Domestic Travel and Subsistence	133,872	Allowances to staff during training	Training
1034.4	Specialized Materials	500,000	Allowances for staff for facilitation	Hospitality, supplies and services

3716) The above misclassifications have not been explained or adjusted in the financial statements leading to misstatement of various account balances as at 30 June, 2019.

3717) In the Circumstances, the accuracy and completeness of balances of Kshs.222,350,725 reflected in the statement of receipts and payments for the year ended 30 June, 2019 could not be ascertained.

Submission by the Accounting Officer

3718) The Accounting Officer submitted that the account item charged was 2210802 boards, committee, conferences and seminars. The payments were conference fees for officers who had attended a seminar in Mombasa. The budget for foreign travel had been exhausted prompting the charge on domestic travel that was a related expenditure item. He also added that the charge was made in anticipation for re-allocation. The payments were per diems paid to officers who had attended trainings. The payment related to facilitation to officers during evaluations for purchase of ICT equipment classified under specialized materials.

3719) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Accounts Payable was not satisfactory as authority seeking reallocation was not sort from the National Treasury; and

(ii) The matter therefore remained unresolved.

3720) Committee Recommendations

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1035. Accounts Receivables

3721) As disclosed under Note 9 to the financial statements, the statement of assets and liabilities reflects account receivables balance of Kshs.132,470,289 which includes Kshs.132,314,063 in respect of clearing accounts. The clearing accounts balances relate to AIE's advanced to Ministries, Departments and Agencies for purposes of procurement of lT equipment which had not been accounted for as at 30 June, 2019. However, the balance of Kshs.132,314,063 excludes Kshs.193,218,304 outstanding from The National Treasury which had been advanced by 12 May, 2019. No explanation was provided on how the balance of Kshs.193,218,304 had been accounted for in the financial statements.

3722) Further, the amount outstanding in respect of the State Department for Public Service as reflected in the books of the State Department for Information Communication Technology was Kshs.46,186,028 while in the books of the State Department for Public Service was Kshs.81,668,693 resulting to an unexplained and unreconciled difference of Kshs.35,482,665.

3723) Consequently, the accuracy and completeness of accounts receivables balance of Kshs.132,470,289 as at 30 June, 2019 could not be ascertained.

Submission by the Accounting Officer

3724) The Accounting Officer admitted that the accounts receivable balance of Ksh.132,470,289 excluded Ksh.193,218,304 that had been advanced to the National Treasury by 12th May, 2020. The reason for the omission was that the National Treasury refunded these funds before the closure of the financial year and therefore could not be classified under accounts receivable. We have attached a copy of the receipt voucher No.0014 for these funds for review.

3725) The State Department for ICT disbursed Ksh.189,621,513 to the State Department for public service. Within the financial year 2018-2019, State Department for public service accounted for Ksh.143,435,585.10 leaving a balance of Ksh.46,186,028. The expenditure returns from State Department for public service corroborates this information, copy attached and receipt documents for the balance of Ksh.46M during FY 2019/2020.

3726) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Accounts Receivables was not satisfactory as there was a variance of Ksh.35,482,663 unaccounted for and linked to the State Department for Public Service; and

(ii) The Committee marked the matter as unresolved.

3727) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

1036. Accounts Payables

3728) The deposits bank account reconciliation statement reflects a cash book balance of Ksh.95,882,683 as at 30 June, 2019 and amounts paid in the cash book but not yet reflected in the bank statement amounting to Ksh.34,316,389. The deposit account balance for the previous year, as at 30 June, 2018, was Ksh.3, 100,249 which increased to Ksh..95,882,683 as at 30 June, 2019. The increase in the deposit balance and transactions thereof was as a result of a deposit of AIE received from the Ministry of Interior and Coordination of National Government amounting to Ksh.577,960,000 for purchase of ICT components of National Integrated Information Systems, (NIIMS) project.

3729) The following were noted in respect of the transactions in this account:

a) The Department's communication via letter MICT/CONF.A/18/31 dated 21 February, 2019 which the Department requested for AIE was not availed for audit review.

b) The breakdown of the payments/expenditure that are in line with the detailed critical infrastructural components budget as per the AlE notification that was submitted by the State Department of Interior and Coordination of National Government were not provided for audit verification and review

c) Detailed approved workplan and procurement plan for the utilization of the AIE requested matching workplan to the expenditure were not provided for the audit review.

d) The surrender or absorption summary for the AlE included a payment voucher for Ksh.255, 000,000 for monies transferred back to the State Department of Interior and Coordination of National Government. However, no request refund or any other supporting documentation other than the payment voucher were availed for audit verification.

e) The NIIMS registration started on 2 April, 2019 and ended on 25 May, 2019. However, there were payments and expenditure for activities undertaken long after the closure of the exercise, some of which were in relation to the negotiation process.

The total payments made to the internet service providers amounted to Ksh.132,250,290. The State Department owns and controls the National Optic Fibre Backbone Infrastructure (NOFBI) which provides internet to these service providers.

However, the service providers have not been charged for the use of this infrastructure. No explanation has been provided for this anomaly.

f) An amount of Kshs.6, 060,000 was paid to East and Southern Africa Management Institute to undertake capacity building for various officers and an additional Kshs.17,177,600 was paid as subsistence allowance to officers attending the said training. However, no evidence of travel and attendance of the training including the clearance certificates have been availed for audit verification. Further, no approved work plan has been provided to demonstrate that this activity, with a total cost of Kshs.23,237,600, was part of critical infrastructure components of the NIIMS project which were transferred from the State Department of Interior and Coordination of Government to the State Department for Information Communication Technology and actually included in the work plan implementation schedule for the period under review.

3730) Consequently, the accuracy and validity of the accounts payable balance of Ksh.95, 882,683 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

3731) The Accounting Officer admitted that the increase in the deposit balance and transactions thereof was as a result of a deposit of AIE received from the Ministry of Interior and Coordination of National Government amounting to Kshs.577,960,000 for purchase of ICT components of National Integrated Information Systems, (NIIMS) project.

3732) Responses on the issues raised on the AIE are as follows:

a) A copy of the letter Ref. No: MICT/A18/31/117 dated 7th Feb, 2019 to the Principal Secretary for Interior from State Department for ICT indicating NIIMS ICT Components against which the AIE was issued has been attached for review.
b) The breakdown of payments/expenditure in line with the AIE notification from the State Department of interior has been provided.
c) NIIMS project implementation work plan as at 1st October, 2018 has been attached for review.
d) The surrender of Ksh.255,000,000 was based on communication from State Department for ICT & Innovation vide letter Ref: MICT/CONF/12/15 dated 17th May, 2019 copy of which was attached. The letter indicated that the department could not absorb the funds during FY 2018/2019 and requested the funds to be allocated back to the department in the following financial year to complete the pending components.
e) -The Accounting Officer admitted that NIIMS registration ended on 25 may, 2019. However, during post registration period, activities such as capacity building for running and supporting the NIIMS ecosystem was necessary. Documents on capacity building for staff have been attached.

-The service providers were not paying since ICT Authority the operators of the escrow account had not been licensed to collect revenue from NOFBI by communication authority. However, the license has since been issued and ICT Authority is now collecting revenue from the service providers.

f) - The Accounting Officer admitted that various officers attended capacity building from East and Southern Africa Management Institute (ESAMI) on running and supporting the NIIMS eco system. Attached please find copies of the officer's travel documents, attendance certificates on project management and bio- data analytics and travel clearance.

3733) Capacity building was part of the activities that had been planned with a budget of Ksh.40M as per the letter Ref. No: MICT/A18/31/117 dated 7th February, 2019. Item number seven (7)

3734) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Accounts Payable was satisfactory as payments schedules and work plan surrenders were provided and verified by the Auditor General; and

(ii) The Committee marked the matter as resolved.

3735) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

Other Matter

1037. Unresolved Prior Year Matters

3736) In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements. However, the Management has not resolved the issues nor given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular to resolve the issues.

3737) **<u>The Committee observed that the issue was discussed during the examination of the accounts of the State department for financial year 2017/18</u>**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1038. Unauthorized Expenditure Training Expenses

3738) The statement of receipts and payments and Note 4 of the financial statements reflects a balance of Ksh.222,350,725 in respect of use of goods and services which reflects an amount of Ksh.26,517,290 for training expenses for the year ended 30 June, 2019. The training expenses include a payment of Ksh.1,003,380 for the provision of conference facilities for stakeholders workshop on Ajira Implementation Roadmap in Counties, it was, however supported by a proforma invoice and a commitment letter that was not approved by the Head of Procurement and without a Local Service Order (LSO) thereby making the expenditure unauthorized.

Submission by the Accounting Officer

3739) The commitment letter was written based on the pro forma invoice that had been obtained from the Government institution that was offering the service. As at the time of writing the commitment letter, the IFMIS system had challenges in raising the purchase orders yet the activity was due. It was on the basis of this back ground that the commitment letter was written. The commitment letter was written by the acting head of procurement then since the substantive head of procurement had gone for vetting. The Local service order was subsequently regularized in IFMIS to facilitate payment.

3740) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Accounts Payable was not satisfactory as authority seeking reallocation was not sought from the National Treasury; and

(ii) The matter therefore remained unresolved.

3741) **Committee Recommendation**

1) **Within three months of the adoption of this report, the Accounting Officer (during the period under review) must provide an explanation for incurring expenditure of Ksh.26,517,290 for training expenses and entering into a contract for procurement without lawful tender documents contrary to the provisions of section 196(1) of the Public Finance Management Act, 2012.**
2) **Where the Accounting Officer fails to provide an explanation, the Accounting Officer (during the period under review) should be surcharged Ksh.26,517,290 pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.**

1039. Acquisition of Assets - Financial Assets

1039.1 Inappropriate Expensing of Information and Communications Technology Authority (ICTA) Assets

3742) The acquisition of assets amount of Ksh.3,047,781,086, as reported in the statement of receipts and payments and Note 7 of the financial statements, includes an amount of Kshs.1, 744,690,183 in relation to the National Optic Fibre Backbone Infrastructure (NOFBI) that has been reported under Domestic Public Non-Financial Enterprises and Ksh.712,997,115 in relation to County Connectivity Project (CCP) that has been reported under purchase of specialized plant and machinery amount of Ksh.1,127,837,099. However, even though CCP and NOFBI projects are being implemented and supervised by the Information and Communications Technology Authority (ICTA),the payments of Kshs.712,997,115 and Kshs.1,744,690,132 relating to CCP and NOFBI respectively were made by the State Department and the resultant assets have not been reflected in the accounting records of the Information and Communications Technology Authority but rather the amounts have been expensed under the State Department of ICT and Innovations accounting records as shown under Note 7 of the financial statements acquisition of assets. Due to this, it is therefore not possible to verify the compliance or otherwise to quantify the value of assets and establish the location of the assets created out of the payments made on account of these two infrastructures.

3743) In addition, included in the acquisition of assets of Kshs.3, 047 781, 086 are payments amounting to Ksh.2,457,687,298 made by financiers to two (2) contractors in respect of CCP and NOFBI (II) Expansion.

3744) However, the documents in relation on how the two (2) were identified and, procured and awarded the contracts were not availed for audit verification and hence the validity of the payments as a charge to public funds is not confirmed. Further, the contracts availed for audit examination did not include the annexes which presumably contained the terms and conditions of the contract providing timelines, deliverables and payment schedules. Therefore, it was not possible to verify the compliance or otherwise to the contractual obligation, and the propriety and validity of the payments made on account of these contracts so far.

Submission by the Accounting Officer

3745) The Accounting Officer admitted that the acquisition of assets amounted to Ksh.3,047,781,086 as reported in the statement of receipts and payments and note 7 of the financial Statement. These were payments majorly in relation to both National Optic Fibre Backbone Infrastructure (NOFBI) and County Connectivity Project (CCP). The value of the assets created could be quantified from the financial records for the State Department and not ICT Authority since the budget had been provided for under parent ministry as a loan AIA payable by the National Treasury.

3746) Huawei Technologies Co. Ltd and Soulco NV were involved as preferred contractors under Government to Government method of procuring project finance sanctioned by section 4(2)(f) of the public procurement and disposal act, 2015. Government to Government arrangement was entered through framework agreement between the two Governments. The letter from Belgium Ref. 20150702/rdb/410 dated7/7/2015 indicated Soulco NV as their preferred contractor for County Connectivity Project was availed for perusal by the Committee.

3747) Attached further are the commercial and financial contracts for Huawei Technologies Co. Ltd and Soulco NV for National Fibre Optic Infrastructure (NOFBI) and County Connectivity Project (CCP) projects respectively. The copies of the annexes to the contracts have been attached for review.

3748) **Committee Observations and Findings**

The Committee observed that the issue was discussed during the examination of the State Department account for financial year 2017/18 and recommended that a forensic audit be done.

1039.2 Domestic Public Non-Financial Enterprise

3749) The acquisition of assets balance of Kshs.3, 047,781,086 as disclosed in Note 7 to the financial statements includes a balance of Kshs.1, 744,690,183 (2017/2018-Kshs.2, 960,484,692) in respect of financial assets described as Domestic Public Non-Financial Enterprise whose nature of assets and breakdown was not provided for audit verification. The expenditure is allegedly in respect of NOFBI whose first phase was initiated in 2010 and completed in 2012 with subsequent extensions in scope and geographical coverage being automatically granted to the Contractor without undertaking any procurement process in line with the Public Procurement and Asset Disposal Act, 2015. Some of the extensions are yet to be completed and commissioned. The Management is therefore in breach of the law.

Submission by the Accounting Officer

3750) The nature of assets and break down, and the analysis of work done and details of the assets amounting to Ksh.1,744,690,183 and Ksh.2,960,484,692 for financial year 2017/2018 have been disclosed through the fixed asset register. Huawei Technologies Co. Ltd was involved as preferred contractor under Government to Government method of procuring project finance sanctioned by section 4(2)(f) of the public procurement and disposal act, 2015. Government to Government arrangement was entered through framework agreement between the two Governments as shown by copies of the agreement attached. Both NOFBI 1 and NOFBI 11 Expansion have since been completed and commercialized. Copies of completion certificates have been attached.

3751) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18.

1039.3 National Optic Fibre Backbone Infrastructure (NOFBI) and County Connectivity Project (CCP) Structure

3752) The State Department for Information Communication Technology was undertaking two (2) projects namely NOFBI and CCP. The projects do not have a defined structure that allocates responsibility of ensuring delivery by the contractors. The contract is between the State Department and the contractor but the payment voucher is initiated by ICT Authority for works done, and the payments are made by The National Treasury. No documented inspection and acceptance reports have been provided to support any of the payments made amounting to Ksh.7,578,324,633 in respect of NOFBI and Ksh.1,337,832,556 paid in respect of CPP over the last three years. No evidence has been provided for audit verification to show that Use Acceptance Testing (UAT) has ever been undertaken on the project.

3753) Further, whereas each of the two (2) projects are expected to have a Project Manager, no appointment letters were availed for audit verification in respect to two (2) projects. In addition, no appointment letters for members of the inspection and Acceptance committee for both NOFBI and the CCP were provided for audit verification.

3754) In view of the foregoing circumstances, the value for money for the expenditure of Ksh.8,916,157,189 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

3755) The project structure had been defined by the commercial contract, which indicated the roles and responsibilities for both the Ministry and the Contractor. ICT Authority acts as the implementing agency while the Ministry does the supervision.

3756) Copies of the inspections and acceptance certificates for both NOFBI and CCP projects were availed for perusal by the Committee. Several user acceptance testing had been undertaken, for example on the hardware installation where acceptance documents have been availed for perusal by the Committee. The appointment letters for the two projects managers was availed for perusal by the Committee. Additionally, the appointment letters for the inspection and acceptance committees and the project implementation committee was availed for perusal by the Committee.

3757) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18.

1039.4 National Optic Fibre Infrastructure (NOFBI)- Loan Repayment

3758) The NOFBI project that is being implemented by the State Department for Information Communication Technology in conjunction with Information and Communications Technology Authority (ICTA) and is being funded by Export Import Bank of China for RMB 1,110,000,000 is made up of two (2) loans. Loan one of RMB 460,000,000 signed on 08 October, 2012 and a second loan amounting to RMB 650,000,000 dated 19 May, 2016. Although ICTA has started funding the repayment of the loan through the opening and operation of the ESCROW account that is being funded through periodic disbursement from The National Treasury, the loans as well as the resultant assets acquired with the loans have not been recorded in the Authority's financial statements or accounting records.

3759) Under the circumstances, the legality, propriety and justification of the loans totaling RMB 1,100,000,000 (Ksh.16,500,000,000) whose repayment by the ICT Authority has been funded by The National Treasury to date amounting to Ksh.727,929,220 and, in effect the Kenyan tax payers cannot be ascertained.

Submission by the Accounting Officer

3760) The Accounting Officer admitted that ICT Authority opened and operated the escrow account as a security for the fulfillment of the obligations of the National Treasury in terms of the loan agreement. The Ksh.727 Million disbursed to the escrow accounts is part of the minimum expected balance as per the agreement. The resultant assets from the loans have been recorded in the financial statements for the State Department for ICT where the budget was domiciled and was the end user. ICT Authority was the project implementing agency.

3761) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18.

1039.5 Non-Billing of the National Optic Fibre Backbone Infrastructure (NOFBI)

3762) The NOFBl project network has presumably been operational since 2014 and has been used by most of the data service providers in the Country. However, although the financing agreement indicated that the Government would sell out excess capacity commercially to the public and bill them to finance the loan repayment, there has been no billing done for the last five years it has been in operation. Further, the service provision framework agreement between the NOFBI Project Managers and the Internet Service Providers has not been implemented. The Government has therefore, been funding the operations of commercial entities without recovering the cost which amounts to lack of prudent use of public resources.

3763) In addition, no records have been provided detailing the users that have been connected to NOFBI for the last five (5) years, their utilization levels, and the amount payable by each.

Submission by the Accounting Officer

3764) The Accounting Officer admitted that excess capacity would have been sold out to the public to finance the loan repayment. However, that would not have been possible until the Ministry through ICT Authority receives a network provider license from communication authority (CA). This process has since been completed where ICT Authority was issued with a network facilities provider tier two certificate.

3765) The State Department for ICT through ICT Authority held discussions with all licensed operators on NOFBI and has so far signed contracts with Jamii Telecom and Safaricom Limited. Discussions are on-going with Telkom Kenya, Airtel Kenya and Fibre Optic Network (FON).

3766) So far, under NOFBI commercialization, invoices amounting to Ksh.328,998,896.80 have since raised to four (4) service providers out of which Ksh.153,815,002.27 has been received.

3767) The list of users that had been connected to NOFBI for the last five (5) years have been attached for review.

3768) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18.

1040. Acquisition of Assets - Non-Financial Assets

3769) As disclosed in Note 7 to the financial statements, the statement of receipts and payments reflects an amount of Ksh.3,047,781,086 in respect of acquisition of assets which includes Ksh.127,837,099 in relation to purchase of specialized plant, equipment and machinery. Included in the balance of Ksh.1,127,837,099 is an amount of Ksh.218,760,630 relating to assets which were procured on behalf of and transferred to various MDAs by the State Department of Information Communication Technology, and Ksh.546,049,432 relating to IT assets funded through use of AIEs issued by the State Department for Information Communication Technology directly to the various MDAs who undertook the procurement.

3770) However, the following observations were made:

1040.1 Non Compliance with Presidential Directive

3771) The State Department for Information Communication Technology undertook the function of purchasing ICT equipment and related services on behalf of MDA's in contravention of the Presidential Directive Ref: OP/CAB.39/1A of March 2018 that required the procurement to be centralized at the Information, Communication and Technology Authority (ICTA).

Submission by the Accounting Officer

3772) The State Department of ICT undertook the function of purchasing ICT equipment and related services on behalf of MDAs as per head of public service letter Ref No. OP/CAB.39/1A dated March1, 2018 where prescription number three (3) states that all ICT procurement in Government Ministries and State Corporations is to be centralized under the Ministry of Information, Communication and Technology (ICT) in order to assure economies of scale, and optimize upon the shared services strategy. Attached is a copy of the head of public service letter. Further, the ICT consolidated budget was provided for under the State Department for ICT.

3773) **Committee Observations and Findings**

<u>The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18.</u>

1040.2 Delays in the Inspection of Goods and Services

3774) Payments in respect of procurement of ICT equipment made on behalf of MDA totalling Ksh.3,578,476 indicated that the goods were ordered, delivered and acknowledgement of receipts to the suppliers made before the inspection of the equipment to confirm conformity. The inspection was done after an inordinately long period ranging from seven (7) to forty-nine (49) days. There was no explanation from the Management for the unconditional acceptance of the equipment without undertaking inspection and in line with Public Procurement guidelines.

Submission by the Accounting Officer

3775) The Accounting Officer admitted that the State Department procured ICT equipment for MDAs. The acknowledgement for receipts of goods were made by the MDAs to the PS – ICT&I after goods/services had been inspected and accepted, as shown by copies of inspection certificates and acknowledgement letters.

3776) Most of the technical officers were involved in other important national assignments such as the roll out of NIIMS, preparation of population census and civil registration services that the ministry was tasked to coordinate (technically) resulting to shortage of staff to carry out the inspections causing the delays. Attached please find the letter asking

ICT officers to provide support towards national integrated identity management system (NIIMS) project.

3777) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer as the supporting documents were verified by the Auditor General; and

(ii) The matter was marked as resolved.

3778) **Committee Recommendation**

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

1040.3 Transfer of Shared Services Funds to MDAs as AIE

3779) Analysis of payment details for the State Department reflects an amount totalling to Ksh.1,104,600,648 in respect of Shared Services which relate to purchasing ICT equipment by the State Department on behalf of MDAs. Included in this balance is Kshs.546, 049,432 transferred to MDAs inform of AIEs contrary to the Presidential directive and Treasury Circular No.ES. 1/03/'N'(2) of 19 June 2018. The directive required that all ICT procurement in the Ministries, Departments and Agencies (MDAS) including State Corporations be consolidated and centralized under the Information Communication and Technology Authority (ICTA) in order to ensure economies of scale and optimize the shared services strategy.

3780) Although Management has explained that the AIEs were meant to pay for the running contracts that were domiciled in various MDAs before the consolidation of the ICT budget, no documentation was provided in support of the request for the AIEs. The returns provided did not indicate the existence of running contracts in the respective departments.

3781) In the absence of satisfactory documentation and explanation, it was not possible to ascertain that the transfer of AIE to various MDAs was done in compliance with the circular issued after the Presidential Directive.

Submission by the Accounting Officer

3782) The Accounting Officer admitted that the State Department for ICT transferred funds to some MDAs through AIEs for purchase of ICT equipment/services. The transfers were made based on requisition letters from the MDAs, which demonstrated the need for the AIEs. The requisition was availed for perusal by the Committee. It is on the basis of these requests that the AIEs were issued.

3783) Further, the expenditure returns from the MDAs indicating the entities that were paid and had running contracts was availed for perusal by the Committee. Additionally, some running contracts was availed for perusal by the Committee.

3784) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Committee observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

(iii) However, the Committee observed that the explanation given by the Accounting Officer with regard to the Transfer of Shared Funds to MDAs as AIE was persuasive; and

(iv) The Committee marked the matter as resolved.

3785) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1040.4 Unfair and Improper Sourcing of Suppliers

3786) Following the consolidation of procurement of ICT equipment and related services for the entire Government, the State Department for Information Communication Technology identified fifty-four (54) products and fifty-four (54) suppliers were awarded framework contracts to supply each of the identified products to the entire Government for a period of two (2) years each corresponding to the products identified.

3787) However, the framework contracting was not done in line with Section 114 of the Public Procurement and Asset Disposal Act, 2015, as only one supplier was selected instead of the mandatory minimum of seven (7). This eliminated competition necessary to ensure prices for commodities procured are comparable to the market value. This also eliminated equitability, value for money and justification and fairness in the procurement of ICT related products.

3788) An analysis of the acquisition of assets revealed that total Purchase Orders issued by the State Department of ICT for the financial year ended 30 June, 2019 in respect of purchase of ICT equipment and related services was Ksh.383,266,408.85 out of which Ksh.350,771,66.80 relates to procurement done on behalf of other Government Ministries, Departments and Agencies. Further, analysis indicates that 76.93% of the supplies were awarded to seven (7) suppliers for duration of two years.

3789) Consequently, the justification on the value for money, fairness and equity in the procurement of public assets cannot be confirmed.

Submission by the Accounting Officer

3790) Framework contracting was undertaken in compliance with section 114 of the Public Procurement and Asset Disposal Act, 2015. It was carried out through open tender where out of the evaluation process which involved more than seven (7) bidders under each category, the most responsive and lowest evaluated bidder was picked for goods. It was this supplier that would be given call offs as and when the equipment was needed.

3791) For services, since the nature of services and cost could not be determined in advance, a minimum of seven (7) suppliers were prequalified under different categories. Mini competition would therefore be carried amongst the seven whenever the services were required. Attached find the list of pre-qualified suppliers for goods and services.

3792) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18.

1041. Lack of Audit Committee

3793) During the year under review, the State Department for Information Communication Technology operated without an Audit Committee as required by Section 73(5) of the Public Finance Management Act, 2012. The mandate of the Audit Committee is to provide oversight functions such as review of the system established to ensure sound financial management and internal controls that Comply with policies, rules, regulations and procedures.

3794) Although Management has explained that the Ministry established the audit committee within the financial year 2017/2018 where appointment letters for the Chairman and Members were signed on 18 December, 2018, no document availed to show that the State Department's Audit Committee held meetings during the year.

Submission by the Accounting Officer

3795) The Accounting Officer admitted that the Ministry had established the audit committee in the FY 2018/2019 when the Chairperson and members were appointed. Copies of the appointment letters was availed for perusal by the Committee. However, the committee did not hold meetings during that financial year as they were preparing for the mandatory induction, which was a requirement for newly appointed audit committees in order to acquire knowledge on duties, roles and responsibilities of audit committees in public sector.

Committee Observations and Findings

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Lack of Audit Committee Officer was satisfactory as the supporting documents were verified by the Auditor General; and
(ii) The matter was marked as resolved.

3796) **Committee Recommendation**

Accounting Officers must at all times ensure that they have appropriate arrangements in place for conducting internal audit according to the guidelines of the Accounting Standards Board pursuant to the provisions of section 73(1)(a) of the Public Finance Management Act, 2012.

DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR INFORMATION COMMUNICATION TECHNOLOGY

EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT (IDA CREDIT NO. 5638-KE) - INFORMATION AND COMMUNICATION TECHNOLOGY AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

3797) **Unqualified Opinion**

1042. There were no material issues noted during the audit of the financial statements of the Project.

Other matter

1043. Slow Project Funds Absorption

3798) The Project was started in November, 2015 with an estimated completion date of December, 2021. However, as reflected under the funding summary, out of the total commitment of Ksh.2,979,795,000 by IDA and the Government of Kenya, Kshs.202,154,268 or 6.7% had been released to the Project as at 30 June, 2019. Under the circumstances, and due to the low absorption of funds, the Project is unlikely to fully achieve the intended objectives.

Submission by the Accounting Officer

3799) Slow absorption was due the slow start of the project and limit to the reimbursement threshold of USD 1 Million:

3800) The contract for the Rehabilitation was only signed in June 2018 at an initial cost of KES 394,207,619.22 and work begun shortly afterwards. The Contract experienced a number of challenges necessitating a variation that was done to the tune of KES 453,336,803.57. The contract subsequently ended in December 2020.The contract for Main Build was signed in June 2020 and started in July 2020.

3801) The maximum reimbursable was only USD 1 Million. The process of receiving the reimbursement also took about 3 months from initiation. Finally, the main activity, installation of the South Sudan link only begun July 1, 2020 while the rehabilitation faced challenges cited above.

3802) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to slow project funds acquisition was satisfactory as the supporting documents were verified by the Auditor General; and

(ii) The matter was marked as resolved.

3803) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

1044. Budgetary Performance

3804) The statement of comparative budget and actual amounts for the year ended 30 June, 2019 reflects actual receipts of Kshs.125,558,385 against budgeted receipts of Kshs.171, 361,336 resulting in a shortfall of Kshs.45,802,951 or 27% of the total budget Similarly, the actual expenditure for the year amounted to Kshs.124,499,336 against the budgeted receipts of Kshs. 171,361,336 resulting in an under-expenditure or Kshs.46, 862,000 or 27%. The under-expenditure mainly occurred under rehabilitation of Eldoret-Lokochogio, Nadapal OFC and purchase of goods and services. As a result of the large budget deficit, the Project Management did not implement all programmes and work plans fully as approved in the budget, thus delaying provision of services to the Kenyan citizens.

Submission by the Accounting Officer

3805) The reimbursement method used, the low threshold (USD 1 M) and low budget (KES 200 Million per year) hampered absorption. The threshold has been increased to USD 4M by World Bank through a letter dated April 13,2021. Substantive expenditure under rehabilitation of Eldoret-Lokichogio, Nadapal OFC and purchase of goods and services will be reported in the FY 2020/2021.

3806) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to budgetary performance was satisfactory as the supporting documents were verified by the Auditor General; and

(ii) The Committee therefore marked the matter as resolved.

1045. Annual Work Plan and Budget

3807) The statement of comparative budget and actual amounts as presented in the financial statements reflects an original budget of Kshs.200,000,000 and a revised budget of Kshs.171,361,336. However, a no objection letter for the Annual Work. Plan and budget as required by the donor under Section II F (1) of the Financing Agreement was not provided for audit verification. Management was therefore in breach of the law.

Submission by the Accounting Officer

3808) The Annual Work Plan for each year are presented through the Principal Secretary State Department of Infrastructure as provided in the Financial Agreement and the Project Appraisal Document.

3809) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer was not able to produce evidence of the Financing Agreement;

(ii) The Committee further observed that the Accounting Officer had not produced advertisement and shortlisting documents: and

(iii) The matter remained unresolved.

3810) **Committee Recommendation**

The Accounting Officer must at all times ensure that for any project being implemented by the Department, there is a work plan ad budget well documented. The work plan and Budget should be provided for audit review and verification when required.

1046. Recruitment of Project Staff

3811) The statement of receipts and payments reflects an expenditure of Ksh.26,976,113 being payment for Project staff salaries during the year under review. However, no documents were made available for audit verification to confirm how the staff were recruited, such as advertisement details, shortlisting, interviews, evaluation reports on successful candidates, approval from the donor or an appointment letter except for a contract document for each staff. Management was therefore in breach of the World Bank guidelines sections A (4) and 11A (2) of the Financing Agreement on recruitment of staff.

Submission by the Accounting Officer

3812) Project staff are procured as Individual Consultants (ICs). The staff had previously worked under the World Bank financed TCIP. Individual consultants undergo through a procurement process which allows for procurement of staff directly as provided under the World Bank Procurement Regulations for IPF Borrowers.

3813) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Recruitment of Project Staff was satisfactory as the supporting documents were verified by the Auditor General; and

(ii) The Committee marked the matter as resolved.

3814) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3815) **Conclusion**

1047. There were no material issues relating to effectiveness of internal controls, risk management and governance.

28. STATE DEPARTMENT FOR BROADCASTING AND TELECOMMUNICATIONS

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1123

Ms. Esther Koimett, the Principal Secretary and Accounting Officer for the State Department for Broadcasting and telecommunication (Vote 1123) appeared before the Committee on 17th August, 2021 to adduce evidence on the Audited Financial Statements of the State Department for Broadcasting and telecommunication (Vote 1123) for the Financial Year 2018/2019. She was accompanied by the following officers:

1. Mr. John O. Nyarwari – Chief Finance Officer.
2. Ms. Lucy Kananu – Head Of Accounts.
3. Mr. Siele Henry – Deputy Accountant General
4. Henry Momanyi - Finances Admin Manager
5. Mr. Joseph K. Nguyo – Director Accounts.
6. Mr. Racheal Ndungu – Assistant Accountant General
7. Ms. Helen Muchiri – Principal Accountant
8. Dr. Naim Bilal – Managing Director, KBC.
9. Mr. Ogaro Gwaro – DGAA.
10. Mr. Job Kirimi – MTS, KBC.

And submitted as follows:

1048. Cash and Cash Equivalent

3816) As disclosed in notes 11.1 and 11.2 to the financial statements, the statements for Assets and liabilities reflects a balance of Kshs 333,544,555 under cash and cash equivalent. The balance includes bank balances of Kshs 70, 481, 242, Kshs 44,193 and Kshs 262,976,060 under recurrent, development and deposits accounts respectively and cash in hand of Kshs43,059 as at 30th June,2019. However, the June bank reconciliation statement for recurrent bank account reflects Appropriation in Aid receipts in cashbook amounting to Kshs 589,794 dating back to February, 2018 which have not been recorded in the bank statement. Furthermore, the reconciliation statement reflects payments in bank statement not in cashbook totaling Kshs 1,481,502.9 which has been outstanding from as far back as February 2017. Consequently, the completeness and accuracy of the cash and cash equivalents balances of Kshs 333,544,555 as at 30th June 2019 could not be confirmed.

Submission by the Accounting Officer

3817) The Accounting Officer submitted that the AIA receipts in cashbook amounting to Kshs 589,749 not recorded in the bank Statement relates to two cheques Nos 004192 of Kshs

294,874 and 011023 of Kshs 294875 respectively. These cheques were drawn by the Kenya National Highways Authority but were never cleared by Central Bank.

3818) It has since been confirmed that the cheques were not cleared and a reversal of the entry in the cashbook made as reflected in the Cashbook extract. KENHA has committed to replace the cheques vide their letter Ref: KeNhA/07. A/ ICT/Vol.1/01. The Accounting Officer admitted that entries that relate to the Kshs 1,481,502.90 had not been entered in the Cashbook as at 30 June 2019 however the bank reconciliation revealed this anomaly and the necessary adjustments were entered on the 30th June 2020 as per the Cash book extract.

3819) **Committee Observations and Findings**

(i) The AIA receipts in cashbook amounting to Kshs 589,749 not recorded in the bank Statement relates to two cheques Nos 004192 of Kshs 294,874 and 011023 of Kshs 294875 respectively drawn by the Kenya National Highways Authority but were never cleared by Central Bank.

(ii) KENHA has committed to replace the cheques vide their letter Ref: KeNHA/07. A/ ICT/Vol.1/01. The Accounting Officer admitted that entries that relate to the Kshs 1,481,502.90 had not been entered in the Cashbook as at 30 June 2019.

3820) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

1049. Accounts Receivables

3821) The statement of assets and liabilities reflects a balance of Kshs 87,012,746 under accounts receivables. The balance as disclosed in Note 12 to the financial statement includes government imprests of Kshs 4,575,300 all of which were overdue for surrender. This is contrary to regulations 93(5) of the public finance management (national Government) regulations, 2015 which state that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station. Regulation 93(6) further provides that in the event the imprest holder fails to account or surrender the imprest on the due date, the Accounting officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing CBK rates.

3822) The balance also includes salary advances of Kshs 500,383 out of which Kshs 366,095 was advanced to two officers who have since passed on. The recoverability of the advances could therefore not be confirmed. Further the receivables balance of Kshs 87,012,746 includes district suspense balance of Kshs 81,937,063 which is net of Kshs 577,279 whose nature and purpose was not explained. Further the district suspense balance of Kshs 81,937,063 as disclosed in Annex 5 to the financial statements, includes an amount of Kshs 65,184,350 that dates back to 2015/16 financial year. In the circumstances, the accuracy and recoverability of the accounts receivables balance of Kshs. 87,012,746 as at 30th June 2019 could not be ascertained.

Submission by the Accounting Officer

3823) The Accounting Officer submitted that the State Department of Broadcasting had long outstanding imprest of Kshs. 4,575,299.50 as at 30th, June 2019. This matter was discussed under paragraph 893 on 15th June 2020 and marked as resolved. The State department has improved the management of imprests and in the last Financial Statements there were no outstanding imprests relating to the Financial year ending 30th June 2020.

3824) The salary advance balance of Kshs.366,095 relates to two officers, Brown Otuya Kshs.359,150 and Japheth Luilu Kshs.6,945 who have since passed on. They were recovered as per the attached evidence from the Pensions Department and IPPD printout. With regard to the amount of Kshs 577,279 under District Suspense, the explanation is as follows:

(i) Kshs 373,972.25 was expenditure for Kilifi under code 31105101 which was erroneously posted to Malindi under code 31105501 therefore the system showed an over expenditure in Malindi thus the negative figure.

(ii) Kshs 40,095.50 expenditure for Wajir under code 33605101 was erroneously posted to Mandera under code 34105601 thus showing an over expenditure on the Mandera side.

(iii) Kshs 163,211.00 expenditure for Bungoma under code 49105701 was erroneously posted to Bureti under code 47105401 showing an over expenditure on the side of Bureti.

3825) These negatives cumulatively amounted to the Kshs – 577,278.75 as reported in the Financial Statements. These mispostings have since been corrected via JB-25305036, JB - 25305030 and JB- 25405790 respectively. This figure of Kshs 81,937,063 represents District Suspense balances running from 2015/2016 to 2018/19 as follows: -

Financial year	**Amount**
2015/2016	32,526,832.50
2016/2017	24,443,977.50
2017/2018	8,231,539.60
2018/2019	16,752,713.40
Total	**81,937,063.00**

3826) From the above mentioned balance, an amount of Kshs. 75,570,612.65 has been cleared and posted in the general ledger as at 30/6/2020 as the table below shows the cleared balance as per each financial year.

Financial year	Balance	Amount Cleared	Balance
2015/2016	32,526,832.50	29,541,996.75	2,984,835.75
2016/2017	24,443,977.50	23,596,439.10	847,538.40
2017/2018	8,231,539.60	7,692,907.00	520,632.60
2018/2019	16,752,713.40	14,739,269.80	2,013,443.60
Total	**81,937,063.00**	**75,570,612.65**	**6,366,450.35**

3827) Effort is being made to clear the outstanding suspense balances of Kshs. 6,366,450.35.

3828) **Committee Observations and Findings**

(i) That the State Department of Broadcasting had long outstanding imprest of Kshs. 4,575,299.50 as at 30th, June 2019

(ii) The State Department is making effort to clear the outstanding suspense balances of Kshs. 6,366,450.35.

3829) **Committee Recommendations**

1) **The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.**
2) **Within three months of adoption of this report, the Accounting Officer ensures the outstanding suspense balances of Kshs. 6,366,450.35 is cleared and books submitted to the Auditor-General for review and reporting in the subsequent audit cycle.**

1050. Variances between Financial Statements and Trial Balance

3830) The following differences were noted between the figures in the financial statements and the balances in the IFMIS generated Trial Balance.

Item	Financial Statements (Kshs)	IFMIS Trial Balance (Kshs)	Difference (Kshs)
Impresta	4,575,300	3,641,207	934,093
Debtors and prepayments	-	239,450	(239,450)
Cash in Hand	43,059	9,099,026,108	(9,098,983,049)
District Suspense	81,937,063	49,668,702	32,268,361
Deposit Account	-	44,582,050	(44,582,050)

Other current Assets	-	329,670	(329,670)
Salary Advance	500,383	658,714	(158,331)
Development bank Account	44,193	365,117,284	(365,073,091)
Recurrent bank account	70,481,242	3,989,979,403	(3,919,498,161)
General deposits Account	262,976,060	251,575,352	11,400,708

3831) The variances between the two sets of figures have not been explained or reconciled. Consequently, the accuracy and completeness of the financial statements could not be confirmed.

Submission by the Accounting Officer

3832) The Accounting Officer submitted that the difference in the figures, as noted in Financial Statement and IFMIS Trial Balance in the table above relates to suspense Account transactions which will be reconciled upon completion of Auto reconciliation. A request by the State Department was done to have a team from the National Treasury assist in cleaning the system dating back to when the Vote started. The same is going on and up to date we have managed to reduce some the variances in the IFMIS system.

3833) Upon completion of the Auto Reconciliation the figures in IFMIS will reconcile with the figures in our subsequent Financial Statements. The manual Trial Balance is hereby attached in support of the Financial Statements.

3834) **Committee Observations and Findings**

(i) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Committee similarly observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

3835) **Committee Recommendations**

1) **The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.**
2) **Within three months of adoption of this report, the Accounting Officer ensures the outstanding suspense balances is cleared and books submitted to the Auditor-General for review and reporting in the subsequent audit cycle.**

1051. Pending bills

3836) Note 17 of the financial statements indicate that the State Department had pending bills amounting to Kshs.777,832,350 as at 30th June 2019.However the pending bills figure includes payments totaling Kshs.18,627,280 already made to a media house and captured in the ledger as having been paid though the amount still appeared in the pending bills listing as having not been reconciled. Further as disclosed in Appendix II to the financial statements, the reported amount for pending bills excludes pending bills of Kshs.249,932,483 which did not have the requisite documentations and Kshs.7,959,592 for which the State department did not have the budgetary provision. Failure to settle pending bills in the year in which they relate adversely affects the implementation of the subsequent year's budget programs as the pending bills form a first charge to the year's budget provision.

3837) In the view of the foregoing, the accuracy, validity, completeness and propriety of the reported pending bills of Kshs.777,832,350 could not be ascertained.

Submission by the Accounting Officer

3838) The Accounting Officer submitted that the amount of Kshs.18,627,280 is made up of two invoices. Invoice No. 1000112950 of Kshs.9,318,280 and invoice no. 1000116106 of Kshs.9,309,000 both from Nation Media Group. The same were paid on 10th July 2019. These claims were erroneously included in the Pending Bills Report approved on 25th September 2019 but the error has since been corrected in subsequent Pending Bills report dated 29th April 2020. The bills totaling Kshs.7, 959,592 relates to advertisements services consumed by State Corporations whose budgets were not under GAA budgetary allocations. This is per the guidelines set out in the National Treasury Circular no. 9/2015 of 10th July 2015.

3839) The Pending Bills Committee therefore recommended that the bills be returned to the respective State Corporations who consumed the service as the responsibility for their payment lay with them. See attached letters confirming the return

3840) **Committee Observations and Findings**

(i) The payments totaling Kshs.18,627,280 is made up of two invoices. Invoice No. 1000112950 of Kshs.9,318,280 and invoice no. 1000116106 of Kshs.9,309,000 both from Nation Media Group. These claims were erroneously included in the Pending Bills Report approved on 25th September 2019 but the error has since been corrected in subsequent Pending Bills report dated 29th April 2020

(ii) The bills totaling Kshs.7, 959,592 relates to advertisements services consumed by State Corporations whose budgets were not under GAA budgetary allocations

3841) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

1052. Unresolved prior year Issues

1052.1 Cash and cash equivalent

3842) As previously reported, the cash and cash equivalents balance of Kshs. 58,707,018 as reflected on the statement of financial position includes deposit account balance of Kshs. 38,659,849, recurrent account balance of Kshs.20,020,521, development account balance of nil and cash in hand amounting Kshs.26,648.

3843) The bank reconciliation statement for the recurrent bank account had unpresented cheques amounting to Kshs.66,491,679 whose clearance status could not be confirmed as the bank statements were not provided. Out of the unpresented cheques of Kshs.66,491,679, Kshs.241,269 were stale as at 30 June 2018. Further, the recurrent account bank reconciliation statement reflected payment in bank statements not in cash book totaling Kshs.1,436,558 for which no explanation was provided for nor inclusion in the cash book. Also the recurrent account reconciliation statement reflected uncredited receipts amounting to Kshs 46,332,522 that had no proof of having been banked as at the time of the audit and no explanation was provided for non-banking of this cash.

3844) As a result, the completeness and accuracy of the cash and cash equivalents balance of Kshs.58,707,018 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3845) The Accounting Officer submitted that this was discussed during the appearance before the Public Accounts Committee (PAC) meeting held on 15th June 2020 under Paragraph 891 and matter was marked as resolved in its report of 2017/2018.

3846) **Committee Observations and Findings**

The Committee discussed the matter during the meeting held on 15 June 2020 under Paragraph 891 and matter was marked as resolved in its report of 2017/2018.

1052.2 Accounts Payables- Deposits and Retention

3847) As previously reported, the statements of assets and liabilities reflected a balance of Kshs.38,659,849 under accounts payables balance as at 30 June 2018 all of which had been outstanding as at 30 June 2017 and earlier. The analysis provided in support did not include the date of contract and there were no supporting documents to authenticate the accuracy and validity of each of the disclosed balances. Further, the cash book for deposit account reflected Kshs.1,740,000 and Kshs.792,440 paid to a Media Group on 23 November 2017 and 7 February 2018 consecutively. However, the analysis of accounts payables showed the payments were made to WASREB:- Kshs.1,740,000, EPZ Authority Kshs.384,000 and Kenya Dairy Board Kshs.408,440.

3848) Consequently, the accounts payables balance of Kshs.38,659,849 as at 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

3849) The Accounting Officer submitted that this was discussed during the appearance before the Public Accounts Committee (PAC) meeting held on 15th June 2020 under Paragraph 894 and matter was marked as resolved in its report of 2017/2018.

3850) **Committee Observations and Findings**

The Committee discussed the matter during the meeting held on 15 June 2020 under Paragraph 894 and matter was marked as resolved in its report of 2017/2018.

1052.3 Use of goods and services

3851) As previously reported, the statement of receipts and payments for the year ended 30 June, 2018 reflected payments of Kshs.1,135,144,411 in respect to use of goods and services. However, during the audit review, payment vouchers were not provided as documentary evidence for the audit verification. This is contrary to Regulation 115 (2) of the Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer to prepare a procurement plan every year as a basis for procurement activities to be undertaken by a government entity in the fiscal year. Consequently, the accuracy, validity and propriety of the payments of Kshs.1,135,144,411 for use of goods and services could not be confirmed.

Submission by the Accounting Officer

3852) The Accounting Officer submitted that this was discussed during the appearance before the Public Accounts Committee (PAC) meeting held on 15th June 2020 under Paragraph 895 and the recommendations thereof are being implemented in its report of 2017/2018.

3853) **Committee Observations and Findings**

The Committee discussed the matter during the meeting held on 15 June 2020 under Paragraph 895 and matter was marked as resolved in its report of 2017/2018.

1052.4 Transfers from the National Treasury

3854) As previously reported, the statement of receipts and payments for the year ended 30 June 2018 reflected transfers from National Treasury of Kshs.2,346,558,857 being Exchequer releases. However, the bank statements supporting the receipts were not availed and therefore it was not possible to confirm the actual receipts. In the circumstances, the transfers from National Treasury balance of Kshs.2,346,558,857 for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3855) The Accounting Officer submitted that the receipts supporting the Exchequer releases are as per the attached Schedule. The Bank statements have been availed for audit purposes in soft copy due to its bulky nature.

3856) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not provide the submission to the Office of the Auditor General on time for Audit verification.

3857) **Committee Recommendation**

The Cabinet Secretary for the National Treasury should within three (3) months of tabling this report, reprimand the Accounting Officer for failure to avail submissions in time contrary to the provisions of Section 9(1e) of the Public Audit Act 2015.

1052.5 Transfer to other Government Units

3858) As previously reported, the transfers to Other Government Units balance of Kshs.1,378,175,000 as at 30 June, 2018 could not be verified as the reported balance for individual agencies did not agree with the records of the agency as shown below: -

Name of Agency	Balance per Financial Statement Kshs.	Balance per Agency Financial Statements Kshs.	Difference Kshs.
Kenya Broadcasting Corporation	854,100,000	842,500,000	11,600,000
Kenya Year Bank Edition Board	59,325,000	88,075,000	28,075,000
Kenya Institute of Mass Communication	207,455,000	207,487,527	32,527

3859) The differences have not been explained or reconciled and under the circumstance, the accuracy and completeness of the transfers to other government units balance of Kshs.1,378,175.00 as at 30 June, 2018 could not be confirmed. The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the State Department of Broadcasting and Telecommunication in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my adverse audit opinion.

Submission by the Accounting Officer

3860) The Accounting Officer submitted that this was discussed during the appearance before the Public Accounts Committee (PAC) meeting held on 15th June 2020 under Paragraph 896 and matter was marked as resolved in its report of 2017/2018.

3861) **Committee Observations and Findings**

The Committee discussed the matter during the meeting held on 15 June 2020 under Paragraph 896 and matter was marked as resolved in its report of 2017/2018.

Other Matters

1053. Under collection of Appropriation in Aid (AIA)

3862) The summary statement of appropriations – recurrent and development combined reflects budgeted proceeds from sale of assets of Kshs.1,174,000,000 against actual receipts of Kshs.667,902,570 hence a shortfall of Kshs.506,097,430 or 43%. Included in the budgeted receipts of Kshs.1,174,000,000 is Kshs.1,000,000,000 which was to be collected by the Government Advertising Agency. However, the agency collected Kshs.497,902,570 or 50% of the target.

3863) Further, the Agency was owed a total of Kshs.893,173,664 by various State Agencies for advertising services rendered for the period 2016/2017 to 2018/2019.This outstanding amount was expected to supplement the publicity and advertising budget. However, the recovery has been very slow and the records for the amounts owed were not properly maintained as the balances contained in the schedule provided for audit could not be traced in the ledger. In addition, non-collection of revenue negatively affected implementation of budgeted programmes and activities thereby affecting service delivery to the citizens.

Submission by the Accounting Officer

3864) The Accounting Officer submitted that the under collection of AIA of Kshs 506,097,430 was mostly under GAA. This was due to the unresponsiveness of Public Universities, State Corporations and other Government Agencies who consumed advertising services through GAA and failed to honour their commitments to pay citing lack of funds.

3865) The State Department has also written demand letters and a number of them are responding positively. It is worth noting that recoveries totaling to Kshs 191,170,073.00 have been made so far and GAA commits to step up the collection mechanism coupled with timely reconciliations to improve on AIA collection.

3866) Furthermore, GAA has put in place a recording system that clearly tracks the advertisements made and the status related AIA collections.

3867) **Committee Observations and Findings**

(i) The Committee observed that the amount totalling to Kshs 191,170,073.00 have been so far recovered;

(ii) The Committee further observed that at the time of audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

(iii)In addition The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012,; And

3868) **Committee Recommendation**

The Cabinet Secretary for the National Treasury should within three (3) months of tabling this report, reprimand the Accounting Officer for failure to avail submissions in time contrary to the provisions of Section 9(1e) of the Public Audit Act 2015

Basis for Conclusion

1054. Use of Goods

1054.1 Failure to Conduct Media Monitoring on distribution of My Gov publication

3869) As disclosed in Note 6 to the financial statement of receipts and payments reflects a balance of 3,024,349,426 in respect of use of goods and services. Included in the balance are payments amounting to Kshs.2,711,653,966 for printing, advertising and information supplies and services out of which Kshs.2,090,141,617 relates to payments made to four (4) local media houses for publication of My Gov newspaper. However, it was observed that there was a mismatch between the amounts paid to the media houses and their respective market share of print readership as contained in a media monitoring report carried out by a research firm for the fourth quarter of the year 2018 as shown in the table below.

Media House	Amount (Kshs)
Daily Nation	272,696,280
The Standard	800,996,960

The People Daily	680,409,600
The Star	336,038,777.
TOTAL	**2,090,141,617**

3870) In addition, it was noted that the Government Advertising Agency has not carried out a media monitoring exercise to determine the number of copies published and distributed by each media house, which should have formed a basis for any contractual negotiations on amount to be paid for placing of Government and associated advertising in the print media. In the circumstances the propriety and value for money on the Kshs.2,090,141,617 paid to media houses could not be confirmed.

Submission by the Accounting Officer

3871) The Accounting Officer submitted that the payments were apportioned to the media houses in accordance with the monies owed. At the time, Nation had the least amount of monies owed, followed by The Star, People Daily and The Standard. The decision to prorate was arrived at in order to ensure that all media houses are given fair share of the payments vis a vis the bills.

Media monitoring:

3872) It was evident that there is a gap in circulation reach of the four print media outlets contracted to print and circulate MyGov. Mitigation measures were instituted to address the gap by way of advertising the tender for provision of media monitoring in September 2020. The State Department has signed framework contracts for Media monitoring and undertakes to execute the exercise in the financial year 2021/22 to inform procurement of advertisement services and gauge value for money.

3873) **Committee Observations and Findings**

(i) The State Department has signed framework contracts for Media monitoring and undertakes to execute the exercise in the financial year 2021/22 to inform procurement of advertisement services and gauge value for money.

(ii) The explanation by the Accounting Officer was satisfactory and the Committee marked the matter as resolved.

1054.2 Uchumi House Office Space

3874) The balance of Kshs.64, 866,176 for rental of produced assets includes an amount of Kshs 7,785,275 paid for lease of Uchumi House for the Department of Information Services. However, the Lease Agreement between the State Department for Broadcasting and the managing Agents of the property was not provided for audit verification. Although management explained that the delay in execution of the lease agreement was as a result of variance between the rental charges offered by the landlord and the rate recommended by the State Department for housing, urban development and Public works, the impasee had not been resolved as at the time the audit report was finalized. In the circumstances it was not possible to confirm the validity and propriety of rent payment totaling Kshs.7, 785,275 paid for occupation of Uchumi House.

Submission by the Accounting Officer

3875) The Accounting Officer admitted that a valid lease agreement was lacking at the time of audit due to an impasse on rental charges offered by the landlord and those recommended by the State Department for Housing, Urban Development and Public works. Industrial and Commercial Development Corporation (ICDC), the landlord issued a letter of offer to the Ministry to renew the lease at the rates of Kshs.106 per square foot per month and service charge at Kshs.25 per square foot per month from the 1st October 2018. The rates for rent were unchanged from the expired lease

3876) In the month of January 2019, the Ministry of Transport, Infrastructure, Housing, Urban Development & Public Works recommended that rent payable on the premises is Kshs. 95 per square foot per month. Service charge was the same at Kshs.25 per square foot per month. ICDC insisted on getting their rent as prescribed in their letter of offer. The State Department and landlord finally agreed and signed the lease agreement based on the recommendation of the State Department for Housing

3877) **Committee Observations and Findings**

Valid lease agreement was lacking at the time of audit due to an impasse on rental charges offered by the landlord and those recommended by the State Department for Housing, Urban Development and Public works. The explanation by the Accounting is satisfactory and the matter is resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3878) **Conclusion**

1055. There were no material issues relating to effectiveness of internal controls, risk management and governance.

29. STATE DEPARTMENT FOR SPORTS DEVELOPMENT

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE - 1132

Mr. Joe Okudo, the Principal Secretary and Accounting Officer for the State Department of Sports and Development (Vote 1132), appeared before the Committee on 14th July 2021 and 26th October 2021 to adduce evidence on the Audited Financial Statements for the State Department of Sports and Development (Vote 1132) for the Financial Year 2018/2019. He was accompanied by the following officers: -

1. Ms. Margret M. Byama - Chief Finance Officer
2. Mr. James Odongo - Director Planning
3. Francis Odera - Deputy Accountant General
4. Ms. Josphine Onunga - Secretary Administration
5. Mr. Samwel Mugambi - Senior Chief Finance Officer
6. Mr. Samson M. Ongalo - Deputy Accountant General
7. Mr. Mark Wambugu - Acting. Director Programmes
8. Mr. Japson Gitonga - Director Sports
9. Mr. Felix Omondi - Sports
10. Mr. Alex Mwaniki Kamau - Economist

And submitted as follows:

Basis for Qualified Opinion

1056. Unreconciled Cash and Cash Equivalents

3879) The statement of assets and liabilities reflects a bank balance of Kshs. 7,105,350,072 which as disclosed under Note 10 to the financial statements is made up of bank balances of Kshs. 1,186,306 in the recurrent account, Kshs. 373,463,827 in the deposit account, Kshs. 3,744,161 in the World Youth Championship 2017 account, Kshs. 6,706,955,778 in the Sports, Arts and Social Development Fund (SASDF) collection account and Kshs. 20,000,000 in the SASDF development account. However, no explanation was provided for the failure to clear long outstanding reconciling items under the accounts as indicated below:

Description	Recurrent Account (Kshs.)	Deposits Account (Kshs.)	World Youth Championships 2017 Account (Kshs.)	SASDF Account (Kshs.)
Receipts in bank statement not in cash book	1,065,500	-	274,239	-

Receipts in cash book not in bank statement	692,792,542	203,122,355	-	-
Payments in bank statement not in cash book	3,143,055	-	702,552	-
Payment in cash book not in bank statement	895,828,343	-	1,031,986	39,936,608

3880) The supporting schedule for the balance of Kshs.3,143,055 payments in bank statement not in cash book under the recurrent account shows that the balance was over stated by Kshs.1,764,058 being payments made in the bank in the month of July, 2019 which was not within the financial reporting period. In addition, the cash book opening balance as at 1 July, 2018 for the World Youth Championships account stood at Kshs.38,538,335 while the audited financial statements for the year ended 30 June, 2018 reflects a balance of Kshs.2,602,661. Consequently, the opening balance is overstated by Kshs.35,935,674 and no plausible explanation was provided for the discrepancy. In view of the foregoing, the accuracy and completeness of the cash and cash equivalents balance of Kshs.7,105,350,072 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

3881) The Accounting Officer submitted as per the table

Recurrent Account	**Receipts in the bank statement not in the cash book Kshs. 1,065,500** The Accounting Officer admitted that, Kshs. 1,065,500 was not posted in the cash book despite being in the bank statement. This was an error of omission but it was rectified in the following month within the window period of the financial year as per the attached copy of cash book. **Receipts in the cash book not in the bank statement Kshs. 692,792,542** The Accounting Officer admitted that, Kshs. 692,792,542 reflected in the cash book but not in the bank statements. The amount consisted of late exchequer issues, RD cheques and local cash deposits. The amount was however reflected in the bank statement of the following month as per the attached. **Payments in bank statement not in cash book Kshs. 3,143,055** The Accounting Officer admitted that a total amount of Kshs. 3,143,055 reflected in the bank, but had not yet been posted in the cash book. The same has since been reflected as per attached copy of cashbook. **Payment in cash book not in bank statement Kshs. 895,828,343** The Accounting Officer admitted that, Kshs. 895,828,343 reflected in cash book but not in bank statement as at 30 June, 2019. This is because they were cleared by the bank at the beginning of the 2019/2020 financial year as per the attached.
	Receipts in the cash book not in the bank statement Kshs. 203,122,355

Deposits Account	The Accounting Officer admitted that Kshs. 203,122,355 was reflected in the cash book but not in the bank statement. This was due to overlapping of financial years. However, the amount was later reflected in the bank statements of the following month as per the attached.
World Youth Championships 2017 Account	**Receipts in bank statement not in cash book Kshs. 274,239** The Accounting Officer admitted that, receipts totaling to Kshs. 274,239 were reflected in the bank statements but not in the cash book. The receipts related to RD cheques which had not yet been posted in the cash book. The anomaly was corrected within the financial year window as per attached copy of cash book. **Payments in bank statement not in cash book Kshs. 702,552** The Accounting Officer admitted that Kshs. 702,552 was reflected in the bank statement but had not yet been posted in the cash book. So far, the payments have now been posted as per the attached copy of cash book. **Payment in cash book not in bank statement Kshs. 1,031,986** The Accounting Officer admitted that, Kshs. 1,031,986 had not been reflected in the bank statement by the end of 30th June, 2019. However, the same was cleared in the month of July, 2019 as per attached.
SASDF Account	The Accounting Officer admitted that as at 30th June, 2019; Kshs. 39,936,608 had not been cleared by the bank but was later cleared in July, 2019 as per attached.

3882) The Accounting Officer admitted that, as at 30 June, 2018 the cash balance was Kshs.2,602,660.55. However, postings for July, 2018 which included receipts and payments were made on 2nd July, 2018 before the board of survey exercise which took place on 13th July, 2018. Thus, the balance as per the date of the board of survey was Kshs. 38,538,334.55. Kshs. 1,764,058 relates to payments for the financial year 2018/2019. However, the exchequer was received during the month of July 2019 hence the reason the payments were done in the month of July, 2019.

3883) **Committee Observations and Findings**

(i) The Accounting Officer admitted that, Kshs. 1,065,500 was not posted in the cash book despite being in the bank statement.

(ii) The Accounting Officer admitted that a total amount of Kshs. 3,143,055 reflected in the bank, but had not yet been posted in the cash book. The same has since been reflected as per attached copy of cashbook.

(iii) The Accounting Officer admitted that, receipts totaling to Kshs. 274,239 were reflected in the bank statements but not in the cashbook. The anomaly was corrected within the financial year window as per attached copy of cash book.

(iv) The Accounting Officer admitted that Kshs. 702,552 was reflected in the bank statement but had not yet been posted in the cashbook. Further Kshs. 1,031,986 had not been reflected in the bank statement by the end of 30 June 2019. However, the same was cleared later in 2019.

3884) **Committee Recommendation**

The Committee reprimands the then Accounting Officer for failure to ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012. Further, reprimands the Accounting Officer for failure to ensure that complete financial and accounting records including supporting documents are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

1057. Unexplained District Suspense Movement

3885) The statement of financial assets and liabilities reflects accounts receivables balance of Kshs. 1,066,705 which includes an amount of Kshs. 102,541 relating to District Suspense account. However, the movement of this account balance from Kshs. 20,756,326 reported as at 30 June, 2018 to Kshs. 102,541 as at 30 June, 2019 was not supported. Under the circumstances, accuracy and completeness of the account receivables balance of Kshs.1,066,705 could not be confirmed.

Submission by the Accounting Officer

3886) The Accounting Officer admitted that the District Suspense as at 30th June, 2019 stood at Kshs. 102,541. A schedule of the movement of balance from Kshs. 20,653,785 to Kshs.102,541 was availed for perusal by the Committee. However, the State Department for Sports sent reminder letters to the respective district offices to submit the expenditure returns of the remaining balances.

3887) **Committee Observations and Findings**

The Accounting Officer admitted that the District Suspense as at 30th June, 2019 stood at Kshs.102,541. However, the State Department sent reminder letters to the respective district offices to submit the expenditure returns of the remaining balances. The supporting documents have not been availed to date.

3888) **Committee Recommendation**

The Committee reprimands the then Accounting Officer for failure to ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012. Further, reprimands the Accounting Officer for failure to ensure that complete financial and accounting records including supporting documents are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

1058. Pending Bills

3889) As disclosed in Note 16.1 to the financial statements, the State Department for Sports had pending bills totaling Kshs. 134,092,005 as at 30 June, 2019, that were not settled during the financial year 2018/2019 but were instead carried forward to 2019/2020 financial year. Failure to settle bills during the year in which they relate to adversely affects the provisions of the subsequent year to which they have to be charged. A review of the pending bills for the year ended 30 June, 2019 revealed the following anomalies:

1058.1 Undisclosed Prior Year Pending Bills

3890) A review of the payment vouchers revealed expenditure of Kshs.130,630,995.20 paid as pending bills during the year ended 30 June, 2019. However, these vouchers were not included in the schedule of pending bills as at 30 June, 2018. Further, management has not provided any explanation as to why these bills had not been disclosed as pending bills as at 30 June, 2018.

Submission by the Accounting Officer

3891) The Accounting Officer admitted that, pending bills amounting to Kshs.130,630,995.20 were paid during the year ended 30 June, 2019. However, these were not disclosed in the schedule of pending bills as at 30 June, 2018. The reason for non-disclosure of these pending bills in 2017/2018 financial statements was due to the fact that they had not been verified by the closure of the financial year 20172018. After verification by the pending bills committee which was done in 2018/2019, they were eligible for payment and were paid.

3892) **Committee Observations and Findings**

Committee observed that at the time of audit, the Accounting Officer failed to disclose pending bills in the Financial Statement in contravention of Regulation 23 (1) (c) and (d) of the Public Finance Management (National Government) Regulations, 2015.

3893) **Committee Recommendation**

The Committee reprimands the then Accounting Officer for failure to disclose pending bills in the Financial Statement in contravention of Regulation 23 (1) (c) and (d) of the Public Finance Management (National Government) Regulations, 2015.

1058.2 Pending Bills Not Cleared for Payment by the Internal Audit

3894) Included in the Kshs. 134,092,005 pending bills balance, are pending bills amounting to Kshs. 86,963,950 not cleared by the Internal Audit for payment due to lack of adequate supporting information and approvals. From the foregoing, the authenticity of the Pending bills closing balance of Kshs. 134,092,005 as at 30 June 2019 could not be ascertained.

Submission by the Accounting Officer

3895) Since the Internal Auditors were members of the Pending Bills Committee, the supporting documents were later availed to the committee for verification.

3896) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Committee further observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015. However, the Committee observed that the explanation given by the Accounting Officer with regard to pending bills was satisfactory.

3897) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

1059. Related Party Transactions

1059.1 Utilities, Suppliers and Services – Sports Kenya

3898) The statement of receipts and payments reflects a balance of Kshs. 1,126,806,731 under use of goods. Included in this balance is Kshs. 33,354,287 for utilities, supplies and services out of which Kshs. 33,177,721 was paid on behalf of Sports Kenya. It was, however, noted that this amount was part of Sports Kenya's budget and the State Department did not provide any plausible reasons why they were undertaking responsibilities of Sports Kenya.

Submission by the Accounting Officer

3899) The Accounting Officer admitted that, Kshs. 33,177,720.75 for utilities suppliers and services was paid on behalf of Sports Kenya. The utilities suppliers and services under Sports Kenya were budgeted for under items 2210101 – Electricity and 2210101 – Water and sewerage charges under the State Department for Sports; which could only be expended for at the State Department for Sports. Transfers to SAGAs are budgeted for under item

2630101 – Current grants to Semi-Autonomous Government Agencies; under which item transfers can be made.

3900) **Committee Observations and Findings**

The Accounting Officer admitted that the State Department paid Kshs. 33,177,720.75 for utilities suppliers and services on behalf of Sports Kenya. This amount was part of Sports Kenya's budget

3901) **Committee Recommendation**

The Accounting Officer should ensure at all times that, any funds budgeted for any SAGA under the State Department is transferred promptly to the respective entity without incurring any expenditure on behalf of the entity by the State Department.

1059.2 Transfer of funds to various Sports Federations

3902) As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects a balance of Kshs. 2,881,569,629 under transfer to other Government units. Included in this amount is Kshs. 1,402,631, 041 transferred to Sports, Arts and Social Development Fund (SASDF) to cater for specific sports events and other related activities. However, the amount was disbursed from the State Department for Sports and not from SASDF as indicated in the approvals by the oversight board on 12 April, 2019. Although the funds were disbursed to various federations for specific events, no returns or receipt confirmations from the recipient federations were availed for audit verification. Further, no explanation was provided on why the State Department was carrying out SASDF functions.

Submission by the Accounting Officer

3903) The Accounting Officer admitted that Kshs. 1,402,631,041 was disbursed to the Sports, Arts and Social Development Fund (SASDF). However, any funds transferred to federations are supposed to be accounted for by the individual federations to SASDF and not the State Department.

3904) **Committee Observations and Findings**

3905) The Accounting Officer admitted that Kshs. 1,402,631,041 was disbursed to the Sports, Arts and Social Development Fund (SASDF). The Committee agreed with the Accounting Officer's submission that Sports, Arts and Social Development Fund (SASDF is a separate accounting unit.

3906) **Committee Recommendation**

Within three months of adoption of this report, the Auditor-General relook at the matter and prepare an audit report for Sports, Arts and Social Development Fund (SASDF) for tabling and committal to the relevant committee of the National Assembly.

1059.3 Bank Balance – Unrecognized Liability

3907) The State Department operated two (2) bank accounts No.1000404671 and No. 1000404868 on behalf of the Sports, Art and Social Development Fund (SASDF). The two bank accounts reflected a total balance of Kshs. 6,726,955,778 as at 30 June 2019. However, the amount was not recognized as a liability in the statements assets and liabilities as at 30 June, 2019 despite the fact that the State Department was holding the money on behalf of SASDF.

Submission by the Accounting Officer

3908) The Accounting Officer admitted that SASDF accounts reflected a total balance of Kshs. 6,726,955,778 as at 30th June, 2019. The amount had not been recognized as a liability in the 2018/2019 financial statements. However, this has since been corrected as a prior year adjustment in the 2019/2020 financial statements.

3909) **Committee Observations and Findings**

3910) The State Department operated two (2) bank accounts. The two bank accounts reflected a total balance of Kshs. 6,726,955,778 as at 30 June 2019 not recognized as a liability in the statements assets and liabilities as at 30 June 2019 despite the fact that the State Department was holding the money on behalf of SASDF. This has since been corrected as a prior year adjustment in the 2019/2020 financial statements.

3911) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

1060. Failure to Maintain an Assets Register

3912) The statement of receipts and payments for the year ended 30 June, 2019 reflect a balance of Kshs. 10,877,873 under acquisition of assets. However, the State Department did not maintain an assets register contrary to Section 143(1) of the Public Finance Management Act 2012 on assets management. Further, Annex 3 on Summary of Fixed Assets Register shows that out of the reported net fixed assets, an amount of Kshs. 1,812,044,124 (about 99% of the net assets) related to buildings and structures. However, the State Department does not own any buildings or structures since it is operating in rented office space. In addition, the State Department had ten (10) vehicles whose logbooks were not in the name of the State Department thereby casting doubts on their ownership. In the Circumstances, the amount of Kshs. 10,877,873 reflected in the financial statements in respect of acquisition of assets as at 30 June 2019 could not be confirmed.

Submission by the Accounting Officer

3913) The Accounting Officer admitted some motor vehicles that were in use by the State Department for Sports were not disclosed as assets. However, most vehicles in use by the State Department belong to sister organizations (SAGAs) who possess ownership documents. The other motor vehicles were inherited by the State Department for Sports during the various re-organization of the government and more particularly this Ministry from time to time where the ownership documents could have left with the departments that left the ministry on re-alignment. The Accounting Officer submitted that the fixed assets amounting to Kshs. 1,832,985,791 that initially were under the Ministry are now under the Sports Kenya after the management of the Stadia was solely placed under them.

3914) **Committee Observations and Findings**

The statement of receipts and payments for the year ended 30 June 2019 reflect a balance of Kshs. 10,877,873 under acquisition of assets. However, the State Department did not maintain an assets register contrary to Section 143(1) of the Public Finance Management Act 2012 on assets management. The processes of formulating the asset register is ongoing.

3915) **Committee Recommendation**

The Accounting Officer should ensure that the entity completes preparation of the asset register and submit to the Auditor-General for audit review and reporting in the subsequent audit cycle.

1061. Unresolved Prior Year Matters

1061.1 Unsupported Expenditure on Supply, Delivery and Installation of Security, Access Control, Communications, Audiovisual and Pitch Lighting Systems in Various Stadia

3916) As reported in the previous year, on 14 September, 2017 the State Department of Sports (SDS) awarded a contract to a company at contract sum of USD 15,892,980 (KSh.1, 609,037,145). The contract was for the design, supply, testing, commissioning and supervision of security, access control, communications, audiovisual and pitch lighting systems. The works were to be completed within a period of four (4) months and involved remodeling of five (5) Stadia which included Jomo Kenyatta Stadium in Kisumu, Moi Kinoru Stadium in Meru, Kipchoge Keino Stadium in Eldoret, Nyayo Stadium in Nairobi, Kasarani Stadium in Nairobi and ten (10) training pitches that were earmarked for use during the CHAN 2018 Championships. The event was however relocated to Morocco due to the slow progress of the works.

3917) A review of the State Department's payment records for the year ended 30 June, 2018 disclosed that the company was paid a 20% advance payment of USD 3,178,596 (KSh. 330,537,997) vide P.V. No.0618 dated 30 January 2018. The advance payment was based on a security guarantee issued on 30 October, 2017. It was however noted that the security guarantee was valid up to 28 February, 2018 and had therefore expired by the time of the audit in November, 2018 and no evidence was presented to confirm its re-validation. In view of the foregoing, there is a risk of not recovering the advanced amount of Kshs.330,537,997 as the security guaranteeing the amount had expired but had not been renewed. It is also not clear when and if the project will be completed considering that the funding was withdrawn by the National Treasury.

Submission by the Accounting Officer

3918) The Accounting Officer admitted that advance payment amounting to 20% of the contract price of $ 330,537,997 was paid to MS Auditel upon presenting a bank guarantee. Subsequently, the contractor embarked on the works as per the contract and to date Engineering works which are at 40% of the contract are complete as per invoice of USD $ 5,899,474.42 attached.

3919) However, the State Department for Sports is in consultation with the Attorney General's office and the Ministry of Public works to conclude the matter.

3920) **Committee Observation**

The audit matter was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was made in that regard. The Committee reiterates the same recommendation

1061.2 Irregular Payments to Members of Parliament (MPs)

3921) As previously reported, an amount of KSh.2, 461,872 was on 29 June, 2018 transferred by the State Department to the National Sports Fund for the purpose of catering for MPs during the FIFA World Cup Games held in Russia in July, 2018. The funds were meant to cater for two (2) MPs expenses during the final two (2) weeks of the games (1 – 17 July, 2018). The payments were based on requests from the Clerk of the National Assembly Ref. No. KNA/DCS/SCT/2018 (023) of 14 June, 2018 and Ref. No. NA/WCC/2018/VOL.1/02 of 18 June, 2018. However, the members of the National Assembly serve under Parliamentary Service Commission (PSC) and all their expenses should have been financed by the PSC.

3922) In the circumstances, the State Department should pursue a refund of the KSh.2, 461,872 irregularly paid to the two (2) Members of Parliament.

Submission by the Accounting Officer

3923) The Accounting Officer submitted that this matter was resolved by the Committee in 2017/2018.

3924) **Committee observation**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommended was made in that regard. The Committee reiterates the same recommendation.

1061.3 Excess – Development Appropriation Vote

3925) As previously reported, a review of the summary statement of development appropriation for the year ended 30 June, 2018 revealed that development vote expenditure amounted to Kshs.2,280,773,796 against a budget of Kshs.2,246,899,981 resulting to an excess vote of Kshs.33,873,815. The over expenditure was mainly attributed to acquisition of assets where a total of Kshs.1,812,044,124 was spent against a budget of Kshs.1,748,211,106 resulting to an over expenditure of Kshs.63,833,018 or about 4%. Though the management explained that this over utilization resulted from adjustments in the supplementary budget after expenditure had already been incurred, there was no evidence to show subsequent approval from the National Treasury or parliament as required.

Submission by the Accounting Officer

3926) The Accounting Officer submitted that this matter was resolved by the Committee in 2017/2018.

3927) **Committee observation**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommended was made in that regard. The Committee reiterate the same recommendation

1061.4 Un-budgeted Disbursement and Excess Vote to National Sports Fund

3928) As reported in the previous year, an amount of Kshs.404, 444,538 was transferred by the State Department as special grants to National Sports Fund. However, the National Sports Fund had not budgeted for these funds. Further, the Fund's management were not involved in the procurement process for payments made from this funding.

3929) In addition, included in this amount was Kshs. 63,390,000 meant for the Commonwealth Games but the National Sports Fund spent a total of KSh. 130,553,340 for this event resulting to unauthorized over expenditure of Kshs. 67,163,340. The over expenditure was funded through reallocation of funds meant for World Rally Championships held in Naivasha without approval of the National Treasury.

3930) In the circumstances, it was not possible to ascertain if transfer of special grants to National Sports Fund amounting to Kshs.404, 444,538 was lawful and whether the resultant expenditure on Commonwealth Games totaling Kshs.130, 553,340 was a proper charge to public funds together with the resulting unauthorized over expenditure of Kshs. 67,163,340.

Submission by the Accounting Officer

3931) The Accounting Officer submitted that this matter was resolved by the Committee in 2017/2018.

3932) **Committee observation**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommended was made in that regard. The Committee reiterate the same recommendation

Other Matter
1062. Budget Control and Performance

3933) The State Department of Sports had budgeted for receipts totaling Kshs. 11,300,200,541 but realized Kshs. 10,873,497,759 resulting to a shortfall of Kshs. 426,518,832 or 4%. Further, the State Department had budgeted to spend Kshs. 11,300,200,541 but actual expenditure amounted to Kshs.4, 153,207,452 resulting to an under expenditure of Kshs. 7,146,993,089 or 63%. The under expenditure was mainly on transfers to other government units and acquisition of assets of Kshs. 7,078,921,965 or 72% and Kshs. 5,463,238 or 33% respectively. The under expenditure of Kshs. 7,146,993,089 or 63% of the budgeted expenditure implies that the state department did not achieve its goals as planned and this may have hindered the citizens from accessing some critical services from the State Department during the year under review.

Submission by the Accounting Officer

3934) The Accounting Officer submitted that this matter was resolved by the Committee in 2017/2018.

3935) **Committee observation**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommended was made in that regard. The Committee reiterates the same recommendation

THE COMMITTEE WAS INFORMED THAT PARAGRAPHS 1065- 1082 RELATES TO SPORTS FUNDS AND FALLS WITHIN THE PURVIEW OF SPECIAL FUND ACCOUNTS COMMITTEE.

30. STATE DEPARTMENT FOR CULTURE AND HERITAGE

REPORT ON THE FINANCIAL STATEMENTS VOTE 1134

Josephta O. Mukobe, the Principal Secretary and Accounting Officer for State Department for Culture and Heritage (Vote 1134), appeared before the Committee on 27th July, 2021 to adduce evidence on the audited financial statement for the State Department for Culture and Heritage (Vote 1134) for the Financial Year 2018/2019. She was accompanied by the following officers:

1. Mr. Stephen N. Mutham -Head of finance
2. Mr. Nelson M. Osioru -Head of Accounting Unit.
3. Mr. Boniface Simba -Senior Deputy Secretary.
4. Mrs. Stella Moraa -Deputy Head of Accounting Unit.
5. Dr. Kiprop Lagat -Director of Culture.
6. Mr. Jane Murago Munene -Former Executive Director.
7. Mr. Maurice K. Murimi -Former Finance and Admin Director.

1083. Cash and Cash Equivalents

1083.1 Variance between IFMIS Generated Trial Balance and Financial Statements

3936) The cash and bank balances from IFMIS generated Trial Balance differed with the financial statements balances as follows:

Item	Codes	Account/ Cash	IFMIS Trial Balance (Kshs.)	Financial Statements (Kshs.)	Difference (Kshs.)
Bank Balances	6530000	Recurrent	1,358,280,986	309,889	1,357,971,097
	6540000	Development	127,827,672	77,700	127,749,972
	6550000	Deposits	43,828,373	26,426,654	17,401,719
Cash Balances	6580000	Cash in Hand	2,925,797,122	304,437	2,925,492,685
Total			**4,455,734,153**	**27,118,680**	**4,428,615,473**

3937) Management has not explained or reconciled the variances.

Submission by the Accounting Officer

3938) The Accounting Officer submitted that it was true that, the cash and bank balances from IFMIS generated Trial balance differed with financial statements. The variances arose due to some bank statements not having been availed online by the time of the audit. The department followed up with the National Treasury to avail the missing bank statements and the same were availed. The auto bank reconciliations were done and there are no more variances between the IFMIS generated Cash balances and financial statements Cash balances.

3939) **Committee Observation and Findings**

The Committee observed that the matter was discussed its report of 2017/2018 and marked it as resolved.

1083.2 Long Outstanding Balances in Bank Reconciliation

3940) The recurrent bank account reconciliation statement as at 30th June, 2019 reflects unexplained long outstanding payments in cashbook not in bank statements and payments in bank statements not in cash book amounting to Ksh.537,359.00 and Ksh.189,655.00 respectively.

3941) In the circumstances, the accuracy of the cash and cash equivalents balance of Ksh.27,118,680 reflected in the financial statements as at 30th June ,2019 could not be confirmed.

Submission by the Accounting Officer

3942) The Accounting Officer submitted that it was true that the recurrent bank account reconciliation statement as at 30th June,2019 reflects unexplained long outstanding payments in cashbook not in bank statements and payments in bank statements not in cash book amounting to Ksh.537,359.00 and Ksh.189,655.00 respectively.

- The amount of Ksh.537,359, was erroneously captured in the cashbook and the same has since been reversed accordingly.
- The amount Ksh.189,655.25 was erroneously omitted from the cashbook but has since been captured.

3943) **Committee Observations and Findings**

(i) The Committee observed that although the Accounting Officer has made effort to reverse the error, the evidence to support the reversal has not been provide for audit verification;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) The Committee further observed that the Accounting Officer failed to ensure that reconciliations are done in time and submitted to the Auditor General in time as provided Regulation 90 of the Public Finance Management (National Government) Regulations, 2015; And

(iv) The query remained unresolved.

3944) **Committee recommendations**

1) **The Committee reprimands the Accounting Officer for failure to ensure that reconciliations are done in time and submitted to the Auditor General in time as provided Regulation 90 of the Public Finance Management (National Government) Regulations, 2015.**
2) **The Accounting Officer should within one (1) month of tabling and adoption of this report provide to the Auditor General, for verification, well supported reconciliation statements addressing the unreconciled balances.**

1084. Acquisition of Assets

1084.1 Motor Vehicles Not Registered in Department Name

3945) Annex 4 to the financial statements discloses a summary of fixed assets worth Ksh.224,274,001 as at 30th June,2019.Included in the fixed assets are seventeen (17)motor vehicles owned by the state department for Culture and Heritage that are not registered in the department' s name.

3946) In the circumstances, the ownership and security of the seventeen (17) vehicles included in the fixed assets balance of Ksh.224,274,001 could not be ascertained.

Submission by the Accounting Officer

3947) The Accounting Officer submitted that it was true that, annex 4 to the financial statements discloses a summary of fixed assets worth Ksh.224,274,001 as at 30th June, 2019.Included in the fixed assets are seventeen (17) motor vehicles owned by the state department for Culture and Heritage that are not registered in the department' s name.

3948) The State Department's vehicles' logbooks have been affected by the frequent reorganization of government ministries and agencies; hence the logbooks were left with the parent State Departments which bought the vehicles. Four (4) vehicles belonging to PPMC were acquired through Gender and Social Services, eight (8) vehicles for Kenya National Archives & Documentation Services and Three (3) vehicles for Department of Culture were acquired through the then Home Affairs which is currently under the Ministry of Interior and Co-ordination of National Government (State Department for Correctional Services).

3949) The State Department has since requested the various State Departments to furnish us with the logbooks as required by the regulations.

3950) **Committee Observation and Findings**

The Committee observed the State Department was yet to obtain ownership documents for the vehicles.

3951) **Committee recommendations**

The Accounting Officer should within three (3) months of tabling and adoption of this report present a report to the National Assembly and the Auditor General on the status of the process of acquiring the ownership documents in the name of the State Department.

1084.2 Construction of Civil Works

3952) Included in the acquisition of assets balance of Kshs.70,874,612 as disclosed in Note 9 to the financial statements is Kshs.40,000,000 being Development Grant transferred to the National Museums of Kenya for rehabilitation and upgrade of Tom Mboya Mausoleum in Rusinga Island, Homabay County. The National Museums of Kenya awarded the construction tender to a local firm on 25 April, 2019 at a contract sum of Kshs.45,457,740 thereby exceeding the budget by Kshs.5,457,740, without prior approval of the State Department for Culture and Heritage who was the initiator of the project.

3953) Consequently, the accuracy of acquisition of assets figure of Kshs.70,874,612 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

3954) The Accounting Officer submitted that it was true that included in the acquisition of assets balance of Ksh.70,874,612 as disclosed in Note.9 to the financial statements is Ksh.40,000,000 transferred to the National Museums of Kenya for Rehabilitation and upgrade of Tom Mboya Mausoleum in Rusinga Island, Homabay county. It was also true that, the National Museums of Kenya awarded the construction tender to a local firm on 25th April,2019 at a contract sum of Ksh.45,457,740. The State Department disbursed a total amount of Ksh.50,713,125 to National Museums of Kenya for Rehabilitation and upgrade of Tom Mboya Mausoleum in Rusinga Island, Homabay county. The disbursements were made as indicated below:

Financial Year	Amount Disbursed
2017/2018	10,713,125
2018/2019	40,000,000
Total	50,713,125

3955) From the foregoing, the contract sum of Ksh.45,457,740.00 was within the budget.

Committee Observation and Findings

The Committee observed that the matter was discussed its report of 2017/2018 and marked it as resolved.

1085. Unsupported Retention

3956) Included in the accounts payables balance of Ksh.26,426,654.00 is Ksh.4,098,684.00 recorded as retention money for contractors. However, the retention amount has been outstanding from 2008/2009 financial year but supporting documents were not made available for audit verification.

3957) In the circumstances, it has not been possible to ascertain the accounts payables balance of Ksh.26,426,654.00 as at 30th June ,2019.

Submission by the Accounting Officer

3958) The Accounting Officer submitted as follows: -

These were deposit bank balances transferred to the State Department for Culture and the Arts after the Ministry of Sports Culture and the Arts was split into two State Departments. The Department has since written to the State Department for Sports vide letters REF SDCH/AC/1 VOL.1(15) dated 19th November,2019, SDCH/AC/13 VOL.1(30) dated 8th July,2020 and SDCH /AC/13 VOL.1(31) dated 14th September ,2020 requesting them to avail the details of the retentions in order to determine what the projects relate to for audit verification.

3959) **Committee Observations and Findings**

(i) The Committee observed that details relating to the retention amount of Ksh.4,098,684.00 have not been provided to date;
(ii) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012; and
(iii)The matter remained unresolved.

3960) **Committee Recommendation**

1) **Within one (1) month upon tabling and adoption of this report, the Accounting Officer should provide to the National Assembly and the Auditor General details of the retention amount of Ksh.4,098,684.00 for audit verification.**
2) **Where the Accounting Officer fails to provide the details of the retention amount of Kshs.4,098,684.00, the Accounting Officer should be surcharged for failure to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012.**

1086. Pending Bills

3961) Note 16.2 to the financial statements reflects pending bills amounting to Ksh.41,675,655 as at 30th June ,2019 arrived at as follows:

	Amount Kshs
Opening Pending Bills	23,560,673
Additions during the year	74,934,927
Sub total	98,495,600
Less paid during the year	(56,819,945)
Pending Bills as at 30th June,2019	41,675,655

3962) Included in the pending bills additions of Ksh.74,934,927.00 is an amount of Ksh.48,532,854.00 being undisclosed pending bills from earlier years. No explanation was given on why the bills did not form the first charge in the previous year and why they were omitted in the previous year's records. Further, no supporting documents were made available for audit scrutiny for the undisclosed pending bills brought forward.

3963) Further, included in the pending bills of Ksh.41,675,655 is an amount of Ksh.2,514,648 not supported by payment vouchers and invoices. In view of the foregoing, it has been possible to ascertain the legality and propriety of the previous year's undisclosed pending bills amounting to Ksh.48,532,584 including the payments of pending bills of Ksh.56,819,945.

Submission by the Accounting Officer

3964) The Accounting Officer submitted as follows: -

- The amount of Ksh.48,532,854 was inadvertently omitted from the said financial statements.
- The additional pending bills remained outstanding due to lack of adequate budget allocation in the year under review, while others did not have adequate supporting documents for payment purposes. However, the State Department was able to pay Ksh.56,819,945 during the year.
- Supporting documents for the said pending bills have since been availed for verification.
- In addition supporting documents for Ksh.2,514,648 have since been availed for audit verification.

3965) **Committee Observations and Findings**

(i) The Committee observed that although the Accounting Officer made effort to submit the supporting documents to the Office of the Auditor General for audit verification, the submissions were provided a day before the date of this meeting and they have not been verified;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) The Committee also observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015. However, the support documents have since been availed to the Auditor General, verified and found satisfactory.

1087. Prior year Unresolved Issues

1087.1 Transfers to Other Government Units

3966) As previously reported, the statement of receipts and payments for the year ended 30 June, 2018 reflected Kshs.2,817,534,350 in respect of transfers to other Government Units. However, six (6) entities confirmed receipts totalling Kshs.1,416,648,100 against transfers of Kshs.1,483,183,950 resulting into an unexplained variance of Kshs.66,535,850. Management did not explain or reconcile the variances during the year under review.

Submission by the Accounting Officer

3967) The Accounting Officer submitted that the as indicated in my response for Para 940 of the auditor's report for the financial year 2017/2018 the variances were reconciled and the financial statements revised accordingly. The same have since been submitted to the auditors for review as per the PAC recommendation for the same year.

3968) **Committee Observations and Findings**

The matter was resolved as per the PAC recommendation in the Report on examination of Auditor General's report for financial year 2017/18.

1087.2 Pan African Organization of Film Maker (FEPACI)

3969) As previously reported a Memorandum of Understanding (MOU) was signed on 23 December, 2013 between the then Ministry of Sports, Culture and the Arts and FEPACI. According to the MOU, the Ministry was to provide financial resources at Kshs.84,000,000 annually for four (4) years with effect from 2014/2015 in respect of management and operations of the Secretariat Office in Kenya. The funds were to be disbursed and utilized under the terms and conditions governing the management of public funds. As at the time of audit carried out in December, 2018, the Ministry had disbursed a total of Kshs.334,421,573 as shown below:

Financial year	**Amount (Kshs.)**

2014/2015	85,985,637.00
2015/2016	64,000,000.00
2016/2017	84,681,554.00
2017/2018	99,754,382.00
Total	**334,421,573.00**

3970) Accordingly, the Ministry was required to monitor and guide the operations of FEPACI as per the addendum to the MOU. However, no evidence was availed indicating that the Ministry carried out its monitoring role. Further, the following irregularities were noted:

1087.2.1 Unauthorized Bank Account

3971) FEPACI operated a bank account with the Commercial Bank of Africa without the approval of The National Treasury contrary to Section 28(1) of the PFM Act, 2012. The Secretariat was therefore, in breach of the law.

Submission by the Accounting Officer

3972) The Accounting Officer submitted that the as indicated that FEPACI opened a bank account as guided by its Memorandum and Articles of Association. The matter has since been resolved as per the PAC recommendation in the Committee report for the financial year 2017/2018.

3973) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and marked as resolved.

1087.2.2 Closure of FEPACI Operations in Kenya

3974) FEPACI closed its operations in Kenya on 30 June, 2018 and at the time of closure, the Federation had a bank balance of Kshs.29,338,898 and cash in hand balance of Kshs.45,526. No documentary evidence was availed to show that the balances were refunded back to the State Department of Culture and Heritage as required. Further, as at the date of closure of its operations in Kenya on 30 June, 2018, an amount of Kshs.1,858,640 being receivables due from unsurrendered imprests, rent, water and electricity deposits were still outstanding. The unsurrendered imprests included Kshs.1,044,134 issued as per diem to the Secretary General and others. In addition, as at the closure of operations on 30 June, 2018 FEPACI had accrued trade and other payables amounting to Kshs.16,296,026. No explanation was given on how these debts would be settled.

Submission by the Accounting Officer

3975) The Accounting Officer submitted that the as indicated in my response for Para 943.2 of the auditor's report for the financial year 2017/2018 the bank balances amounting to Ksh.29,338,898 have not yet been refunded back to the State Department since the accounts were frozen. This amount is still withheld by Commercial bank of Africa.

3976) As per the PAC recommendation, we are liaising with the office of the Attorney General and the Cabinet Secretary National Treasury to have the bank account reinstated and all liabilities paid. Correspondences between The National Treasury and Attorney General were attached for perusal by the Committee.

3977) **Committee Observations and Findings**

The matter was discussed the matter and made following recommendations per the PAC Report on examination of Auditor General's report for financial year 2017/18:

1) **The Accounting Officer should within three (3) months of tabling, adoption of this report, follow up with the office of the Attorney General, and the CS National Treasury to have the bank accounts reinstated and all liabilities paid.**
2) **The Auditor-General should within three (3) months of tabling and adoption of this reports, review this matter and report in the subsequent audit cycle.**

1087.2.3 Procurement of Goods and Services

3978) An audit review of FEPACI expenditure revealed that an amount of Kshs.23,710,787 was not supported. Further, FEPACI did not prepare procurement plans during the four (4) years of operations as required by Section 53 (2) of the Public Procurement and Asset Disposal Act, 2015. In the circumstances, the propriety of the expenditure incurred of Kshs.23,710,787 could not be confirmed.

Submission by the Accounting Officer

3979) The Accounting Officer submitted that the as indicated in my response for Para 943.3 of the auditor's report for the financial year 2017/2018 the entity was guided by Rules of Governance concerning Contracting with Third Parties coupled with the Articles of Association 41(d) to procure goods and services.

3980) In addition, FEPACI is not a national government entity, as per PAC recommendation for Para 943.1 of 2017/2018 financial year.

3981) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18.

1087.2.4 Irregular Per diem Payments to a Consultant

3982) An amount of Kshs.928,881 was paid to an individual being per diem and airfare while attending FEPACI meetings in South Africa. However, it was noted that the payee was a consultant and therefore did not qualify for per diem payments for the two trips he made to South Africa on 25 September, 2015 and 27 October, 2015.The payment was therefore ineligible.

Submission by the Accounting Officer

3983) The Accounting Officer submitted that the as indicated in my response for Para 943.4 of the auditor's report for the financial year 2017/2018 these trips made by Mr. Nderitu were necessary for the design of FEPACI's five programmes. The matter has since been resolved as per the PAC recommendation.

3984) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18.

1087.2.5 Audit of FEPACI Financial Statements by Private Firms

3985) FEPACI did not submit its financial statements to the Auditor-General for audit as required by Section 81(4) of the Public Finance Management Act, 2012 despite a clear clause in the MOU that funds so disbursed were to be utilized under the terms and conditions governing the management of public funds. During the four (4) years of operations, FEPACI hired a private firm and paid audit fees totalling Kshs.3,289,594 without seeking the approval of the Auditor-General. As a result, the amount is not a proper charge to public funds.

3986) In view of the foregoing, the four (4) years operations of FEPACI have not been within the Public Finance Management Act, 2012 and the accountability of the Kshs.334,421,573 disbursed to the Secretariat could not be confirmed as at the time of the audit.

3987) **Submission by the Accounting Officer**

3988) The Accounting Officer submitted that the as indicated in my response for Para 943.5 of the auditor's report for the financial year 2017/2018 FEPACI's accounts were audited at the end of every financial year as per the MOU and FEPACI's Articles of association 62 and 63 relating to audit.

3989) The audit was carried out as per the required Accounting standards for the years 2014/15,2015/16 ,2017/18 with provision of management letters and signed accounts. The matter has since been resolved as per the PAC recommendation.

3990) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18.

1087.3 Uzalendo Festival and Renovation of Three (3) Monuments

3991) As previously reported, an amount of Ksh.28 Million was disbursed to the National Museums of Kenya by the State Department of Culture and Arts to finance Uzalendo Festival which was to be held at Uhuru Gardens for three (3) days from 10 December, 2016 at a cost of Ksh.20 Million while the balance of Ksh.8 million was to cater for the renovation of monuments. The receipts and invoices to support the total expenditure of Ksh.28 million were not availed for audit. A review of the position in 2017/2018 revealed that the supporting document were still outstanding.

Submission by the Accounting Officer

3992) The Accounting Officer submitted that the as indicated in my response for 2016/2017 financial year of auditor's report Para. 387, National Museums of Kenya contracted Moving Media Ltd as event organizers of the Uzalendo festival at a cost of Ksh.20 million and payments were made as stipulated in the general condition of the contract and no other expenses were incurred outside the contracted amount. The payment vouchers, contract agreement and the invoices have been availed for audit verification.

3993) In addition, with regard to Ksh.8 million that was meant for rehabilitation of three monuments, the Accounting Officer stated as follows:

3994) That management was facing emergencies due to the near collapse of the Ainsworth building that houses the Directorate of Sites and Monuments and the terrorism alerts on public spaces. Ksh.1,663,315 were utilized for rehabilitation of Ainsworth building and Ksh.4,193,300.20 was utilized to construct the perimeter wall in order to mitigate the threats.

3995) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18.

1087.4 Unsupported Pending Bill Unsupported Pending Bill

3996) As previously reported, an amount of Ksh.6,782,758 paid on 27 June 2017 to the Standard Group Ltd as balance for the Smithsonian Kenya Mambo Poa Festival and hosting Radio Talk Shows held in May and June 2014. It was then noted that the invoices worth Ksh.7,868,000 attached to the payment voucher dated back to the year 2014/2015 and had not been appearing in the list of Pending Bills.

3997) To date, the validity and propriety of the expenditure of Ksh.6,782,758 cannot be confirmed.

Submission by the Accounting Officer

3998) The Accounting Officer submitted that the as per PAC recommendation for the financial year 2016/2017 the State Department endeavors to keep up- to- date reconciled financial statements that include all the pending bills (if any) in compliance with provisions of section 68(2) of the PFM Act 2012.

3999) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18.

Other Matter

1088. Budget and Budgetary Control

4000) Actual revenue realized amounted to Ksh.4,145,824,305 against a budget of Ksh.4,360,365,245 resulting to a shortfall of Ksh.214,540,940 or 5%. Actual expenditure amounted to Ksh.4,144,958,654 against the approved budget of Ksh.4,360,365,245 resulting in an under expenditure of Ksh.215,406,591 or 5%. The shortfall in budgeted receipts and under expenditure implies that some activities of the state department were not achieved as planned.

Submission by the Accounting Officer

4001) The Accounting Officer submitted as follows:

- The shortfall of Ksh.214,540,940 was mainly occasioned by non-receipt of exchequer.
- The under expenditure of Ksh.215,406,591 resulted from non-receipt of exchequer which resulted into pending bills.

4002) **Committee Observations and Findings**

The Committee observed that receipt shortfall was mainly attributed by non-receipt of exchequer, which in turn affected expenditure negatively. The explanation by the Accounting Officer was satisfactory and, therefore, the matter was resolved.

1089. Inadequate Staffing

4003) As at the time of audit in October, 2019, the staff establishment availed for audit revealed that the State Department's official establishment was 1531 members of staff. However, it was noted that only 247 members of staff were in position resulting to a shortfall 1284 and implying that the State Department was under staffed. Further, it was noted that out of 247 in post, 142 are aged 50 years and above. The Department did not demonstrate any efforts taken to correct the situation. From the forgoing, the State Department is not able to effectively and efficiently carry out its mandate as intended and normal operations of the State Department are critically affected.

Submission by the Accounting Officer

4004) The Accounting Officer submitted that the department has instituted remedial measures by way of writing to the public service commission and forwarding indents to advertise and competitively fill vacant posts at levels of CSG 5,6,7 and entry level in the technical departments. The Public Service Commission has since issued a letter on Succession Management where several posts have been filled particularly at the level of CSG 5, 6 and 7 in our technical departments.

4005) The department has also sought the commission's authority to fill vacancies that fall under delegated powers as well as Drivers and support staff. If and when approved ,it will address the issue of stagnation and increase in capacity for effective and efficient service delivery.

4006) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to inadequate staffing was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1090. Lack of a Risk Management Policy

4007) The State Department does not have a risk management policy. Failure to develop a risk management policy means that the entity does not have a framework for the management of risk and hence it is not possible to adequately identify, assess and control risk. As a result, it is not possible to define the entity's risk appetite and set the risk tolerance levels by identifying boundaries against unacceptable exposure to risk.

Submission by the Accounting Officer

4008) The State Department recognizes lack of risk management policy and therefore lack of framework to effectively manage risks. However, the department has endeavored to address this challenge by developing one, which is in draft form. The Risk Management Policy will be finalized and approved this financial year 2021/2022.

4009) **Committee Observations and Findings**

(i) The Committee observed that the risk management policy is not yet approved; and
(ii) The matter remained as unresolved.

4010) **Committee Recommendation**

Within one (1) month upon tabling and adoption of this report, the Accounting Officer should submit a copy of the Risk Management Policy to the National Assembly and the Auditor General.

1091. Disaster Recovery Strategy

4011) The State Department lacks a Disaster Recovery Strategy and backups stored in a secure off site locations. Data Recovery Strategic Plan could secure the State Department's ability to provide basic services or its financial commitments, identify the financial problems and place the department in a sound and sustainable financial condition as quickly as possible, to avoid the risk of loss of data which would otherwise adversely affect service delivery.

Submission by the Accounting Officer

4012) The State Department relies on the backup of the Ministry of Information Communication and Technology (ICT). We are however liaising and in consultation with the Ministry of ICT to facilitate offsite storage for the systems that currently have inbuilt infrastructure data backup.

4013) **Committee Observations and Findings**

(i) The Committee observed that the Disaster Recovery Strategy is not in place; And
(ii) The matter remained as unresolved.

4014) **Committee Recommendation**

Within one (1) month upon tabling and adoption of this report, the Accounting Officer should submit a copy of the Risk Management Policy to the National Assembly and the Auditor General.

31. MINISTRY OF ENERGY

REPORT OF THE FINANCIAL STATEMENTS FOR VOTE 1152

Eng. Joseph R. Njoroge, CBS, the Principal Secretary and Accounting Officer the Ministry of Energy (Vote 1152) appeared before the Committee 28th July, 2021, 20th August 2021 while Maj. Gen (Rtd) Gordon Kihalangwa, CBS, the new Principal Secretary and Accounting Officer the Ministry of Energy (Vote 1152) appeared before the Committee on 25th October, 2021 to adduce evidence on the audited financial statement for the Ministry of Energy (Vote 1152) for the Financial Year 2018/2019. They were both accompanied by the following officers:

1. Mr. Moses Gitau - Deputy Accountant General.
2. Mr. J. J Gitonga - Deputy Director Renewable Energy
3. Ms. Judith Okumu - Senior Finance Officer.
4. Mr. Catusim Mugo - Principal Accountant

And submitted as follows:

1092. Land without Titles Deeds

4015) As reported in previous years, the State Department does not have title deeds for eight (8) parcels of land it occupies totaling 21.42 hectares, with book value of approximately Kshs.180,700,000 as detailed out below.

No.	Land Parcel	Size (Hectares)	Location (County)	Approximate Value (Kshs)	Condition
1	Kericho Energy Centre	0.8	Kericho	15,000,000	Developed and fenced
2	Kisii Energy Centre	1	Kisii	12,000,000	Developed and fenced
3	Migori Energy Centre	0.4	Migori	2,200,000	Developed and fenced
4	Bukura Energy Centre	2	Kakamega	3,500,000	Developed and fenced
5	Uasin Gishu Energy Centre	0.8	Uasin Gishu	12,000,000	Developed and fenced
6	Kitui Energy Centre	10.4	Kitui	53,000,000	Developed and fenced
7	Wambugu Energy Centre	4	Nyeri	80,000,000	Developed and fenced
8	Mitunguu Energy Centre	2.02	Meru	3,000,000	Developed and fenced

	Total	**21.42**		**180,700,000**	

4016) Available information indicates that the process of acquiring titles for some of the land parcels has been underway for significantly long duration. According to the management, an inter-ministerial committee was formed to help fast tract the issuance of the title deeds from the Ministry of Lands. However, by the time of concluding this audit the title deeds were yet to be issued. In the absence of ownership documents, it has not been possible to confirm the rightful ownership of these parcels, and the risk of encroachment by squatters and land grabbers.

Submission by the Accounting Officer

4017) The Accounting Officer submitted that the Ministry confirms that the measures taken in pursuit of acquiring title deeds has continued to yield positive results as detailed in the attached comprehensive report.

4018) The highlights of the report include the following:

1. An allotment letter has been issued for Kitui Energy Centre by the National Land Commission vide their letter to the Cabinet Secretary for Energy Ref. No. 310147/112 of 19th November 2019. The requisite fees has been paid and the Ministry has requested Ministry of Lands and Physical Planning to expedite the process
2. For Kericho Energy Centre, the Ministry of Lands and Physical Planning submitted quotations for carrying out cadastral survey of the energy Centre vide their letter Ref. KER/64/QT/VOL. 1/55 dated 21 June 2019. The survey exercise is targeted to be completed during the third quarter of the on-going Financial Year
3. For Uasin Gishu Energy Centre, the Ministry in addition to the visit to the County Authorities wrote to Ministry of Lands and Physical Planning to resurvey the land to facilitate issuance of tile deed
4. Through the support of surveyors from the Ministry of Lands, survey maps were prepared for all of the Energy Centers following the fact finding mission carried out in July 2019 by the inter-ministerial Committee. The fact finding report provides detailed land titling status of every Energy Centre
5. The Ministry further tasked the respective Energy Centers to continuously follow the land title deeds and submit regular progress reports. Towards this end, a meeting was held between the Energy Centre Managers and the Headquarter Officers of Renewable Energy Directorates in October 2019. The meeting among other things received reports from the Centre Managers on the title deeds and discussed further actions;

   The details of the progress made in pursuit of the Energy Centers title deeds are contained in the comprehensive report attached for your ease of reference. Moreover, the Rural Electrification and Renewable Energy Corporation, whose expanded mandate as per Energy Act 2019 will include the Energy Centre functions, have in the meantime been incorporated in the inter-ministerial committee dealing with the acquisition of title deeds for the Energy Centers. Two officers have been nominated into the said committee as per their letter Ref. No. REREC/CEO/M/1 dated 17 February 2020.

4019) The department included the above information as a foot note as a disclosure in our financial statement. Further, Section 12 (2) (g) of PFM Act states that the National Treasury shall "be the custodian of an inventory of national government assets except as may be provided by other legislation or the Constitution. To affirm this position, the National Treasury in consultation with the Public Sector Accounting Standard Board (PSASB) issued a circular on the preparation of Assets and Liabilities Registers in the Public Sector. This will assist in consolidation of all the National Assets by the National Treasury who are the custodian of all assets in Government. Land is one of the Key assets as classified in templates and guidelines will follows under the purview of the National Treasury. A copy of National Treasury Circular was availed for perusal by the Committee.

4020) **Committee Observations and Findings**

(i) The Committee observed that the parcels of land still do not have title deeds and the Ministry had formed an Inter-ministerial Committee to address the matter in line with the PAC recommendation in the FINANCIAL YEAR 2015/2016 report.

(ii) The Inter-ministerial team under the guidance of the Ministry of Lands and Physical Planning undertook field survey of the energy centers to confirm the actual status and to advise on the way forward;

(iii) Further, the Committee during their status verification of various energy centres observed that some lands had ownership issues between the National Government and the Local communities.

4021) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should provide the status report from the Inter-ministerial Committee.**
2) **The Cabinet Secretary responsible for matters of Energy and the Chairperson, National Land Commission should expedite the process of survey and issuance of title for the land and report back the progress to the National Assembly within three (3) months of the adoption of this report.**

Other Matters

1093. Pending Bills

4022) During the year under review, the State Department for Energy reported pending bills amounting to Kshs.13,878,074 (2017-2018: Kshs.133,624,202). This balance was carried forward to 2019/2020 financial year. Failure to settle pending bills in the year in which they relate adversely affects the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge to that year's budget provision.

Submission by the Accounting Officer

4023) The Accounting Officer submitted that the pending bills amounting to Kshs.13,878,074 for FY 2018-2019 and Kshs.133,624,202 for FY 2017-2018 has since been paid being first charge in the subsequent financial year budget.

4024) **The Committee observed and found that:**
The Committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

4025) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

1094. Budgetary Performance and Control

4026) As reflected in the summary statement of appropriation - recurrent and development combined, the State Department for Energy had a budgeted revenue of Kshs.61,179,444,470 but received Kshs.50,395,527,863 resulting to under collection of Kshs.10,783,916,607 or 18%. Further, the State Department for Energy projected to spend Kshs.61,862,081,856 on various budget lines but actually incurred an expenditure amounting to Kshs.50,109,572,531 resulting to an overall budget under absorption of Kshs.11,752,509,325 or 19%.

4027) In the circumstances, the State Department may not have implemented all its planned activities creating a negative impact on service delivery to the public.

Submission by the Accounting Officer

4028) The Accounting Officer submitted that under absorption was as a result of late approval of Supplementary budget 2, 0f 2018/19 FY by the National Treasury in the fourth quarter.

4029) **The Committee observed and found that**:
The committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

4030) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4031) **Conclusion**

1095. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1096. Lack of Risk Management Policies

4032) According to Section 165(1) of the Public Management Finance Act, 2015, a National Government entity should develop risk management strategies which should include fraud prevention mechanisms, a disaster recovery plan and a system of risk management and internal control that builds robust operations. An audit review of the State Department's policies revealed that it has not developed effective risk management policies to assist the State Department in forecasting and evaluation of risk and identification of procedures which would assist in avoiding the risks or minimizing their impact. Consequently, the State Department for Energy may not be in a position to objectively assess and manage it risks, in the event that it experiences an adverse exposure.,

Submission by the Accounting Officer

4033) The Accounting Officer submitted that the Principal Secretary has constituted a Risk Management Committee while being guided by Public Finance Management Act 2012 and the attendant regulations composed of all heads of departments in the ministry chaired by the Secretary Administration. The team has been tasked to develop a risk management policy, risk management framework and risk management register that will be updated periodically. The committee is set to commence its tasks in the financial year 2021/2022 having been affected by Covid-19 pandemic in the financial year ended 2020/2021.

4034) **Committee Observations and Findings**

(i) The Committee observed that the risk management policy is yet to be developed by the State Department;

(ii) The Committee further observed that the Accounting Officer was in breach of Regulation 165 (1) of the Public Finance Management (National Government) Regulations, 2015.

4035) **Committee recommendations**

Within three months of tabling and adoption of this report, the Accounting Officer should develop a risk management policy, risk management framework and risk management register.

1097. Lack of an Audit Committee

4036) Section 174(1) of the Public Finance Management (National Government) Regulations, 2015, provides that each National Government entity shall establish an Audit Committee. Further, according to the guidelines set out in Gazette Notice No.2691 of 26 April, 2016, the main function of the Audit Committee of a National Government is to support the Accounting Officer with regard to his responsibilities over risk, control, governance and associated assurance. However, it was observed that the State Department does not have an Audit Committee and whereas an advertisement for its establishment was made in the media on 15 October, 2019, no Audit Committee had been established by the time of concluding this audit. In absence of an Audit Committee, it was not possible to confirm whether there was effective oversight over the financial reporting, risk management as well as governance.

Submission by the Accounting Officer

4037) The Accounting Officer admitted that the State Department did not have an Audit Committee in place at the time of audit. However, the Audit committee is now in place and providing effective oversight over the financial reporting, risk management as well as governance.

4038) **Committee Observations and Findings**

The Committee further observed that the Accounting Officer was in breach of Regulation 174 (1) of the Public Finance Management (National Government) Regulations, 2015. However, the audit Committee is now in place and working.

4039) **Committee recommendations**

The Committee reprimands the Accounting Officer for the delay in setting up of the Audit Committee and breach of Regulation 174 (1) of the Public Finance Management (National Government) Regulations, 2015.

1098. Incomplete Fixed Assets Register

4040) According to the summary of fixed assets register at Annex 2, the State Department had fixed assets with a total historical cost of Kshs.243, 715,954,926. However, review of the detailed fixed assets register revealed that the State Department had not maintained a comprehensive records relating to cost, disposals, depreciation, accumulated depreciation, location of the asset, tagging and officer responsible for each asset. In the absence of updated and comprehensive fixed assets register, it was not possible to confirm the completeness of the reported assets and that they were free from risk of loss and misappropriation.

Submission by the Accounting Officer

4041) The Accounting Officer submitted that this has been occasion by numerous splitting of the ministry. However, the National Treasury has come up with a standard format of generating and maintaining a Fixed Asset/Liabilities register and the State Department has adopted the same to enhance clear framework of accounting and maintaining public assets.

4042) The Ministry is in the process of updating the Fixed Asset Register Template as per the National Treasury Circular No.5/2020 dated 25th February, 2020.

4043) **Committee observations and Findings**

(i) The Committee observed that there were no proper Asset register listing all those assets, their location and the core details regarding them;

(ii) The Committee observed that there was no system of identification e.g. tagging/coding, costing, disposals, depreciation, accumulated depreciation and location of the asset of the assets had been done, thus putting the assets at risk of getting lost through theft and misplacement.

4044) **Committee recommendations**

Within three months of tabling and adoption of this report, the Accounting Officer should develop a proper Asset Register and a system of identification.

DONOR FUNDED PROJECT

KENYA ELECTRICITY MODERNIZATION PROJECT (IDA CR. NO. 55870 KE)

REPORT ON THE FINANCIAL STATEMENTS

4045) **Unqualified Opinion**

1099. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1100. Budget Control and Performance

4046) The statement of comparison between the budget and actual amounts indicates that the Project expected to receive Kshs.62,885,000 but actual receipts amounted to Kshs.223,766,283 or over 255% of the expected receipts. Similarly, the budgeted payments amounted to Kshs.62,885,000 but an amount of Kshs.75,797,754 was utilized resulting to an over-expenditure of Kshs.12,912,754 or budget utilization of 121%.

4047) Further, the Project is reflected to have received Kshs.144,242,280 from The National Treasury which had not been budgeted for. Management has indicated that the amount was erroneously wired to their account and constitutes Other Pending Payables to be refunded to the Ministry.

Submission by the Accounting Officer

4048) The Accounting Officer submitted that under absorption was as a result of late approval of Supplementary budget 2, 0f 2018/19 FY by the National Treasury in the fourth quarter.

4049) **Committee Observations and Findings**

The Committee observed that the Accounting officer indicated that the under absorption was as a result of late approval of Supplementary budget 2, 0f 2018/19 FY by the National Treasury in the fourth quarter. However, the Accounting officer did not respond to the issue raised by Auditor-General on over-expenditure of Kshs.12,912,754 and accountability of the Kshs.144,242,280 from the National Treasury which had not been budgeted for.

4050) **Committee recommendations**

Within three months of tabling and adoption of this report, the Accounting Officer should provide documents to show how the extra funds of Kshs.144,242,280 were transferred back to The National Treasury.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4051) **Conclusion**

1101. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4052) **Conclusion**

1102. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA ELECTRICITY EXPANSION PROJECT (IDA CR. NO.4743-KE)

REPORT ON THE FINANCIAL STATEMENTS

4053) **Unqualified Opinion**

1103. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1104. Account Closure and Transfer of Bank Balance

4054) A review of the Project financing agreement, together with the closure and cancellation of the credit account on 2 August, 2018, indicate that the Project was closed by the World Bank. However, the balance of Kshs.3,385,425 which was in the account at the time of closure had not been transferred back to The National Treasury as at 30 June, 2019. Although, according to Management, guidance has been sought from The National Treasury on how to close the Project, it is not clear why this has not been finalized.

Submission by the Accounting Officer

4055) The Accounting Officer submitted that it was true that the World Bank closed the project. At the time of closure, the project account had a balance of Kshs.3,385,425. The State Department sought guidance from the National via the attached letter requesting them to facilitate the process of transferring the balance to the consolidated fund as required in the closure procedures for donor funded projects.

4056) **Committee Observations and Findings**

The Committee observed that the balance of Kshs.3,385,425 which was in the account at the time of closure had not been transferred back to The National Treasury as at 30 June, 2019 and might be lost through unnecessary bank charges..

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4057) **Conclusion**

1105. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4058) **Conclusion**

1106. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PETROLEUM DEVELOPMENT LEVY FUND

REPORT ON THE FINANCIAL STATEMENTS

4059) **Unqualified Opinion**

1107. There were no material issues relating to effectiveness of internal controls, risk management and governance.

Other Matter

1108. Budget Control and Performance

4060) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,127,000,000 and Kshs.1,147,386,300 resulting to an over-collection of Kshs.20,386,300 being interest income. Similarly, the Funds spent Kshs.1,318,614,137 against the approved budget of Kshs.1,127,000,000 resulting to an over-absorption of Kshs.191,614,137 or 17% of the budget. Management has not explained the reason for material deviations as required under IPSAS 24 and as per the reporting template.

Submission by the Accounting Officer

4061) The Accounting Officer submitted that under absorption was as a result of late approval of Supplementary budget 2, 0f 2018/19 FY by the National Treasury in the fourth quarter.

4062) **Committee Observations and Findings**

The Committee observed that the Accounting officer indicated that the under absorption was as a result of late approval of Supplementary budget 2, 0f 2018/19 FY by the National Treasury in the fourth quarter. However, the Accounting officer did not respond to the issue raised by Auditor-General on over-expenditure of Kshs.191,614,137 and accountability of the Kshs.20,386,300 from the National Treasury which had not been budgeted for.

4063) **Committee recommendations**

Within three months of tabling and adoption of this report, the Accounting Officer should provide documents to show how the extra funds of Kshs.20,386,300 were transferred back to the National Treasury.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4064) **Conclusion**

1109. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4065) **Conclusion**

1110. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA ENERGY-SECTOR ENVIRONMENT AND SOCIAL RESPONSIBILITY PROGRAMME

REPORT ON THE FINANCIAL STATEMENTS

4066) **Unqualified Opinion**

1111. There were no material issues noted during the audit of the financial statements of the Programme.

Other Matter

1112. Budget Control and Performance

4067) The budgeted receipts of the Fund for the year under review amounted to Kshs.250,000,000 but actual receipts were Kshs.3,229,900 resulting to a deficit of Kshs.246,770,100 equivalent to 99% of the budget. In the absence of sufficient receipts, the Fund spent a portion of its accumulated surplus to finance its expenditure for the year totaling Kshs.71,775,972. The Fund did not therefore execute some of its intended activities which in turn implies that citizens were denied services. No explanations have been provided for the Fund's failure to fully implement the budget as approved by the National Assembly.

Submission by the Accounting Officer

4068) The Accounting Officer submitted that the Semi-Autonomous Agencies under the Ministry of Energy have not been remitting their contribution as required due to budgetary constraints.

4069) Further, in the Executive Order No. 1 of 2017 on reorganization of Government some Agencies such as Kenya Petroleum Refineries, Kenya Pipeline Company and National Oil Corporation are no longer under the Ministry of Energy. As a result, the fund regulations will be amended accordingly in the proposed ten-year action plan for the period 2019- 2029.

4070) **Committee Observations and Findings**

The Committee observed that the Accounting officer indicated that the under absorption was as a result insufficient receipts, thus the Fund spent a portion of its accumulated surplus to finance its expenditure for the year totaling Kshs.71,775,972. The committee further observed that the Fund did not fully execute its intended activities leading to denial of services to citizens.

4071) In addition, the committee observed that the Executive Order No. 1 of 2017 on reorganization of Government transferred some Agencies such as Kenya Petroleum Refineries, Kenya Pipeline Company and National Oil Corporation from the Ministry of Energy and thus the fund regulations ought to be amended.

4072) **Committee recommendations**

Within three months of tabling and adoption of this report, the Cabinet Secretary should initiate the process of reviewing the fund regulations.

1113. Production of Energy Crops for Bio-Fuels

4073) Audit review of the strategic objectives of the Fund as described in its action plan for the 2008-2018 period indicated that one of the main objectives of the Fund, namely production of energy crops for bio-fuels, was not achieved. Although the Fund has, through the State Department of Energy, identified croton and jatropha crops for production of bio-diesel, significant investment in their cultivation and processing is yet to be made in spite of the Fund's activities being set to end in 2029. As a result of the financing shortfall, many projects and activities planned for the year under review were not implemented, and the Fund may not attain its goals and objectives.

Submission by the Accounting Officer

4074) The Accounting Officer admitted that one of the main strategic objectives of the Fund was for production of Energy Crops for Biofuels that was not achieved at the time of Audit. However, investigations on the potential of biofuel crops was done. Two energy crops namely Croton and Jatropha were identified and promoted for biodiesel production. Jatropha did very well in the north Coast where a power plant at Mpeketoni in Lamu operated on biodiesel. The Report and brochure on the same was availed for perusal by the Committee.

4075) **Committee observations and findings**

The Committee observed that investment in the cultivation croton and jatropha crops and processing is yet to be made in spite of the Fund's activities being set to end in 2029 and the Fund may not attain its goals and objectives.

4076) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Accounting officer should provide a comprehensive status and viability report on the project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4077) **Conclusion**

1114. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4078) **Conclusion**

1115. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA OFF-GRID SOLAR ACCESS PROJECT FOR UNDERSERVED COUNTIES (IDA CR. NO. 6135-KE)

REPORT ON THE FINANCIAL STATEMENTS

4079) **Unqualified Opinion**

1116. There were no material issues noted during the audit of the financial statements of the Project.

KENYA OFF-GRID SOLAR ACCESS PROJECT FOR UNDERSERVED COUNTIES (IDA CR. NO. 6135-KE)

Other Matter

1117. Budget Control and Performance

4080) The summary statement of comparative budget and actual amounts reflects final receipts of budget and actual on comparable basis of Kshs.300,000,000 and nil respectively, resulting to an under-funding of Kshs.300,000,000 or 100% of the budget. As a result, the project utilized the previous year's balance savings to finance current activities amounting to Kshs.163,558,180. The underfunding may affect the planned activities and projects which will impact negatively on service delivery for the public.

Submission by the Accounting Officer

4081) The Accounting Officer submitted as follows:

i) The Facilities Manager (SNV Netherlands Development Organizations) met their deliverables as per the contract within the period under review. However, there was a delay in the submission of invoices for quarter 3 and 4, which substantially affected the absorption.

ii) There was a delay in completing the procurement processes on various consultancies which required clearance from Word Bank in compliance with World Bank procurement procedures.

4082) However, Measures have been put in place to ensure that the absorption is accelerated.

4083) **Committee observations and findings**

(i) The Committee observed that there was an under-funding of Kshs.300,000,000 due to delay in the submission of invoices for quarter 3 and 4, which substantially affected the absorption.

(ii) The Committee further observed that there was delay in completing the procurement processes on various consultancies which required clearance from Word Bank in compliance with World Bank procurement procedures.

4084) **Committee Recommendations**

The Committee reprimands the Cabinet secretary in charge of Energy for lack of proper project implementation planning to ensure smooth flow of the implementation process.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4085) **Conclusion**

1118. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4086) **Conclusion**

1119. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR ENERGY

BOGORIA SILALI GEOTHERMAL PROJECT (LOAN NO.2013.66.103)-GEOTHERMAL DEVELOPMENT COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

4087) **Unqualified Opinion**

1120. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4088) **Conclusion**

1121. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4089) **Conclusion**

1122. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MULTINATIONAL - KENYA SECTION OF INTERCONNECTION PROJECT **OF ELECTRIC GRIDS OF NILE EQUATORIAL LAKES COUNTRIES (ADF LOAN NO. 2100150022643) – KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED**

REPORT ON THE FINANCIAL STATEMENTS

4090) **Unqualified Opinion**

1123. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1124. Expiry of Loan Agreement

4091) The Loan Agreement between the Republic of Kenya and the African Development Bank (ADB) became effective on 20 September, 2010 and expired on 31 December, 2017. However, the Project has stalled at 61% level of completion since the Kenya Electricity Transmission Company (KETRACO) terminated the services of the main contractor for non-performance in April, 2016. Further, no funds have been received from the Bank since 2016. Analysis of the Project's cash and pending bills records as at 30 June, 2019 revealed a funding shortfall amounting to Kshs.733,209,258.

4092) No evidence has been presented to show that the Loan Agreement has been renewed or other source of funds identified. As a result, the status of the Project, including plans on its revival and completion, is not clear.

Submission by the Accounting Officer

4093) The Accounting Officer admitted that the contract with (Inabensa) for the project was terminated in April 2016. An arbitration case was instituted in July 2019, and ruled in favour of the contractor, KETRACO appealed to the High Court for setting aside of the arbitral award to Inabensa. The High Court delivered their ruling in February 2021 upholding the arbitral award. KETRACO has hence received the go ahead from the Attorney General office to appeal the case in the Court of Appeal which outcome is yet to be determined, the ruling on application is coming up on 19th November 2021.

4094) The Africa Development Bank (ADB) loan expired on 31st December 2017 during the above-mentioned legal process, KETRACO has engaged The National Treasury through Ministry of Energy for alternative financing to complete the project.

4095) In the meantime, the Company is in the process of preparing the bidding documents for the engagement of a new contractor. Copies of the termination letter, High Court ruling, Appeal Sheet and letters from the National Treasury on alternative funding were all availed to the Committee for perusal.

4096) **Committee observations and findings**

(i) The Committee observed that the Project has stalled at 61% level of completion since the Kenya Electricity Transmission Company (KETRACO) terminated the services of the main contractor for non-performance in April, 2016.

(ii) The Committee further observed that the Company is in the process of preparing the bidding documents for the engagement of a new contractor.

(iii) In addition, the Committee observed that there is an appeal case in the Court of Appeal which outcome is yet to be determined, the ruling on application come up on 19th November 2021.

4097) **Committee Recommendations**

1) **The Committee reprimands the CEO of Kenya Electricity Transmission Company (KETRACO) for the lengthy delay in the implementation process.**

2) **Within three (3) months after tabling and adoption of this report, the Accounting Officer should submit the ruling and other tender documents for the new contract to the Auditor-General and the National Assembly for review.**

1125. Outstanding Arbitration on Terminated Contract

4098) An arbitration case filed in April, 2016 between the contractor and KETRACO in respect to termination of the works contract has not been finalized. On 30 July, 2019, the Tribunal issued their award in favour of the contractor. However, Management is of the opinion that the decision made by the Arbitrator is against public policy and intends to present an appeal to have the award set aside. As at June, 2019 the Company had incurred legal fees totalling Kshs.101,791,087 on the matter.

4099) In the circumstances, it is not possible to confirm when the matter will be resolved.

Submission by the Accounting Officer

4100) The Accounting Officer admitted that the contract with (Inabensa) for the project was terminated in April 2016. An arbitration case was instituted in July 2019 and ruled in favour of the contractor. KETRACO appealed to the High Court for setting aside of the arbitral award to Inabensa. The High Court delivered their ruling in February 2021 upholding the arbitral award. KETRACO was the opinion that the decision made by the Arbitrator was against public policy and requested to appeal the ruling. The Attorney General office has since given KETRACO go ahead to appeal the case in the Court of Appeal which outcome is yet to be determined The ruling on the application is coming up on 19th November 2020. Copies of the termination letter, High Court ruling, Appeal Sheet and letters from the National Treasury on alternative funding were all availed to the Committee for perusal.

4101) **Committee observations and findings**

(i) The Committee observed that Kenya Electricity Transmission Company (KETRACO) had incurred legal fees totalling Kshs.101,791,087 in regard to the terminated services of the main contractor.

(ii) The Committee further observed that the Company had an appeal case in the Court of Appeal whose outcome is yet to be determined.

4102) **Committee Recommendations**

1) **The Committee reprimands the CEO of Kenya Electricity Transmission Company (KETRACO) for the lengthy delay in the implementation process.**

2) **Within three (3) months after tabling and adoption of this report, the Accounting Officer should submit the ruling documents to the Auditor-General and the national Assembly for review.**

1126. Longstanding Pending Bills

4103) As at 30 June, 2019, the Project had, since inception, incurred various costs on works and services totalling Kshs.4,661,273,441 as disclosed in Note 9.1 and detailed in Annex 2A to the financial statements. The amounts certified as payable as at 30 June, 2019 amounted to Kshs.3,453,000,803 out of which bills totalling Kshs.3,006,460,944 had been paid with the remainder of Kshs.446,539,858 owed to the terminated contractor amounting to Kshs.416,993,484, and to other parties amounting to Kshs.29,546,374. It is expected that bills owed to the contractor will have to wait for the final decision on the arbitration case between the two parties. Management has not explained when the bills owed to other parties will be paid.

Submission by the Accounting Officer

4104) The Accounting Officer admitted that the outstanding amount at the end of the period 30th June 2019 was Ksh.446,539,858, out of which Ksh.446,539,858 was due to the main contractor Inabensa and Ksh.29,546,374 was due to AECOM, the consultants for the Line. The invoice amounts have not been settled yet, due to ongoing Cases at court of Appeal and the High court respectively, both cases are yet to be determined. Evidence of the case in the Court of Appeal and High Court were availed to the Committee for perusal.

4105) **Committee Observations and Findings**

(i) The Committee observed that there was Ksh.446,539,858 due to the main contractor Inabensa and Ksh.29,546,374 due to AECOM, the consultants for the Line. However, the bills owed to the contractor would have to wait for the final decision of the Court after the arbitration case between the two parties failed to bear fruits.

(ii) The Committee further observed that the Company had appeal cases in the Court of Appeal which outcome is yet to be determined.

4106) **Committee Recommendations**

Within three (3) months after tabling and adoption of this report, the Accounting Officer should submit the ruling documents to the Auditor-General and the national Assembly for review.

1127. Longstanding Wayleave Compensation Expenses

4107) Compensation owed to landowners for wayleaves acquired since inception of the Project amounted to Kshs.1,722,348,174, as disclosed in Note 9.2 and detailed in Annex 2B to the financial statements. The amounts certified as payable amounted to Kshs.1,665,169,644 out of which payments totalling Kshs.1,338,656,642 were made over time leaving Kshs.326,513,002 unpaid as at 30 June, 2019. Management has indicated that the outstanding amounts were not paid on time due to lack of budgetary allocation from The National Treasury, protracted negotiations with, or absence of, certified land owners, and court injunctions filed by interested parties. The plan to settle the bills has not been disclosed.

4108) I have not qualified my opinion in respect to these matters.

Submission by the Accounting Officer

4109) The Accounting Officer admitted that Management has continued to request for budgetary support to settle outstanding wayleave compensation which are not contentious.

4110) The company continues to received exchequer support from the Government of Kenya to facilitate payment of pending wayleaves, During the Financial year 2018/2019, the budget allocated was Ksh.100M while the actual receipts was Ksh.75M. Payment of outstanding wayleaves is based on available budget and actual disbursement. The company is collaborating with other government National Land Commission, Presidential Delivery Unit and National Development Implementation Committee to resolve disputes relating to wayleave compensation. The current outstanding wayleave figure as at October 2021 was Ksh.334,488,458.

4111) **Committee Observations and Findings**

(i) The Committee observed that the figure of Kshs.326,513,002 stated as unpaid as at 30 June, 2019 in the Audit report differ from the figure given in the Accounting Officer submission of Kshs.334,488,458

(ii) The Committee further observed that the Company had appeal cases in the Court of Appeal which outcome is yet to be determined.

4112) **Committee Recommendations**

1) The Committee reprimands the Cabinet secretary in charge of Energy for lack of proper project implementation planning to ensure smooth flow of the implementation process.

2) Within three (3) months after tabling and adoption of this report, the Accounting Officer should reconcile the records on amount owing. Further, the Cabinet Secretary National Treasury should undertake to set aside enough funds to fully compensate the certified land owners without delay.

Other Matter

1128. Under-Absorption of Budgeted Funds

4113) During the year under review, the Project had budgeted for counterpart Government receipts totalling Kshs.100,000,000 but received only Kshs.75,531,103 equivalent to 76% of budgeted receipts. Further, the Project incurred expenditure totalling Kshs.46,355,066 against the Kshs.100,000,000 budget, attaining an absorption rate equivalent to 46% of the budget.

4114) In view of the low absorption of funds, some of the Project's plans for the year were not executed.

Submission by the Accounting Officer

4115) The Accounting Officer admitted that the low absorption of funds was occasioned by termination of contractors, pending succession issues and protracted compensation negotiations. Documents were availed to the Committee for perusal.

4116) **Committee Observations and Findings**

4117) The Committee observed that the low absorption of funds was occasioned by termination of contractors, pending succession issues and protracted compensation negotiation.

4118) **Committee Recommendations**

1) **Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide a status report of the project progress to the National Assembly and the Auditor General for review. Further, the Cabinet Secretary National Treasury should undertake to set aside enough funds to fully implement the projects budgeted for without delay.**
2) **The Committee reprimands the Cabinet Secretary in charge of Energy during the audit for lack of proper project implementation planning to ensure smooth flow of the implementation process.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1129. Unrealized Investment in the Project

4119) As previously mentioned, cumulative expenditure incurred on the Project as at 30 June, 2019 totalled Kshs.4,661,273,441 as shown in the statement of receipts and payments for the year then ended. The Project was expected to have been completed by 31 December, 2017 but was assessed at 61% level of completion at the time it stalled in April, 2016. No additional works have been carried out since.

4120) Because of the delay in completing the works, taxpayers have not received the services envisioned at the launch of the Project. Further, should remedial action not be taken immediately, additional costs may have to be incurred to bring the Project to completion.

Submission by the Accounting Officer

4121) The Accounting Officer admitted that KETRACO has engaged The National Treasury through Ministry of Energy to finance completion of the project. Currently KETRACO is in the process of preparing bid documents for the engagement of a new contractor subject to availability of funds. This will allow for completion of the project hence realization of the investment in the project. Copies of letters were availed to the Committee for perusal.

4122) **Committee Observations and Findings**

The Committee observed that there was undue delay in the completion of the project of Ksh.4,661,273,441 due to court cases and termination of the contract by the main contractor. The project might have to wait for the final decision of the Court after the arbitration case between the two parties failed to bear fruits.

4123) **Committee Recommendations**

1) **Within three (3) months after tabling and adoption of this report, the Accounting Officer should submit a report on the measures/actions taken to safeguard the Project from vandalism.**

2) **Within three (3) months after tabling and adoption of this report, the Cabinet Secretary National Treasury should undertake to set aside adequate funds to implement the project without delay.**
3) **Within one year after tabling and adoption of this report, the Accounting Officer should ensure that the project is completed.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4124) **Conclusion**

1130. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MULTINATIONAL KENYA-TANZANIA POWER INTERCONNECTION PROJECT (KENYANCOMPONENT) (ADF LOAN NO.2100150032846) - KENYA ELECTRICITY TRANSMISSION COMPANY LTD

REPORT ON THE FINANCIAL STATEMENTS

4125) **Unqualified Opinion**

1131. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1132. Pending Bills – Goods and Services

4126) As disclosed in Annex 2A, the Project Management has contracted works and services amounting to Kshs.3,303,669,940. The amounts certified as payable amounted to Kshs.1,216,625,175 out of which bills amounting to Kshs.1,088,153,258 was paid leaving an outstanding pending bill of Kshs.128,471,917. The unpaid bills are likely to lead to penalties or litigation with the consequent risk of wasteful expenditure.

Submission by the Accounting Officer

4127) The Accounting Officer admitted that since the Project Account are reported on cash basis, The balances outstanding as at 30th June 2019, are attributable to outstanding invoices for goods/services received but not settled, these have subsequently been settled.

4128) T**he Committee observed and found that**:

4129) The committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

4130) **Committee recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

1133. Long Outstanding Wayleave Compensation

4131) As disclosed in Annex 2B, the expected compensation to landowners amounted to Kshs.740,936,855 for wayleaves acquired since inception of the Project on 5 December, 2012. The amounts certified as payable totaled to Kshs.238,519,493 out of which Kshs.159,354,536 was paid leaving an unpaid balance of Kshs.79,164,957. The Management has attributed failure to pay the amount due to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee land owners and various court injunctions on disputed cases.

Submission by the Accounting Officer

4132) The Accounting Officer admitted that the slow wayleaves compensation is occasioned lack of finances as per the budget by the National Treasury, budget was since provided in 2019/2020. Pending Succession issues and land disputes have also caused delays in registration of easement and acquisition of the right of way.

4133) **Committee Observations and Findings**

The Committee observed that the figure of Kshs.79,164,957 stated as unpaid resulted from failure to pay the amount due to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee land owners and various court injunctions on disputed cases.

4134) **Committee recommendations**

Within three (3) months after tabling and adoption of this report, the Cabinet Secretary National Treasury should undertake to set aside enough funds to fully compensate the certified land owners without delay.

1134. Delayed Project Implementation

4135) According to the Project's physical progress, the Isinya-Namanga transmission line under Lot K1 contracted at Kshs.16,262,400 was at 42% complete by 30 June, 2019. The Project is behind schedule considering that the expected completion date was April, 2020 and significant work remains to be done. The Project may not be completed as per the expected completion date and this may result in delayed delivery of services to the public and possible cost overruns.

Submission by the Accounting Officer

4136) The Accounting Officer admitted that the project delayed initially because of protracted wayleave negotiations challenges by the locals, effort have since been done to amicably address the wayleave challenges and the contractor is accelerating on the works with a view to complete the project by December 2021.

4137) **Committee Observations and Findings**

The Committee observed that the project had delayed as a result of protracted wayleave negotiations challenges by the locals. The wayleave challenges have since been addressed and the contractor would complete the project by December 2021.

4138) **Committee Recommendations**

The contractor to provide completion certificates and evidence of project commissioning as of 31 December 2021 to the Auditor-General and the National Assembly for review.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4139) **Conclusion**

1135. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4140) **Conclusion**

1136. There were no material issues relating to effectiveness of internal controls, risk management and governance.

LAST MILE CONNECTIVITY PROJECT (LOAN NO.2100150032195) – KENYA POWER AND LIGHTING COMPANY PLC

REPORT ON THE FINANCIAL STATEMENTS

4141) **Unqualified Opinion**

1137. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4142) **Conclusion**

1138. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4143) **Conclusion**

1139. There were no material issues relating to effectiveness of internal controls, risk management and governance.

LAST MILE CONNECTIVITY PROJECT II (LOAN NO.2000200000152) – KENYA POWER AND LIGHTING COMPANY PLC

REPORT ON THE FINANCIAL STATEMENTS

4144) **Unqualified Opinion**

1140. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4145) **Conclusion**

1141. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4146) **Conclusion**

1142. There were no material issues relating to effectiveness of internal controls, risk management and governance.

EASTERN ELECTRICITY HIGHWAY PROJECT (IDA CREDIT NO. 5148-KE; AFD LOAN NO: CKE 1030 01B AND ADF LOAN NO: 2100150027845) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

4147) **Unqualified Opinion**

1143. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1144. Pending Bills – Goods and Services

4148) As disclosed in Annex 2A, the Project Management has contracted works and services amounting to Kshs.44,151,972,936. The amounts certified as payable amounted to Kshs.34,249,094,191 out of which bills amounting to Kshs.25,677,533,152 was paid leaving an outstanding pending bill of Kshs.8,571,561,039. The unpaid bills are likely to lead to penalties or litigation with the consequent risk of wasteful expenditure.

Submission by the Accounting Officer

4149) The Accounting Officer admitted that since the Project Account are reported on cash basis, The balances outstanding as at 30th June 2019, are attributable to outstanding invoices for goods/services received but not settled as at that date as they were still being subjected to reviews by our Technical team. These have subsequently been settled. Copies of list of settled pending bills were availed to the Committee for perusal.

4150) **The Committee observed and found that:**

The committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

4151) **Committee recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

1145. Long Outstanding Wayleave Compensation

4152) As disclosed in Annex 2B, the expected compensation to landowners amounted to Kshs.2,365,517,091 for wayleaves acquired since inception of the project on 31 December, 2012. The amounts certified as payable totaled to Kshs.2,553,999,281 out of which Kshs.2,067,970,732 was paid leaving an unpaid balance of Kshs.297,546,358. The Management has attributed failure to pay the amount due to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee land owners and various court injunctions on disputed cases.

Submission by the Accounting Officer

4153) The Accounting Officer admitted that the slow wayleaves compensation is occasioned by lengthy valuation negotiations due to absentee land owners and various Court injunctions and land disputes which affected the acquisition of the right of way. Copies of the Court injunctions and land valuations negotiations were availed to the Committee for perusal.

4154) **Committee observations and findings**

The Committee observed that the figure of Kshs.297,546,358 stated as unpaid resulted from failure to pay the amount due to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee land owners and various court injunctions on disputed cases.

4155) **Committee recommendations**

Within three (3) months after tabling and adoption of this report, the Cabinet Secretary National Treasury should undertake to set aside enough funds to fully compensate the certified land owners without delay.

1146. Undrawn Balances

4156) The Project had an approved budget of USD 441,000,000, UA 75,000,000, EUR 91,000,000 and counterpart funding by Government of Kenya of Kshs.8,585,000,000 all equivalent to Kshs.74,297,805,000. The Project was envisaged to be completed by 30 September, 2020. However, as at 30 June, 2019, there was an undrawn balance of Kshs.45,296,338,652 or approximately 61% of the Project funding with a total pending bills and wayleave compensation of Kshs.8,869,107,397 hence it is likely that the funding might not be fully absorbed. Consequently, the huge unutilized funding balance may lead to locking out of other projects that could have delivered services to the Kenyan citizens.

4157) The Management attributes the apparent slow absorption to the anticipated costs derived from the Project appraisal document and the savings realized after the tendering process and awards to various contractors while wayleave financing is based on actual valuations which is currently lower than the estimates.

Submission by the Accounting Officer

4158) The Accounting Officer admitted that the Ethiopia Kenya Saving resulted after a competitive tendering process compared to the estimated cost in the Finance Agreement. The savings have since been utilised to Finance Nairobi Ring Project (AfD) and Kenya Electricity System Improvement project (KESIP)-IDA.

4159) **Committee observations and findings**

The Committee observed that a competitive tendering process resulted into savings that have since been utilised to Finance Nairobi Ring Project (AfD) and Kenya Electricity System Improvement project (KESIP)-IDA. However, documents relating to approval by the financiers to divert the savings into another project were not vailed.

4160) **Committee recommendations**

Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide documents relating to approval by the financiers to divert the savings into

another project and the procurement documents for the new project to the Auditor-General and National Assembly for review.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4161) **Conclusion**

There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4162) **Conclusion**

There were no material issues relating to effectiveness of internal controls, risk management and governance.

RURAL ELECTRIFICATION IN FIVE REGIONS PROJECT (CR. NO.11/597KE, 1407PKE) – RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

4163) **Unqualified Opinion**

1147. There were no material issues noted during the audit of the financial statements of the Project.

Other Matters

1148. Delays in Project Implementation

4164) According to information reflected in the annual report and financial statements, the Project's expected commencement date was 23 September, 2013 while the expected completion date is indicated as 31 December, 2020.

4165) However, the statement of comparative budget and actual amounts indicates that the Project received Kshs.27,044,114 against the approved budget of Kshs.920,000,000, resulting to an underfunding of Kshs.892,955,886 or 97% variance between the budget and actual amounts. Further, the Project spent an amount of Kshs.27,044,114 out of the budgeted expenditure of Kshs.920,000,000. Management has attributed the underfunding and the low absorption to delays in relation to opening of the letters of credit and from challenges related to conditions set out by the financier.

4166) Under the circumstances, the objectives of this Project whose completion date is due on 31 December, 2020, may not be achieved thus denying the intended beneficiaries the envisaged services.

Submission by the Accounting Officer

4167) The Accounting Officer admitted that the project as observed is referenced as rural electrification under five regions and financed by a consortium of Arab banks to include Arab bank for economic development in Africa (BADEA), Opec Fund for international development (OFID) Saudi Fund for Development (SFD), Abu Dhabi Fund and counterpart Funding by Government of Kenya. The loan agreement was signed on 22nd September 2013, but the project implementation could not start until all the loan agreements by the four financiers were cleared by the Attorney General. The final loan with Abu-Dhabi was cleared in 13th June 2016.

4168) During this time the Corporation was preparing for the implementation and installation contracts which were signed on 1st of July 2016 with the contractors. Copies of Financing Agreement for Abudhabi Fund, Opinion of the Attorney concerning Financing Agreement between GOK and Abudhabi fund and, extracts of contracts signed with contractors were availed to the Committee for perusal.

4169) After the contracts were signed there was the challenge of establishing the letters of credit given the conditions set out by the financiers; a condition that contractors bank pays them for works, goods and services then claim re-imbursement from the financiers which was declined by the contractors banks. Consultations were done with the Ministry of Energy, the National Treasury and the financiers to address the challenge and on 4th January 2018, the lead financier Arab Bank for Economic Development in Africa (BADEA) advised on the process through which letters of credit will be handled.

4170) The aforementioned process caused delay in commencement of the project and this made the contractors to request for variation of contract price. Consultations were done with the Ministry of Energy through a letter dated 26th February 2018. Subsequently, the Ministry sought for concurrence with the National Treasury through a letter dated 13th March 2018. The National Treasury wrote to the financiers on the need to vary contract prices given that the market prices and services had gone up through a letter dated 18th June 2018. The financiers responded through a letter dated 4th July 2018 and advised that the project should be implemented as per the terms and conditions in contract agreements.

4171) The Ministry of Energy communicated to the Corporation on the decision of the financier in a letter dated 1st August 2018. The Corporation responded in a letter dated 14th August 2018 to the Ministry of Energy forwarding a progress report on the project and intention to inform the contractors on the financiers' decision on price variation. Letters to the contractors were sent on 3rd September 2018. Copiues of letter from BADEA on request for waiver of the conditions in the withdrawal procedures, letters from contractors requesting for price variations, letter informing the Ministry Of Energy the likelihood of price variations and communication to contractors on financiers' decision were all availed to the Committee for perusal.

4172) The contractors submitted the invoices totaling Ksh.1,805,033,103.74 for opening Letters of credit but unfortunately the budget allocated for the project in the FY 2018/2019 was Kshs.920,000,000 causing a variance of Kshs.885,033,103.74.The budget could not accommodate the letters of credits. The corporation managed to process only two letters of Credit for Lot 3 –Fountain Technologies and Lot 5-Eswari PVT Ltd totaling to Kshs.717,533,351. After establishment of the Letters of credit, the process of obtaining special commitments from the financiers and the first special commitment was received on 9th September 2019 from BADEA.

4173) The project financial statements are prepared on cash basis and the amount of Kshs.717,533,351 which is 70% absorption could not be reported until actual payments are received by the contractor. The amount of Kshs.27,044,114 was a direct payment for advance for Lot 5.

4174) The contractor's commenced manufacturing of materials, and as required by procurement procedures these materials must be subjected to Factory Acceptance Tests which previously required physical presence in the country of manufacture, but Covid-19 Pandemic that came with travel restrictions affected such inspections and delivery of materials. A decision was made by the Corporation to conduct online inspections. Further, upon delivery of materials, installation works was also affected due to restrictions of movement in the country thus affecting several sites which works was supposed to commence. At the moment 4(Four) contractors are on site and installation works is ongoing and is at 24% while material delivery is at 53%. Copies of the established letters of credit for Eswari PVT and Fountain Technologies Ltd and a detailed project status report were all availed to the Committee for perusal.

4175) The financiers extended the withdrawal rights to expire on 31.12.2021 through letters dated 17/01/2021 for Abu Dhabi, 9/06/2020 from Saudi Fund, 09.12.2020 from OFID and BADEA respectively. In a letter dated 15.09.2021 the Corporation has requested for further extension of withdrawal rights to give ample time to complete the project and pay the retentions. The National Treasury wrote to financiers on the same on 07.10.2021. Copies of the withdrawal rights extensions and correspondences with the National Treasury were availed to the Committee for perusal.

4176) **Committee observations and Findings**

(i) The Committee observed that there was an underfunding and low absorption caused by delays in opening of the letters of credit and challenges related to conditions set out by the financier.

(ii) The Committee further observed that the objectives of the Project might not be achieved thus denying the intended beneficiaries the envisaged services.

4177) **The Committee recommended that:**

The Accounting officer to provide copies of the withdrawal rights extensions and correspondences with the National Treasury to the Auditor General and the National Assembly for review.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4178) **Conclusion**

1149. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4179) **Conclusion**

1150. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OLKARIA-LESSOS-KISUMU TRANSMISSION LINES CONSTRUCTION PROJECT (JICA LOAN NO. KE-P28) – KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

1151. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1152. Pending Bills – Goods and Services

4180) The Project Management has contracted works and services amounting to Kshs.10,177,077,245, as disclosed in Annex 2A. The amounts certified as payable amounted to Kshs.6,821,337,940 out of which Kshs.6,701,050,167 was paid leading to an unpaid pending bill of Kshs.120,287,773. The unpaid bills are likely to lead to penalties or litigation, with the consequent risk of wasteful expenditure.

Submission by the Accounting Officer

4181) The Accounting Officer admitted that the amount that was outstanding at the end of the Financial Year 2019/2020 is KES 120,287,773 which was due to the contractors, represented outstanding balances as at 30th June, 2019. The accrued amounts were subsequently settled in the financial year 2019/2020. The project was completed in the current financial year. Copies of completion certificates were availed to the Committee for perusal.

4182) **The Committee observed and found that:**
The committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

4183) **Committee recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

1153. Long Outstanding Wayleave Compensation

4184) As disclosed in Annex 2B, the expected compensation to landowners amounted to Kshs.2,922,439,175 for wayleaves acquired since inception of the project in February, 2016. The amounts certified as payable totalled to Kshs.1,728,237,712 of which Kshs.1,381,840,872 was paid leaving an unpaid balance of Kshs.346,396,840. Management attributed failure to pay the amount to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee land owners and various court injunctions.

Submission by the Accounting Officer

4185) The Accounting Officer admitted that the slow wayleaves compensation is occasioned by lengthy valuation negotiations, absentee landowners and various court injunctions and land disputes. However, the project was allocated KES 1.8 Billion in the financial year 2019/2020 to undertake wayleave compensation and construction cost. The project has since been completed in the current financial year. Copies of completion certificates were availed to the Committee for perusal.

4186) **Committee observations and findings**
The Committee observed that the figure of Kshs.346,396,840 stated as unpaid resulted from lengthy land valuation negotiations due to absentee land owners and various court injunctions on disputed cases. However, Kshs.1.8 Billion was allocated in the financial year 2019/2020 to undertake wayleave compensation and construction cost.

4187) **Committee recommendations**

1) **Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide the list of certified land owners and evidence of payment to the National Assembly.**
2) **Within three (3) months after tabling and adoption of this report, the Auditor General should undertake a Forensic Audit on wayleave Compensations done by the state department of Energy in all donor funded projects.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4188) **Conclusion**

1154. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4189) **Conclusion**

1155. There were no material issues relating to effectiveness of internal controls, risk management and governance.

220KV AND 132KV TRANSMISSION LINES AND SUBSTATIONS (EXIM BANK OF INDIA FUNDED) PROJECTS - KENYA ELECTRICITY TRANSMISSION COMPANY

REPORT ON THE FINANCIAL STATEMENTS

4190) **Unqualified Opinion**

1156. The Committee observed that the project got Unqualified Opinion Paragraph 1158 and did not have material issues and thus satisfactory.

Emphasis of Matter

1157. Liquidation of Contractor

4191) The contractor for Lot 1A 220KV Turkwel- Ortum- Kitale substations was contracted on 16 April, 2013 with a contract sum of USD19,972,680 later revised to USD18,100,120. According to information provided by Management the contractor had achieved an overall completion status of 78%. In July, 2018, the courts in India ordered that the contractor be liquidated and resulting from this the contractor has had challenges in completing the Project due of lack of finances. According to Management, another contractor is in the process of being identified as a replacement to take over the remaining works. Consequently, the Project may not be completed on time and may also experience cost overruns.

4192) My opinion on this matter is not qualified.

Submission by the Accounting Officer

4193) The Accounting Officer admitted that the contractor to undertake the balance of works was identified and letter of No Objection received from Exim Bank. However, further progress in getting the project started is hindered because Treasury did not make an allocation in the 2021/2022 budget for AIA and GOK to enable for the settlement of advance payment. Also a letter for no objection has been received from the financier for the annex contractor. Copy of the letter of no objection was availed to the Committee for perusal.

4194) **Committee observations and findings**

The Committee observed that the courts in India ordered that the first contractor be liquidated and resulting from this the contractor had challenges in completing the Project due of lack of finances. Another contractor was identified as a replacement to take over the remaining works and letter of No Objection received from Exim Bank. However, Treasury did not make an allocation in the 2021/2022 budget for AIA and GOK to enable for the settlement of advance payment.

4195) **Committee recommendations**

Within three (3) months after tabling and adoption of this report, the Cabinet secretary National Treasury undertake to allocate enough funds to enable completion of the project as required.

Other Matter

1158. Pending Bills – Goods and Services

4196) The Project contracted works and services at a cost of Kshs.6,241,368,839, as disclosed in Annex 2A. The amounts certified as payable amounted to Kshs.5,348,831,303 out of which Kshs.5,260,692,720 was paid, leaving an unpaid balance of Kshs.87,730,872. Management has attributed failure to pay this pending bill to liquidation of the main contractor.

Submission by the Accounting Officer

4197) The Accounting Officer admitted that the outstanding amounts relate to Ms. Jyoti who is the contractor funded by Exim Bank of India (Lot 3A and 3B). The pending bill amount with regard to these contractors was incurred in the ordinary course of business. Payments for these were done after the balance sheet date. However Ms. Jyoti the company is awaiting finalization of Ms. Jyoti Accounts. The company was liquidated. Copies of the list of pending bills and other contract documents were availed for perusal by the Committee.

4198) **The Committee observed and found that:**
The committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the measures put in place to address the problem. However, the company Ms. Jyoti was liquidated and is awaiting finalization Accounts.

4199) **Committee recommendations**

The Committee recommended that:
The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year. The Accounting officer should finalize the accounts and settle the outstanding amounts for the company within three (3) months after tabling and adoption of this report.

1159. Long Unpaid Wayleave Compensation

4200) The expected compensation to landowners for wayleaves acquired since inception of the project amounts to Kshs.958,943,467, as disclosed in Annex 2B. The amounts certified as payable amounted to Kshs.818,289,510 of which Kshs.642,119,654 was paid leaving unpaid balance of Kshs.176,113,456. Management has attributed failure to pay this amount to lack of budgetary allocation from National Treasury and long negotiations among land owners, Kenya Electricity Transmission Company and the County Government of Kajiado.

Submission by the Accounting Officer

4201) The Accounting Officer admitted that the wayleave acquisition issues relating to land ownership in the County Government of West Pokot was amicably resolved and compensation made. Isinya-Namanga was allocated budget in the 2019/2020 financial year and compensation of wayleaves is ongoing. Copies of list of compensations was availed for perusal by the Committee.

4202) **Committee observations and findings**
The Committee observed that the figure of Kshs.176,113,456 stated as unpaid resulted from lack of budgetary allocation from National Treasury and long negotiations among land owners, Kenya Electricity Transmission Company and the County Government of Kajiado. However, land ownership in the County Government of West Pokot was amicably resolved and compensation made but for Isinya-Namanga a budget was allocated in the 2019/2020 financial year and compensation of wayleaves is ongoing.

4203) **Committee recommendations**

1) **Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide the list of certified land owners and evidence of payment to the National Assembly.**
2) **Within three (3) months after tabling and adoption of this report, the Auditor General should undertake a Forensic Audit on wayleave Compensations done by the state department of Energy in all donor funded projects.**

1160. Delayed Project Implementation

4204) The Lot 1A- 220KV Substations at Turkwel, Ortum & Kitale and Lot 3A- 132/33KV Machakos-Konza-Kajiado-Namanga Transmission Line reported a 78% and 60% completion rate respectively by 30 June, 2019. The Lot 1A project is suspended and significant work remains not done. Works have not started at the main strategic substation in Turkwel which may lead to underutilization of the project. Lot 3A was expected to be complete by 30 December, 2019 hence the project is behind schedule and may delay delivery of services to the public. The projects may also experience cost overruns.

Submission by the Accounting Officer

4205) The Accounting Officer admitted that Lot 1A's delay is attributable to the decision by the courts in India to liquidate the operations of Jyoti structures Ltd. Jyoti therefore ceased operations in September, 2018. The process of getting a replacement is currently going on and is expected to be concluded by March 2020. The Turkwel Substation which had been envisaged to be part of the initial contract was de-scoped and allocated to KPLC. KETRACO is therefore not implementing any substation project at Turkwel. As a result the contract sum reduced.

4206) For Lot 3A, delay in implementation was occasioned by unavailability of wayleave due to disagreement on compensation amounts with landowners. In the 2019/2020 financial year, KETRACO through government support reached consensus with the land owners and budget allocation has been provided to progress wayleave compensation. List of land owners, valuation reports and compensation list were all availed to the Committee for perusal.

4207) **Committee observations and findings**

(i) The Committee observed that Lot 1A's delay is attributable to the decision by the courts in India to liquidate the operations of Jyoti structures Ltd. Jyoti therefore ceased operations in September, 2018.

(ii) The process of getting a replacement is currently going on and is expected to be concluded by March 2020.

(iii) The Turkwel Substation which had been envisaged to be part of the initial contract was de-scoped and allocated to KPLC.

(iv) Lot 3A, delay in implementation was occasioned by unavailability of wayleave due to disagreement on compensation amounts with landowners.

4208) **Committee recommendations**

Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide List of land owners, valuation reports, compensation list and evidence of settlement of the compensation sum to the land owners to the National Assembly and Auditor General for review.

1161. Budgetary Control and Performance

4209) The Project budgeted for receipts of Kshs.845,115,000 but only received Kshs.619,192,501, resulting to a 27% under-realization of receipts. Further, the Project incurred expenditure amounting to Kshs.334,011,618 against a budget of Kshs.845,115,000, resulting to an overall budget absorption of only 40%.

4210) In view of the above, the Project's expenditure budget for 2018/2019 was largely not implemented which may lead to delay in achieving the planned activities and overall objectives of the Project.

Submission by the Accounting Officer

4211) The Accounting Officer admitted that the low absorption was brought about by the prolonged negotiations with landowners.

4212) **Committee observations and findings**

The Committee observed that the low absorption was brought about by the prolonged negotiations with landowners.

4213) **Committee recommendations**

The Accounting Officer should always ensure negotiations with land owners are done before hand to avoid delays.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4214) **Conclusion**

1162. The Committee observed that Paragraph 1164 on lawfulness and effectiveness in use of public resources did not have material issues and thus satisfactory.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4215) **Conclusion**

1163. The Committee observed that Paragraph 1165 on effectiveness of internal controls, risk management and governance in use of public resources did not have material issues and thus satisfactory.

KENYA ELECTRICITY MODERNIZATION PROJECT (IDA CR. NO. 55870 KE) - RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

4216) **Unqualified Opinion**

1164. The Committee observed that the project got Unqualified Opinion Paragraph 1166 and did not have material issues and thus satisfactory.

Other Matter

1165. Delays in Project Implementation

4217) The Project commenced on 29 June, 2015 and its expected completion date is 30 December, 2020. However, during the year under review the only activity implemented on the Project was acquisition of non-financial assets totalling Kshs.20,314,420. The implementation of this Project is significantly delayed, considering that there is only one and half years to the expiry of the five-year duration, on 30 December, 2020. The Management has not explained how it intends to complete the Project within the remaining timeline.

Submission by the Accounting Officer

4218) The Accounting Officer admitted that the project under audit review relates to Kenya Electricity Modernization Project (KEMP) financed by The World Bank. As observed, the project expected commencement and completion dates were 29 June 2015 and 30th December 2020 respectively.

4219) The project was designed in a way that the contractor would construct 10 minigrids and thereafter operate the same for 15 years through a contract between the contractor and Kenya Power and thereafter hand over the same to Kenya Power to operate and maintain.

4220) Due to this new approach the project required to have a transaction advisor to be recruited first to provide specialized expertise in the areas of structured finance, design of competitive processes for selection of private entities in public private partnership arrangements, contract negotiations with private parties etc. The contract with the transaction advisor was signed in April 2017. The consultant prepared the necessary documentation and the tender document leading to recruitment of the contractor in 9th October 2019. This process delayed due to requirement of the no objection from the World Bank on the transaction advisor and the contractor. Copies of the contract with the transaction advisor was signed in April 2017, the tender document leading to recruitment of the contractor in 9th October 2019, Contract for Kingshore New Resources Electric Jiangsu Co. Ltd and date of no objection were availed for perusal by the Committee.

4221) The tender document stipulated that prior to the commencement of the project, two contracts were to be signed at the same time with the contractor. REREC was to sign a contract for the supply and installation while Kenya Power will sign Operation and Maintenance (O&M) contract.

4222) The contract for installation and construction of the Minigrids between the contractor and REREC was completed and signed on 1st October 2019. The corporation communicated on the need to sign O&M contract with KPLC through a letter dated 1st October 2019. Further in our letter dated 8th April 2020 the Corporation further notified KPLC that site handover had been done to the contractor and that there was need to sign the O&M contract with the contractor to facilitate completion of the recruitment process as per the World Bank guidelines to enable implementation of the project. KPLC responded to the Corporation via a letter dated 5th May 2020 seeking clarification on five issues.

4223) The Ministry of energy being overall coordinator of the project, requested for a joint meeting between REREC, KPLC and Ministry of Energy to resolve the issues related to operation and maintenance contract through letter dated 27th May 2020. Copies of Extract of the contract signed between REREC and Kingshore New Resources Electric Jiangsu Co. Ltd, letter to KPLC communicating need to sign O&M contract and other letters between KPLC, Ministry of Energy and the Corporation were availed to the Committee for perusal.

4224) Thereafter, the issues were resolved amicably and KPLC agreed to prepare the Operation and maintenance contract which has already been signed by the contractor and KPLC is finalizing signing of the contract.

4225) The contractor was on site after sites handover was completed. Manufacturing of materials commenced and was slowed down by the Covid-19 pandemic, however this has now been completed and the schedule of the final Factory Acceptance Test (FAT) was scheduled on 19th October 2021. A detailed status report of the project was provided for perusal by the Committee. Withdrawal rights were extended to expire on 31st December and further extended to 31.12.2022. Copies of withdrawal rights extension, Site handover reports and Schedule of FAT from the contractor were all availed to the Committee for perusal.

4226) **Committee observations and findings**

The Committee observed that there were delays in signing of contracts for the supply and installation by REREC and another one for Operation and Maintenance (O&M) by Kenya Power and lighting Company.

4227) **Committee recommendations**

Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide the status report with the supporting certificates of work done and approved for payment to the National Assembly and Auditor General for review.

1166. Budget Control and Performance

4228) According to the statement of comparative budget and actual amounts, the Project's final budget for the year, was Kshs.321,000,000. However, no amount was advanced to the Project resulting to minimal activities during the year under review amounting to Kshs.20,320,656 from past savings of Kshs.81,642,691. Under the circumstances, the objectives of this Project whose completion date is almost due, may not be achieved and the intended beneficiaries may not receive its benefits.

Submission by the Accounting Officer

4229) The Accounting Officer admitted that The project budget for the financial was Kshs.321,000,000 but could not be absorbed due to delay in implementation of the project. The actual expenditure of Kshs.20,320,656 was on consultancies which the project paid from the balance in the project account.

4230) As mentioned earlier the project delayed due to fact that the project was designed in a way the contractor would construct 10 minigrids and thereafter operate the same for 15years through a contract between the contractor and Kenya Power and thereafter hand over the same to KPLC to operate and maintain. Due to this new approach the project required to have a transaction advisor to be recruited first to provide specialized expertise in the areas of structured finance, design of competitive processes for selection of private entities in public private partnership arrangements, contract negotiations with private parties etc. The contract with the transaction advisor was signed in April 2017. The consultant prepared the necessary documentation and the tender document leading to recruitment of the contractor in 1st October 2019. This process delayed due to requirement of the no objection from the World Bank on the transaction advisor and the contractor. Copies of the Contract for CVK, Contract for Kingshore New Resources Electric Jiangsu Co. Ltd and date of no objection were availed to the Committee for perusal.

4231) The tender document stipulated that prior to the commencement of the project, two contracts were to be signed at the same time with the contractor. REREC was to sign a contract for the supply and installation while Kenya Power will sign Operation and Maintenance (O&M) contract.

4232) The contract for installation and construction of the Minigrids between the contractor and REREC was completed and signed on 1st October 2019. The corporation communicated on the need to sign O&M contract with KPLC through a letter dated 1st

October 2019Further in our letter dated 8th April 2020 the Corporation further notified KPLC that site handover had been done to the contractor and that there was need to sign the O&M contract with the contractor to facilitate completion of the recruitment process as per the World Bank guidelines to enable implementation of the project. KPLC responded to the Corporation via a letter dated 5th May 2020 seeking clarification on five issues. The Ministry of energy being overall coordinator of the project, requested for a joint meeting between REREC, KPLC and Ministry Of Energy to resolves the issues related to operation and maintenance contract through letter dated 27th May 2020. Copies of the Extract of the contract signed between REREC and Kingshore New Resources Electric Jiangsu Co. Ltd and letter to KPLC communicating need to sign O&M contract were availed to the Committee for perusal.

4233) Thereafter, the issues were resolved amicably and KPLC agreed to prepare the Operation and maintenance contract which has already been signed by the contractor and KPLC is finalizing signing of the contract. The contractor was on site after sites handover was completed. Manufacturing of materials commenced and was slowed down by the Covid-19 pandemic, but has now been completed and the schedule of the final Factory Acceptance Test (FAT) is scheduled on 19th October 2021. A detailed status report of the project is attached for reference. Withdrawal rights were extended to expire on 31st December 2021. Copies of withdrawal rights extension and further extended to 31.12.2022, Site handover reports, Schedule of FAT from the contractor and detailed project status report.

4234) **Committee observations and findings**

The Committee observed that the under-absorption resulted from delays in signing of contracts for the supply and installation by REREC and another one for Operation and Maintenance (O&M) by Kenya Power and lighting Company.

4235) **Committee recommendations**

Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide the National Assembly and Auditor General for review with prove of absorption inform of status report, certificates of work done approved for payment.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4236) **Conclusion**

1167. The Committee observed that Paragraph 1169 on lawfulness and effectiveness in use of public resources did not have material issues and thus satisfactory.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4237) **Conclusion**

1168. The Committee observed that Paragraph 1170 on effectiveness of internal controls, risk management and governance in use of public resources did not have material issues and thus satisfactory.

NAIROBI RING TRANSMISSION LINE PROJECT (AFD CREDIT NO.CKE 6012 01G AND EIB CREDIT NO.25367/KE) – KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

4238) **Unqualified Opinion**

1169. The Committee observed that the project got Unqualified Opinion Paragraph 1171 and did not have material issues and thus satisfactory.

Other Matter

1170. Pending Bills – Goods and Services

4239) As disclosed in Annex 2A, the Project Management has contracted works and services amounting to Kshs.14,169,783,209. The amounts certified as payable totalled to Kshs.11,530,940,435 out of which Kshs.11,442,076,953 was paid leaving an outstanding pending bill of Kshs.88,863,482. The unpaid bills are likely to lead to penalties or litigation with the consequent risk of wasteful expenditure.

Submission by the Accounting Officer

4240) The Accounting Officer admitted that out of Kshs.88,863,482 above, Kshs.11.4M related to Siemens for the construction of the Suswa Substation, Ksh.19 M related to AF Consult, these amounts were settled in July and September 2019. The balance of Ksh.58.3 million relate to the completed Transmission Line. However Jyoti Structures limited was declared bankrupt. The legal proceedings to determine on the case is yet to be finalised.

4241) **The Committee observed and found that:**
The committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the measures put in place to address the problem. However, the company Ms. Jyoti was declared bankrupt,liquidated and is awaiting finalization Accounts.

4242) **Committee recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year. The Accounting officer should finalize the

accounts and settle the outstanding amounts for the company within three (3) months after tabling and adoption of this report.

1171. Long Outstanding Wayleave Compensation

4243) As disclosed in Annex 2B, the expected compensation to landowners amounted to Kshs.2,553,999,281 for wayleaves acquired since inception of the project in October, 2012. The amounts certified as payable totalled to Kshs.2,553,999,281 out of which Kshs.2,393,712,536 was paid leaving an unpaid balance of Kshs.160,286,745. The Management has attributed failure to pay the amount due to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee land owners and various court injunctions on disputed cases.

Submission by the Accounting Officer

4244) The Accounting Officer admitted that the unpaid balance has been occasioned by insufficient budgetary allocations in previous years, the management has requested for additional funding in FY 2021-2022 to cater for the pending bills which has not been allocated.

4245) **Committee observations and findings**

4246) The Committee observed that the figure of Kshs.160,286,745 stated as unpaid resulted from insufficient budgetary allocations in previous years. However, the management has requested for additional funding in FY 2021-2022 to cater for the pending bills which has not been allocated

4247) **Committee recommendations**

1) **Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide the documents for extra budget requisitions and correspondences between the state department and National treasury on the issue to the National Assembly.**
2) **Within three (3) months after tabling and adoption of this report, the Auditor General should undertake a Forensic Audit on wayleave Compensations done by the state department of Energy in all donor funded projects.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4248) **Conclusion**

1172. The Committee observed that Paragraph 1174 on lawfulness and effectiveness in use of public resources did not have material issues and thus satisfactory.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4249) **Conclusion**

1173. The Committee observed that Paragraph 1175 on effectiveness of internal controls, risk management and governance in use of public resources did not have material issues and thus satisfactory.

POWER TRANSMISSION SYSTEM IMPROVEMENT PROJECT (ADF LOAN NO.2100150023752) - KENYA ELECTRICITY TRANSMISSION COMPANY LTD

REPORT ON THE FINANCIAL STATEMENTS

4250) **Unqualified Opinion**

1174. The Committee observed that the project got Unqualified Opinion Paragraph 1176 and did not have material issues and thus satisfactory.

Other Matter

1175. Pending Bills – Goods and Services

4251) As disclosed in Annex 2A, the Project Management has contracted works and services amounting to Kshs.7,942,138,556. The amounts certified as payable totalled to Kshs.6,594,318,673 out of which Kshs.6,298,399,539 was paid leaving an outstanding pending bill of Kshs.295,919,135. The unpaid bills are likely to lead to penalties or litigation with the consequent risk of wasteful expenditure.

Submission by the Accounting Officer

4252) The Accounting Officer admitted that the contractor for the Substations China CAMCE Co. Ltd finished the associated substations and issues with completion certificate in 2015. The contractor for the transmission lines at the time, Jyoti Structures Limited was terminated on 17/09/2018. Before termination it had completed Ishiara Kieni and Bomet Sotik Transmission Lines. A new contract was issue for the remaining works on the Transmission line to China CAMCE Co. Ltd, they are expected to complete by end of November 2021. Copies of the Completion certificates and letter of terminated dated 17/09/2018 were availed for perusal by the Committee.

4253) **Committee observations and findings**

The Committee observed that the figure of Kshs.295,919,135 unpaid resulted from contract termination for Jyoti Structures Limited where a new contract was issued for the remaining works on the Transmission line to China CAMCE Co

4254) **Committee recommendations**

Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide evidence of settlement of these bills to the National Assembly.

1176. Long Outstanding Wayleave Compensation

4255) As disclosed in Annex 2B, the expected compensation to landowners amounted to Kshs.2,219,867,628 for wayleaves acquired since inception of the project on 16 April, 2013. The amounts certified as payable totalled to Kshs.1,906,194,914 out of which Kshs.1,605,940,256 was paid leaving an unpaid balance of Kshs.300,524,658. The Management has attributed failure to pay the amount due to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee land owners and various court injunctions on disputed cases.

Submission by the Accounting Officer

The Accounting Officer admitted that the slow wayleaves compensation is occasioned lack of sufficient budget allocation, by insufficient documentation for the compensation packages.

4256) **Committee observations and findings**

The Committee observed that the figure of Kshs.300,524,658 stated as unpaid resulted from insufficient budgetary allocations and insufficient documentation for the compensation packages.

4257) **Committee recommendations**

1) **Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide the documents for extra budget requisitions and correspondences between the state department and National treasury on the issue to the National Assembly.**
2) **Within three (3) months after tabling and adoption of this report, the Auditor General should undertake a Forensic Audit on wayleave Compensations done by the state department of Energy in all donor funded projects.**

1177. Slow Project Implementation

4258) The transmission lines under Lot 1 (Nanyuki-Nyahururu, Olkaria-Narok, Lessos-Kabarnet) and Lot 2 (Mwingi-Kitui-Wote-Sultan Hamud) were behind schedule at 87% and 85% completion rate with an outstanding balance of Kshs.33,583,689 and Kshs.55,578,800 respectively as a result of the main contractor's insolvency. These works, whose completion was scheduled for 30 June, 2019 were re-scheduled to April, 2020, following the engagement of another contractor to complete the remaining works, which are quite significant. This Project may therefore, not be completed within the scheduled timeline and may delay the expected services to the public and may also lead to cost overruns.

Submission by the Accounting Officer

4259) The Accounting Officer admitted that the Initial Contractor Jyoti Structures Limited suffered financial difficulties which resulted to its liquidation in the mother country , a process of identifying a new contractor was initated and the remaining works were awarded to China CAMCE Co. Limited, . The new contractor is working towards finalising the works for Mwingi kitui wote by September 2021.

4260) **Committee observations and findings**

The Committee observed that the delay is attributable to the decision by the courts in India to liquidate the operations of Jyoti structures Ltd the main contractor and therefore ceased operations in September, 2018.

4261) **Committee recommendations**

Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide the project implementation status report, certificates of work done and statements of payment on account prepared by the technical departments for payment to the National Assembly and Auditor General for review.

1178. Budgetary Control and Performance

4262) The Project had budgeted receipts of Kshs.825,000,000 but actual receipts amounted to Kshs.747,585,968 or 91% of the budgeted receipts while actual expenditure amounted to Kshs.373,123,971 which was approximately 45% of the budgeted expenditure of Kshs.825,000,000. Further, the project made payments of Kshs.66,181,980 for the purchase of goods and services which was not budgeted.

4263) In view of the above, the Project's expenditure budget for 2018/2019 was largely not implemented which may lead to delay in achieving the planned activities of the Project. The circumstances under which the Management incurred expenditure of Kshs.66,181,980, without a budget are not clear.

Submission by the Accounting Officer

4264) The Accounting Officer admitted that the Project Financial reports were done on cash basis, the over expenditure are payments which had been accrued in the previous year, the budget utilised was for the previous financial year and therefore not an expenditure incurred without a budget.

4265) **Committee observations and findings**

The Committee observed that the over expenditure were payments which had been accrued in the previous year and the budget utilised relates to the previous financial year and therefore not an expenditure incurred without a budget. However, the Accounting Officer in his submission admitted that the Project Financial reports were done on cash basis thus contradicting himself and hence invalid response.

4266) **Committee recommendations**

Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide documents to prove that Kshs.66,181,980 was rolled over from the previous financial year and approval to utilize the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4267) **Conclusion**

1179. The Committee observed that Paragraph 1181 on lawfulness and effectiveness in use of public resources did not have material issues and thus satisfactory.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4268) **Conclusion**

1180. The Committee observed that Paragraph 1182 on effectiveness of internal controls, risk management and governance in use of public resources did not have material issues and thus satisfactory.

MENENGAI GEOTHERMAL PROJECT (AfDB LOANS NO.2100150026101 & 5565130000101 AND GRANTS NO.5565155000401 AND AFD GRANT NO.CKE 1038.01K) - GEOTHERMAL DEVELOPMENT COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

4269) **Unqualified Opinion**

1181. The Committee observed that the project got Unqualified Opinion Paragraph 1183 and did not have material issues and thus satisfactory.

Other Matter

1182. Pending Bills

4270) Notes 9.1 and 9.2 to the financial statements reflects pending accounts payable totaling Kshs.315,596,000 as at 30 June, 2019. Management has not provided reasons for non-payment of the bills even though the Project was at risk of incurring significant interest costs and penalties with the continued delay in making payments.

Submission by the Accounting Officer

4271) The Accounting Officer admitted that a number of the pending bills were disputed. However, the dispute resolution Committee was dealing with each case. Where middle ground and agreements are reached, payments are done. The tables below show details of the said pending bills and their payment status:

4272) **Menengai Project Pending Bills FY 2018/2019**

Table 1: Pending Bills Balance

Pending Bills	**Amount (Kshs.'000)**
Total Outstanding as at 30/06/2019	315,595
Amount paid	(254,623)
Outstanding Balance	**60,972**

Table 2: Remarks on outstanding pending bills

Remarks on outstanding Balance	**Amount (Kshs'000)**	**Action/Way forward**
Bills with cash flow and budgetary challenge	53,817	Progressive payments as first charge on current years' budget and disbursements/request for supplementary budget
Bills with disputes	7.155	Resolving the issues with the suppliers
Total	**60,972**	

Table 3: Pending Bills detailed listing

Supplier Name	Balance (FY 2018/2019)	Amount paid to date	Current Balance	Remarks
	Kshs'000	**Kshs'000**	**Kshs'000**	
Odex Chemicals Limited	12,624	-	12,624	Awaiting budgetary allocation
Greatwall Drilling Company Ltd	36,602	5,000	31,602	Awaiting budgetary allocation
PS – Ministry of Energy and Petroleum	14,614	5,022	9,592	Cash flow challenges being settled progressively
Geological Survey of Ethiopia	1,536	-	1,536	Disputed
Telkom Kenya	1,109	-	1,109	Disputed
Sabco Millers Ltd	1,109	-	1,109	Disputed
Lantech (Africa) Limited	938	-	938	Supplier dispute with KRA
Kenya School of Law	154	108	46	Disputed
Kenya Bureau of Standards	515	75	440	Disputed
Esami	345	-	345	Disputed
Institute of Human Resource Mgt	300	196	104	Disputed
Supplier Name	**Balance (FY 2018/2019)**	**Amount paid to date**	**Current Balance**	**Remarks**
	Kshs'000	**Kshs'000**	**Kshs'000**	
Agricultural Society of Kenya	228	-	228	Disputed

Non Destructive Academy	219	-	219	Disputed
Glomacs	215	-	215	Disputed
Lavington Sexcurity Limited	165	-	165	Disputed
Director Immiration	160	-	160	Disputed
Amref	147	127	20	Disputed
University of Nairobi	113	-	113	Disputed
Hotel Waterbuck Ltd	676	577	99	Disputed
Merica Hotel	193	65	128	Disputed
Occupational Safety and Health Fund	180	-	180	Disputed
Total	**72,142**	**11,170**	**60972**	

4273) **Committee observations and findings**

The Committee observed that the pending bills were outstanding due to disputed claims and Cash flow challenges.

4274) **Committee recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4275) **Conclusion**

1183. The Committee observed that Paragraph 1185 on lawfulness and effectiveness in use of public resources did not have material issues and thus satisfactory.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4276) **Conclusion**

1184. The Committee observed that Paragraph 1186 on effectiveness of internal controls, risk management and governance in use of public resources did not have material issues and thus satisfactory.

RURAL ELECTRIFICATION SCHEME - KENYA POWER AND LIGHTING COMPANY PLC

REPORT ON THE FINANCIAL STATEMENTS

4277) **Unqualified Opinion**

1185. The Committee observed that the project got Unqualified Opinion Paragraph 1187 and did not have material issues and thus satisfactory.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4278) **Conclusion**

1186. The Committee observed that Paragraph 1188 on lawfulness and effectiveness in use of public resources did not have material issues and thus satisfactory.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4279) **Conclusion**

1187. The Committee observed that Paragraph 1189 on effectiveness of internal controls, risk management and governance in use of public resources did not have material issues and thus satisfactory

KENYA DEVELOPMENT OF SOLAR POWER PLANT IN GARISSA PROJECT (GCL NO.2015 (10)) - RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

4280) **Unqualified Opinion**

1188. The Committee observed that the project got Unqualified Opinion Paragraph 1190 and did not have material issues and thus satisfactory.

Other Matter

1189. Budget Control and Performance

4281) The statement of comparative budget and actual amounts reflects actual receipts of Kshs.57,705,489 against a budget of Kshs.130,263,853 resulting to underfunding of Kshs.72,558,364 or 56%. However, the Project spent an amount of Kshs.123,838,769 against the approved budget of Kshs.130,263,853 resulting to an under expenditure of Kshs.72,563,064 or 56% of the budget. The Management has attributed the under expenditure to budget reduction during Supplementary Budget II.

4282) In the circumstances, the citizens have not received the services as planned.

Submission by the Accounting Officer

4283) The Accounting Officer admitted that The project under review is Kenya Development of Solar Power Plant in Garissa Project 50MW financed by Exim Bank of China through a concessional loan.

4284) In the financial year 2018-19 the Corporation prepared a proposed budget of Kshs.738,000,000 which was sufficient to pay invoices and retentions. It followed that during approval of the budget at the treasury, the allocation for this project was reduced to Kshs.500,000,000 though the Printed estimates to Kshs.100,000,000 during the supplementary 2 as the final budget for the financial year. Copy of the Corporation budget aligned to printed estimates was availed for perusal by the Committee.

4285) During the year the contractor submitted 2 (two) invoices no's 9 and 10 of Kshs.30,074,883 and Kshs.679,708,012.01 respectively but only one for Kshs.30,074,883 could be accommodated by the reduced budget leading to an outstanding amount (pending bill) of Kshs.707,925,117 by the end of the period. Copies of invoices were availed for perusal by the Committee.

4286) The Corporation prepared payment documents and submitted to The National Treasury through the Ministry of Energy on 4th March 2019 for payment for certificate 10 which remained unpaid until March 2020 when The National Treasury forwarded the certificate to the financier to effect payments which was settled in October 2020. The project was completed and commissioned in November 2018 and the intended benefits achieved. Copies of the letter to financier submitting Certificate 10 for payment and Completion report were availed to the Committee for perusal.

4287) **Committee observations and findings**

4288) The Committee observed that the under expenditure resulted from budget reduction during Supplementary Budget II. The proposed budget of Kshs.738,000,000 was sufficient to pay invoices and retentions. The treasury, reduced the allocation for this project to

Kshs.500,000,000 though the Printed estimates and to Kshs.100,000,000 in the supplementary 2 as the final budget for the financial year thus insufficient.

4289) **Committee recommendations**

Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide documentary evidence of refinancing and correspondences with the National Treasury and completion certificates to the Auditor-General and National Assembly for review.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4290) **Conclusion**

1190. The Committee observed that Paragraph 1192 on lawfulness and effectiveness in use of public resources did not have material issues and thus satisfactory.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4291) **Conclusion**

1191. The Committee observed that Paragraph 1193 on effectiveness of internal controls, risk management and governance in use of public resources did not have material issues and thus satisfactory.

32. STATE DEPARTMENT FOR LIVESTOCK

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1162

Mr. Harry Kimutai, the Principal Secretary and Accounting Officer for the State Department of Livestock (Vote 1162), appeared before the Committee on 8th June, 2021 to adduce evidence on the Audited Financial Statements for the State Department of Livestock (Vote 1162) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. Joseph M. Kiraita - Deputy Accountant General
2. Mr. Stanley Mwaura - Assistant Accountant General
3. Mr. Joseph Mwangi - Snr. Principal Finance Officer
4. Mr. Penil Wang'ombe - Senior Accountant

And submitted as follows:

1192. Inaccuracies in the Cash and Cash Equivalents

1192.1 Differences Between the Cashbook Balances and Balances Reflected in the Financial Statements

3085) The statement of financial position reflects cash and cash equivalents balance of Kshs.52,776,057, which as disclosed in Notes 12A and 12B to the financial statements includes amounts of Kshs.52,659,770 and Kshs.116,287 relating to bank and cash balances, respectively. A review of the respective cash books and bank reconciliation statements during the year and as at 30 June, 2019, revealed differences between amounts reflected in the cash books and balances reported in the financial statements as detailed below:

Bank Account	Balance as per the Financial Statements (Kshs.)	Balance as per the Cash Book (Kshs.)	Variance (Kshs.)
Recurrent Account No.1000210109	26,510,799	24,059,403	2,451,396
Development Account No.1000209957	964,180	892,935	71,245
Deposits Account No.1000212632	25,184,792	25,494,077	309,285

3086) These differences between the cash book balances and the balances reflected in the financial statements were not explained.

Submission by the Accounting Officer

3087) The Accounting Officer submitted as follows:

Recurrent Bank Account

3088) As observed by the auditor the cash book reflected a bank balance of Kshs.24,059,403 as at 30th June, 2019. However, the bank balance reflected in the financial statements of Kshs.26,510,799 was arrived at after taking into consideration A.I.A. surrenders and unspent A.I.E returns that had been budgeted for the year under consideration.

Development Bank Account

3089) The difference has been reconciled by the analysis.

3090) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the differences between the Cashbook Balances and Balances Reflected in the Financial Statements was satisfactory;

(ii) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012 and

(iii) The Committee marked the matter as resolved.

Committee Recommendation

3091) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1192.2 Long Outstanding Reconciling Items

3092) The bank reconciliation statements as at 30 June, 2019 had long outstanding balances across the three accounts that had not been resolved as at the time of audit as summarized below:

Type of Account	**Payments in Cash Book not in the Bank Statement (Kshs.)**	**Receipts in the Bank Statement not in Cash Book (Kshs.)**	**Payments in the Bank Statement not in the Cash Book (Kshs.)**	**Receipts in the Cash Book not Recorded in the Bank Statement (Kshs.)**
Recurrent	8,517,091	93,900,289	75,667,492	-
Development	13,534,700	1,750,219	10,108,180	6,260,798
Deposit	270,670	1,240,895	800,000	50,924
Total	22,322,461	**96,891,403**	86,575,672	6,311,722

3093) Further, included in the recurrent account bank reconciliation statement are receipts in bank not in the cash book amounting to Kshs.93,900,289, which differs with the supporting schedule amount of Kshs.89,199,000 by Kshs.4,701,289 which has not been reconciled or explained.

3094) In addition, the development bank reconciliation statement includes under payments in the cash book not in the bank statement amounts described as balancing overcast, amounting to Kshs.53,751, and receipts in cash book not in the bank statement amounts totalling Kshs.2,415,535 and described as either overcasts or under casts. No reason was given for failure to have the old reconciling items investigated and cleared from the bank reconciliation statement

3095) Although the State Department uses the Integrated Financial Management Information System (IFMIS), all its cash books for the year ended 30 June, 2019 were manual and prone to errors, inaccuracies and possible manipulations of figures and balances brought forward in subsequent months. It was noted that some of the reconciling items related to un-remitted or overdue taxes owed to the Kenya Revenue Authority, which attracts fines and penalties.

3096) In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.52,776,057 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

3097) The Accounting Officer submitted that the reconciling items for the three accounts operated by the State Department for Livestock have since been investigated and new bank reconciliations statements for the three accounts prepared.

3098) **Committee Observations and Findings**

(i) the accounting officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229(4) (h), and section 81 (4) (a) of the Public Finance Management Act, 2012;

(ii) during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and

3099) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1193. Unauthorized Reallocation of Expenditure

3100) Audit review of accounts analysis and ledger reports revealed that expenditure totaling to Kshs.101,367,909 relating to the various items were charged to construction and civil works and purchase of specialized plant, machinery and equipment although they did not qualify to be charged as such.

3101) Further, the State Department incurred expenditure totaling to Kshs.12,500,000 on consultancy services and Kshs.3,000,000 on production of Sustainable Land Management (SLM) documentary and charged item 2211000 on specialized material and supplies instead of item 2211300 on other operating expenses and item 2210500 on printing, advertising, information supplies and services respectively.

3102) Further, a review of the development appropriation account revealed that the State Department for Livestock charged expenditure in respect of the Big 4 Agenda under account code 1003, which had been defined for Mainstreaming Sustainable Land Management (SLM) in Agro-Pastoral Land Project, a project which had ended and whose account code should have been closed. No satisfactory reasons were given for the misallocation of the expenditures.

Submission by the Accounting Officer

3103) The Accounting Officer submitted that there was a Presidential directive to clear all pending bills within a week; thus there was limited time to seek for reallocation. This necessitated clearing the bills using available balances within the project.

3104) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer made reallocation of money without the authority from the National Treasury as required by law; and

(ii) The matter therefore remained unresolved.

3105) **Committee Recommendation**

1) **The Committee recommends that the Cabinet Secretary of the National Treasury and Planning should within 3 months of tabling and adoption of this report issue a written reprimand to the Accounting Officer for failure to comply with section 43 of PFM Act which prohibits the allocation of funds from capital expenditure to recurrent expenditure;**

2) **The Accounting Officer should ensure full compliance with Section 43 of the PFM Act which prohibits the allocation of funds from capital expenditure to recurrent expenditure.**

1194. Unsupported Accounts Receivables

3106) The statement of financial position reflects a balance of Kshs.640,290,011 under accounts receivables - outstanding imprests. As disclosed in Note 13 to the financial statements, the balance includes an amount of Kshs.8,563,194, described as clearance account, which was neither supported with documentary evidence nor analyzed.

3107) Consequently, the accuracy of the accounts receivable balance of Kshs.640,290,011 could not be confirmed.

3108) **Committee Observations and Findings**

(i) the Accounting Officer failed to ensure that he availed supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015; and

(ii) The Committee observed that the explanation given by the Accounting Officer with regard to the unsupported Accounts Receivables was satisfactory

1195. Unsupported Accounts Payables - Deposit and Retentions

3109) As disclosed in Note 14 to the financial statements, the statement of financial position reflects a balance of Kshs.25,184,792 under accounts payables - deposit and retentions. The balance, however, differs with the amount reflected in the Trial Balance of Kshs.73,687,382, resulting in an unexplained variance of Kshs.48,502,590. In addition, the balance of Kshs.25,184,792 excluded retention fee for various contractors totaling to Kshs.3,508,464.

3110) In the circumstances, the accuracy and completeness of account payables - deposit and retentions balance of Kshs.25,184,792 as at 30 June, 2019 could not be ascertained.

3111) **Committee Observations and Findings**

(i) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

(ii) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

3112) **Committee Recommendations**

The Committee recommends that:

1) **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above breaches.**

2) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

3) **The Accounting Officer must at all times ensure that he prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

4) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1196. Unsupported Expenditure

3113) The statement of receipts and payments reflects an expenditure of Kshs.1,580,215,899 under acquisition of assets which includes an amount of Kshs.5,000,000 relating to acquisition of a tractor at the Rabbit Institute. Although the tractor was physically verified at the Institute, the related procurement documents including invoice, delivery note, payment voucher and log book were not provided for audit review. Further, agricultural machinery and equipment acquired at Kshs.4,000,000 was similarly not supported with any procurement documents.

3114) In addition, the expenditure of Kshs.1,580,215,899 also includes an amount of Kshs.3,669,763 expended at the Isiolo Mobile Pastoral Training Field Station under purchase of certified seed, breeding stock and live animals. However, no documentary evidence was provided to show how the amount had been spent.

3115) **Committee Observations and Findings**

(i) The Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

(ii) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012

3116) **Committee Recommendations**

1) **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above breaches.**

2) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

3) **The Accounting Officer must at all times ensure that he prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

4) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1197. Acquisition of Assets

1197.1 Lack of Fixed Assets Register

3117) The State Department for Livestock, with its directorates and various stations did not maintain a fixed asset register for its assets to record necessary information such as date of acquisition, type of asset, condition, cost, accumulated depreciation, net book value and location in respect of the assets owned. In addition, the State Department did not take an inventory of the fixed assets as at 30 June, 2019. Consequently, the existence, completeness and accuracy of the fixed assets balance of Kshs.2, 101,091,150 as at 30 June, 2019 could not be ascertained.

Submission by the Accounting Officer

3118) The Accounting officer submitted that the Fixed Assets Register had delayed since it takes time to account for all assets due to valuation methods as in the case of biological assets. However, a Fixed Asset Register has now been prepared and is in the process of being updated.

3119) **Committee Observations and Findings**

(i) A Fixed Asset Register had not been finalized and therefore was not availed for audit verification. The State Department should endeavor to ensure that the Fixed Assets Register is completed ;

(ii) The Committee observed that the Accounting Officer's failure to maintain and submit a fixed asset register was a dereliction of duty and a contravention of Regulation 143 (1) of the PFM (National Government), Regulations, 2015; and

(iii)The matter remains unresolved.

3120) **Committee Recommendation**

1) **The Accounting Officer should ensure that correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010, and section 68(2) (k) of the PFM Act, 2012; and**
2) **The Accounting Officer to submit the Fixed Asset Register to the Auditor General for audit review and reporting in the subsequent audit cycle within three months of tabling and adoption of this report.**

1197.2 Additions during the Year

3121) The statement of receipts and payments reflects an amount of Kshs.1, 580,215,899 under acquisition of assets. However, this amount differs with the additions, during the year figure of Kshs.1, 422,705,999 as disclosed in Annex 2 to the financial statements. The difference of Kshs.157, 509,900 between the two sets of records was not reconciled or explained.

Submission by the Accounting Officer

3122) The Accounting officer submitted that the error was noted and the Fixed Asset Register adjusted to reflect the correct balance of Ksh.1, 580,215,899.

3123) **Committee observation and findings**

The Committee observed and found that there was no fixed asset register

3124) **Committee Recommendations**

1) **The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.**

2) **Within three months of the adoption of this Report, the Accounting Officer should avail to the Auditor General a comprehensive fixed asset register**

1198. Ineligible Expenditure

3125) A review of the State Department for Livestock payment documents revealed that, on 18 June, 2019, a firm was paid Kshs.4,835,234 vide payment voucher number 0674 under the Standard and Market Access Programme. However, the expenditure was later found and deemed to be ineligible according to the provisions of the financing agreement between the European Commission and the Government of Kenya. The State Department did not get value for money for the avoidable expenditure of Kshs.4, 835,234 incurred.

Submission by the Accounting Officer

3126) The Accounting officer submitted that the payment of Kshs.4, 835,234.00 under Standard and Market Access Programme was found ineligible. He further stated that the payment was a pending bill that required settlement to facilitate stoppage of accumulating penalties. The ineligibility came up due to the variance between the GoK daily subsistence rates that came to effect on the date the Programme Estimate was signed (27th June 2014), and the Salaries and Remuneration Commission rates that became effective from 10th December,2014.

3127) **Committee observation and findings**

(i) That the payment to the European Commission was an avoidable expenditure;
(ii) The matter remains unresolved.

3128) **Committee Recommendations**

The Accounting Officer should within three (3) months of tabling and adoption of this report, refund Ksh. 4, 835,234.00 to the State Department.

1199. Pending Bills

3129) As disclosed under Note 17.1 and Annex 1 to the financial statements, the State Department for Livestock had pending bills totalling Kshs.95,966,300 as at 30 June, 2019 that were not settled during the year 2018/2019 but were instead carried forward to 2019/2020. Failure to settle bills during the year in which they relate to distorts the financial statements for that year and adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

3130) The Accounting officer submitted that as disclosed under note 17.1 and annex i to the financial statement, the State Department had a total of Kshs.95, 966,300 as pending bills. The Accounting officer further stated that the stated amounts have now been cleared in the financial year 2019/20.

3131) **Committee observation and finding**

(i) The explanation given by the Accounting Officer with regard to pending bills was satisfactory; and

(ii) The Committee however marked the matter as resolved.

3132) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills exist, they should form a first charge in the subsequent year's budget thereby impeding smooth implementation of the subsequent budget.

1200. Failure to Close the Mainstreaming Sustainable Land Management Project

3133) As previously reported, the project management unit of the Mainstreaming Sustainable Land Management in Agro-Pastoral Production Systems of Kenya Project indicated that the above project came to an end in June, 2017 and that the handing over documents were signed by the Director, Livestock Production and sent to the United Nations Development Programme (UNDP) for signature. A review of the audit report for the year ended 30 June, 2017 showed that the project had pending bills amounting to Kshs.5,110,830 as well as a balance of Kshs.821,799.50 held in the Project bank accounts. However, no approved final Project completion and handing over report was provided for audit review. Consequently, it has not been possible to confirm the Project's completion status.

Submission by the Accounting Officer

3134) The Accounting Officer submitted that the Mainstreaming Sustainable Land Project came to an end in June, 2017, and no completion and hand over report was provided for audit review. He further stated that the project was officially closed the hand over report from UNDP was available for audit.

3135) Out the pending bills balance of Kshs.5,110,830, Kshs.4,578,250 was verified as correct and paid according by 30 June 2019, while the balance of Kshs.532,580 were not eligible for payment because the goods and services were neither supplied nor consumed by the project. He also stated that the project as per 2016/2017 financial report, reported bank balance of Kshs 821,799.50 held in bank accounts of project sites of Kyuso, Dadaab, Mbeere North and Narok North. In reference of the above the current project bank balances for the project has reduced to Kshs.349,156.4 owing to bank related charges among other payments as per the bank statements attached. The Accounting officer has on the basis of the handing over report we have written to the National Treasury for authority to close the accounts.

3136) **Committee Observations and Findings**

The explanation given by the Accounting Officer with regard to Failure to Close the Project Upon its Completion was not satisfactory.

3137) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1201. Land without ownership documents

3138) As reported in the previous years, the Government, through Gazette Notice No. 890 dated 5 March, 1957, allocated 1,400 acres of land in Ngong, Kajiado County, to the Department of Veterinary Services for construction of a veterinary training school, establishment of a veterinary farm and installation of related facilities. However, information and documents available indicates that the land measures 1,500 acres.

3139) Further, information and records at the Ministry of Agriculture, Livestock, Fisheries and Irrigation and Ministry of Land and Physical Planning indicates that some Government agencies and private organizations have irregularly taken possession of 509 acres of the land. The State Department has to-date not obtained title of ownership of the land from the Ministry of Lands and Physical Planning.

3140) In addition, information available indicates that the State Department for Livestock owns 124,000 hectares of land comprising Isiolo Mobile Pastoral Training Field Station in

Isiolo County as of 30 June, 2019. However, ownership documents were not made available for audit review. In the above circumstances, the ownership, actual size and value of these pieces of land could not be confirmed.

Submission by the Accounting Officer

3141) The Accounting Officer stated that the Gazette Notice No. 890 dated 5th March, 1957 estimated the above Farm land to be 1400 acres, while other documents available including the green cards from lands office, indicate the land to be 1500 acres. The Accounting Officer further stated that the original parcel Ngong/Ngong/1959 which was approximately 1400 acres was closed on 14th March, 1975 and three parcels of land created from Ngong/Ngong/1959 as follows:

(i) Ngong/Ngong/2627 – Veterinary Farm- 589.71 HA
(ii) Ngong/Ngong/2628 – Halal meat products - 0.5946 HA
(iii)Ngong/Ngong/2629 – Halal meat products - 3.990 HA.

3142) Further divisions were done on the remainder Ngong / Ngong/2627 into two parcels by the Director of Survey on the 21st May, 1997 which produced;

(i) Ngong/Ngong/21399 – that was taken by the Police Service – 48.70 HA
(ii) Ngong/Ngong/21400 – that was taken by Veterinary Farm Ngong – 541.01 HA.

3143) From the above information, and survey done, the actual acreage for Ngong Veterinary Land is the total of the below listed parcels of the original land subdivided from Ngong Veterinary Farm Land.

(i) Ngong/Ngong/2628 -0.946 HA
(ii) Ngong/Ngong/2629 -3.990 HA
(iii)Ngong/Ngong/21399 -48.70 HA
(iv)Ngong/Ngong/21400 -541.01 HA

The total acreage is therefore 594.2946 HA, which is equal to 1468.50196 Acres.

3144) Further the Government and Private organizations have taken possession of approximately 509 Acres and the Ministry has forwarded the same to the National Land Commission to investigate with a view to reposing the irregularly allocated land. In the same report the Ministry has requested the National Land Commission to provide the Title Deed for Ngong Veterinary Land to avoid such irregular encroachment in future. Further, the land where the training field station is located belongs to the County Government of Isiolo. However, there’s a holding that the land belongs to the State Department for Livestock.

3145) Further the Accounting officer stated that where Mobile Pastoral Training is situated, is disputed between Isiolo County Government and The State Department for Livestock. The matter will be referred to the Intergovernmental Relationship Committee (ITGRC) for adjudication. The surveying and documentation of the holding ground in Isiolo County

Government belonging to the State Department for Livestock is in the process, and hence the training institute may be shifted into it.

3146) **Committee Observations and Findings**

(i) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

(iii) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents including the Aged analysis and the detailed schedule disclosing the nature of the deposit in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

(iv) However, the explanation given by the Accounting Officer and the documents availed with regard to the land was satisfactory; and

(v) **The Committee therefore marked the matter as resolved.**

1202. Pending Legal Litigation

3147) As reported in the previous years, a review of legal files revealed that the State Department for Livestock has had two protracted legal suits which has led to significant outstanding bills and contingent liabilities compounded by huge interests and penalties. The two cases are summarized as follows:

1202.1 Halal Meat Products Limited

3148) Halal Meat Products Limited vs Ministry of Agriculture, Livestock, Fisheries and Irrigation: State Department for Livestock- High Court Civil Case No.1655/1986 whose court determination amounted to Kshs.5.242 billion and out of court negotiations final amount of Kshs.4 billion after a cap on interests. However, contract documents for Halal Meat Product Limited were not provided for audit review.

1202.2 Associated Architects

3149) Associated Architects Vs Ministry of Agriculture, Livestock, Fisheries and Irrigation: State Department for Livestock – High Court Civil Case No. 488/2013 whose accrued interest balance is Kshs.25 million. The contract agreement provided for audit review dated 4 February, 2009 indicate that M/s Associated Architects was awarded a contract through direct procurement for consultancy services on construction of Mifugo House for the Ministry of Livestock Development at a contract sum of Kshs.84,505,999.99. However, it is not clear, and no satisfactory explanation was provided on why the consultant should be paid the contract sum, yet no construction was under taken.

Submission by the Accounting Officer

3150) The Accounting Officer submitted that Halal is a protracted legal suit whose court determination amounted to Kshs.5.242 Billion and out of court negotiations final amount was agreed at Kshs.4 Billion after capping of interest. The issue was submitted to the National Treasury (Pending Bills Closing Committee) for final settlement. Guidance by the National Treasury for resource bidding at Sector Level have not yielded any budgetary provisions. The copy of requests to the National Treasury, Cabinet Secretary brief on Halal Meat Products Limited and extracts of resource bidding at Sector Level are attached for audit review.

3151) With regard to Associated Architects, the Accounting officer stated that the contract agreement was for consultancy on designs for Mifugo house and the design was completed. On 23rd March, 2020 and 13th February, 2020, through the draft budget FY2020/2021 and Medium term budget estimates and FY2019/20 Supplementary Estimates No.2, the department requested an allocation of Ksh.25.95 million as final payment of accrued fees to settle payments on architectural designs which was not done.

3152) **Committee Observations and Findings**

The Committee observed and found that:

(i) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

(iii) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in relation to Mifugo House in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

(iv) In addition, the explanation given by the Accounting Officer and the documents availed with regard to the Pending Legal Litigation were not satisfactory; and

(v) The matter therefore remains unresolved.

3153) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1203. Delay in Completion of a Biosafety Level 3Laboratory

3154) The Directorate of Veterinary Services entered into a contract with a contractor on 12 February, 2016 for construction of a Biosafety Level 3 Laboratory at Kabete Veterinary Farm at a contract sum of Kshs.69,012,866. The project`s initial completion date was 20 December, 2016 which was subsequently revised to 30 May, 2018. However, as at the time of the field inspection in September 2019, the works had not been completed and handed over to the State Department for Livestock. No satisfactory reason was given for failure to complete the works within the period stipulated in the contract.

Submission by the Accounting Officer

3155) Accounting Officer submitted that the construction of Bio-safety Laboratory had not been completed at the time of inspections during the audit. The main works were completed and the contractor handed over the building on 24th June, 2020. However, key components on mechanical ventilations and air conditioning, plumbing and drainages, and cold rooms installations remain uncompleted.

3156) The uncompleted works have been re-advertised as a result of failure by contracted firms awarded to honour contractual obligations which were largely attributed to delay works by the main contractors. The completion certificate and re-advertisements are now available for audit review. Further, a contract Implementation Team was appointed on 6th February, 2020 to fastract all issues relating to the completion of Bio Safety Level 3, and are now available for audit review.

3157) **Committee Observations and findings**

The Committee observed and found that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents including the Aged analysis and the detailed schedule disclosing the nature of the deposit in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

1204. Delay in Completion of Kitchen and Dining Block at AHITI – Nyahururu

3158) The State Department for Livestock through AHITI- Nyahururu awarded a contract to a contractor for the construction of a kitchen and dining block at a sum of Kshs.39,638,476. The construction works started on 14 December, 2016 and were to be completed within a duration of about 28 weeks on 28 June, 2017. However, at the time of the field inspection in September 2019, the progress report availed indicated that the project was 61.5% complete. Electrical installations, plumbing, fittings and other finishing works were yet to be done and construction had stalled.

Submission of the Accounting officer

3159) The Accounting officer submitted that during audit inspection, the progress report indicated that the kitchen project was 61.5% complete. The delay was attributed to lack of funds. Further, the dining hall and the kitchen have been completed and are in use.

3160) **Committee observation and findings**

The Committee observed and found that the explanation given by the accounting officer with regard to delay in completion of kitchen and dining block at AHITI- Nyahururu was satisfactory

1205. Weakness in Imprest Management and Controls

3161) A review of the manual imprests register revealed that some officers in the State Department had consistently taken imprests amounting to Kshs.78,390,720 during the year under review, which were sometimes overlapping and multiple in nature contrary to Regulation 93(4)(b) of the Public Finance Management (National Government) Regulations, 2015. The Regulation requires that before issuing a temporary imprest to an officer, the Accounting Officer should ensure that the applicant has no outstanding imprests.

Submission of the Accounting Officer

3162) The Accounting Officer submitted that the manual register revealed that some officers were issued with more than one imprest. This was occasioned by the fact that surrenders of previous imprests which were in progress and in the last stage of surrender had not been cleared in the IFMIS due to system down time. He also added that internal control measures have been instituted to manage the issuance of imprests.

3163) **Committee Observations and Findings**

(i) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

(iii) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

(iv) However, the explanation given by the Accounting Officer with regard to the Weakness in Imprest Management and Controls was satisfactory.

3164) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1206. Lack of an Enterprise-Wide Risk Management (ERM) Policy and Process

3165) During the year under review, the State Department for Livestock did not have a well-documented enterprise wide-risk management policy and process in place to effectively guide the State Department's risk management processes at large.

Submission by Accounting Officer

3166) The Accounting Officer submitted that there was not a well-documented enterprise wide-risk Management Policy and Process. However, the department has taken note of lack of ERM policy and processes. The Department is in the process of coming up with a comprehensive risk register to mitigate risks emanating from operations. Currently the Internal Audit function of the State Department has been dealing with the financial risk. However, the management has realized the need to cover other aspects of risk, which may hinder the State Department from carrying out its core mandate efficiently.

3167) **Committee Observations and Findings**

(i) The Department is in the process of coming up with a comprehensive risk register to mitigate risks emanating from operations and report back to the National Assembly; and

(ii) The matter remains unresolved.

3168) **Committee Recommendations**

The Accounting Officer should, within three (3) of tabling and adoption of this report, report the status of progress of the State Department of Livestock to the National Assembly.

1207. Non-Functional Audit Committee

3169) Although the State Department for Livestock constituted an Audit Committee, the committee did not convene or hold regular meetings during the year. No minutes of the Audit Committee were provided for audit review to confirm that the internal audit unit's annual work plan and reports were tabled and discussed by the Audit Committee.

Submission by the Accounting Officer

3170) The Accounting Officer submitted that the Audit committee did not meet as required by financial regulations. He added that this was caused by delay in appointment/renewal of the ministerial audit committee members to undertake the audit business. The appointments have since been effected and the committee is in place.

3171) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to the Audit Committee was persuasive. The Audit Committee is now established, commissioned and functioning; and

(ii) The Committee marked the matter as resolved.

1208. Incomplete Ledger Details - Payee and Description

3172) The statement of receipts and payments reflects expenditure totalling to Kshs.6,097,730,343 for the year 2018/2019. However, the account analysis/ledger report generated from IFMIS and provided to support each individual expenditure item lacked details of payees and in some cases, there was no proper payment description against the payments made. In the circumstances, the risk of multiple payments to a payee or an individual for the same services, supplies, goods or works could not be ruled out.

Submission of the Accounting Officer

3173) The Accounting Officer stated that the account analysis report generated from IFMIS lacked some payee details. He also stated that this is a standard report from Oracle programming which cannot be amended. The way the system is set, the report does not show payee details. However, payee details can be retrieved separately using sub-components of the report like the invoice number. This information has been relayed to IFMIS and the National Treasury.

3174) **Committee Observation and Finding**

3175) The statement of financial on payee accounts from IFMIS were not reconciled since the journal entries could not be traced in the ledger.

3176) **Committee Recommendation**

The Accounting Officer should ensure that the statement of financial position for the IFMIS Payee are prepared and reconciled in time in compliance with the provisions of Sections 68 (2), 80 of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

DONOR FUNDED PROJECTS

SMALLHOLDER DAIRY COMMERCIALIZATION PROGRAMME (IFAD LOAN NO. 678-KE AND GRANT NO. 815-KE)

3177) **Unqualified Opinion**

1209. There were no material issues noted during the audit of the financial statements of the Programme.

Other Matter

1210. Budget Control and Performance

3178) The statement of comparative budget and actual amounts reflects total receipts of Kshs.588,223,275 against a budget of Kshs.635,384,115 resulting in a revenue shortfall of Kshs.47,160,840 or 7.4% of the Budget. The revenue shortfall was as a result of delays in exchequer and loan disbursements.

3179) This may have negatively impacted on the achievement of programme activities as it resulted in underfunding of the annual budget by Kshs.43, 595,570 representing 6.9% of the approved budget.

Submission by the Accounting Officer

3180) The Accounting Officer stated that there was revenue shortfall during the financial year. The revenue budget shortfall of Kes 47,160,840 (7.4%) was occasioned by the delay in release of exchequer and also the lengthy procurement process which affected the turn-around period for the replenishment of the donor component. The Programme was operating on a re-imbursement method and therefore a delay in expenditure also resulted in a consequent delay in receiving funds from the donor. The Accounting Officer concurred with the audit observation that this has negatively impacted on the achievement of programme activities.

3181) **Committee Observations and Findings**

The Committee observed and found that the explanations given by the Accounting Officer with regard to revenue shortfall was satisfactory and marked as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3182) **Conclusion**

1211. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3183) **Conclusion**

1212. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REGIONAL PASTORAL LIVELIHOODS RESILIENCE PROJECT (IDA CREDIT NO. KE 53880-KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1213. Loan from External Development Partners

3184) The statement of receipts and payments reflects an amount of Kshs.1,250,002,850 under loan from external development partners and controlled by the entity and nil amount in respect of direct payment made by the development partners. However, disclosed in Note 8.4 to the financial statements, are loans received in cash and controlled by the entity of Kshs.1,150,002,850 (US$11,423,033.56) and an amount of Kshs.100,000,000 paid directly to suppliers by the development partners. These cash transactions and direct payments have not been explained satisfactorily.

Submission from the Accounting Officer

3185) The Accounting Officer stated that there were cash transactions and direct payments that were not explained fully by the department. He further added that:

(i) Kshs.1,150,002,850($11,423,033.56) being loan received in cash, was disbursed through the National Treasury and the attached analysis of Expenditure is available for audit:

(ii) There was a direct payment of Kshs. 100,000,000.00 paid to suppliers. This amount of money was a direct payment to Kenya Veterinary Vaccines Production Institute (KEVEVAPI) by the Donor project (World Bank). This amounts to a single payment to the government agency for the supply of veterinary vaccines. The payment voucher No.003396 was available for audit.

3186) **Committee Observations and Findings**

The Committee observed and found that the explanation given by the Accounting Officer with regard to loan from external development partners was satisfactory and marked as resolved.

Emphasis of matter

1214. Special Account Statement

3187) The special account statement reflects an amount of Kshs.1,151,222,050 (US$11,423,033.56) as having been withdrawn and transferred to the Project during the year, which differs with the amount of Kshs.1,150,002,850 shown in the financial statements by Kshs.1,219,200. The discrepancy between the two sets of records has not been reconciled or explained.

3188) My opinion is not modified in respect of this matter.

Submission from the Account Officer

3189) The Accounting Officer stated that the difference of Kshs. 1,219,200 arose because of difference in exchange rates. The State Department reporting method was based on historical exchange rates for various disbursements spread across the financial year of 2018/2019; while the comparative figure of Kshs. 1,151,222,050.00 was based on single exchange rate of USD 1= KES. 100.78

3190) **Committee Observations and Findings**

The Committee observed and found that the explanation given by the Accounting Officer with regard to Special Account Statement was satisfactory and marked as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1215. Ineligible Expenditure

3191) Examination of payment records maintained by the Project Implementation Unit (Headquarters) revealed that an amount of Kshs.656,064 was paid to an officer vide a payment voucher number 2306 dated 15 April, 2019 in respect of subsistence allowance for attending the 9th meeting of the Technical Working Group on rules of Origin at Addis Ababa, Ethiopia between 24 October, 2018 to 3 November, 2018.

3192) However, a travel clearance approval by the Head of the Public Service referenced OP/CAB.304/018 dated 18 October, 2018 indicated that the subsistence allowance expenditure was to be met and paid by the State Department for Livestock. The officer was therefore irregularly paid from the Project`s funds contrary to Article III Section 5(9)(b) of the Financing Agreement which states that, "the bank shall make arrangements to ensure that the proceeds of any loan are used only for the purposes for which the loan was granted with due attention to considerations of economy and efficiency and without regard to political or other non-economic influences or considerations". This expenditure cannot be linked to the approved work plan and project activities hence it is deemed irregular and ineligible.

Submission by the Accounting Officer

3193) The Accounting Officer submitted that the travel clearance approval by the Head of the Public Service referenced OP/CAB.304/018 DATED 18th October, 2019 indicated that the subsistence allowance expenditure was to be met and paid by the State Department for Livestock, but instead done from the Project funds.

3194) He stated that the meeting that the officer was attending: 9th meeting of the Technical Working Group on Rules of Origin in Addis Ababa, Ethiopia was more in line with the project objectives as opposed to any other department in the Ministry. Further, it was deemed not necessary to send another officer specifically from the project to attend the same meeting when there was already a representative from the department over the same in the spirit of cost cutting. However, these funds were later refunded to the project account from the State Department on 10th May, 2021, thus reconciling the ineligibility status via Voucher no.1128 dated 06th May, 2021.

3195) **Committee Observations and Findings**

The Committee observed and found that the explanations given by the Accounting Officer with regard to Ineligible Expenditure was satisfactory and marked as resolved.

REPORT ON EFFECTIVENESS INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1216. Unaccounted for Project Vehicles

3196) Examination of the motor vehicle register revealed that the project has eight 4x4 vehicles in Nairobi. However, a verification exercise carried out on 14 October, 2019 revealed that three (3) vehicles with registration numbers; GKB 056R, GKB 035R, and GKB 059R were not physically available for verification and their existence could not be confirmed.

3197) Further, work tickets for these vehicles were not provided for audit verification and therefore, their movement and use could not be accounted for. This is contrary Regulation 139(1)(a) and (b) of the Public Finance Management (National Government) Regulations, 2015.

Submission of the Accounting officer

3198) The Accounting officer stated that the three vehicles GKB 056R, GKB 035R, GKB 059R were not physically available for verification at the time of audit and that the work tickets were not availed for verification during the same exercise.

3199) The Accounting Officer stated that this was occasioned by the fact that at the time of the audit, the said vehicles were out of the station on various official duties during the exercise. The vehicles, copies of their respective logbooks and work tickets as at October, 2019 were availed for verification.

3200) **Committee Observations and Findings**

The Committee observed and found that the explanation given by the Accounting Officer with regard to unaccounted for project vehicles was satisfactory and marked as resolved.

VETERINARY SERVICES DEVELOPMENT FUND REPORT ON THE FINANCIAL STATEMENTS

1217. Unsupported Employee Costs

3201) The statement of financial performance reflects an amount of Kshs.30,338,354 under employee costs for the year ended 30 June, 2019, which is a substantial increase over the previous year's amount of Kshs.590,258. As disclosed under Note 8 to the financial statements, the amounts relate to travel, motor car, accommodation, subsistence and other allowances. The expenditure should ideally be classified as operating expenses as the amounts were not supported by payrolls or schedules showing the names and particulars of the employees who were paid. Further, unlike in the previous years, the schedule does not disclose any employee related costs - salaries and wages the amount paid.

3202) As a result, the validity, completeness and accuracy of the expenditure could not be ascertained.

3203) It was also true that the statement of comparative budget and actual amounts reflects final receipts budgets and actual on comparative basis of ksh 70,000 ,000 and kshs.103,225.471 respectively resulting to an overfunding of Ksh 33,225,471.

Submission by the Accounting officer

3204) The Accounting Officer submitted that it was true that the three vehicles GKB 056R, GKB 035R, GKB 059R were not physically available for verification at the time of audit and that the work tickets were not availed for verification during the same exercise.

3205) He stated that this was occasioned by the fact that at the time of the audit, the said vehicles were out of the station on various official duties during the exercise. The vehicles, copies of their respective logbooks and work tickets as at October, 2019 are now availed for verification.

3206) It was true that the statement of financial performance reflects an amount of Kshs.30,338,354 under employee costs for the year ended 30th June 2019 which is a substantial increase over the previous year's amount of Kshs. 590,258(Annex 1219). However as disclosed under note 8 of the financial statements, the amounts relate to the travel, motor car, accommodation, subsistence and other allowances and was erroneously classified under employee costs instead of General Expenses-Operational costs. This amount has so far been considered in the General expenses as operational costs. The employee's cost of Kshs.590,258 reflected in the financial report and statement for the year

3209) It was true that the statement of comparative budget and actual amounts reflects final receipts budgets and actual on comparative basis of ksh 70,000 ,000 and kshs. 103,225.471 respectively resulting to an overfunding of Ksh 33,225,471.

ended 30 June 2018 was a one off activity for payment for casual wages in the Various Regional Veterinary Investigation Laboratories. It should be noted that all the staff salaries and wages cost are currently budgeted and paid for under the Recurrent expenditure by the State Department of Livestock.

3207) **Committee Observations and Findings**

The Committee observed and found that the explanation given by the Accounting Officer with regard to unsupported employee costs was satisfactory and marked the matter as resolved.

Other Matter

1218. Budget Control and Performance

3208) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.70,000,000 and Kshs.103,225,471 respectively resulting to an over-funding by Kshs.33,225,471 or 47% of the budget. Similarly, the Fund expended Kshs.63,158,395against an approved budget of Kshs.70,000,000 resulting to an under-expenditure of Kshs.5,841,605 or 9% of the budget. The overfunding implies that the budgeting process may not have considered all the revenue streams of the Fund.

Submission by the Accounting Officer

3210) The Accounting Officer stated that comparative budget and actual amounts reflects final receipts budgets and actual on comparative basis of ksh 70,000 ,000 and kshs. 103,225.471 respectively resulting to an overfunding of Ksh 33,225,471. This amount is the surplus for the year under review. The reason for the increased collection was that some accrued revenue from some export slaughter house for the year 2017/2018 was received in 2018/2019 (Annex 1220(i), There was enhanced revenue collection through use of online platforms (KENTRADE). All manual verifications and certifications were stopped and also the VSDF management increased the surveillance, staff sensitization and monitoring of revenue collection at the point of collection. This is through frequent visits and provision to officers with requisite materials (stationeries, computers) for proper record keeping. During the financial under question there was also favourable meat productions figure leading to more revenue collections.

3211) **Committee Observations and Findings**

The Committee observed and found that the explanation given by the Accounting Officer with regard to overfunding of the **veterinary services development fund was satisfactory and marked the matter as resolved.**

1219. Unresolved Prior Year Matters

3212) In the audit report of the previous year, several paragraphs were raised based on various matters affecting the running the Fund. The matters have remained unresolved and have yet to be deliberated on by the Public Accounts Committee.

Submission by the accounting officer

3213) Prior year Audit issues- refer 2017/2018 Financial year responses

3214) **Committee Observations and Findings**

The Committee observed and found that the explanation given by the Accounting Officer with regard to unresolved prior year matters was satisfactory and marked as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1220. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3215) Field inspections to the boarder points revealed several shortcomings and operational challenges as outlined below:

1221. Field Inspections to Border Points - Malaba, Busia, Lunga Lunga & Taita Taveta

1221.1 Limited Systems Access

3216) The officers stationed at the border posts indicated that they had no access to the Kenya Electronic Single Window System at the border posts, which in turn affected effective execution of their duties. The inspection of documents through the system was being processed at the headquarters rather than at the border posts and was mostly focused on documentation rather than the quality of products being imported into the Country. Sometimes power outages severely affects work, as officers are unable to access internet and emails from headquarters which they rely on mostly to verify and confirm the correctness, approval status and authenticity of import documents.

1221.2 Lack of Inspection Tools and Equipment

3217) The stations lacked the requisite tools and equipment like test kits, screening kits and sampling equipment among others to inspect the animals, animal feed, animal products and feed mills.

1221.3 Lack of Approved Station Budget and Work Plans

3218) The border points and stations do not have approved station budgets and work plans to guide them in their operations and for financial control purposes. In the circumstances, Management has not explained measures it intends to take to address the general weakness in the internal controls and governance in the operations of the Fund.

Submission by the Accounting Officer

1223.1 Limited Systems Access

3219) The Accounting officer stated that officers at the border post do not have access to the Kenya Single Window System as it is only available to officers at the headquarter who approves the import/export applications. The single window system is hosted and administered by the Kenya Trade Network Agency for ease of doing business and it is yet to provide the cargo release module for use at the border post. When this module is availed, the activities at the headquarters and border post will be linked and therefore the officer will have access to the system. Currently the commodity release and clearance at the border post and ports is done manually.

1223.2 Lack of Inspection Tools and Equipment

3220) The Accounting Officer submitted that it was true that the stations lacked the requisite tools and equipment like test kits, screening kits, and sampling equipment among others to inspect the animals, animal feed, animal products and feed mills. However, it should be noted that the department has developed a mechanism of the supporting the border post where by working tools like computers, motor cycles, inspection tools have been procured on their behalf with limited funds at the department level and distributed to these stations (1223.2) These stations are nowadays provided with funds through issuance of Authority to Incur Expenditure (Annex 1223.4(i) and through this they can to some extent support themselves by procuring some requisite tools and equipment's

1223.3 Insufficient Inspection Staff

3221) The Accounting Officer admitted that the stations offices have staffing issues. This has so far been sorted through recruitment of Veterinary Officers by the Directorate of Veterinary Services through the office of Principal Secretary- State Department of Livestock; these officers have been posted to various border posts on priority basis.

1223.4 Lack of Approved Station Budget and Work Plans

3222) The Accounting Officer stated that border points and stations do not have approved station budget and work plans to guide them in their operations and for financial control purposes. However, to ensure proper budgeting processes the fund management has adopted a way of incorporating the border posts work plans and budget estimates. These Border inspection stations are also nowadays issued with funds through issuance of Authority to Incur Expenditure.

3223) To address the general weaknesses in the internal controls and governance in the operations of the fund there has enhancement in the utilization of the Audit function in the Ministry headquarters. It has also ensured the steering committee meets regularly to handle various issues affecting the fund and it has also increased surveillance more so in the border posts.

3224) **Committee Observations and findings**

(i) The Committee observed that there were no field officers posted or deployed to serve at the Border Points - Malaba, Busia, Lunga Lunga and Taita Taveta; and
(ii) The matter remained unresolved.

3225) **Committee Recommendations**

1) **Within six (6) months upon tabling and adoption of this report, the Principal Secretary State Department for Livestock in conjunction with the Public Service Commission should ensure that the Border Points - Malaba, Busia, Lunga Lunga and Taita Taveta are well staffed with qualified officers to serve in those stations.**

2) **Where the Officers will not have been posted/employed/deployed in those stations upon expiry of six (6) months, the Accounting Officer should submit to the National Assembly a report on the progress made in hiring/posting or deploying the required Officers in the said sations.**

1222. Lack of Fixed Assets Register

3226) As disclosed in Note 15 to the financial statements, the statement of financial position reflects a balance of Kshs.29,651,732 under property, plant and equipment. However, the assets were not supported by a fixed asset register with updated details such as the nature of asset, acquisition date, cost, depreciation rate and amount, disposals, serial/title number and location. Further, the analysis or breakdown for respective costs, values and depreciation schedules of the various classes of assets were not provided for audit review.

3227) In absence of the fixed assets register, it has not been possible to confirm whether the Management has taken proper custody and safeguard of its assets

Submission by Accounting Officer

3228) The Accounting Officer stated that as disclosed in Note 15 of the financial statements, the statement of financial position reflects a balance of kshs. 29,651,732 under property, plant and equipment. However, the assets were not supported by a fixed assets register with updated details such as the nature of nature of assets, acquisition date, cost, depreciation rate amount, disposals, serial/title number and location. Further the analysis or breakdown for respective costs, values and depreciation schedules of the various classes of assets were not provided. However, it should be noted that the fund management is in the process of compiling the Asset register and once ready will be availed of audit review.

3229) **Committee Observations and findings**

(i) The Accounting Officer's failure to maintain a complete Fixed Asset Register was a dereliction of duty, and a contravention of Regulation 143(1) of the PFM (National Government) Regulations, 2015. The Committee also observed that the Accounting Officer allowed exposure of public assets to fraud in violation of Section 194(5) of the PFM Act, 2012.

(ii) The matter was therefore unresolved.

3230) **Committee Recommendation**

The Accounting Officer should ensure that correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010, and section 68(2) (k) of the PFM Act, 2012.

1223. Lack of an Enterprise-Wide Risk Management (ERM)

3231) The Fund did not have a well-documented enterprise wide risk management process and policy in place during the year under review, to effectively guide the Fund in risk management processes.

Submission by Accounting Officer

3232) The Accounting Officer submitted that during the time of the audit there wasn't a well-documented Enterprise wide risk management process and policies in place to effectively guide the enterprises risk management processes at large. The management has been relying on the Internal Audit function of the State Department of Livestock in dealing with the financial risk. However, it has realized the need to cover other aspects of risk, which may hinder the fund from carrying out its core mandate effectively and efficiently. This has called for the fund management to initiate the process of formulating an ERM which once complete will effectively guide on the enterprises risk management processes at large

3233) **Committee Observations and Findings**

(i) The Department is in the process of coming up with a well-documented enterprise wide risk management processes and policies to effectively guide the Fund in risk management processes and report back to the National Assembly; and
(ii) The issue remains unresolved.

3234) **Committee Recommendations**

The Accounting Officer should, within three (3) of tabling and adoption of this report, report the status of progress of the Fund's Enterprise wide risk management process and policies to the National Assembly.

1224. Lack of Internal Audit Function

3235) The Fund did not have an Internal Audit Function and Audit Committee to review and appraise its existing internal controls with a view to enhancing the Fund's operational efficiency, governance and compliance. There was no Internal Audit Charter or a detailed internal audit manual to guide the audit operations. No internal audit reports for the year under review and prior years were provided for audit review.

Submission by Accounting Officer

3236) The Accounting officer submitted that that the Fund has no internal audit function and audit committee to Review/appraise its existing internal controls, with a view to enhance the Fund's Operational efficiency, governance and compliance. However, it should be noted that the fund utilizes the services of internal audit office at the State Department of Livestock in the Ministry of Agriculture, Livestock and Fisheries headquarters.

3237) **Committee Observation and finding**

The Committee observed that the Fund has no internal audit function though the fund utilizes the services of internal audit office at the State Department of Livestock in the Ministry of Agriculture, Livestock and Fisheries headquarters.

3238) **Committee Recommendation**

Accounting Officers must at all times ensure that they have appropriate arrangements in place for conducting internal audit according to the guidelines of the Accounting Standards Board pursuant to the provisions of section 73(1)(a) of the Public Finance Management Act, 2012.

33. STATE DEPARTMENT FOR CROP DEVELOPMENT

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1165

Prof. Hamadi I. Boga, the Principal Secretary and Accounting Officer for the State Department of Crop Development (Vote 1165) appeared before the Committee on 26th May, 2021 to adduce evidence on the Audited Financial Statements for the State Department of Crop Development (Vote 1165) for the Financial Year 2018/2019. He was accompanied by the following officers:

1.	Ms. Charity Muriuki	- Deputy Accountant General
2.	Mr. Charles N. Minjine	- Assistant Accountant General
3.	Mr. Joseph Kimote	- MD, NCPB
4.	Mr. Tobias Osano	- Chief Finance Officer
5.	Ms. Naomi Kamau	- Deputy Director, Crops
6.	Mr. Richard Ndegwa	- Ass. Snr. Director
7.	Mr. David Ndorongo	- Ass. Snr. Director
8.	Mr. John Kariuki	- Principal Agricultural Officer
9.	Mr. Edwin Oseko	- Principal Agricultural Officer, Farm Inputs
10.	Ms. Lucy N. Njenga	- Head of Policy
11.	Mr. Albert N. Bengi	- National Project Accountant, KCSAP

And submitted as follows:

1225. Unsupported Prior Year Adjustments

3239) The statement of assets and liabilities reflects a prior year adjustment of Kshs.514,214,380 which has been disclosed in Note 16 to the financial statements as adjustments on bank accounts and cash in hand balances. It is described as total amounts of the State Department's prior period's brought forward balances that were not rolled over to 2018/2019 financial year. However, the amount of Kshs.514,214,380 was not supported by any verifiable documents. Consequently, the validity of the amount of prior year adjustments of Kshs.514,214,380 cannot be ascertained.

Submission by the Accounting Officer

3240) The Accounting Officer submitted that the amount of Kshs.514,214,380 was made up of prior year period balances that were not rolled over to 2018/2019 financial year. Executive order No. 1 of 2018 created a new State Department for Crop Development under vote 1165 from the previous State Department for Agriculture, vote 1161. The adjustment of fund account was necessary to reflect this reality. This affected donor funded projects commercial bank accounts and Headquarters Development and Recurrent Accounts. This information and figures were contained in page 20 under note 12A of the financial statements 2018/19. An amount of Kshs.1,752,677 was in respect of un-surrendered imprests, which were subsequently surrendered and accounted for in the year they related to and hence no cash was receivable from the same. The supporting board of survey reports with collaborating bank reconciliations statements and bank certificates are available for audit verification.

The Analysis was as follows;

Bank	Account	Item Code	Amount (Kshs)
CBK	1000210087	RECURRENT	47,851
CBK	1000209933	DEVELOPMENT	113,953
KCB	1136778322	ASDSP I GOK	46,849
KCB	1136778708	ASDSP I Donor	386,569
KCB	1229967206	ASDSP II GOK	51,465
KCB	1229965076	ASDSP II Donor	37,894,799
Equity	1510263657085	KCEP Nrb (Cral)	205,301,068
Cooperative Bank	01141587171901	KCEP Nrb (ASAP)	9,709,849
Cooperative Bank	011411587177900	KCEP Nrb (Grant)	235,692,009
Equity Bank	1510264926255	KCEP Western	4,781,492
Equity Bank	1510262657085	KCEP Eastern	5,257,280
Equity Bank	1510263657085	KCEP Eastern	6,177,709
Cooperative Bank	01141587177902	KCEP Coast	7,000,737
Total Banks			**512,461,630**
Outstanding Imprests			1,752,677
Adjustment cash in hand			73
GRAND TOTAL ADJUSTMENT			**514,214,380**

3241) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to the unsupported prior year adjustments was satisfactory;

(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification.

3242) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012 and also ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1226. Use of Goods and Services

1226.1 Unsupported Expenditure on Procurement of Subsidized Fertilizer

3243) As disclosed under Note 6 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.7,380,394,463 on use of goods and services for the year ended 30 June, 2019 which includes other operating expenses amounting to Kshs.5,602,863,435. The latter balance includes the cost of procurement of subsidized fertilizer amounting to Kshs.2,773,060,000. However, details of the types of fertilizer and quantities procured in the year were not provided for audit review. In addition, the criteria used in deciding how much fertilizer was to be procured including the type was not explained.

3244) Further, the State Department had transferred Kshs.2,773,060,000 to the Kenya Commercial Bank where it had opened letters of credit for each of the suppliers from whom the fertilizer was ordered. Computations from the bank statements provided by the Kenya Commercial Bank for each of the suppliers showed that there were funds held in the letters of credit accounts awaiting payment upon delivery of the fertilizer by the suppliers which amounted to Kshs.896,425,265 as at 30 June, 2019.

3245) Additionally, there was cash held at the Cooperative Bank of Kenya under letters of credit for suppliers of fertilizer amounting to Kshs 40,842,965 as at 30 June, 2018. Management explained that Kshs.40,246,500 was released to one of the suppliers but no evidence or documentation was provided to support the payment. The certificate of bank balances as at 30 June, 2019 for the Kenya Commercial Bank and Co-operative Bank letters of credit accounts were not provided for audit review.

3246) Under the circumstances, the validity of the expenditure of Kshs.2,773,060,000 on procurement of fertilizer cannot be confirmed.

Submission by the Accounting Officer

3247) The Accounting Officer submitted that the total quantity of fertilizer procured for the year ending 30th June 2019 was 885,500 X50kg bags (44,250MT) at a cost of Kshs.2,773,060,000. These fertilizer types were procured according to requests from the counties.

3248) It was true that as at 30th June 2019, a balance of as Kshs.896, 425,265 was held up in the Kenya Commercial Bank awaiting payment to suppliers upon delivery of the fertilizer.

3249) The letters of credit which had balances as at 30th June 2019 were as follows;

S/NO	L.C NO.	LC in favor of	LC amount (Kshs)	LC balances as at 30th june 2019 (Kshs)
1	TF1903500002	Saphire Business solutions	182,000,000	70,323,500
2	TF1903500005	First quality supplies Ltd	607,380,200	100,275
3	TF1919300021	First quality supplies Ltd	825,200,000	852,200,000
4	TF1903500015	Njest supplies ltd	561,600,000	761,280
5	TF1903500023	Vesco communicatios company	88,450,000	35,550
6	TF1903500024	Purma holdings Ltd	186,480,000	6,660
Total				**896,425,265**

3250) The Accounting Officer also reported that the deliveries were made in 2019/2020 Financial Year and the money released to the suppliers. The certificate of balances for the letters of credit from Kenya commercial bank for the suppliers listed above confirming the balances as at 30th June 2019 have been availed to the auditor for verification.

3251) It was true that as at 30th June 2018, Kshs.40,842,965 was held at Cooperative Bank of Kenya under Letters of Credit for suppliers of fertilizer. He reported that the supplier Saphire Business Solutions supplied 11,497 x 50kg bags of fertilizer and Kshs.40,239,500 was released to them.

3252) A letter from Cooperative bank dated 27th February 2020 showing the status of the cash held in the letter of credit account has been given to the auditor for verification.

3253) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to the unsupported expenditure on procurement of subsidized fertilizer was satisfactory; and

(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification

3254) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012 and also ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1226.1.1 Delayed Delivery of Ordered Fertilizer

3255) The State Department for Crop Development ordered 885,000 bags of various types of blended fertilizer of 50 Kgs, each equivalent to 44,250 Metric Tons at a total cost of Kshs.2,773,060,000. The fertilizer was ordered locally from eight (8) firms that are registered under the Access to Government Procurement Opportunities (AGPO) and was to be distributed to the farmers through various National Cereals and Produce Board depots, and sold at prices set out in the distribution guidelines provided by the State Department. By the end of the year, the Board had received 613,070 bags of fertilizer equivalent to 30,654 Metric Tonswhose value was Kshs.1,876,634,735. The delivery was therefore less by 271,930bags or 13,597 Metric Tons worth Kshs.896,425,265, which did not get to the farmers within the intended period.

Submission by the Accounting Officer

3256) The Accounting Officer submitted that there was a delayed delivery of 271,930 X 50kg bags (13,597MT) of fertilizer by the end of 2018/2019. This was occasioned by orders of 250,000 X 50kg bags (12,500MT) from M/S first Quality Supplies Ltd and 21,930 X50kg bags (1,097MT) from Saphire Business Solutions and Njest Supplies Limited. I wish to report that the deliveries were made in 2019/2020 Financial Year and the money released to the suppliers**.** The contracts for the supply of 250,000 X 50kg bags of various types of fertilizers by First Quality Supplies Limited were signed on 21st June 2019 hence the delay.

3257) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to the delayed delivery of ordered fertilizer was satisfactory; and,
(ii) The Accounting Officer had provided all the supporting documents including contracts, delivery note and store cards; and
(iii) The contracts for the supplies that were delayed were signed on 21st June 2019, just nine days before end of financial year.
(iv) The Committee marked the matter as resolved.

3258) **Committee Recommendation**

The Accounting officer should improve on procurement planning to ensure goods are procured and delivered in time to ensure prompt service delivery to the public.

1226.1.2 Non - Adherence to Eligibility Criteria for Farmers Under the Fertilizer Subsidy Programme

3259) The Ministry`s issued a Circular Ref: MOALF/LCD/9/41/Vol. XVIII dated 14 March, 2019 which gave guidelines on distribution of subsidized fertilizer, under which farmers were to be vetted before being registered, to ensure that only eligible farmers accessed the subsidized fertilizer. However, no minutes were provided to confirm that vetting was carried out by the Vetting Committee as provided in the guidelines. An examination of the farmers' registers maintained at depots revealed various inconsistencies including missing national identification numbers (IDs), incorrect national ID numbers and duplication/sharing of ID numbers, farmers' telephone contacts and duplication/sharing of telephone numbers as well as missing land identification (Title Deed) numbers.

Submission by the Accounting Officer

3260) The Accounting Officer submitted that it was the responsibility of the county governments to vet and register eligible farmers to be issued with government subsidized fertilizers. During our monitoring exercises it was noted that the guidelines for registration of farmers were not followed since location registration committees were not funded and sometimes they were not in place. This prompted the State Department to change the mode of issuing subsidy fertilizer to farmers using the e-voucher system as from the 2019/2020 Financial Year.

3261) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to the non - adherence to eligibility criteria for farmers under the fertilizer subsidy programme was not satisfactory and;
(ii) The Accounting Officer also failed to provide the copies of agreements and letters from Murang'a County Government for verification by the Auditor General.

3262) **Committee Recommendation**

1) **The Accounting Officer should develop eligibility criteria for farmers under the fertilizer subsidy programme to ensure only the intended beneficiaries receive the fertilizer.**
2) **The Accounting Officer should avail copies of agreements and letters from Murang'a County Government for verification by the Auditor General within one month from adoption of this report.**

1226.1.3 Uncollected Credit Sales

3263) There was no provision for sales of the subsidized fertilizer on credit terms in the agency agreement that was signed between the Ministry of Agriculture, Livestock and Fisheries - State Department for Crop Development and the National Cereals and Produce Board. However, 6,160 bags of 50 Kg each of NPK Blend 7:27:10:0 fertilizer worth Kshs.113,000,000 that were dispatched from Thika Depot between 14 June, 2019 and 21 June, 2019 were sold on credit to the County Government of Murang'a. An amount of Kshs.39,162,000 of this debt had been paid by the end of the year under review, resulting in an outstanding balance of Kshs.73,838,000. Although the Management explained that the County Government of Murang'a had given an undertaking to settle the debt, this could not be confirmed due to lack of documents and records.

Submission by the Accounting Officer

3264) The County government of Murang'a was given fertilizer on credit worth Kshs. 113,000,000 during the year under review. The authority to sale fertilizer on credit to the County Government of Muranga was given by the State Department for Crops Development. This was done in order for the farmers not to lose the season for planting cereals as it was underway since the county had not received funding from the exchequer. They have so far paid Kshs. 89,340,400.00 for the fertilizer given on credit during the period under review and for the subsequent year (2019/2020). A balance of Kshs. 59,499,100.00 remains. The issue is still being pursued.

3265) **Committee Observations and Findings**

3266) A balance of Kshs. 59,499,100.00 out of. Kshs. 113,000,000 credit remains uncollected from the County Government of Murang'a.

3267) **Committee Recommendation**

The Accounting Officer should take measures to collect the outstanding balance of Kshs.59,499,100 within three months after tabling and adoption of this report.

Unsupported Insurance Costs

3268) As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.7,380,394,463 under use of goods and services which includes insurance costs of Kshs.309,554,440. The insurance costs further include an amount of Kshs.47,802,469 that was paid to a local company for an insurance cover for 323,402 farmers under the Crop Area Yield Insurance that was taken in the 2017/18 financial year. However, the necessary procurement records including the professional opinion prepared by the Head of Procurement Unit and approval by the Accounting Officer, the letter of contract award to the winning bidder and the contract agreement, were not provided for audit review. Under the circumstances, the validity and propriety of the expenditure of Kshs.47,802,469 cannot be confirmed.

Submission by the Accounting Officer

3269) Prior to 2018/19 APA was providing insurance cover and continued doing so in 2018/19. They rendered commendable services to the farmers. We admit that there was an oversight that is highly regretted but value for money was achieved and there was no loss of funds.

3270) Further, APA won the tenders for the financial years 2019/20-2020/21.

3271) **Committee Observations and Findings**

(i) The accounting officer incurred expenditure without procuring services in accordance to Public Procurement and Asset Disposal Act, 2015.

(ii) Expenditure of Kshs. 47,802,469 was incurred in unlawful manner contrary to Section 68(1) of Public Finance Management Act 2012.

3272) **Committee Recommendation**

Within three (3) months after tabling and adoption of this report, the EACC to initiate an investigation into the unlawful expenditure of Kshs. 47,802,469.

1226.2 Unreconciled Expenditure on Use of Goods and Services

3273) The statement of receipts and payments reflects a total expenditure of Kshs.7,380,394,463 under use of goods and services which differs with the corresponding total expenditure of Kshs.7,381,202,613 disclosed in Note 6 to the financial statements. The resulting difference of Kshs.808,150 has not been reconciled or explained.

Submission by the Accounting Officer

3274) This was a casting error on note 6 (use of goods and services) to the financial statements. The summation of the components of the use of goods sum to Kshs.7,380,394,463 instead of Kshs.7,381,202,613 thus no difference.

3275) The error is regretted and amended accordingly.

3276) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to unreconciled expenditure on use of goods and services was satisfactory

(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification.

3277) **Committee Recommendation**

1) The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM

Act, 2012 and also ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1227. Misclassification of Expenses as Other Grants and Transfers

3278) The State Department incurred an expenditure of Kshs.94,644,539 on other grants and transfers during the year, which as disclosed under Note 9 to the financial statements includes an amount of Kshs.89,796,923 on grants to small businesses, cooperatives and self-employed persons. However, included in the amount of Kshs.89,796,923 is an ineligible expenditure of Kshs.76,474,699 relating to surrender of imprests by staff for various expenses not connected to grants to small businesses, cooperatives and self-employed persons. Consequently, the accuracy of the expenditure of Kshs.94,644,539 on other grants and transfers cannot be confirmed.

Submission by the Accounting Officer

3279) This was a one-line economic budget item - Medium and Small Enterprises which is under note 9 to the financial statements (other grants and transfers) was for the Youth and Women Empowerment in Modern Agriculture Project thus the expenditure of Kshs 76,474,699 on surrender of imprest by various staff being incurred on the same line item. A copy of the vote book attached.

3280) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to misclassification of expenses as other grants and transfers was satisfactory;

(ii) The committee therefore marked the matter as resolved.

1228. Receipts

1228.1 Unreconciled Proceeds from Foreign Borrowings

3281) The statement of receipts and payments reflects proceeds from foreign borrowing amounting to Kshs.1,117,414,844 which relate to direct payments to three (3) donor funded projects namely; Drought Resilience and Sustainable Livelihood Programme (DRSLP), Kenya Cereal Enhancement Programme (KCEP) and Small-Scale Irrigation and Value Addition Project (SIVAP). The State Department's ledger, however, reflects proceeds amounting to Kshs.1,152,885,166 for the year ended 30 June, 2019 and thus, resulting in an unexplained variance of Kshs.35,470,322 between the financial statements and the ledger. In addition, a review of the financial statements of SIVAP showed loans from foreign borrowings amounting to Kshs.404,562,642 while the ledger reflects an amount of Kshs.332,829,072, resulting in a variance of Kshs.71,733,570 that has not been reconciled or explained.

3282) Consequently, the accuracy and completeness of the proceeds from borrowings as disclosed in these financial statements of Kshs.1,117,414,844 cannot be confirmed.

Submission by the Accounting Officer

3283) This was due to delay in IFMIS system Accounts Payable (AP) Transfer to General Ledger (GL) which we raised to the IFMIS department online supplier support portal and has since been corrected.

3284) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to unreconciled proceeds from foreign borrowings was satisfactory; and

(ii) The committee marked the matter as resolved.

1228.2 Unsupported Proceeds from Sale of Assets

3285) As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects receipts of Kshs.3,634,883 under proceeds from sale of assets. The balance includes an amount of Kshs.3,612,883 under receipts from sales of inventories, stocks and commodities and comprised Appropriations-in-Aid (AIA) amounting to Kshs.2,931,123 received from Telkom Kenya whose purpose Management did not explain, as well as an amount of Kshs.681,760 that was unsupported. Consequently, the validity and accuracy of proceeds from sale of assets figure of Kshs.3,634,883 cannot be confirmed.

Submission by the Accounting Officer

3286) Under note 4 of the financial statement, there was an amount of Kshs.2,931,123 received from Telkom Kenya. The money related to leasing where Telkom Kenya had used Kilimo house building for mounting communication gadgets. The lease agreement is available for verification. The balance of Kshs 681,760 was fund balances from Kenya School of Agriculture (KSA)-Nyeri.

3287) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to unsupported proceeds from sale of assets was satisfactory; and

(ii) The committee marked the matter as resolved.

1229. Unreconciled Transfers to Other Government Units

3288) The statement of receipts and payments reflects transfers to other government units totalling Kshs.5,775,206,465 which includes an amount of Kshs.371,123,286 that was transferred to Agricultural Sector Development Support Programme. However, the Programme received Kshs.391,950,999, as disclosed in its financial statements for the year ended 30 June, 2019.The resulting variance of Kshs.20,827,713 has not been supported or explained.

Submission by the Accounting Officer

3289) The Kshs.391,950,999 disclosed by ASDSP in its financial statements as transfers to other government entities was partly transfers to other government entities (counties) of Kshs.371,123,286 and pre-feasibility, feasibility and Appraisal studies (Acquisition of noncurrent -assets) of Kshs.20,827,713.

3290) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to unreconciled transfers to other government units the was satisfactory;
(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification.

3291) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012 and also ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1230. Cash and Cash Equivalents

1230.1 Unexplained Variance in Bank Balances

3292) The statement of assets and liabilities reflects cash and cash equivalents totalling Kshs.2,363,830,159 which includes bank balances of Kshs.2,359,845,917 as at 30 June, 2019. The bank balances in turn includes account balances of Kshs.53,985,375, Kshs.169,686,836 and Kshs.156,798 for Kenya Climate Smart Agriculture Project (KCSAP), National Agricultural and Rural Inclusive Growth Project (NARIGP) and Small-Scale Irrigation and Value Addition Project (SIVAP), respectively as disclosed under Note 12A to the financial statements. These account balances however differ with the bank balances of Kshs.86,503,959, Kshs.202,355,397 and Kshs.90,943 reflected in the records of Kenya Climate Smart Agriculture Project (KCSAP), National Agricultural and Rural Inclusive Growth Project (NARIGP) and Small -Scale Irrigation and Value Addition Project (SIVAP) by Kshs.32,518,584, Kshs.32,668,561 and Kshs.65,855 respectively. No reconciliations or explanations have been provided for these variances.

3293) Consequently, the completeness and accuracy of the bank balances of Kshs.2,359,845,917 as at 30 June, 2019 cannot be confirmed.

Submission by the Accounting Officer

3294) The Accounting Officer submitted that Kenya Climate Smart Agriculture Project (KCSAP) reported bank balances of Kshs.53,985,375 which is the same as the State Department reported as per the attached copy of projects audited financial statements for the year 2018/19. National Agricultural and Rural Inclusive Growth Project (NARIGP) captured bank balance as at the closure of financial year 30th June 2019 while the state department captured all the payments related to the 2018/19 financial year that went through up to July 2019 as per the attached bank statement.

3295) On the Small -Scale Irrigation and Value Addition Project (SIVAP), the state department captured bank balances for both SIVAP loan and SIVAP grant bank account while SIVAP only captured SIVAP loan bank account thus resulting into the difference. This anomaly was noted, regretted and will be restated in this current financial year statements.

3296) C**ommittee Observations and Findings**

(i) The Committee observed that the Accounting Officer explained the cause of the variance in Bank Balances which was satisfactory.

(ii) The Accounting Officer did not avail the reconciliation statements at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification

3297) **Committee Recommendation**

1) **Within three (3) months after tabling and adoption of this report, the accounting officer should reconcile the variances and provide reconciliation statements to the Auditor General for verification to be reported in subsequent audit.**
2) **The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012 and also ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1230.2 Unexplained Variance in Cash in Hand

3298) The statement of assets and liabilities reflects cash balances of Kshs.3,984,242 as at 30 June, 2019 which comprises of Kshs.1,642 and Kshs.3,982,600 held at the Headquarters of the State Department, and the National Agricultural and Rural Inclusive Growth Project (NARIGP) respectively, as disclosed under Note 12B to the financial statements. However, the supporting board of survey report for NARIGP reflects a balance of Kshs.217,756, resulting in an unexplained difference of Kshs.3,764,844.

3299) Consequently, the accuracy of the cash balances of Kshs.3,984,242 as at 30 June, 2019 cannot be confirmed.

3300) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the unexplained Variance in Cash in Hand was satisfactory.

(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification

3301) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1231. Unsupported Account Payables – General Deposits

3302) As disclosed under Note 14 to the financial statements, the statement of assets and liabilities reflects a balance of Kshs.2,062,548,927 under accounts payables which includes an amount of Kshs.133,572,499 in respect of general deposits. This amount includes retention monies totalling Kshs.16,690,262 which have not been supported with a list of the contractors and retention certificates. Further, the balance of general deposits includes balances of Kshs.2,675,916, Kshs.105,189,508 and Kshs.21,066,236 under International Food Fund Demonstration Farm Fund and the 2KR Kibos/Mwea Japan Fund respectively, have also not been supported by any verifiable records and documents.

3303) Consequently, completeness and accuracy of the general deposits balance of Kshs.133,572,499 as at 30 June, 2019 cannot be ascertained.

Submission by the Accounting Officer

3304) The Accounting Officer submitted that the amount totaling to Kshs.21,066,236 consist of retention monies deducted from suppliers. The process of reconciliation of the above has already began and Kshs.15,157,350.96 has been reconciled. The remaining balance of Kshs.5,908,885.04 is still ongoing. The balance of Kshs.2,675,916 belongs to a programme being funded by the International Food Policy Research Institute. The programme is still active. The balance of Kshs.105,189,508 are monies retained in favor of Agricultural Training Centres. The process of refunding the funds to the National Treasury is ongoing.

3305) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Unsupported Account Payables – General Deposits was satisfactory

(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification

3306) **Committee Recommendation**

1) **Within three months after tabling and adoption of this report, the Accounting Officer should complete the reconciliation statements outstanding and submit to Auditor General for verification.**
2) **Within three months after tabling and adoption of this report, the Accounting Officer should ensure any balances owed to National Treasury retained by Agricultural Training Centres is full refunded and report availed to Parliament.**
3) **The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
4) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1232. Pending Bills

3307) As disclosed under Note 28.1 to the financial statements, the State Department for Crop Development had pending bills totalling Kshs.4,092,406,664 as at 30 June, 2019 that were not settled during the year 2018/2019 but were instead carried forward to 2019/2020. Failure to settle bills during the year in which they relate to distorts the financial statements for that year and adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

3308) The Accounting Officer submitted that the State Department for Crop Development had pending bills totalling Kshs.4,092,406,664 as at 30 June, 2019 that were not settled during the year 2018/2019 but were instead carried forward to 2019/2020.This was due to lack of funding from The National Treasury and also budgetary constraints since some were prior accumulated pending bills. They have since been cleared.

3309) **Committee Observations and Findings**

3310) The Committee observed that the explanation given by the Accounting Officer with regard to the Pending Bills was satisfactory and that the said Bills had been cleared

3311) **Committee Recommendation**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

1233. Differences Between the Summary Statement of Appropriation Combined and Statement of Budget Execution by Programmes and Sub-Programmes

3312) The summary statement of appropriation combined reflects total actual payments on comparable basis figure of Kshs.22,359,289,678 which differs with the total payments of Kshs.22,413,928,103 reflected in the statement of budget execution by programmes and sub-programmes, resulting in a difference of Kshs.54,638,430.

3313) In addition, budget under-utilization of Kshs.9,839,233,063 reflected in the summary statement of appropriation combined differs with the figure of Kshs.9,784,594,638 shown in the statement of budget execution by programmes and sub-programmes, resulting in a variance of Kshs.54,638,425 that has not been reconciled or explained.

Submission by the Accounting Officer

3314) The Accounting Officer submitted that the matter has been raised to the IFMIS department National Treasury through the IFMIS support supplier online portal and the department is resolving the issue since the VOTE 1165 (State Department for Crop Development) was reorganized through Executive order No. 1 of 2020 and cannot be accessed at supplier level.

3315) **Committee Observations and Findings**

The Committee observed that though the explanation given by the Accounting Officer with regard to the Differences Between the Summary Statement of Appropriation Combined and Statement of Budget Execution by Programmes and Sub-Programmes was satisfactory, the variances were yet to be explained.

3316) **Committee Recommendation**

Within three (3) months after tabling and adoption of this report, the accounting officer in collaboration with National Treasury to reconcile the variances and provide reconciliation statements to the Auditor General for verification.

1234. Prior Year Matters

1234.1 Procurement of Agriculture Data and Information Management System

3317) The expenditure of Kshs.11,023,798,608 under acquisition of assets included an amount of Kshs.278,786,348 incurred on research, studies, project preparation, design and supervision. Included in the expenditure on research, studies, project preparation, design and supervision, was an amount of Kshs.11,659,600 paid to a company for supply, delivery, installation, testing and commissioning of a web- based Agriculture Data and Information Management System. The contract between the State Department and the company was entered into during the year 2016/2017, and the contractor had been paid Kshs.26,137,600 or 90% of the contract price as at 30 June, 2018.

3318) The contract provided that the supplier was to receive the payment upon training, implementation, pilot rollout and commissioning of the system. Although 90% of the contract price had been paid, implementation and commissioning of the system had not been undertaken. In addition, partial training and piloting was only done in Bungoma County. The minutes and correspondences to show which other counties were to benefit were not provided for audit review.

3319) There were no activities undertaken for the project during the year under review and the project appears abandoned.

3320) **Committee Observations and Findings**

The committee observed the matter was discussed by the Committee in the Report of 2017/2018 and recommendation as follows: -

1) **The Accounting Officer at the material time should be held culpable for committing an offence by contravening section 68(2)(e) of the Public Finance Management Act, 2012 read together with Regulation 97 of PFM regulations 2015 and Section 62 (1) of the Public Audit Act 2015 and is liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years, or to both.**
2) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012**

1234.2 Procurement, Delivery and Distribution of Fertilizer

3321) The statement of receipts and payments for the year ended 30 June, 2018, reflected an expenditure of Kshs.6,244,824,717 under use of goods and services which included an amount of Kshs.4,879,592,284 in respect of operating expenses. The latter balance in turn included an amount of Kshs.3,639,979,568 incurred on the procurement of fertilizer. The State Department advertised for an open national tender for procurement of various types of fertilizer. Contracts were signed on 17 January, 2017 between a trading company and nine firms registered under the Access to Government Procurement Opportunity (AGPO) Program, for delivery of imported and locally blended fertilizer, respectively on “as and when required” basis.

1234.2.1 Irregular Revision of the Budget for the Fertilizer

3322) The total budget and allocation for fertilizer for 2017/2018 financial year was 168,480 metric tonnes of fertilizer worth Kshs.5,038,730,000, comprising 38,000 metric tonnes worth Kshs.1,294,500,000 for the 2017 short rains season and 130,480 metric tonnes worth Kshs.3,744,230,000 for the 2018 long rains season. The total budget was later revised upwards to Kshs.5,569,300,200. However, there was no revision in the quantity of fertilizer required. The reason given for the revision of the financial budget was that the State Department had earmarked to clear the National Cereals and Produce Board (NCPB) debts which amounted to Kshs.7.99 billion as at 30 June, 2018. However, no documentary evidence was provided to indicate that the revision of the budget upwards was related to amounts owing to NCPB.

3323) **Committee Observations and Findings**

The committee observed the matter was discussed by the Committee in the Report of 2017/2018 and recommendation as follows:

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

1234.2.2 Fertilizer Ordered Beyond the Budget

3324) The State Department ordered 932,000 bags of various types of fertilizer of 50 kilograms each, with the total weight of 46,600 metric tonnes. Out of these amounts, 40,000 metric tonnes were ordered from an export trading company, while the balance of 6,600 metric tonnes were ordered from Access to Government Procurement Opportunities (AGPO) firms. The total value of fertilizer ordered by the State Department was Kshs.2,393,092,810.

3325) In addition, the National Cereals and Produce Board (NCPB) was assigned to order 115,700 metric tonnes of various types of fertilizer by the State Department in the year. The State Department had already in the meantime entered into a contract with the Supplier, the export trading company at a cost of Kshs.5,509,776,750. However, the NCPB ordered 103,183.5 metric tonnes of fertilizer only, leaving a balance of 12,516.5 tonnes outstanding at a cost of Kshs.5,719,134,745. No reasons were given for the revision of the contract prices by Kshs.209,357,995 considering the order was less by 12,516.65 tonnes.

3326) Further, out of the 46,600 metric tonnes procured by the State Department from the trading company, 9,991.75 metric tonnes of Diamonium Phosphate (DAP 18:46:0) fertilizer worth Kshs.562,190,809 were procured on 8 May, 2018 as per Invoice No. ML 780150. However, details of Local Purchase Orders raised by either the State Department or the National Cereals and Produce Board were not seen. It was, therefore, not clear which of the two entities was responsible for the procurement. The State Department paid for the consignment through payment voucher number 0255 dated 8 November, 2018. This amount was not included in the pending bills for the year 2017/2018. The total fertilizer ordered by the two entities in the period amounted to 149,775.25 tonnes, all at a cost of Kshs.8,112,227,555 which was shared between the State Department - Kshs.2,393,092,810 and the National Cereals and Produce Board - Kshs.5,719,134,745, respectively. This procurement exceeded the budget amount of Kshs.5,569,300,200 by Kshs.2,542,927,355.

3327) No reason was given for failure by the State Department to order the full amount of 168,480 tonnes of fertilizer as in the approved budget. No explanation was provided for the revised cost of the fertilizer.

3328) **Committee Observations and Findings**

The committee observed the matter was discussed by the Committee in the Report of 2017/2018 and recommendation as follows:

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

1234.2.3 Under Delivery of Fertilizer in the Year 2017/2018

3329) During the year 2017/2018, the State Department received 920,274 bags of various types of fertilizer, while the National Cereals and Produce Board received 1,619,178 bags. All these were handled by NCPB in Mombasa. All the bags were said to weigh 50 kilogrammes each, which translates to 126,972.60 tonnes. The delivery was therefore less by 22,802.65 metric tonnes or 456,053 bags of the order. No reasons were given for the failure to deliver the order in full. No sanctions were imposed on the suppliers for the failure to deliver the full contracted amount.

3330) **Committee Observations and Findings**

The committee observed the matter was discussed by the Committee in the Report of 2017/2018 and recommendation as follows:

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

1234.2.4 Unreconciled Amount Paid for the Fertilizer

3331) The State Department paid an amount of Kshs.1,491,656,363 for the delivery of 29,187.35 metric tonnes of fertilizer or 583,747 bags of fertilizer each weighing 50 kilogrammes. Out of the fertilizer procured, ordered and delivered to the State Department of Agriculture of 46,013.70 tonnes, only 29,187.35 tonnes were paid for, while 16,826.35 tonnes had not been paid for according to the information provided for audit review.

3332) It was explained that a bill of Kshs.175,811,328 incurred by the State Department for Agriculture procured 3171.2 metric tonnes of UREA fertilizer from the export trading company was not settled due to lack of funds and Management further explained that the payment was voided in the IFMIS on 30 June, 2018. Further, in a letter dated 18 October, 2018 another inputs trading company resubmitted an invoice No. 11025 requesting to be paid Kshs.175,811,328 for the UREA fertilizer. The State Department had no contract with the inputs trading company.

3333) In addition, the ledgers indicate that an amount of Kshs.3,639,979,568 was paid in respect of the fertilizer delivered, while other records available shows an amount of Kshs.1,491,656,363 only as having been paid, resulting in unreconciled and unexplained difference of Kshs.2,148,323,205.

3334) **Committee Observations and Findings**

The committee observed the matter was discussed by the Committee in the Report of 2017/2018 and recommendation as follows;

The Accounting Officer at the material time should be held liable for contravening section 68(2)(e) of the Public Finance Management Act, 2012 read together with Regulation 97 of PFM regulations 2015 and Section 9 (1) (e) of the Public Audit Act 2015.

1234.2.5 Unreconciled Distribution Records of Fertilizer to NCPB Depots

3335) Records provided for audit on distribution of fertilizer revealed that 1,200,000 bags of DAP, 1,014,000 bags of CAN, 100,000 bags of NPK, 50,000 bags of Blend 4 and 24,000 bags of Blend 9 fertilizers were distributed to various counties for both the short rains in October, 2017 and long rains in February, 2018. The distribution schedule provided by the State Department, showed that 1,200,000 bags of DAP and 1,014,000 bags of CAN were delivered to NCPB and the State Department required NCPB to have the fertilizer distributed to various depots spread across the Country. Records at NCPB on the other hand shows that NCPB was required to distribute 1,400,000 bags of DAP and 1,014,000 bags of CAN of the fertilizer supplied by the export trading company. In addition, it was noted that NCPB could only account for 1,398,977 bags of DAP fertilizer as 1,013 bags had not been delivered to the NCPB. No reconciliation between the data by the State Department and the data by the NCPB in respect of the same supply of fertilizer was provided.

3336) Further, it was not clarified how the additional 200,000 bags of DAP fertilizer were introduced into the system. It was also not clarified how the 100,000 bags of NPK, 50,000 bags of Blend 4 and 24,000 bags of Blend 9 fertilizers were distributed. In addition, the CAN fertilizer delivered by the trading company was said to be of poor quality and at some point its loading and distribution had been suspended until quality issues had to be sorted out. The fertilizer was said to be caked and attempts to make it free flowing was unsuccessful. It was not, however, clarified how the quality issue was sorted out as it was eventually distributed.

3337) Further, NCPB had hired an independent company to carry out weights and quality survey on the fertilizer. It was not clarified why NCPB had failed to seek the services of the Kenya Bureau of Standards. It was also not explained why the independent company failed to raise the observed weaknesses of weight and quality on time.

3338) **Committee Observations and Findings**

The committee observed the matter was discussed by the Committee in the Report of 2017/2018 and recommendation as follows:

1) **The Accounting Officer MUST at all times ensure that applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
2) **The Accounting Officer MUST at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1234.2.6 Unaccounted Revenue from Sale of Fertilizer

3339) The State Department for Agriculture did not prepare a statement of revenue for the year 2017/2018. It was indicated that The National Treasury had not appointed the Accounting Officer, State Department for Agriculture as a Receiver of Revenue. However, the National Cereals and Produce Board was to bank all revenue realized from sale of local blends of fertilizer that were procured by the State Department from AGPO firms at the Kenya Commercial Bank for onward transmission to the State Department's account at the Central Bank of Kenya.

3340) The State Department indicated that NCPB had an accumulated sales receipt of Kshs.1,137,911,500 as at 30 June, 2018, while NCPB reported revenue amounting to over Kshs.1,400,000,000. It was indicated that the amount was used to offset debts owed to the NCPB as the State Department had failed to settle its obligations related to subsidy claims by NCPB. This however, is contrary to the requirements of Section 76 of the Public Finance Management Act, 2012 which stipulates that, "a receiver of the national government revenue may authorize a public officer employed by the national government or any of its entities to be a collector of revenue for the national government and remit it to the receiver''. The State Department explained that The National Treasury had not appointed 'a receiver of revenue' for this kind of revenue for the year, and consequently it was left to the National Cereals and Produce Board.

3341) The State Department indicated that as at 30 June, 2018, it had 236,217 bags of various types of fertilizer outstanding in the depots of NCPB. This implies that at least 2,303,235 bags of various types of fertilizer had been sold, which would indicate that the NCPB had collected over Kshs.2.3 billion on sale of fertilizer. Under the circumstances, the total revenue collected could not be confirmed.

Submission by the Accounting Officer

3342) The Accounting Officer submitted that the state department had not prepared the statement of revenue for financial year 2017/18 as the Accounting officer had not been appointed as receiver of revenue. However, upon appointment as receiver of revenue in 2018/19 the statement was prepared.

3343) As it was observed by the Public Accounts Committee during the hearing of the state department response to auditor General's report of 2017/2018, it is true that National Cereals and Produce Board (NCPB has not submitted fertilizer revenues as the Kenya Commercial Bank Account (KCB) has been frozen as a result of debts owed by NCPB. The Department has since requested bank statement from NCPB to confirm that indeed there is money held on the fertilizer account and establish the amount involved. Supporting documentation were attached for perusal by the Committee.

3344) **Committee Observations and Findings**

(i) The Committee observed that the financial statements relating to sale of fertilizer were not availed for audit.

(ii) The committee further observed revenue of undetermined value has not been accounted for.

3345) **The Committee recommended that –**

Within three (3) months after tabling and adoption of this report, the Auditor General to conduct a forensic audit into the transactions involved in the sale of fertilizer.

1234.2.7 No Formal Agreement Between the State Department and the National Cereals and Produce Board on Distribution of Fertilizer

3346) The assignment contract provided that the State Department was to refund the National Cereals and Produce Board the subsidy on imported fertilizer. The National Cereals and Produce Board sold fertilizers to farmers at subsidized prices of Kshs.1,500 for a 50kg bag for all planting fertilizer (DAP, NPK 23:23:0, NPK 17:17:17) blends and all top-dressing fertilizer (CAN, UREA): and Kshs.1,300 for a 50Kg bag of Sulphate of Ammonia (SA).

Although the imported fertilizer for the short rains as well as the blended fertilizers that the State Department procured from AGPO firms were delivered directly to the depots of the National Cereals and Produce Board located in various parts of the country, it was noted that no agreement was signed between the State Department and the National Cereals and Produce Board about the handling of the fertilizer stocks as well as the sales proceeds. No evidence was provided to show that the State Department carried out any reconciliations for sales made and quantity delivered by, or outstanding from each of the suppliers as at 30 June, 2018. However, it was indicated that as at 30 June, 2018, there were 236,217 bags of various types of fertilizer in various depots.

Submission by the Accounting Officer

3347) The Accounting Officer submitted that since the inception of the fertilizer subsidy programme, NCPB used to distribute fertilizers through instructions given in form of letters and distribution guidelines normally issued at the beginning of the planting season. As from 2018/2019 the Ministry and NCPB have been signing Agency Agreements which guides government subsidized fertilizer distribution.

3348) **Committee Observations and Findings**

(i) The Committee had discussed the matter in the Report of 2017/18 and resolved to revisit the matter in 2018/19.

(ii) The reconciliations which had not been done by then are still outstanding.

3349) **Committee Recommendation**

1) **Within three (3) months after tabling and adoption of this report, the accounting officer to reconcile quantities received and distributed as required provide reconciliation statements to the Auditor General for verification.**

2) **The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

3) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1234.3 Outstanding Pending Bills

3350) Disclosed under Annex 1 to the financial statements for 2017/2018 were pending bills amounting to Kshs.1,013,115,765 as at 30 June, 2018 which were not settledin 2017/2018 but carried forward to 2018/2019 financial year. However, supportingdocuments for the pending bills, including invoices, local purchase orders and/or local service orders as well as contract agreements were not provided to support the list of the pending bills. In addition, pending bills of undetermined value, relatingto procurement and receipt of various types of fertilizer in the year 2017/2018 werenot disclosed in the Annex.

3351) Further, out of an amount of Kshs.418,184,136 that was disclosed in the pending bills balance as at 30 June, 2017, payments amounting to Kshs.72,211,928 were made in the year 2017/2018 leaving an outstanding balance of Kshs.345,972,208. Management did not explain the status of the balance of Kshs.345,972,208 which was not carried forward in the list for 2017/2018. Consequently, the accuracy and validity of the disclosed pending bills balance of Kshs.1,013,115,765 as at 30 June, 2018 could not be confirmed.

3352) **Committee Observations and Findings**

The committee observed the matter was discussed by the Committee in the Report of 2017/2018 and recommendation as follows:

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills are unavoidable, they should form a first charge in the subsequent year's budget.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3353) **Conclusion**

1235. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3354) **Conclusion**

1236. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

REVENUE STATEMENTS - STATE DEPARTMENT FOR CROPDEVELOPMENT

REPORT ON THE REVENUE STATEMENTS

Basis for Disclaimer of Opinion

1237. Accuracy of the Arrears of Revenue

3355) The statement of arrears in revenue reflects revenue arrears of Kshs.475,147,096 as at 30 June, 2019. The amount relates to revenues realizedfrom sale of subsidized fertilizer by the National Cereals and Produce Board onbehalf of the State Department for Crop

Development through an AgencyAgreement signed between the Ministry of Agriculture, Livestock and Fisheries and the Board. However, the amount reported by the State Department differs with the amount of Kshs.754,808,617 being proceeds from sale of the fertilizer reported in the revenue statements of the National Cereals and Produce Board by Kshs.279,661,521. No reconciliation or explanation has been provided for the arising difference. In addition, supporting documents for the reported arrears were not provided for audit verification.

3356) Consequently, the completeness and accuracy of the reported arrears of revenue balance of Kshs.475,147,096 could not be confirmed.

Submission by the Accounting Officer

3357) The Accounting Officer submitted that the arrears of revenue of Kshs.475,147,096 as at 30th June was derived from the budget provisioning as this was the amount that had been budgeted for collection. National cereals and produce board (NCPB) did not remit fertilizer proceeds for the year under review to us and therefore, we could not accurately confirm funds they had not remitted. Reconciliation was not feasible as no receipts had been made. The amount of Kshs.475,147,096 was a budgetary figure and no collection was made against it thus the reason why the amount fell into arrears.

3358) **Committee Observations and Findings**

(i) The Receiver of Revenue did not avail reconciliations and documents supporting the revenue reported.

3359) **Committee Recommendation**

1) **The Committee reprimands the Receiver of Revenue for failing to avail the documents to the Committee.**
2) **Within three (3) months after tabling and adoption of this report, the Receiver of Revenue to reconcile quantities received and distributed as required and provide reconciliation statements to the Auditor General for verification.**
3) **The Receiver of Revenue must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 82 of the PFM Act 2012.**
4) **The Receiver of Revenue must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 82 of the PFM Act, 2012.**

1238. Unremitted Revenue

3360) The statement of comparison of budget and actual amounts reflects a final budget of Kshs.475,147,096 against nil receipts for the financial year 2018/2019. However, as disclosed in Note (a) under the statement, the revenue was not realized because the National Cereals and Produce Board did not surrender the receipts collected to the State Department. No satisfactory explanation was provided for failure by the National Cereals and Produce Board to surrender the revenue collected. Further, as disclosed in Note (b) under the statement, revenue amounting to Kshs.456,662,652 collected in the financial year 2016/2017, had not been remitted to the Exchequer account as at 30 June, 2019.

3361) In addition, no evidence was provided that the State Department for Crop Development informed the Cabinet Secretary in charge of Finance of the difficulty in collecting revenues due to the National Government as required under Regulation 64(2) of the Public Finance Management (National Government) Regulations, 2015.

3362) In the circumstances, it could not be confirmed that adequate safeguards existed and were applied for the prompt collection and proper accounting of the national government revenue.

Submission by the Accounting Officer

3363) The Accounting Officer submitted that it was true that the amount of Kshs.475,147,096 budgeted in the financial year 2017/18 was not remitted by NCPB. We have written demand letters and NCPB has admitted to owing us revenue which is in their bank account. However, remittance of the same has not been possible as the funds has been withheld by the Kenya Commercial Bank(KCB) due to non - payment of loan that NCPB had taken with the Bank which is yet to be paid back. The loan had been taken to pre-finance fertilizer subsidy programme and the state department was supposed to reimburse the same but due to lack of budgetary provision the state department did not pay. The amount of Kshs 456,147,096 collected in the financial year 2016/17 has since been paid to the Exchequer.

3364) **Committee Observations and Findings**

(i) The Receiver of Revenue had not addressed the issue of unremitted revenue and how the issue will be resolved with KCB.

3365) **Committee Recommendation**

Within three (3) months after tabling and adoption of this report, the Receiver of Revenue should furnish Parliament with measures taken by the state department Accounting Officer to resolve the issue between KCB and NCPB.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3366) **Conclusion**

1239. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3367) **Conclusion**

1240. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

DONOR FUNDED PROJECTS

KENYA CEREAL ENHANCEMENT PROGRAMME - CLIMATE RESILIENT AGRICULTURAL LIVELIHOOD WINDOW (IFADGRANT NO. 2000000623, IFAD LOAN NO. 2000001121 & ASAP TRUST GRANT NO. 2000001122)

REPORT ON THE FINANCIAL STATEMENTS

3368) **Unqualified Opinion**

1241. There were no material issues noted during the audit of the financial statements of the Programme.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1242. Other Grants and Transfers

3369) The statement of receipts and payments reflects under other grants and transfers amounts of Kshs.395,481,424 for direct transfers and Kshs.228,452,076 for transfers/payments made by third parties. As disclosed under Note 8.12 to the financial statements, the balance of funds with the implementing partners as at the year-end was Kshs.268,214,879 and included Kshs.38,000,000 and Kshs.29,282,288 that had been transferred to the Centre for Training and Integrated Research in ASAL Development (CETRAD) and Kenya Meteorological Department (KMD) in the previous year. Out of the amounts transferred to CETRAD and KMD as indicated, only Kshs.2,110,740 and Kshs.4,618,843, respectively had been spent with no expenditure being incurred in the year under review. This is an indication that the resources provided by the Programme were not used effectively by the two institutions and thus resulting in delayed provision of services to the intended beneficiaries.

Submission by the Accounting Officer

3370) The Accounting Officer submitted that the funds transferred to CETRAD were mainly meant for procurement and equipping of 16 GIS/Remote sensing Units with complete GIS/Remote sensing equipment's (each Unit equipped with one desk top computer, 1 arc GIS software, 1 arc Info License, 3 GPS machines and 1 HP Printer). The funds transferred to KMD on the other hand were meant for procurement of metrological equipment and setting them up. This includes; 143 automatic and 71 manual rain gauges, 9 base stations, 9 specialized software sets, and 8 computers and software.

3371) The procurement process for the equipment above was initiated by both CETRAD and KMD took longer than expected. The Procurement by both partners was finalized in July 2019, delivery and installation of the equipment's and payments for the same was made during the year 2019/2020.

3372) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Other Grants and Transfers was satisfactory; and

(ii) The Committee marked the matter as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3373) **Conclusion**

1243. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DROUGHT RESILIENCE AND SUSTAINABLE LIVELIHOODS PROGRAMME (ADF LOAN NO. 2100150028345)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

1244. Unreconciled Non-Financial Assets Expenditures

3374) The statement of receipts and payments for the year ended 30 June, 2019 reflects expenditures totalling Kshs.591,604,017 incurred on purchase of non-financial assets, as further disclosed in Note 8.10 to the financial statements. The balance includes Kshs.565,754,465 spent on construction of civil works. However, the Programme's Integrated Financial Information Management System (IFMIS) data reflects payments totalling Kshs.629,896,901 against civil works while the State Department for Crops Development's (IFMIS) trial balance as at 30 June, 2019 reflects expenditure totalling Kshs.608,415,401 on the item. The three sets of records have not been reconciled. As a result, it is not possible to confirm the accuracy and completeness of the expenditure totalling Kshs.565,754,465 shown in the statement of receipts and payments as having been incurred on civil works during the year under review.

Submission by the Accounting Officer

3375) The Accounting Officer submitted that the Management wishes to confirm that it has undertaken a reconciliation of the 3 sets of records and that the variance between the records was as a result of Direct Payment No.419 (DP 419) Journal of Contractor (Karura Engineering Works Ltd) that was captured in financial year 2018-2019 but never paid. The journal was reversed and cancelled from the ledger.

3376) The Management has also availed a detailed analysis of the acquisition of the non-financial assets as to reflect the correct value of Kshs 591,604,017.60 which has been posted in the Revised Financial statements provided for audit verification and review. The detailed analysis of the acquisition of Non-financial assets has also been provided.

3377) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Other Grants and Transfers was satisfactory.

(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification

3378) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1245. Un-accounted for Transfers to Other Government Entities

3379) The statement of receipts and payments for the year ended 30 June, 2019, in addition, reflects expenditure totalling Kshs.61,343,608 incurred on purchase of goods and services. The balance includes Kshs.4,000,000 spent from Authority to Incur Expenditure(AIEs) transferred to Kenya Agricultural and Livestock Research Organization (KALRO) for implementation of activities specified in a Memorandum of Understanding signed with the Programme. However, documents to support the expenditures including details on actual items funded by the AIEs, have not been presented for audit.

3380) As a result, the occurrence and validity of the expenditure amounting to Kshs.4,000,000 cannot be confirmed.

Submission by the Accounting Officer

3381) The Accounting Officer submitted that the Management wishes to state that the Financial Statements for the Project for the period ended 30th June 2019 were revised accordingly and the correct amount of Ksh. 60,809,036 incurred on purchase of goods and services was corrected. The payment Voucher of Ksh 4,000,000 to KALRO has been provided for audit review as well as the expenditure returns documents from KALRO.

3382) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Un-accounted for Transfers to Other Government Entities was satisfactory, and

(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification

3383) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1246. Unreconciled Transfers from Government Entities

3384) The statement of receipts and payments for the year ended 30 June, 2019 reflects receipts totaling Kshs.27,334,588, being transfers from government entities. The balance, as disclosed in Note 8.3 to the financial statements, reflects government counterpart funds received by the Programme during the year under review. However, records available at the State Department for Crops Development shows transfers totaling Kshs.24,460,352 were received during the year. The difference amounting to Kshs.2,874,236 between the receipts balance reflected in the statement of receipts and payments and that shown in the Department's records has not been explained. As a result, it is not possible to confirm the accuracy of transfers from government entities totaling Kshs.27,334,588 reflected in the statement of receipts and payments for the year ended 30 June, 2019.

Submission by the Accounting Officer

3385) The Accounting Officer submitted that the Management confirmed that the figure of Kshs.27,334,588, being transfers from government entities is the GOK counter-part funding the project received from the exchequer. Out of this amount, Kshs.24,460,352 were directly attributed to the Project while the difference of Kshs.2,874,236 was expenditure incurred within the Ministry HQs but under the Project vote. The management confirms that the Kshs.27,334,588 expenditure has been appropriately reflected in the revised Financial Statements.

3386) **Committee Observations and Findings**

The Committee observed that the State Department incurred the expenditure within Ministry instead of the amount being transferred to the Project Account, contrary to financial procedures and controls.

3387) **Committee Recommendation**

The Accounting Officer should ensure compliance with financial procedures and controls and expenditure for a project should be incurred within a project to as required under conditions in the financing agreements.

1247. Undisclosed Fixed-Asset Balances

3388) Disclosed under Annexure 3 to the financial statements is a summary statement being an abstract of the Programmme's fixed assets register. However, the abstract reflects nil asset balances for both current and prior years. In addition, thesummary does not show historical costs of assets, additions, disposals and closingbalances at the end of the financial year under review. Further, the summary doesnot indicate the respective values of assets. In the circumstance, it is not possibleto confirm ownership and valuation of assets purchased by the Programme as at 30 June, 2019.

Submission by the Accounting Officer

3389) The Accounting Officer submitted that the Management confirmed that the Fixed Asset Balances as a disclosure under Annexure 3 which was not provided before has been provided for Audit review and Verification. A summary of the programmes' fixed assets register has also been provided.

3390) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Undisclosed Fixed-Asset Balances was satisfactory; and

(ii) The Accounting Officer did not avail the documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification.

3391) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1248. Unconfirmed Retention Money Balances

3392) The statement of receipts and payments for the year ending 30 June, 2019 reflects accumulated expenditure totaling Kshs.1,785,599,799 under acquisition of non-financial assets. However, Management do not maintain a retention monies register for civil works that the project executes.

3393) In the absence of a retention monies register, it is not possible to confirm the retention monies payable to contractors at the end of their respective defects liability periods.

Submission by the Accounting Officer

3394) The Accounting Officer submitted that the Management confirmed that a retention register of all the contracts being executed by the programme has been prepared and availed to the Office of the Auditor General for review and verification. The register details all the payments to date to the respective contractors as per the raised Interim Payment Certificates (IPCs) and the retention moneys under each IPCs and total amount retained to date.

3395) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Unconfirmed Retention Money Balances was satisfactory; and

(i) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification

3396) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1249. Unreconciled Loan Receipts

3397) The statement of receipts and payments for the year ended 30 June, 2019 reflects loan receipts from external development partners totaling Kshs.66,957,355. However, the special account statement shows the sum of Kshs.124,101,876 as having been withdrawn from the special account and transferred to the Project`s bank account during the year under review. No explanation or reconciliation has been provided for the difference totaling Kshs.57,144,521 between the two sets of records.

Submission by the Accounting Officer

3398) The Accounting Officer submitted that the project financial statements are prepared on IPSAS cash basis and will only account for the cash received during the year. However, the difference of Kshs. 57,144,521 was occasioned by receipts of Kshs.124,101,876 special account which is controlled and managed by the National Treasury. The National Treasury will further advance the money depending on project budget thus retaining the other receipt for disbursement when budget is allocated. The Kshs.57,144,521 is still held at National Treasury special account and will be disbursed when the amount is factored in the budget.

3399) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Unreconciled Loan Receipts was satisfactory; and

(ii) The Committee marked the matter as resolved.

1250. Unconfirmed Opening Cash and Cash Equivalents Balance

3400) The statement of financial assets as at 30 June, 2019 reflects cash and cash equivalents balance totaling Kshs.47,362,768, as further disclosed in Note 8.13 to the financial statements. However, the opening balance of cash-in-hand totaling Kshs.21,477,511 was not explained in the previous year. As a result, it is not possible to confirm the completeness and accuracy of the closing balance totaling Kshs.47,362,768 reflected in the statement of assets and liabilities as at 30 June, 2019.

Submission by the Accounting Officer

3401) The Accounting Officer submitted that the management wishes to confirm that the opening balance of Kshs.21,477,511.25 relates to cumulative AIE (issued to the Counties) and transfer to KALRO balances as at the end of Financial year of 2017/2018 which had not been expended and justified as reflected in Note 8.13 –Notes to the Financial Statements-the Cash in Hand.

3402) The Management confirmed that all the AIE returns have been expended and accounted for. The physical payment vouchers are now available for audit verification and review. Prior year adjustments on the same will be done to account for the expended AIEs in the 2020-2021 Financial year.

Expenditure Returns from the Counties

NO.	COUNTY	AIE ISSUED	AMOUNT EXPENDED	BALANCE (Kshs.)	REMARKS
1	Turkana	3,569,471.00	3,569,471.00	Nil	Physical Vouchers available for Audit Review and Verification in the office
2	Isiolo	4,457,660.00	4,457,660.00	Nil	
3	Marsabit	1,744,969.00	1,744,969.00	Nil	
4	West Pokot	3,501,361.00	3,501,361.00	Nil	
5	Baringo	3,114,804.25	3,114,804.25	Nil	
6	Samburu	4,930,374.00	4,930,374.00	Nil	
7	KALRO	149,872.00	149,872.00	Nil	
	TOTAL	**21,477,511.25**	**21,477,511.25**		

3403) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Unconfirmed Opening Cash and Cash Equivalents Balance was satisfactory; and

(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification.

3404) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1251. Budgetary Underperformance and Unbudgeted Expenditures

1251.1 Shortfall in Receipts and Under-Expenditure

3405) The statement of comparative budget and actual amounts for the year ended 30 June, 2019 reflects actual receipts and expenditure amounting to Kshs.685,895,961 and Kshs.660,602,627 against final budgets of Kshs.807,450,832 and Kshs.826,927,190 for receipts and expenditures, respectively. Therefore, the Programme recorded a shortfall in receipts amounting to Kshs.121,554,871 and under-expenditure amounting to Kshs.166,324,564 equivalent to 15% and 20% of the respective budgets for the year under review. No plausible explanation has been provided for the underperformance.

3406) Further, the statement reflects an unsupported adjustment to the original budget amounting to Kshs.424,120,900 and Kshs.448,545,700 for receipts and expenditures respectively. In the absence of an explanation for the adjustments, their validity could not be confirmed. As a result, the validity of the budgeted receipts and expenditure balances amounting to Kshs.807,450,832 and Kshs.826,927,190 respectively reflected in the statement of comparative budget and actual amounts for the year ended 30 June, 2019 cannot be confirmed.

Submission by the Accounting Officer

3407) The Accounting Officer submitted that it was true the statement of comparative budget and actual amounts shows a shortfall of receipts amounting to Kshs,121,554,871 which comprises of Loan Revenue, counterpart funding and Loan AIA . The shortfall was occasion by limited funding from GOK and slow execution of projects due to delay in submitting payments certificates. The management also confirmed that the under expenditure was occasion by slow execution of Projects to raise certificates for payments. The shortfall in expenditure was occasioned by slow training activities, staff airtime and fuel & lubricants

3408) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Shortfall in Receipts and Under-Expenditure was satisfactory; and

(ii) The Committee marked the matter as resolved.

1251.2 Unbudgeted Expenditure -Training Expense

3409) The statement of receipts and payments for the year under review reflects expenditure totalling Kshs.61,343,608 in respect to purchase of goods and services. The balance includes Kshs.8,630,950 relating to training expenses as disclosed in Note 8.8 to the financial statements. However, the Programme's records indicate that included in the balance were expenditures totalling Kshs.651,300 not budgeted for or included in the annual work plan, as explained below:

i. Kshs.499,500 incurred on development of terms of reference for consultants,under the Rural Livelihoods Adaptation to Climate Change in the Horn of AfricaProject for a retreat held in KALRO Thika from 15th to 19th July, 2019.

ii. Kshs.151,800 incurred in respect of Kenya National Secretaries Association, Annual General Conference for Office Administrators held on 13th and 14th June, 2019.

Submission by the Accounting Officer

3410) The Accounting Officer submitted that the Management confirmed that Expenditure amounting to Kshs.651,300 was incurred under training expenses and the same had been Budgeted for in the annual DRSLP Work Plan for the FY 2018-2019 under Loan Revenue with an amount of Kshs.1,833,620 for staff training. This therefore means the training course- Kenya National Secretaries Association, Annual General Conference for Office Administrators held on the 13th June 2019 and the 14th June 2019 amounting to Kshs.151, 800.was budgeted for as indicated above.

3411) However, the Development of TORs for consultants, under the Rural Livelihoods Adaptation to Climate Change in the Horn of Africa Project (which is a grant component of DRSLP in Turkana and Baringo Counties) held in KALRO Thika on the 15th - 19th July 2019 for Kshs.499,500 was not budgeted for. This amount was borrowed from DRSLP loan revenue and the same amount was credited back when the justifications for the spending under RLACC vote book was done. The activity had to be carried to ensure smooth roll out of the RLACC project in the FY 2019-2020. Going forward, the management will always adhere to the approved budget and line expenditure items.

3412) Committee Observations and Findings

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Unbudgeted Expenditure -Training Expense was satisfactory; and

(ii) The Committee marked the matter as resolved.

1252. Unsatisfactory Implementation of Projects

3413) The Programme's status report dated 30 June, 2019 indicated that various projects on construction of livestock markets, rehabilitation of irrigation schemes, water supply and other civil works, were implemented during the year under review. However, a sampled audit of twenty (20) projects valued Kshs.1,192,229,802 and for which payments totaling Kshs.634,217,650 had been made as at 30 June, 2019, revealed several anomalies that included stalled works and completion delays, as highlighted below:

1252.1.1 Stalled Projects Drilling and Equipping Chepel Borehole in WestPokot County

3414) An audit inspection carried out on 14 September, 2019 revealed that:

i. The project site was abandoned by the contractor and the works were incomplete;

ii. the contractor did not pay unskilled labourers before he abandoned the works;

iii. the site was not fenced as provided for in the bills of quantities;

iv. a water storage tank and stand were not installed on the site as provided for in the bills of quantities.

Submission by the Accounting Officer

3415) Management acknowledges that the project stalled because of abandonment by contractor. The Contract terminated and to be re-advertised before 30th June 2021.

3416) **Committee Observations and Findings**

The Committee observed that the Accounting Officer had taken measures to address the stalled project.

3417) **Committee Recommendations**

The committee recommended the Accounting Officer to ensure due diligence is carried out on contractors engaged for capacity to avoid nonperformance of contracts.

1252.1.2 Construction of Koiser Water Pan in Baringo County

3418) An audit inspection carried out on 17 September, 2019 revealed that:

i. The project site was abandoned by the contractor and as a result, the works were not completed;

i. the intake tower was lower than the required height and therefore could not collect water as expected;

ii. the spillway was not completed;

iii. construction of water troughs was not completed and steel covers were not installed;

iv. piping to the water trough was not done;

v. the contractor did not pay dues owed to unskilled labourers before he abandoned the site; and

vi. the water pan was not fenced as provided for in the bills of quantities.

Submission by the Accounting Officer

3419) The project is complete and in use by beneficiaries awaiting official handover.

3420) **Committee Observations and Findings**

The Committee observed that the Accounting Officer had taken measures and address the stalled project and was now complete.

3421) **Committee Recommendations**

The committee recommended the Accounting Officer to ensure due diligence is carried out o contractors for capacity to avoid non-performance of contracts.

1252.1.3 Rehabilitation Kiboi Irrigation Scheme

3422) An audit inspection carried out on 17 September, 2019 revealed that:

i. Only one (1) of the two (2) signboards costed in the bills of quantities was erected;

ii. timber used to build the project's offices was not treated as prescribed in the bills of quantities and

iii. electrical wiring of the offices costed in the bills of quantities, was not done.

Submission by the Accounting Officer

3423) The Management has addressed all issues raised. Irrigation scheme completed and in use by beneficiaries; awaiting commissioning and official handover.

3424) **Committee Observations and Findings**

The Committee observed that the Accounting Officer had taken measures and address the stalled project and was now complete.

3425) **Committee Recommendations**

The committee recommended the Accounting Officer to ensure due diligence is carried

out on contractors for capacity to avoid non-performance of contracts.

1252.1.4 Drilling and Equipping of Nomboria Borehole in Samburu County

3426) A site inspection visit carried out on 19 September, 2019 revealed that:

i. Fencing of the borehole site was done with a very light wire gauge (less than three millimetres) and therefore the fence did not serve its intended purpose well;

ii. the water trough was set up too high and therefore some livestock could not reach it to access water;

iii. two (2) solar panels malfunctioned after they were blown off by the wind;

iv. the project was not formally handed over to the community after completion;

v. the borehole and other infrastructure were put to use by the community but were not properly maintained;

Submission by the Accounting Officer

3427) The Management has addressed all issues raised. Irrigation scheme completed and in use by beneficiaries; awaiting commissioning and official handover.

3428) **Committee Observations and Findings**

The Committee observed that the Accounting Officer had taken measures and address the stalled project and was now complete.

3429) **Committee Recommendations**

The committee recommended the Accounting Officer to ensure due diligence is carried out on contractors for capacity to avoid non-performance of contracts.

1252.1.5 Construction of Nomotio Hay Shed in Samburu County

3430) A site inspection visit carried out on September 19, 2019 revealed that several project assets were vandalized. Part of the hay shed, doors and windows to the guard house and toilets, fencing wire and part of the roof to the tank shed were all missing. Similarly, a 10,000-litre capacity water tank included in the bills of quantities for installation by the contractor was missing. The hay shed too was vandalized and was not put to its intended use.

3431) In addition, unskilled laborers working on the Project were not paid by the contractor before he left the site. Furthermore, available information indicated that the project was not handed over to the Community by the contractor reportedly because he was not paid for all the work done.

Submission by the Accounting Officer

3432) The Contractor had been instructed to make good defects. The Community was trained on operations and maintenance. The borehole in use and awaiting official hand over and commissioning.

3433) **Committee Observations and Findings**
The Committee observed that the Accounting Officer had taken measures and address the stalled project and was now complete.

3434) **Committee Recommendations**

The committee recommended the Accounting Officer to ensure due diligence is carried out on contractors for capacity to avoid non-performance of contracts.

1252.2 Drilling and Equipping of Kalikwon Shallow Well in West PokotCounty

3435) The contract for drilling and equipping of Kalikwon Shallow Well in West Pokot County was awarded at a sum of Kshs.5,517,327. The project commenced in April, 2018 and was due for completion after one (1) year. On 15 July, 2019, the contractor requested that the contract period be extended for 90 days. The request was granted and the completion date set for 16 September, 2019.

3436) The status report presented for audit indicated that the contractor had been paid Kshs.1,771,863 as at 30 June, 2019, which was 32% of the contract sum. The report also indicated that the project was at 36% level of completion.

3437) The following are the audit observations made in respect to the project:

1252.2.1 Variation of Works and Contract price above 25% of Bid Price

3438) In July, 2018 the project manager approved new works for construction of a toilet and a fence at an additional cost of Kshs.815,400 and Kshs.1,312,150, respectively. The variation was 33% of the original bid price of Kshs.6,400,100, which was far beyond the threshold of 25% allowed in the Public Procurement and Disposal Act, 2015.

Submission by the Accounting Officer

3439) The Accounting Officer acknowledged the findings of the audit. The contract terminated and was set to be re-advertised before 30th June 2021.

3440) **Committee Observations and Findings**
The Committee observed that the explanation given by the Accounting Officer addressed the audit observation satisfactorily.

3441) **Committee Recommendations**
The committee recommended the Accounting Officer to ensure a new contractor is

procured promptly and work completed to achieve intended objectives for service delivery.

1252.2.2 Expired Performance Guarantee

3442) Examination of project records revealed that the performance guarantee provided by the contractor was valid up to 31 December, 2018 beyond which any demand in respect of the guarantee would be null and void. However, the contractor continued to undertake the works after the guaranteed period lapsed. This exposed the project to additional performance risks in the event of default by the contract.

Submission by the Accounting Officer

3443) The Accounting Officer acknowledged the findings of the audit. The contract was terminated and set to be re-advertised before 30th June 2021.

3444) **Committee Observations and Findings**

The Committee observed that the explanation given by the Accounting Officer addressed the audit observation satisfactorily.

3445) **Committee Recommendations**

The committee recommended the Accounting Officer to ensure a new contractor is procured promptly and work completed to achieve intended objectives for service delivery.

1252.2.3 Anomalies in Work done

3446) A site inspection visit carried on 14 September, 2019 revealed that:

i. The contractor abandoned the site before completing the works;

ii. the water pump installed was not tested to confirm whether it was functional;

iii. there was no storage tank and stand on site as provided for in the bills of quantities;

iv. fencing was done with low quality wire of less than the three millimeters thickness;

v. no solar panel or solar pumps were installed;

vi. the contractor did not pay the unskilled laborers before he left the site;

vii. the sign board prescribed in the bills of quantities was not installed;

viii. water troughs with reinforced concrete and steel covers, and toilets, were not completed.

Submission by the Accounting Officer

3447) The Accounting Officer acknowledged the findings of the audit. The contract terminated and was set to be re-advertised before 30th June 2021.

3448) **Committee Observations and Findings**
The Committee observed that the explanation given by the Accounting Officer addressed the audit observation satisfactorily.

3449) **Committee Recommendations**
The committee recommended the Accounting Officer to ensure a new contractor is procured promptly and work completed for service delivery.

1252.3 Construction of Lmesiyoi Dam in Samburu County

3450) The contract for Lmesiyoi Dam in Samburu County was awarded at a sum of Kshs.14,307,353. The works commenced on 17 October, 2017 and were due for completion after one (1) year. However, the project stalled as a result of a directive dated 31 July, 2019 issued by the National Environmental Management Agency. The directive suspended the works pending issue of an Environmental Impact Assessment. A status report provided for audit showed that by the time the works were suspended, the contractor had been paid Kshs.2,646,465 which was equivalent to 18% of contract sum. Work done was reported at 20% of the contracted works.

3451) The Project's records indicated that the performance guarantee was valid up to 08 April, 2019 beyond which any demand in respect of the guarantee would be null and void. However, the contractor continued executing the works but did not renew his performance guarantee. This raised, the risk of financial loss in the event of performance default by the contractor.

Submission by the Accounting Officer

3452) The Accounting Officer accepted the audit findings. The NEMA license was regularized as per the Law. The Works were completed as per the bill of quantities and Performance guarantee renewed.

3453) The project has been completed as designed and is in currently in use by the beneficiaries awaiting commissioning.

3454) **Committee Observations and Findings**
The Committee observed that the explanation given by the Accounting Officer addressed the audit query satisfactorily.

1252.4 Construction of Simailele Irrigation Scheme in Turkana County

3455) The contract for Simailele Irrigation Scheme in Turkana County was signed in October, 2013 at a sum of Kshs.213,748,219 and the site handed over to the contractor one month later.

3456) The project was to be executed in twelve months. However, the contractor, on various occasions, filed requests for extension of the contract period which were approved and the final completion date set for 31 August, 2019.

3457) According to the status report presented for audit review, as at 30 September, 2019, the contractor had been paid Kshs.136,957,783. Unpaid certificates totaled Kshs.76,790,435 and 80% of the works had been completed. The following unsatisfactory matters were observed in relation to the project:

1252.4.1 Failure to Charge Liquidated Damages

3458) Although the extended contract period lapsed on 31 August, 2019, the contractor did not finish the works in due time. The status report presented for audit indicated that 81% of the works were certified within the extended contract period. However, the Project did not levy liquidated damages on the contractor for the delay as provided for under clause 4.12 of the general conditions of the contract.

Submission by the Accounting Officer

3459) The Accounting officer agreed with the findings of the audit. He further stated a qualified Local Resident Engineer was appointed and all works completed as per the BOQs. Project is currently in use and awaiting official commissioning.

3460) **Committee Observations and Findings**

The Committee observed that the explanation given by the Accounting Officer addressed the audit query satisfactorily.

1252.4.2 Expiry of the Consultancy Contract

3461) The consultancy contract expired on 30 September, 2018. At the time, only 24% of the contracted works had been done, as indicated in the minutes of the site meetings held in November, 2018. Payments made to the consultant totaled Kshs.23,730,000.Further, although the works were ongoing, there was noevidence showing that the contract had been extended.

Submission by the Accounting Officer

3462) The Accounting officer agreed with the findings of the audit. He further stated a qualified Local Resident Engineer was appointed and all works completed as per the BOQs. Project is currently in use and awaiting official commissioning.

3463) **Committee Observations and Findings**

The Committee observed that the explanation given by the Accounting Officer addressed the audit query satisfactorily.

1252.4.3 Project Verification

3464) A site Inspection visit carried out on 11 September, 2019 revealed that:

i. Only one piece of machinery was deployed to the site as the contractor had scaled down operations citing delay in payment for work done.

ii. kitchen accessories provided for in the bills of quantities and paid for at Kshs.200,000 under payment certificate No. 3 were not installed;

iii. the 3rd and 4th sub-main canals were not done;

iv. the dyke was done to 1.9 kilometers in length and not 2.1 kilometres as provided for in the bills of quantities; and

v. two 10,000-litre tanks and water collection gutters were not installed though paid for under payment certificate No.5.

Submission by the Accounting Officer

3465) The Accounting officer agreed with the findings of the audit. He further stated a qualified Local Resident Engineer was appointed and all works completed as per the BOQs. Project is currently in use and awaiting official commissioning.

3466) **Committee Observations and Findings**

The Committee observed that the explanation given by the Accounting Officer addressed the audit query satisfactorily.

1252.5 Construction of Kaminia Irrigation Scheme in West Pokot County

3467) The works for Kaminia Irrigation Scheme in West Pokot County were contracted at a sum of Kshs.247,391,993 on 31 May, 2017 and the site handed over to the contractor on 08 September, 2017.

3468) The works were to be executed in twelve (12) months' starting from 20 September, 2017. However, the completion date was extended severally on request by the contractor. The end date was finally set for 25 March, 2019 when the contractor was notified that the extended contract period had expired and was issued with a notice for deduction of liquidation damages.

3469) The status report presented for audit indicated that payments to the contractor totaled Kshs.90,571,862.61 and therefore unpaid works amounted to Kshs.156,820,130 with 80% of works done.

3470) The following unsatisfactory matters were observed in relation to the project:

1252.5.1 Expiry of Advance Payment Guarantee

3471) Advance payments totalling to Kshs.24,739,199 were made to the contractor under certificate No. 5. Out of this sum, Kshs.9,000,000 was eventually recoveredfrom works executed to leave a balance of Kshs.15,739,199 unpaid. However, theunconditional bank guarantee amounting to Kshs.24,739,199 issued by the contractor expired on 22 May, 2019 and was not renewed.

1252.5.2 Failure to Charge Liquidated Damages

3472) After expiry of the extended contract period on 25 March, 2019,Clause 4.12 of the general conditions of the contract allowed Management to demand of liquidated damages from the following day. However, there was no evidence of Managementhaving activated the Clause.

1252.5.3 Expiry of the Consultancy Contract

3473) The consultancy contract expired on 30 September, 2018. Only 24% of the contracted works had been done at the time as indicated in the Minutes of the site meetings held in November, 2018. Payments made to the consultant totalled Kshs.23,700,000 equivalent to 99% of the contract sum amounting to Kshs.24,730,000.

3474) Further, there was no record showing that the contract was extended to cover the ongoing works.

1252.5.4 Project Verification

3475) An audit inspection to the irrigation scheme on September 13, 2019 revealed that:

i. the works were at 92% level of completion as confirmed by the resident engineer and the contractor;

ii. the works were ongoing with the contractor still on site; and

iii. all major works for the 17 components had been done except for the following;

- Component 16 – Kochiy Water Pipeline intended to serve the communityliving outside the scheme had not been laid;
- fencing of the project office was only partly complete.

Submission by the Accounting Officer

3476) The accounting Officer stated the following measures were undertaken to address the audit findings;

i. The Bank advance guarantee was renewed.
ii. A qualified Local Resident Engineer was appointed.

iii. The project engineers had redesigned of the Intake and SB done after being swept by landslides and floods of November 23rd 2019.
iv. The project works were currently on-going after project extension as result of the natural disasters in West Pokot and currently at 75% completion.
v. The farmers were already in production using own initiatives after trainings.

Committee Observations and Findings

3477) The Committee observed that the explanation given by the Accounting Officer addressed the audit query satisfactorily.

3478) **Committee Recommendations**

The committee recommended that the Accounting Officer ensures the contractor completes the outstanding work promptly to enable realization of intended objectives.

1252.6 Construction of Nakwapua Commercial Pasture and DemonstrationCentre

3479) The contract was awarded to a construction company at a sum of Kshs.10,227,043. The scope of works included fencing of commercial and demonstration plots of land, bush clearing, ploughing, harrowing and constructionof toilets. However, the audit inspection noted the following:

1252.6.1 Slow Progress of Work

3480) The project commenced on 06 June, 2018 and was to be executed in four months'time. However, the records presented for audit indicated that it was at 5% works completion rate in June, 2019 with the contracted project duration having lapsed.Further, the contractor abandoned the site and was subsequently issued with a notice for termination of contract on 16 August, 2019.

1252.6.2 Expiry of Performance Bond

3481) The contractor presented a performance bond valued at Kshs.1,022,705 on award of the contract as required under Clause 4.15 of the general conditions of contract. Although the clause provided that the performance bond would be validup to twenty eight (28) days from the date of issue of the completion certificate, theperformance bond expired on 21 January, 2019. This exposed the project to financial and other risks in the event of performance default by the contractor.

1252.6.3 Failure to Levy Liquidated Damages

3482) The project was due for completion on 06 October, 2018. However, the notice of contract termination issued to the contractor on 16 August, 2019 indicated that thecontractor abandoned the project site with only 5% of the contracted works done. In addition, expenditure records indicated that no liquidated damages were charged to the contractor for the delayed works. Had the relevant clause been invoked, the project would have claimed Kshs.4,260 for each day the works weredelayed.

Submission by the Accounting Officer

3483) The Accounting Officer agreed with findings of the audit. The contract was terminated and was set to be re-advertised before 30th June 2021.

3484) **Committee Observations and Findings**

3485) The Committee observed that the explanation given by the Accounting Officer addressed the audit query satisfactorily.

3486) **Committee Recommendations**

The committee recommended that the Accounting Officer ensures a new contractor is procured promptly and work completed for service delivery.

1252.7 Drilling and Equipping Kasirma Borehole

3487) The contract for this project was awarded at a sum of Kshs.8,230,544. The scope of works included; drilling of a borehole, testing, pumping, and equipping the borehole with a solar pumping system, constructing a platform for a 10,000 litre plastic tank, and a water kiosk, livestock water trough and fencing and installing a gate at the borehole area. The audit inspection revealed the following anomalies:

1252.7.1 Slow Progress of Work

3488) The works commenced on 03 April, 2018 and were to take four months (4) with the completion date set for 03 August, 2018. However, at the end of this period, only 25% of the project scope had been completed. The contract period was extended by three months to 04 November, 2018 at which point the workscompleted were valued at 40% of the scope.

1252.7.2 Termination of Contract

3489) The contractor was issued with the final notice of contract termination on 25 June, 2019. The contract period lapsed on 04 November, 2018 with no formalrequest for extension from the contractor. There was no evidence to show actions taken by the Management against the contractor for failing to fulfil the contract.

1252.7.3 Failure to Levy Liquidated Damages

3490) Expenditure records indicated that the contractor was not asked to pay liquidated damages for failure to complete the works in time.

1252.7.4 Project Verification

3491) An audit inspection on 16 September, 2019 revealed that:

i. The contractor abandoned the site before he completed the works;

ii. no water storage tank was installed on site as provided for in the bills of quantities;

iii. fencing for the borehole site was done using inferior wire of a gauge less than three millimetres;

iv. solar panels prescribed and costed in the bills of quantities were not installed;

v. a water kiosk and water troughs were not built.

Submission by the Accounting Officer

3492) The Accounting Officer agreed with findings of the audit. The contract was terminated and was set to be re-advertised before 30th June 2021.

3493) **Committee Observations and Findings**

The Committee observed that the explanation given by the Accounting Officer addressed the audit query satisfactorily.

3494) **Committee Recommendations**

The committee recommended that the Accounting Officer ensures a new contractor is procured promptly and work completed for service delivery.

1252.8 Construction of Nakwapua Sub-Surface Dam

3495) The contract for Nakwapua Sub-surface dam was awarded at a sum of Kshs.4,358,96 and the works commenced on 23 November, 2017. They were expected to end on 23 March, 2018. At the time of the audit in September 2019, payments totalling Kshs.2,383,432 had been made to the contractor with 60% of works certified as complete. However, the following anomalies were noted duringthe audit:

1252.8.1 Stalled Project

3496) Site meeting minutes dated 11 June, 2019 indicated that the contractor abandonedthe site in February, 2018 without notifying the employer. The construction works had since stalled.

1252.8.2 Extension of Contract Period

3497) As previously mentioned, the works were, abandoned at 60% level of completion.There was no evidence of the contract period having been extended or Management taking action to remedy the situation. Further, no liquidated damageswere levied on the contractor for the delayed works.

1252.8.3 Un-approved Additional Works

3498) Available records indicated that the contractor, through a notice dated 23 May, 2019, requested for reimbursement of Kshs.1,057,752 being costs incurred on additional works. The works included, hiring of a compressor to excavate the dam foundation, hiring armed security personnel and additional damoutlet pipes. However, there was no record showing that the additional works were authorized by the project manager.

3499) Overall, unsatisfactory implementation of the projects undertaken during the year under review has put to risk the funds invested in the projects and is likely to hamper the local communities from accessing critical services envisioned under the Programme.

Submission by the Accounting Officer

3500) The Accounting Officer agreed with findings of the audit then. However, the Project Works were completed and additional Works approved. The project was handed over to the beneficiaries but awaiting official commissioning.

3501) **Committee Observations and Findings**

The Committee observed that the explanation given by the Accounting Officer addressed the audit observation satisfactorily.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1253. No Internal Audit Function

3502) The Programme is implemented by the State Department for Crops Development and therefore the internal audit unit of the Department is expected to carry out internal control assessments on the Programme’s activities. However, there is no evidence that such assessments have been carried out as yet. As a result, the Programme’s internal control environment is weak and the situation has hampered efficient and effective execution of Programme activities.

Submission by the Accounting Officer

3503) The Accounting Officer submitted that the Ministry had an internal audit tasked with follow ups of project progress. The team planned and audited the DRSLP as required and the areas highlighted by the audit team for improvement has been implemented.

3504) **Committee Observations and Findings**

The Committee observed that although the state department had an internal audit function, there was no evidence availed the donor project had been assessed by the internal audit during the year.

3505) **Committee Recommendations**

The committee recommended that the Accounting Officer should ensure that the donor fund project internal controls, programs and activities are assessed by internal audit in accordance to Section 73(3) Public Finance Management Act 2012.

1254. Inactive Audit Committee

3506) The State Department for Crops Development has established an audit committee for the Programme. However, the committee did not convene or hold regular meetings during the year under review as required under Section 155(5) of the Public Finance Management Act, 2012. As a result, oversight over the project's activities was, to a significant extent, weak and ineffective.

Submission by the Accounting Officer

3507) The Accounting Officer submitted that an audit committee was established for the programme later in the year under review. However, they did not convene their meetings due to budgetary constraints.

3508) **Committee Observations and Findings**

The Committee observed that the audit committee did not meet during the year hence their functions as mandated under Regulation 175 of the Public Finance Management (National Government), 2015.

3509) **Committee Recommendations**

The committee recommended that the Accounting Officer to ensure that the audit committee is facilitated to carry out its mandate as required under Regulation 175 of the Public Finance Management (National Government), 2015.

SMALL-SCALE IRRIGATION AND VALUE ADDITION PROJECT(ADF LOAN NO.2000130014530 AND GRANT NO.5570155000751)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1255. Unconfirmed Transfers from Government Entities

3510) The statement of receipts and payments for the year ended 30 June, 2019 reflects Kshs.12,621,586 as transfers from government entities being counterpart funds received by the Project from the Government of Kenya (GoK) during the year. However, documentary evidence in support of the disbursements was not presented for audit and as a result, the accuracy and validity of the balance could not be confirmed.

3511) Further, Notes 8.7 and 8.8 to the financial statements reflects Kshs.12,621,586 as GOK counterpart funding incurred on compensation of employees (Kshs.6,270,500) and purchase of goods and services (Kshs.6,351,086) respectively. However, Integrated Financial Information System (IFMIS) data for the year ended 30 June, 2019 reflects the Project's GOK total expenditure as Kshs.17,700,021 and not Kshs.12,621,856 shown in the statement of receipts and payments. No plausible explanation has been provided for the difference amounting to Kshs.5,078,165 between the two sets of records.

3512) In view of these anomalies, the accuracy and completeness of expenditure amounting to Kshs.12,621,568 shown as GOK counterpart funding in the statement of receipts and payments for the year under review cannot be confirmed.

Submission by the Accounting Officer

3513) The Accounting Officer submitted that it was true the statement of receipts and expenditure reflects Kshs12,621,586 as transfer from GOK entities being counterpart funds received by the Project from government during the year comprising of compensation to employees and purchase of goods and services as Ksh.6,270,500 and 6,351,086 respectively.

3514) The difference between the statements of receipts and payments in the Projects financial statement and the IFMIS extract of Kshs.5,078,435 is as result of lack of funding from exchequer to finance payments of Employees Extraneous Allowances which have since been cancelled from IFMIS.

3515) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Unconfirmed Transfers from Government Entities was satisfactory;

(ii) The however observed that a number of projects were yet to be completed; and

3516) **Committee Recommendations**

The committee recommended the Accounting Officer should ensure GOK counterpart funding to project is remitted to ensure project activities are carried out as planned.

1256. Unconfirmed Appropriations-in-Aid

3517) The statement of receipts and payments for the year ended 30 June, 2019 reflects Appropriations-in-Aid (A-I-A) balance totaling Kshs.385,078,782 referenced to Note 8.6. to the financial statements which, however, reflects nil balances against miscellaneous receipts. The A-I-A balance is analyzed in Notes 8.4 and 8.5 to the financial statements as relating to grants of Kshs.52,249,710 and loans amounting to Kshs.332,829,072 received as direct payments from the African Development Bank, being expenditure incurred on acquisition of non-financial assets.

3518) No plausible explanation has been provided for the anomaly in the presentation of the grants and loans. As a result, it is not possible to confirm the accuracy of the Kshs.385, 078,782 A-I-A balance reflected in the statement of receipts and payments for the year under review.

Submission by the Accounting Officer

3519) The Accounting Officer submitted that it was true that the managements wish to state that Small Scale and Value addition project has two components of funding the loan component and grant which are well demarcated on IFMIS charts of accounts The project is bound to report on its financial statements as receipts from both loan and grants. The figure of Kshs 332,829,072 and 52,249,710 are loan and grants receipts respectively.

3520) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Unconfirmed Appropriations-in-Aid was satisfactory;

(ii) The Accounting Officer had not carried out reconciliations by the time of audit.

3521) **Committee Recommendations**

The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.

1257. Doubtful Expenditure on Bicycles and Motorcycles

3522) Audit review of the IFMIS records for the Project indicated that assorted bicycles and motorcycles costing Kshs.2,392,668 were purchased for the Project on 30 June, 2019. However, the respective tender documents, user requisitions, stores receipt and issue vouchers were not presented for audit. Physical verification carried out on diverse dates at the Project's offices both at the Head Office and in regional offices revealed that no bicycles or motorcycles were delivered to the Project's stores. Management have asserted that they did not procure any such items during the year under review.

3523) In the circumstances, the occurrence and validity of the expenditure amounting to Kshs.2,392,668 reported to have been incurred on acquisition of bicycles and motor cycles for the Project during the year under review has not been confirmed.

Submission by the Accounting Officer

3524) The Accounting Officer submitted that the management wishes to state that no motorcycles were procured in the period under audit review and the IFMIS records have been rectified accordingly.

3525) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Unconfirmed Appropriations-in-Aid was satisfactory;
(ii) The however observed that a number of projects were yet to be completed; and
(iii) The matter therefore remains unresolved.

3526) **Committee Recommendations**

The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.

Emphasis of Matter

1258. Unreconciled Special Account Receipts

3527) The statement of receipts and payments for the year ended 30 June, 2019 reflects proceeds from domestic and foreign grants totaling Kshs.29,326,969 and loan receipts from external development partners totaling Kshs.19,483,860. Both amounts are shown in Notes 8.4 and 8.5 to the financial statements as grants and loans received in cash from the African Development Bank. The Project's special account statements, however, reflect Kshs.29,356,095 ($291,260) and Kshs.19,505,213 ($194,159) respectively as amounts withdrawn from the special accounts and credited to the Project's local account. The two sets of records had not been reconciled at the time of the audit in September, 2019.

3528) Special accounts are managed and reconciled by the National Treasury. Treasury has provided reconciliation and documents in regards to the special account and they are available for audit verification.

Submission by the Accounting Officer

3529) The Accounting Officer submitted that Special accounts are managed and reconciled by the National Treasury. Treasury has provided reconciliation and documents in regards to the special account and they are available for audit verification.

3530) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Unreconciled Special Account Receipts was satisfactory; and
(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification.

3531) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1259. Unsatisfactory Implementation of Projects

3532) The audit included visits to several sites at which construction of irrigation systemsis ongoing. Significant shortcomings were observed in execution of some of the works. These included delays in completion of works, alleged flawed designs, stalled works, and unearned payments made to consultants and contractors, as shown in the following instances:

1259.1 Kaboson Irrigation Scheme in Bomet County

3533) The progress of work report for July, 2019 indicated that only 48% of works had been completed with 95% of the contract duration having lapsed. Therefore 52% of works were to be completed in the remainder 5% of the contract period. In addition, the quality of works done on the sedimentation tank was low. For instance, the steel cover installed on the water tank was covered in rust even as the works were ongoing.

3534) Further, a 4-wheel-drive motor vehicle cited in the bills of quantities for procurement by the contractor for use by the works supervisor had not been purchased at the time of the audit inspection. Also, the consulting engineer appointed to supervise the works at a cost of Kshs.35,825,000 left the site after his time-based contract lapsed before construction works were completed.

Submission by the Accounting Officer

3535) The Accounting Officer submitted as follows:

A) Slow Progress of Works

3536) The contractor has encountered challenges in implementation of Kaboson Irrigation scheme which resulted in slowing of the implementation of the work. Such challenges include:

1. Unfavorable weather conditions during the rainy seasons making work hard to continue.
2. Delay in the delivery of materials ordered from manufacturers resulting in loss of time.

3. Delayed payment of Interim Payment Certificates due operational challenges related to Information Financial Management System (IFMIS) operations resulting in cash flow problems.

3537) The contractor has however delivered materials to the site and continued with construction of main pipeline and chamber boxes as per the latest report indicated below and demonstrated interest of completing the remaining works.

KABOSON IRRIGATION SCHEME WEEKLY PROGRESS WORK REPORT – WEEK (21/10/2019-26/10/2019)

DATE	ACTIVITY	REMARKS

21/10/2019	Construction of section chambers	Excavation of manholes for Sub-main A-1 section chamber off-takes:
		  to Distributor 8 at Ch. 4960m & to Sub-main A-2 at Ch. 6930m
		  Dimensions = 1500*1500*2000

22/10/2019	Construction of section chambers	Excavated manhole for Double air valve (DAV) chamber at Chainage 5400m Dimensions = 1500*1500*2000
23/10/2019	Construction of section chambers	Organisation of identification of masonry wall building stone for the chambers. Pending transport and payment of the seller
24/10/2019	Construction of section chambers	Mason failed to turn up, the manager took the duty of finding another one

25/10/2019	Construction of section chambers	2 Chamber masonry walls and plastered at Sub-main A-1 off-takes:
		  to Distributor A-5 &A-6 at Ch. 3960m
		  to Distributor 7 at Ch. 4660m

26/10/2019	Construction of section chambers	One Chamber masonry wall constructed and plastered at Sub-main A-1 off-take to: Distributor A-1 at Ch. 1340m

SUMMARY OF WORKS DONE AS FROM 23/09/2019 – 26/10/2019

S/No	ITEM	UNIT	QTY	REMARKS
1	Laying of pipeline	Metres	1188m	Pipe UPVC 400mm, 9.80mm diameter mainline laid and Backfilled. Material run out of supply, awaiting procurement
2	Construction of sectional valve chambers	Number	3	Internal wall plastered, covers not fitted. Excavated 9 man holes, done 3 chambers so far

B) Sedimentation Tank

3538) The sedimentation basin is still under construction and the contractor will do the remaining works including the painting, finishes on the walls and installation of locks to make the sedimentation basin secure. Concerning flooding of the sedimentation basin area, there is adequate slope in the terrain of the area to contain flood water within the natural waterways with no possibility of the sedimentation basin being flooded.

C) Purchase of Project Vehicle

3539) The contractor has encountered delayed payment of Interim Payment Certificates due operational challenges related to Information Financial Management System (IFMIS) operations resulting in cash flow problems. This has resulted in delay in the purchase of the vehicle. The employer acted on the issue as per the attached correspondence to the contractor, and the contractor has since initiated the procurement process which is now at the final stages. The following documents are held by the employer on the process of purchasing the vehicle.

3540) **Committee Observations and Findings**

The Committee observed that the explanation given by the Accounting Officer addressed the audit query satisfactorily.

3541) **Committee Recommendations**

The committee recommended that the Accounting Officer should ensure that the contractor completes the work promptly to ensure realization of objectives envisaged for service delivery.

1259.2 Makanyanga Irrigation Scheme in Tharaka-Nithi County

3542) Construction works for Makanyanga Irrigation Scheme commenced on 10 July, 2017 and were expected to be completed on 06 November, 2017.

3543) However, the contractor was granted two extensions up to 31 August, 2018 but by the time of expiry of the extended contract period, the portion of works done was assessed at 60% of the contracted scope.

3544) The consulting engineer was paid the entire contract sum totalling Kshs.41,992,003 and his time-based contract had since lapsed. His final completion report dated March, 2019 indicated that the contractor had all along executed the works in a slow manner characterized by frequent, unauthorized stoppages. The works were still ongoing in 2019 with an intern engineer from Machakos Agricultural Training Centre having been appointed as supervisor on temporary terms. In the absence of an experienced consulting engineer, the risk of the works not meeting the specified standards in the respective contract has increased.

Submission by the Accounting Officer

A) Delay in Project Completion

3545) The contractor has encountered challenges in implementation of Makanyanga Irrigation scheme which resulted in slowing of the implementation of the work. Such challenges include:

1. Unfavorable weather conditions during the rainy seasons making work hard to continue.
2. Delay in the delivery of materials ordered from manufacturers resulting in loss of time.
3. Delayed payment of Interim Payment Certificates due operational challenges related to Information Financial Management System (IFMIS) operations resulting in cash flow problems.

B) Project Supervision

3546) The employer has posted an officer to supervise the work with assistance from the County Department of Agriculture to ensure quality of works and timelines of activities.

3547) **Committee Observations and Findings**

The Committee observed that the explanation given by the Accounting Officer addressed the audit query satisfactorily.

3548) **Committee Recommendations**

The committee recommended that the Accounting Officer to ensure that the contractor completes the work promptly to ensure realization of objectives envisaged for service delivery.

1259.3 Buuri Irrigation Scheme in Meru County

3549) Consultancy services for Phase I design and feasibility study for this Project were awarded to a consultancy firm at a contract sum of Kshs.20,186,000. The contract commenced on 16 April, 2018 and was set to be completed on 31 October, 2019. At the time of the inspection in September, 2019, the consultant had received payments totalling Kshs.16,148,800 equivalent to 80% of the contract sum.

3550) However, in spite of the payments, the final designs had not been completed at the time of the audit in September, 2019. No plausible explanation was provided for the delay and unearned advance payments made to the consultant.

Submission by the Accounting Officer

3551) The management confirms that the Final feasibility study report covering an area of 180ha as in the terms of reference was submitted in February 2019. The consultant was to expand the coverage to 243ha as requested by the farmers and the County Government during stakeholders' forum. The proposal for expanding the scheme area was further ratified in a consultation meeting held on 20th March 2019. The expanded scope is to be included in the final feasibility study report.

3552) Furthermore, the Final detailed design report was submitted in July 2019 covering 243 ha. The dam design report submitted is a draft as the consultant is yet to carry out; Seismic survey (two axis), resistivity Survey (VES) for at least 3 profiles and drilling of six boreholes to depths of 30 m each along the dam axis as well as three boreholes in the reservoir to depths of 25m to establish the stability of the rock/soil formation at the dam axis. In order to undertake this study, the consultant requires an authority to access the forest where the proposed dam is located.

3553) The PS has since written to the Chief Conservator of Forests for permission to conduct the additional studies via a letter Ref: No MOALF/SIVAP/T.001/2016-2017 herein attached. Follow up on acquisition of this permission has been made and approval is expected very soon. Once all this is done conclusively, the actual contract will be initiated.

3554) **Committee Observations and Findings**

The Committee observed that the explanation given by the Accounting Officer addressed the audit query satisfactorily.

3555) **Committee Recommendations**

The committee recommended that the Accounting Officer to ensure the consultant completes the designs promptly for to enable progress to next phase of the project.

1259.4 Ruungu Irrigation Scheme in Tharaka-Nithi County

3556) The works contract valued at Kshs.162,780,486.93 was to run for one year to 18 July, 2018. The consultant's report for June, 2019 indicated that 80% of the works had been done. In addition, interim certificates valued at Kshs.146,982,687 or 90% of the contract value had been issued out of which Kshs.103,356,802 had been paid. The consulting engineer's contract was awarded at Kshs.29,093,000 exclusive of taxes. It was to last for one year to 18 July, 2018. However, with the works still ongoing as at 30 September, 2019, the consultant had reportedly been persuaded to continue supervising the works pending negotiations for additional fees.

3557) In addition, the audit observed that Thingithu River from which water for irrigation was to be abstracted was dry. Therefore, a reliable source of water for the Scheme was not apparent. Further, the Water Resources Management Authority (WARMA) was reported to have declined to issue the Scheme with a license to abstract water from the seasonal river until a reservoir or dam was built to retain sufficient volume of water. In view of this situation, the objectives of the Project may not be attained.

Submission by the Accounting Officer

A) Project Supervision

3558) The County Department of Agriculture which is a stakeholder in the project is also involved in supervision of the irrigation scheme construction works to ensure quality and timeliness of operations.

b). Water abstraction.

3559) The Irrigation Water Users Association (IWUA) for the irrigation project is persuing the issue of licensing for water abstraction at Thingithu river scheme intake. The IWUA have paid the required fees for the license and the matter is at the WARMA offices who are also handling the issue of illegal water abstraction upstream of the intake which has contributed to the problem.

3560) **Committee Observations and findings**

(i) The committee observes the works is 80% complete as per consultant report; and
(ii) The committee express with concern the project will end up as white elephant with due to lack of water; and
(iii) The supervising consultant contract was extended informally without any documentation, risking the public incurring huge costs in penalties and interests in case of disputes with the consultant leading to litigation.

3561) **Committee Recommendations**

1) **The Accounting Officer to ensure the consultant contract is only extended in accordance to Public Procurement and Assets Disposal Act, 2015.**
2) **Within one month of tabling and adoption of this report the Accounting Officer to avail to the National Assembly and Auditor General for verification the feasibility report conducted before commencement of this project to justify this expenditure failure to which, the EACC to institute investigations in the planning and procurement of the project.**

1259.5 Kirumi Kiamunjari Irrigation Scheme in Tharaka-Nithi County

3562) The contract for construction of Kirumi Kiamunjari Irrigation Scheme in Tharaka-Nithi County was awarded at a sum of Kshs.254,707,660.29. It was to be executed over one year to September, 2018. However, the contractor was awarded a six-month extension period which expired on 01 March, 2019. A month later, the contractor filed an application for a new extension to 05 July, 2019 which was also granted. The monthly progress report dated May, 2019 indicated payments totalling Kshs.118,729,081 or 47% of the contract sum had been made to the contractor while the proportion of completed works was assessed at 45%.

3563) Audit verification of the Project in September, 2019 revealed that the works were incomplete. However, the consultant supervising the Project had withdrawn from the Project following expiry of his time-based contract. In his stead, the County Irrigation Engineer had been appointed to supervise the Project.

1259.6 Rubiru Irrigation Scheme in Murang'a County

3564) The works contract was awarded at Kshs.264,808,138 and work set to start on 28 July, 2017. The contract was to last for twelve months to 28 July, 2018. However, this was later revised to 29 December, 2018. The consultancy contract was to run for fifteen months to 28 October, 2018.

3565) Project records indicate that the contractor contended that the feasibility study (design survey) on the Project was not done properly and would therefore require redesigning. He submitted a quotation for a new type of pipes (referred to as HDPE) which raised total costs for piping for the 12,220m length of the conveyance pipeline to Kshs.230,205,248 from Kshs.122,200,000 quoted in the contract. This amounted to an increase of Kshs.108,005,248 equivalent to188% of the cost of the original (UPVC) pipes. The new costs could not be met from the existing contract and therefore the contractor was asked to execute the original design. Available information indicates the Project Coordination Unit has since sought to terminate the contract

Submission by the Accounting Officer

3566) The percentage of physical works at the time of RE's report was 8.5%. This was the RE's report for May 2018 and therefore the current completion percentage is 28% as at 30th December 2018. It is normally a procedural requirement that a contractor and a consultant supervising construction works should each have a qualified surveyor to confirm the survey data and levels collected during the feasibility study stage. In this regard, the re-surveying for Rubiru Irrigation Scheme and the changes implemented were minimal and could be accommodated within the contract. The contractor requested to use HDPE pipes against the uPVC provided in the contract for convenience and not based on design consideration. When the analysis was done based on the quotation submitted by the contractor for HDPE pipes, the costs could not be accommodated within the contract and the contractor was instructed to use the uPVC pipes.

3567) The initial letter of intent to terminate the contract was issued 0n 13th June 2018 due the contractor's failure to mobilize fully and accelerate the physical progress of construction works. A consultation meeting was held on 20th July 2018 to find amicable way forward and strategies to fast track the implementation of the project. The contractor was given an interim extension of two (2) and his performance was to evaluated on a bi-weekly basis which was to inform on the decision on actual extension. The contractor's performance improved significantly and was granted a full extension up to 29th December, 2019. The contractor's performance again started to decline after being granted the full extension and as at 4th December, 2019 he had started demobilizing machinery. A letter of intent to terminate the contract based on the observation made on the progress of work on site was issued on 4th December, 2019 through a letter Ref: MOALF/SIVAP/ T.007/2016-2017/ (79). A brief to the State Counsel, Office of Attorney General Ref No. MOALF/SIVAP/T.007/2016-2017/ (82) and dated 15th January 2019 is attached for further reference.

3568) As for the introduced bidder in the evaluation process, according to the evaluation report and the Tender Opening register records, the number and names of the Bidders in the tender opening register tally very well with the no's. and names of the bidders who were evaluated. Therefore, there was no bidder who was introduced and was not in the tender opening meeting. Attached is the evaluation report for audit review on the same.

3569) The way forward on the stalled project is to pay the contractor the outstanding payment of work done of Kshs 7,052,829.92 agreed during a joint measurement with the contractor on 7th & 8th March 2019 and as it shall advised by Solicitor General. Report on verification and adoption of measurement of construction for Rubiru Irrigation Scheme in Muranga County, MOALF/SIVAP/T.007/2016-2017/ (138) is attached for further reference. Advice from the SG will guide in concluding the case and initiating the process of re-advertisement for completing the construction of the scheme. A letter by the PS, State Department for Crop Development and Agricultural Research, is further attached for reference (Ref. No MOALF/SDCD/SIVAP/VOL.I & AG/MOA/134/18).

3570) Committee observations and findings in regards to entire paragraph 1261

(i) The Committee observed that the projects have not been completed; And

(ii) The matter remained unresolved.

REPORT ON EFFECTIVENESS INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1260. Failure to Deposit GOK Counterpart funds in the Project Account

3571) Audit review of accounting records indicated that during the year under review, the State Department for Crops Development upon receipt of the Exchequer Release for Government of Kenya (GOK) counterpart funds did not transfer the funds to the Project bank accounts. Instead it spent the sum through the Department's accounts. Further, although payments made from all GOK counterpart funds were processed through IFMIS and the Project Coordinator was designated as the AIE holder, the Department did not create an account for the Coordinator in the system. As a result, he could not authorize payments in IFMIS. No plausible explanation has been provided for this omission.

Submission by the Accounting Officer

3572) The Accounting Officer submitted that the project spent all the GOK counterpart funds through the departments account. All the expenditure under the project was entirely for the project.

3573) The project coordinator has now been designated as the AIE holder whereby now and going forward will be authorizing all the payments to the project.

3574) **Committee Observation and Findings**

(i) The committee observed the GOK counterpart funds were spent through department's account.

(ii) The project coordinator had no account in IFMIS by the time of audit to authorize payments but it has been created thereafter.

3575) **Committee Recommendations**

1) **The Committee recommended that the Accounting Officer to ensure GOK counterpart funds are transferred to project in accordance to financing agreement.**
2) **The Accounting Officer should always ensure project coordinators are facilitated in time to undertake necessary approvals as required.**

1261. Failure to Maintain a Retention Monies and Deposits Register

3576) In the year under review, the Project did not maintain a retention monies and deposits register. In addition, examination of payment vouchers relating to civil and construction works revealed deductions for retention monies for works certificates paid. However, no funds were set aside to pay for the retention monies upon completion of the defects liability period. Further, no disclosures have been made in the financial statements for the retention monies and deposits held as at 30 June, 2019.

Submission by the Accounting Officer

3577) The Accounting Officer submitted that the management wishes to state that a Retention Register for all project under SIVAP has been opened and the same availed for audit Scrutiny and verification.

3578) **Committee Observations and Findings**

(i) The Committee observed the retention monies and deposits register has then been opened.

(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification

3579) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1262. Lack of Internal Audit and Inactive Audit Committee

3580) The Project is implemented by a Project Control Unit under the State Department for Crops Development. The Internal Audit Unit in the Department is expected to conduct internal control assessments and audits on the Project regularly. However, this has not been done and as a result, the Management of the operational and other risks facing the Project is inadequate. Further, although the Department has established an Audit Committee for the Project, the Committee did not convene any meeting during the year under review. As a result, its key functions such as resolving external audit queries and implementing recommendations thereof, were not executed.

Submission by the Accounting Officer

3581) The Accounting Officer submitted that the management wishes to state that the internal Audit Team and Committee within the state department has been activated accordingly and is currently undertaking their mandate as stipulated in the Act.

3582) **Committee Observations and Findings**

3583) The Committee observed that the internal audit and audit committee were not active during the year hence their functions as mandated under Regulations 160 and 175 of the Public Finance Management (National Government), 2015 were not carried out.

3584) **Committee Recommendations**

The Committee recommended that the Accounting Officer to ensure the internal audit and audit committee is always facilitated to carry out its mandate as required under Regulations 160 and 175 of the Public Finance Management (National Government), 2015.

RICE BASED MARKET ORIENTED AGRICULTURAL PROMOTIONPROJECT

REPORT ON THE FINANCIAL STATEMENTS

3585) **Unqualified Opinion**

1263. There were no material issues noted during the audit of the financialstatements of the Project.

Emphasis of Matter

1264. Project Closure

3586) During the year under review the Project remained inactive and the only transactions were related to bank charges. The Project ceased operations in the year 2016/2017 but it had not been wound up as required in the financing agreement. The bank account was, however, closed after year end, on 3 October, 2020 and the remaining balance in the account of Kshs.344 was surrendered to the State Department for Crop Development and Agricultural Research.

3587) A new Project, Capacity Development Project for Enhancement of Rice Production in Irrigation Schemes (CaDPERP) was being implemented in Kirinyaga, and Kisumu as an upscale of the previous project. The above notwithstanding, the Management continues to maintain the bank account with only Kshs.364 and to prepare and present the financial statements for audit solely based on the cumulative balances, with no current operations. The statements of financial assets as at 30 June, 2019 equally reflects nil balances.

Submission by the Accounting Officer

3588) The Accounting Officer submitted that project was closed in October 2020 and the accounts also closed. A new project, Capacity Development for Enhancement of Rice Production In Irrigation Schemes (CaDPERP) is in place and operational. The issues has since been resolved in 2019/2020 FY audit.

3589) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to project closure was satisfactory; and
(ii) The Committee marked the matter as resolved.

Other Matter

1265. Lack of Supporting Documents

3590) As reported in the previous year, the statement of receipts and payments reflects cumulative receipts totalling Kshs.191,050,000 which constitutes direct payments by Japan International Cooperation Agency (JICA) of Kshs.130,980,000 and transfers from Government entities of Kshs.60,070,000. The statement also reflects total cumulative expenditure to date of Kshs.191,049,861.

3591) However, over the years and as had been reported in the previous year, the Project Management did not provide for audit review, the following key information and documentation as requested:

a) Supporting schedules and analyses showing the constitution of the cumulativeexpenditure to date;
b) Approved project budget for the period and the entire project`s life;
c) The original and revised (if any) project proposal;
d) Analysis and support documentation of all GOK funds disbursed and JICA funds donated and utilized for the entire project;
e) Transfers (disbursements) from the Government entities and JICA clearly showing the date(s) disbursed and received;
f) Relevant exchange conversion rates for the funds which were received in foreign currency.

3592) Consequently, it has not been possible to confirm the completeness, accuracy andvalidity of the figures reflected in the statement of receipts and payments for the year ended 30 June, 2019.

Submission by the Accounting Officer

3593) The Accounting Officer submitted that issues were escalated to 2019/2020 FY audit which was undertaken in October 2020.

3594) All documents required were availed and the issues resolved.

3595) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to documents not availed was satisfactory as the documents were availed and verified in subsequent audit; and

(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification.

(iii) The Committee marked the matter as resolved

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3596) **Conclusion**

1266. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3597) **Conclusion**

1267. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL AGRICULTURAL AND RURAL INCLUSIVE GROWTHPROJECT (IDA CREDIT NO. 5900-KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1268. Omissions in the Statement of Comparative Budget and ActualAmounts

3598) The statement of receipts and payments for the year ended 30 June, 2019 reflects transfers from government entities totaling Kshs.108,225,830 and payments totalling Kshs.63,589,766 incurred on acquisition of office furniture and general equipment and refurbishment of buildings. However, these receipts and payments are not reflected in the statement of comparative budget and actual amounts under actual receipts and actual expenditures respectively.

3599) In view of the omissions, the completeness and accuracy of the statement of comparative budget and actual amounts for the year ended 30 June, 2019 cannot be confirmed.

Submission by the Accounting Officer

3600) The Accounting Officer submitted that this issue was raised during the issuance of the Audit certificate however, the omissions was noted and regretted. The error has been corrected in the financial statements for year 2019/2020.

3601) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to omissions in the statement of comparative budget and actual amounts was satisfactory as the error was corrected in subsequent audit and

(ii) The Committee therefore marked the matter as resolved.

Emphasis of Matter

1269. Unreconciled Loan Receipts

3602) The statement of receipts and payments for the year ended 30 June, 2019 reflects loan receipts totaling Kshs.1,495,897,389 received from external development partners during the year. However, the special account statement as at 30 June, 2019 shows external loan receipts totaling Kshs.1,497,481,602 as having been deposited in two accounts namely Account No.1000317857-Kshs.1,052,751,555 (US$10,400,000) and Account No.1000263962 – Kshs.444,730,047 (US$4,388,896) during the year under review. The difference amounting to Kshs.1,584,213 between the two sets of records had not been reconciled at the time of the audit.

3603) My opinion is not qualified in respect of this matter.

Submission by the Accounting Officer

3604) The Accounting Officer submitted that this issue was raised during the issuance of the Audit certificate. The figures were reconciled in the financial statements for the year 2019/20.

3605) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to unreconciled loan receipt was satisfactory as the reconciliation was done and presented in subsequent audit; and

(ii) The Committee marked the matter as resolved

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1270. Undisbursed GoK Counterpart Funds

3606) Schedule 2, Section IV Part A (2) of the Financing Agreement specifies the categories of eligible expenditures that may be funded out of the proceeds of the Financing Agreement. It also prescribes the allocation of the amounts of financing to each project category and the ratio of expenditure to be financed for eligible expenditure in each category. The GOK portion has been set as 9% of the cost of each year's activities. However, examination of records revealed that the Government of Kenya (GOK) did not deposit the required counterpart funds in the Project`s bank account during the year under review.

3607) Under-funding of the Project's activities is likely to constrain its capacity to fulfill its objectives.

Submission by the Accounting Officer

3608) The Accounting Officer submitted that no GoK counterpart funds were deposited to the project operations account. The Financing Agreement requires that the Gok Counterpart funds be deposited in the project operations account to finance the project activities as per the agreed percentages. During the current financial year the National Government deposited Kshs 23,000,000 being first half allocation.

3609) **Committee Observation and Findings**

The committee observed the GOK counterpart funds were not disbursed to the project during the year under review but an amount of Kshs.23,000,000 was disbursed in subsequent year.

3610) **Committee Recommendations**

The Committee recommended that the Accounting Officer to ensure GOK counterpart funds are disbursed to project in accordance to financing agreement to enable planned activities to be carried out.

1271. Failure by Some Counties to Contribute to the Project

3611) Schedule 2, Section I Part C(1) of the Financing Agreement requires the Project to enter into a participation agreement with each eligible county government, detailing mutual responsibilities for the implementation of the program and other terms and conditions as may be approved by the Association. Further, Section V(6) of the Agreement states that the participating County Governments shall provide the remaining 10% funding for specified elements of the Project.

3612) However, audit of records in respect to transfers from other government entities during the year under review revealed that Makueni, Trans-Nzoia, Kiambu, Turkana, Samburu, Nandi, Murang'a, Nakuru, Homa Bay, Migori, Nyamira, and Kirinyaga Counties did not remit the agreed annual sum amounting to Kshs.6,500,000. In the absence of the expected funding, the Project's objectives in these counties are unlikely to realized.

Submission by the Accounting Officer

3613) The Accounting Officer submitted that during Quarter 1 of Financial Year 2019/20 the following participating counties; Nyamira, Narok, Samburu, Kiambu and Makueni deposited their counterpart contribution for the FY 2018/19 to the project operations account. The NPCU applies sanctions by suspending disbursements to non-complying counties.

3614) **Committee Observation and Findings**

(i) The Committee observed some counties were yet to comply; Trans-Nzoia, Turkana, Nandi, Murang'a, Nakuru, Homa Bay, Migori and Kirinyaga Counties

(ii) The committee observed the following counties had complied subsequently; Nyamira, Narok, Samburu, Kiambu and Makueni.

3615) **Committee Recommendations**

The Committee recommended that the Accounting Officer to ensure only he/she only disburse funds to compliant counties as required by financing agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3616) **Conclusion**

1272. There were no material issues relating to effectiveness of internal controls, risk management and governance

KENYA CLIMATE SMART AGRICULTURE PROJECT(IDA CREDIT NO. 5945 – KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

1273. Receipts Through the Special Accounts

3617) As disclosed in Note 6.3. to the financial statements, the statement of receipts and payments reflects credit from the World Bank in the year 2018/2019 totalling Kshs.1,374,562,000.This figure, however, differs with the amounts of Kshs.1,402,977,690 which constitutes Kshs.373,880,778 (US$3,700,000) and Kshs.1,029,096,913 (US$9,999,970) received through the two (2) Special Account No.1000319356 and No.10000357231 for the Project. No reconciliation or explanation was provided for the resultant difference of Kshs 28,415,690.

3618) In the circumstances, the completeness and accuracy of the receipt of Kshs.1,374,562,000 reflected in the financial statements could not be confirmed.

Submission by the Accounting Officer

3619) The Accounting Officer submitted that there is a difference of Kshs.28,415,690.48 between the amounts drawn from the Special accounts and the actual amount received by the project through the parent Ministry. The amount was erroneously retained at the

National Treasury at the point of transmission. The PS State Department of Crop Development and Agricultural Research has already written to the PS National Treasury requesting for the transmission of these funds to the KCSAP counties through the County Revenue Fund (CRF) account.

3620) **Committee Observation and Findings**

(i) The Committee observed an amount of Kshs.28,415,690.48 drawn from the Special accounts amount was erroneously retained at the National Treasury at the point of transmission.

(ii) The PS State Department of Crop Development and Agricultural Research has already written to the PS National Treasury requesting for the transmission of these funds to the KCSAP counties through the County Revenue Fund (CRF) account.

3621) **Committee Recommendations**

The Committee recommended that the Accounting Officer provides information to Parliament within one month from date this report is tabled and adopted on the status of disbursements, if any, by the National Treasury to the project.

1274. Transfers to Kenya Agricultural and Livestock Research Organization(KALRO)

3622) As disclosed in Note 6.6. to the financial statements, the statement of receipts and payments reflects an amount of Kshs.17,286,373 as having been transferred to KALRO during the year under review. However, Note 6.12 to the financial statements reflects an amount of Kshs.170,000,000 as having been advanced to KALRO out of which an amount of Kshs.17,286,373 was spent during the year, leaving a balance of Kshs.152,713,627 as at 30 June, 2019. No explanation was provided for reflecting an amount of Kshs.17,286,373 in respect of transfer to KALRO in the statement of receipts and payments on one hand and advances totalling Kshs.170,000,000 to KALRO in the disclosures under Note 6.12. to the financial statements.

3623) In addition, the Advances to KALRO balance of Kshs.152,713,627 as reflected in the statement of assets and liabilities was not supported by verifiable documentary evidence such as bank statements and certificate of bank balances as at 30 June, 2019. Consequently, the validity, completeness and accuracy of the balance could not be confirmed.

3624) Further, a review of KALRO's financial statements for the year ended 30 June, 2019 however revealed that the organization received an amount of Kshs.50,000,000 only in 2018/2019 financial year in respect of the Project. The resultant difference of Kshs.120,000,000 between the amount disclosed in Note 6.12. to the financial statements and KALRO`s financial statements has not been reconciled or explained.

Submission by the Accounting Officer

3625) The Accounting Officer submitted that the main problem was on how funds disbursed, funds utilized and the balances were presented in the financial statements of the project for the year ended 30 June 2019. The facts on disbursements and funds absorption by KALRO during the year under review were as follows:

Funds disbursed from the project to KALRO…… 170,000,000.00	Ksh
Amount Spent (Absorbed)………………………… 17,286,373.00	Ksh
Balance…………………………………………… 152,713,627.00	Ksh

3626) In the statement of receipts and payments, the project presented an amount of Ksh 17,286,373 as having been receipts by KALRO and a balance of Ksh 152,713,627.00

3627) This issue has been resolved between the project management team and the auditors and did not appear in the audit of the subsequent year 2019/20. The team also agreed on the treatment of receipts and actual expenditures by KALRO moving forward.

3628) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to transfers to Kenya Agricultural and Livestock Research Organization (KALRO) was satisfactory as the reconciliation was done and presented in subsequent audit; and

(ii) The Committee therefore marked the matter as resolved.

1275. Transfers to County Governments

3629) The statement of receipts and payments further reflects an amount of Kshs.450,887,640 as having been transferred to the County Governments during the year under review. However, available records indicate that an amount of Kshs.1,029,096,913 (US$9,999,970) was disbursed to the Counties during the year.

3630) Further, and as disclosed in Note 6.13 to the financial statements, the statement of financial assets and liabilities reflects a balance of Kshs.583,383,590 in respect of Advances to Counties. The balance was however not supported by verifiable documentary evidence such as bank statements and certificate of bank balances as at 30 June, 2019. No explanation was provided for this anomaly.

3631) Consequently, the validity, completeness and accuracy of the balance could not be confirmed.

Submission by the Accounting Officer

3632) The Accounting Officer submitted that the treatment of receipts and expenditures in the financial statements were as follows:

IDA Funds disbursed to the Counties …………	Ksh 1,000,000,000.00
IDA Funds spent during the year under review…	Ksh 416,616,410.00
IDA funds Balance………………	Ksh 583,383,590.00

This issue has been resolved between the project management team and the auditors and did not appear in the audit of the subsequent year 2019/20. The team also agreed on treatment of receipts and actual expenditures by the counties moving forward.

3633) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to transfers to county governments was satisfactory as the reconciliation was done and presented in subsequent audit; and

(ii) The Committee marked the matter as resolved.

Other Matter

1276. Budget Control and Performance

3634) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,983,863,402 and Kshs.1,443,093,395 respectively resulting to an under-funding of Kshs.1,540,770,007 or 52% of the budget. Further, of the receipted amount of Kshs. 1,443,093,395, only Kshs.642,446,864 was absorbed resulting to an under absorption of Kshs. 800,646,531 or 55% of the receipts.

3635) The Management has attributed the under absorption to delays in the procurement of goods and services. The underfunding affected the planned activities and programmes which may have impacted negatively on service delivery and the public did not received the services as planned.

Submission by the Accounting Officer

3636) The Accounting Officer submitted that the low absorption was attributed to lengthy procurement processes that could not be completed within the financial year and late disbursement of funds. For instance, funds were received at the project level at the end of November 2018 signifying a loss of 5 months already among other challenges like IFMIS downtime.

3637) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to budget control and performance was satisfactory as the reconciliation was done and presented in subsequent audit; and

(ii) The Committee therefore marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1277. Kondabilet Harambee Dam in Elgeyo Marakwet County

3638) A firm was awarded a contract to desilt Kondabilet Harambee Dam in Elgeyo Marakwet County at a contract sum of Kshs.16,420,351. The contract was signedon 12 April, 2019 for a contract period of 120 days. However, the following irregularities were observed:

1277.1 Unprocedural Payment of Works

3639) Although the contractor was paid Kshs.11,128,739 (67.77% of the contract sum) on 10 May, 2019, the interim payment certificate provided for audit examination did not disclose or describe details of work done and paid for. Further, it was not explained what the project inspection and acceptance team used to confirm the amount paid against the actual work done without a detailed bills of quantities to establish the basis for the payment.

3640) In addition, the site visit by the technical inspection team was done on 25 April, 2019, while an invoice was raised on 26 April, 2019 and a certificate of work done was raised on 29 April, 2019, an indication that an invoice was raised after site visit by the technical team.

Submission by the Accounting Officer

3641) The Accounting Officer submitted that the bill of quantities was not availed to the audit team during the course of audit. However, the bill of quantities against which the payment was made is now available.

3642) **Committee Observations and Findings**

The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification

3643) **Committee Recommendations**

The Committee recommends that the Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1277.2 Incomplete Priced Bills of Quantities

3644) The bill of quantities (BQs) prepared did not list or factor in the breakdown of the works to be done including; the length of spillway, measurements of the depth of desilting, cutting away of soil, the height of embankment and layers of compacting soil amongst others. A statement to describe works in the BQs stated that work to be done was desilting the water dam, ensure the top embankment was erosion free and stone pitching of spillway, without any basis of measurements. This was contrary to Section 60(1) of the Public Procurement and Asset Disposal Act, 2015.

3645) In the circumstances, the propriety in the use of public funds cannot be confirmed and value for money may not have be achieved.

Submission by the Accounting Officer

3646) The Accounting Officer submitted that the bill of quantities provided at the time of the audit were not detailed enough but there were design drawings and site instructions that were provided by the site engineer to the contractor from time to time to guide the execution of the works. However, detailed bill of quantities were later availed and the project is now approaching completion.

3647) **Committee Observations and Findings**

The committee observed the bill of quantities provided at the time of the audit were not detailed enough but there were design drawings and site instructions that were provided by the site engineer to the contractor from time to time to guide the execution of the works. However, detailed bill of quantities were later availed and the project is now approaching completion.

3648) **Committee Recommendations**

The Committee recommended that the Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1278. Failure to Provide Land Transfer Documents

3649) Examination of procurement records and a site visit at Leshau Pondo Sub-County in Nyandarua County revealed that the Project purchased five (5) acres of land for construction of a water pan at a contract sum of Kshs.2,200,000. However, transfer documents and title deed for the parcel of land were not provided for audit review to confirm transfer of ownership of the land to the County Government of Nyandarua.

Submission by the Accounting Officer

3650) The Accounting Officer submitted that Nyandarua County purchased 5 acres of land at a cost of Ksh 2,200,000 for construction of a water pan but transfer documents could not be availed to confirm ownership. To date the title is still not available and a case is ongoing to resolve the matter.

3651) **Committee Observations and Findings**

(i) The committee observed the land ownership documents were yet to be availed.

(ii) The accounting officer stated there was an ongoing case to resolve the matter though no documents were tabled as evidence for the same.

3652) **Committee Recommendations**

The Committee recommended that the Accounting Officer to follow up the matter with the County Government of Nyandarua and report to parliament in the subsequent audit cycle on the matter.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1279. Lack of Internal Audit Reports

3653) Schedule 2, Section V(4) of the Financing Agreement requires the recipient, not later than four (4) months after the effective date, to designate Project Internal Auditors at National Project Coordinating Unit (NPCU) and each County Project Coordinating Unit (CPCU) under terms of reference and with qualifications satisfactory to the Association. However, during an audit inspection carried out in the month of September, 2019 at various County Coordinating Offices, five (5) counties namely; Kakamega, Siaya, Busia, Nyandarua, and Garissa did not provide for audit review internal audit reports, an indication that the project internal auditors had not been designated as required under the Financing Agreement.

Submission by the Accounting Officer

3654) The Accounting Officer submitted that as at the time of the audit the above listed counties could not provide an internal audit reports. This was because most of the counties had received funding in the Special Purpose Account (SPA) around March and the level of activities was quite low. However, the counties have now started gathering momentum and we have agreed that moving forward there shall be quarterly audit reports which shall be shared with the external auditors in the course of their exercise.

3655) Additionally, all KCSAP counties now have dedicated project internal auditors to ensure that timely audits are carried out and reports availed in good time.

3656) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to lack of internal audit reports was satisfactory as the reconciliation was done and presented in subsequent audit; and

(ii) The Committee therefore marked the matter as resolved.

ENABLE YOUTH KENYA PROGRAM – (ADF LOAN NO. 2100150038895)

REPORT ON THE FINANCIAL STATEMENTS

3657) **Unqualified Opinion**

1280. There were no material issues noted during the audit of the financial statements of the Program.

Emphasis of Matter

1281. Unreconciled Special Account Receipts

3658) The statement of receipts and payments for the year ended 30 June, 2019 reflects a sum of Kshs.20,201,745 as loan receipts received during the year from the African Development Fund. Note 8.4. to the financial statements indicates that the foreign currency equivalent amount received into the Program's special account during the year totalled US$ 195,659. However, the actual special account statement as at 30 June, 2019 indicates that loan receipts from the Fund totalled US$ 178,328 (Kshs.18,098,509) in the year under review. The difference amounting to Kshs.2,103,236 between the two sets of records had not been reconciled at the time of this audit.

3659) My opinion is not qualified in respect to this matter.

Submission by the Accounting Officer

3660) The Accounting Officer submitted that the project had requested the donor an amount of EUR 178.328.00 which was received in the special account held at the Central Bank of Kenya. The project then requested for exchequer release of KSH. 20,201,745 which was received in the project account as duly reflected in the Reconciled special account statement.

3661) The resultant difference of Kshs 2,103,236 was attributed to erroneously stating the donor currency in US Dollars instead of the EURO currency which is the correct Donor disbursement currency.

3662) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to unreconciled special account receipts was satisfactory as the reconciliation was done and presented in subsequent audit; and

(ii) The Committee therefore marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1282. Low Absorption of Funds

3663) A review of the statement of comparative budget and actual amounts for the yearended 30 June, 2019 indicates that actual expenditure totalled Kshs.12,736,890 or 42% of the year's estimate amounting to Kshs.30,201,745. The Program's budget implementation report was not presented for audit review and therefore it is not possible to confirm the extent to which budgeted activities were implemented.

3664) Failure to absorb budgeted funds is likely to hamper the Program from attaining its objectives.

Submission by the Accounting Officer

3665) The Accounting Officer submitted that the implementation of most of the budgeted activities was slowed down due to the late start of the project. The project was planned to start in January 2018 as the effective date. However, it was delayed due to the Attorney General Approval which was introduced by a presidential directive for any New donor funded projects.

3666) The actual start date was in April 2019 and the funds requested to fund the budgeted activities were received in May 2019. With only two months remaining, to closure of financial year, there was little time to implement the activities budgeted hence the low absorption of 42%.

3667) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to low absorption of funds was satisfactory as the reconciliation was done and presented in subsequent audit; and

(ii) The Committee marked the matter as resolved

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3668) **Conclusion**

1283. There were no material issues relating to effectiveness of internal controls, risk management and governance.

AGRICULTURAL SECTOR DEVELOPMENT SUPPORT PROGRAMME II (SIDA GRANT NO.51110109)

REPORT ON THE FINANCIAL STATEMENTS

3669) **Unqualified Opinion**

1284. There were no material issues noted during the audit of the financial statements of the Programme.

Emphasis of Matter

1285. Unreconciled Special Account Statement

3670) As disclosed under Note 8.4 to the financial statements, the statement of receipts and payments reflects proceeds from domestic and foreign grants controlled by the Programme of Kshs.545,484,583 . However, the special account statement reflects a figure of Kshs.546,117,761 as having been withdrawn and disbursed during the year resulting to unreconciled variance of Kshs.633,178. The Management should endeavour to reconcile the Programme financial statements with the Special Account balances.

3671) My opinion is not qualified in respect of this matter.

Submission by the Accounting Officer

3672) The Accounting Officer submitted that the management have reviewed our records to establish the observation and established that the programme has shown as below the figures correctly as it was reflected in the revised financial statements.

Tranches Dates	**Reference**	**Euros**	**Conv'n Rate**	**Amount (KES)**	**Exchequer Amount**	**Amount Deposited to Programme KCB Account**
18/08/2018	PA 117917	1,570,000	114.573	179,880,238	179,880,238	179,880,238
13/11/2019	PA 118480	3,170,000	115.3326	365,604,345	365,604,345	365,604,345
Total		**4,740,000**		**545,484,583**	**545,484,583**	**545,484,583**

3673) The supporting documentation are attached - Exchequers, bank statements, Central Bank and Treasury Reconciliations.

3674) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to unreconciled special account statement was satisfactory as the reconciliation was done and presented in subsequent audit; and

(ii) The Committee marked the matter as resolved.

Other Matter

1286. Budget Control and Performance

3675) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,457,737,478 and Kshs.941,450,736 respectively resulting to an under-funding of Kshs.516,286,742 or 35% of the budget. Similarly, the Programme spent Kshs.469,490,561 or 50% of the receipts of Kshs.941,450,736. The underfunding could have adversely affected the planned activities and could have impacted negatively on service delivery to the public.

Submission by the Accounting Officer

3676) The Accounting Officer submitted that during the year under review, National Government contributed Kshs.90,200,000 instead of Kshs160, 000,000. This was attributed by the Government measures on the budget cut in the supplementary budgets. The County Governments (44 Counties) contributed Kshs.305,766,153 instead of Kshs.258,500,000. The excess funds were part of the arrears of Kshs.250,500,000 of the previous year FY 2017/2018.

3677) The counties were required to budget for the previous year balances and together contribute in the FY 2018/2019. However, due to budget constraints and cuts in the supplementary estimates, very few counties managed to meet the condition.

3678) Considering the donor conditionality - Article 4.8, the donor disbursed Kshs.545,484,583 to the Programme instead of Kshs 1,109,037,478, hence a deficit of Kshs 563,552,895. Therefore, instead of the Programme receiving Kshs.1,457,737,478 from the three contributors, the programme received Kshs 941,450,736, hence a deficit of Kshs 516,286,742. However, measures are put in place to ensure the two levels of the Government honour the requirements of the financial agreement in the subsequent years.

3679) On the expenditure the Programme spent Kshs 469,490,561 from the amount received of Kshs 941,450,736. The low absorption was as a result of the following reasons:

- Delay in the inception phase activities which included setting of structures, sensitisations of county leadership and carrying out baseline surveys.
- Delay in release of funds of which most funds were released in the final quarter. Hence most counties could not have absorbed the funds by close of the FY under review. The funds were carried over for the implementation of the activities in the FY 2019-2020.
- Delay in transfer of funds from the County Revenue Fund (CRF) to the Programme designated Account (SPA) and to the operational Commercial Bank account.

3680) An extract of financial report of the budget versus receipts was attached for perusal by the Committee. The matter was resolved in the Fy 2019/2020.

- ✓ The National Government contributed Ksh 228,051,150

- ✓ The Counties Government Contributed Ksh 276,064,660
- ✓ The Donor Contributed Ksh 1,185,599,524

3681) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to budget control and performance was satisfactory as the reconciliation was done and presented in subsequent audit; and

(ii) The Committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1287. Failure to Open a Designated Programme Bank Account

3682) All receipts and payments in respect of the Programme were being handled directly through the Ministry's account. The Management did not open the bank account to credit all receipts and make all payments relating to the Programme during the year under review.

3683) Consequently, transactions recorded in these financial statements are those that were disclosed by the Ministry.

Submission by the Accounting Officer

3684) The Accounting Officer submitted that the management agree with the observations. However, we wish to clarify as follows:

i. The Programme has a designated account at the Central bank Of Kenya (Account No. 1000358793)

ii. Donor requires the spending units to have a designated Special Account in CBK and an operational commercial bank account as per the financial agreement.

iii. All receipts for the year under review were channelled through the Ministry to enable them capture the budget and disbursement of the Programme.

iv. All the receipts and payments were made through the operational commercial bank account, hence all were properly accounted and supported by the bank statements.

3685) The supporting documentation are attached -Account opening letter from Central Bank of Kenya, Authority letter from National Treasury to open commercial bank account and extract of financial agreement on the disbursement procedures 4.8.

3686) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to Failure to Open a Designated Programme Bank Account was satisfactory as the reconciliation was done and presented in subsequent audit; and

(ii) The Committee therefore marked the matter as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3687) **Conclusion**

1288. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR CROP DEVELOPMENT

CENTRE OF EXCELLENCE IN SUSTAINABLE AGRICULTURAL AND AGRIBUSINESS MANAGEMENT (CREDIT NO.5798-KE) - EGERTON UNIVERSITY

REPORT ON THE FINANCIAL STATEMENTS

3688) **Unqualified Opinion**

1289. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1290. Pending Bills

3689) Note 9.1 to the financial statements reflects pending bills totalling Kshs.16,386,825 as at 30 June, 2019. Management has not provided reasons for non-payment of the bills even though the Project is at risk of incurring significant interest costs andpenalties with the continued delay in making payments.

3690) No submission made by the Accounting Officer

3691) **Committee Observations and Findings**

The Committee notes with concern the Accounting Officer did not respond to this issue raised by the Auditor General.

3692) **Committee Recommendation**

1) **The Committee reprimands the Accounting Officer for failing to respond on the audit query by the Auditor General; and,**
2) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1291. Delayed Disbursements

3693) The Project deliverable verification report availed for audit review as at 30 June, 2019 revealed that out of Kshs.228,812,100 (USD 2,288,121) verified and qualifying for disbursement, only Kshs.83,000,000 or USD 830,000 was withdrawnleaving a balance of Kshs.145,812,100 (USD 1,458,121) undisbursed. This is anindication of delays in the Project meeting the disbursement linked indicators and results. Management has not provided an explanation for the delay which may negatively impact on the achievement of the intended objectives.

3694) **<u>No submission made by the Accounting Officer</u>**

3695) **Committee Observations and Findings**

The Committee notes with concern the Accounting Officer did not respond to this issue raised by the Auditor .General.

3696) **Committee Recommendation**

The Accounting Officer should put in place measures to ensure funds are disbursed in time to enable the project achieve intended objectives.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3697) **Conclusion**

1292. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STRATEGIC FOOD RESERVE TRUST FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

1293. Revenues from Non-Exchange Transactions

3698) As disclosed in Note 6 to the financial statements, the statement of financial performance reflects receipts of Kshs.1,533,966,822 in respect of Transfers from Other Government Agency during the year. However, this amount differs with the amounts received from the National Government and transfers from other Government entities of Kshs.7,570,298,629 as detailed below:

Source	Details	Amount (Kshs.)
Exchequer - National Treasury	Budget Support – To procure Maize	4,020,298,629
Exchequer - National Treasury	Payment of debts owed to Farmers	2,130,520,241
AIE - State Department of Devolution	Payment for arrears owed to Farmers	1,419,479,759
Total Receipts in the Year		**7,570,298,629**

3699) Under the circumstances, the accuracy and completeness of the reported revenue from non-exchange transactions balance of Kshs.1,533,966,822 could not be confirmed.

Submission by the Accounting Officer

3700) The Accounting Officer submitted that it was true that we received Kshs 7,570,298,629 and in addition we also received kshs 96,032,144 vide CBK transactions reference FT18327C3Q40 and kshs 18,454,919 vide CBK transaction reference FT1B341N3Q4T respectively giving as a total of Kshs 7,684,785,688. The receipts are disclosed under capital grants Kshs 6,150,818,866 and Revenue grants Kshs 1,533,966,822. Cash book extracts and CBK transaction statements has been provided for audit verification.

3701) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to revenues from non-exchange transactions was satisfactory as the reconciliation was done and presented in subsequent audit; and

(ii) The Committee therefore marked the matter as resolved.

1294. Procurement of Maize

1294.1 Procured Maize During the Year

3702) The Fund had budgeted to purchase 2 million bags of maize from local farmers for the 2018/2019 crop season at a price of Kshs.2,500 per 90 kg bag all amounting to Kshs.5,000,000,000. Out of the budgeted amount, an expenditure of Kshs. 979,701,371 was to be met from sales proceeds of old stocks of maize, while the balance of Kshs.4,020,298,629 was to be financed through Exchequer issues. The Fund however purchased 417,951 bags of maize of 90kg each at a total cost of Kshs.1,044,205,017 as disclosed in Note 8 to the financial statements, which translated to a budget utilization of only 20%.

Submission by the Accounting Officer

3703) The Accounting Officer submitted that during the crop season 2018/2019, there was a shortage of maize supply across the country. Therefore, the Fund could not procure maize beyond the ones available in the market. Large scale farmers on the other hand felt that the purchase price of ksh.2,500.00 was on the lower side and hence were not willing to sell their maize to SFR leading to a budget under-utilization. The funds remained unspent in the funds bank account.

3704) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to procured maize during the year was satisfactory as the reconciliation was done and presented in subsequent audit; and

(ii) The Committee therefore marked the matter as resolved.

1294.2 Additional Funds for Debt Payments

3705) During the year, the Fund received an amount of Kshs.2,130,520,241 to cater for payment of debts owed to maize farmers for earlier deliveries. In addition, an AIE of Kshs.1,419,479,759 was also disbursed from the State Department for Devolution and ASAL for payment of arrears due to farmers, making a total receipt of Kshs.3,550,000,000. Examination of records indicated that an amount of Kshs.2,618,939,976 was spent on payment of farmers' arrears for the 2017/2018 crop season, leaving a balance of Kshs.931,060,024 that has not been accounted for in the financial statements.

Submission by the Accounting Officer

3706) The Accounting Officer submitted that the Fund received 3,550,000,000.00 to clear past debts. Kshs.2,618,939,976.00 was transferred to NCPB to clear debts owed to local farmers. The Kshs.931,060,024.00 was part of the balance in the SFR bank account of Kshs.1,928,796,427.65 as reflected in the audited financial statement and cash book extract. The fund was not able to utilize all the funds because of unverified pending bills at the time of audit.

3707) **Committee Observations and findings**

The committee observed the Accounting Officer did not utilize all the funds available to pay amount owed to farmers.

3708) **Committee Recommendation**

The Accounting Officer should utilize funds availed to pay farmers in time all varied outstanding balances to enable the farmers continue producing without financial difficulties to enhance food security.

1295. Storage Cost

3709) The statement of financial performance reflects an expenditure of Kshs.432,766,953 on fumigation and storage charges for the year ended 30 June, 2019. Invoices that were verified during the audit to support the transactions indicated a closing stock of 3,414,518 bags of 90kgs each, which is equivalent to 6,146,132 bags of 50kgs each while supporting schedules to the financial statements disclosed a closing stock of 6,279,685 bags of 50kgs each. Although Management explained that the difference of 133,553 bags was the closing stock of the unsold imported maize, the accuracy of the reported expenditure on fumigation and storage costs could not be confirmed.

Submission by the Accounting Officer

3710) The Accounting Officer submitted that the difference of 133,553 bags of 50kg was the closing stock of the unsold imported maize. The Fund accrued the storage cost of 133,553 bags 50 kg using the average method and is included in the fumigation and storage charges of Kshs.432,766,952.58 for the year.

3711) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to storage costs was satisfactory as the reconciliation was done and presented in subsequent audit; and

(ii) The Committee therefore marked the matter as resolved.

1296. General Expenses

3712) The statement of financial performance reflects an expenditure of Kshs.54,347,656 under general expenses. The supporting schedules for the reported balance was, however, not provided for audit review. In addition, examination of payment vouchers related to the expenditure revealed that the Fund made payments amounting to Kshs.10,609,200 directly to various staff for accommodation and travelling costs for various workshops, retreats, meetings and other field activities instead of issuing the officers with temporary imprests as required under Regulation 93 of Public Finance Management (National Government) Regulations, 2015.

3713) The expenditure was also not supported with receipts or work tickets for transport expenses, invitation letters to attend the meetings and workshops, signed schedules to confirm attendance and reports and minutes of deliberations held.

3714) Consequently, the accuracy and validity of the expenditure could not be confirmed.

Submission by the Accounting Officer

3715) The Accounting Officer submitted that the above stated payments relates to the millers field monitoring exercise and the intention was to flash-out "ghost" millers or brokers who purported to procure maize for milling from SFR with the intention of re-sale. Therefore, this was a surprise or impromptu visits to their premises. The memos were duly authorized by the board and were processed with full supporting documentation which has been provided for audit verification. Fuel receipts and work tickets have been provided for audit verification.

3716) **Committee Observations and findings**

(i) The committee observed the Accounting Officer did not provide a schedule to support the expenditure of Kshs.54,347,656.

(ii) The expenditure was not supported in full.

3717) **Committee Recommendation**

Within three (3) months after tabling and adoption of this report, EACC should initiate investigation on the expenditure of Kshs. 54,347,656.

1297. Inventories

3718) The statement of financial position reflects an amount of Kshs.11,159,473,495 under inventories. As disclosed in Note 17 to the financial statements, the inventories comprised maize and powdered milk. The following unsatisfactory matters were observed:

1297.1 Condemned Maize

3719) Note 17 to the financial statements reflects an amount of Kshs.10,459,473,495 being the closing stock of maize. However, a detailed analysis and valuation report of the stocks in support of the balance was not provided for audit verification. Further, a review of records of the maize stock at the National Cereals and Produce Board (NCPB) disclosed that the Ministry of Public Health had ascertained that out of six (6) million bags of maize in stock as at 30 June, 2019, maize in 176,265 bags valued at Kshs.342,482,895 was found to contain high levels of aflatoxin and was therefore not fit for human consumption.

3720) In addition, maize stocks held in Kisumu and Moi's Bridge silos were found to be damaged by heat as a result of being stored in the silos for more than two (2) years. The silos at the Kisumu depot had 35,905 bags while Moi's Bridge silos had 525,818 bags all valued at Kshs.998,743,494. Though the Fund gave authority to NCPB to sell the maize at Kshs.780 per bag, the initial cost was Kshs.1,778 per bag thus resulting in a total loss of Kshs.560,599,554, excluding storage and fumigation charges.

Submission by the Accounting Officer

3721) The Accounting Officer submitted that a stock take was undertaken of the closing stock held by NCPB and a report with detailed analysis of valuation is hereby attached for audit review.

3722) The maize in Kitale has since been cleared after joint sampling and quality analysis by a joint team comprising NCPB and Public Health and was released for human consumption on 3rd May 2019 leaving a balance of 124,625 x 90kg bags. The Board decided to offload the maize at kshs. 780 which appeared to be competitive. The approval for sale at Kshs 780 was granted by SFR board vide letter ref. MOALF/LCD/9/41/VOL.IX dated 7th May 2019 was grade 4 to be used for animal feeds.

3723) **Committee Observations and findings**

(i) The committee observed the maize was originally condemned as unfit for human consumption and recommended for disposal at Kshs. 780 per bag.

(ii) The committee further observes a joint committee of NCPB and Public Health later reversed the condemnation and maize cleared for human consumption but still sold at Kshs.780.

3724) **Committee Recommendation**

The Accounting Officer should ensure maize procured is properly preserved to safeguard the health of Kenyans.

1297.2 Unaccounted for Maize

3725) Nakuru depot stock summaries records as at 30 June, 2019 indicated that there were 387 bags of imported maize valued at Kshs.626,940. However, physical verification disclosed that there was no stock of imported maize at the depot. The stock of the imported maize could therefore not be accounted for.

Submission by the Accounting Officer

3726) The Accounting Officer submitted that after reconciliation of store R2702007 of Nakuru Silos, it was realized that stock Adjustment Form (S.A.F) NO. 17B4000308 dated 20/03/2018 for 2,500 bags positive adjustment had triplicated itself in Navision adjusting the quantity to 7,500 bags. This was corrected resulting in excess of 4,613 bags (5000-387). The excess was taken on charge vide S.A.Fs 17B4011190-3,613 & 17B4002487-1,000 bags respectively. The net effect is the erroneous balance of 387 bags was cleared.

3727) **Committee Observations and findings**

The committee observed Nakuru depot stock summaries records as at 30 June, 2019 indicated that there were 387 bags of imported maize valued at Kshs.626,940. However, physical verification disclosed that there was no stock of imported maize at the depot. The stock of the imported maize could therefore not be accounted for.

3728) **Committee Recommendation**

Within three (3) months after tabling and adoption of this report, the EACC to initiate an investigation into the purported importation of maize into the country including 387 bags valued at Kshs.626,940 missing at Nakuru depot .

1297.3 Powdered Milk

3729) Disclosed under Note 17 to the financial statements, is powdered milk stock from the New Kenya Creameries Cooperative (New KCC) amounting to Kshs.700,000,000 that has been outstanding for over three (3) years. Supporting documentation in support of the inventory balance was not provided for audit.

3730) In view of the above matters, the existence and accuracy of the reported balance of Kshs.11,159,473,495 for inventories could not be confirmed.

Submission by the Accounting Officer

3731) The Accounting Officer submitted that in a report dated 14th November, 2016 New KCC confirmed availability of 937,478 kgs of powdered milk worth Kshs. 500 million stored in their Eldoret factory. Further report dated 24/8/2017 confirmed availability of stocks worth Kshs 700 million. The report was availed to the auditors and the same is attached. The Accounting Officer has since written to new KCC requesting them to refund the money back.

3732) **Committee Observations and findings**

(i) The committee observed Kshs. 700,000,000 had remained outstanding with New KCC for three years.

(ii) There was no evidence availed to show stock amounting to Kshs.700,000,000 was held by New KCC.

3733) **Committee Recommendation**

Within three (3) months after tabling and adoption of this report, the EACC to initiate an investigation into the purported inventories paid for and held by New KCC.

1298. Receivables from Exchange Transactions

3734) The statement of financial position reflects a receivables balance of Kshs.10,276,377,296. It was, however, noted that an amount Kshs.11,295,302,968 being subsidy component on imported maize brought forward from the previous year and which was not paid during the year under review, was not included in the receivables balance as at 30 June, 2019.

3735) Further, and as disclosed in Note 18 to the financial statements, the reported total receivables balance of Kshs.10,276,377,296 includes Kshs.175,000,000 that was transferred to the National Cereals and Produce Board for purchase of gunny bags.

Although the Board acknowledged receipt of the amount, the Fund did not provide any payment vouchers or expenditure returns for audit verification to show that the gunny bags were bought. Therefore, it was not possible to confirm that the funds were put to the intended use by the Board.

3736) In addition, the reported receivables balance includes an amount of Kshs.6,865,220,613 relating to receivables from the State Department for Special Programmes. However, the amount has been outstanding in the books of the Fund for a long time and its recoverability is therefore, doubtful.

3737) The balance of the receivables also includes an amount of Kshs.1,157,864,523 disclosed as subsidy component on imported maize in spite of the fact that there was no imported maize during the year. It is therefore, not clear how the amount was arrived at.

3738) Consequently, the recoverability and accuracy of the reported receivables from exchange transactions balance of Kshs.10,276,377,296 could not be confirmed.

Submission by the Accounting Officer

3739) The Accounting Officer submitted that Preparation of SFR financial statements faced challenge due to lack of single accounting policy. In one hand it adopted IPSAS cash for expenditures directly charged through IFMIS System.

3740) On the other hand, depended on figures adopted from National Cereal and Produce Board (NCPB) for all money transferred to them. However, NCPB as a State Corporation used IPSAS Accrual besides preparing Trading Profit and Loss Account. This has made SFR accounting inconsistent as the two Accounting Policies are incompatible. The amount of receivables from exchange transactions of Kshs. 10,276,377,296 is as tabulated under note 18(a) and includes sales as adopted from NCPB, previous debtors from Ministry of special programs and transfers for purchase of gunny bags.

3741) The Kshs. 175,000,000 for purchase of gunny bags was transferred to NCPB on 30th June, 2019 just one month before the closure of the Financial Year. It was not possible for NCPB to carry out credible procurement processes and purchase the bags within the year. The gunny bags were however bought in the subsequent Financial Year 2019/2020.

3742) When SFR function was transferred from the Ministry of Special Programmes there was outstanding debt of Kshs. 6,865,220,613 owed to SFR on account of maize borrowed for relief operations. The amount has not been paid to-date. Supporting documents are available for Audit Verification. The figure of Kshs.1,157,864,523 represent the balance carried down from previous financial year 2017/2018.

3743) **Committee Observations and findings**

The committee observes the following:

(i) An amount Kshs.11,295,302,968 being subsidy component on imported maize brought forward from the previous year and which was not paid during the year under review, was not included in the receivables balance as at 30 June, 2019.

(ii) The reported receivables balance includes an amount of Kshs.6,865,220,613 relating to receivables from the State Department for SpecialProgrammes. However, the amount has been outstanding in the books of the Fundfor a long time and its recoverability is therefore, doubtful.

(iii) The balance of the receivables also includes an amount of Kshs.1,157,864,523 disclosed as subsidy component on imported maize in spite of the fact that there was no imported maize during the year.

3744) **Committee Recommendation**

1) **Within three (3) months after tabling and adoption of this report, the EACC to initiate an investigation into the receivables of Kshs.1,157,864,523 disclosed as subsidy component on imported maize in spite of the fact that there was no imported maize during the year.**
2) **Within three (3) months after tabling and adoption of this report, the EACC to initiate an investigation into the whereabouts of an amount of Kshs.11,295,302,968 being subsidy component on imported maize brought forward from the previous year and which was not paid during the year under review and that was not included in the receivables balance as at 30 June, 2019.**

1299. Trade and Other Payables from Exchange Transactions

3745) As disclosed in Note 19 to the financial statements, the statement of financial position reflects trade and other payables balance of Kshs.12,942,778,768, which includes Kshs.13,181,494,364 brought forward from the previous financial year. The balance of Kshs.13,181,494,364 was not supported and differed with the previous year's audited financial statements balance of Kshs.4,710,132,542 by Kshs.8,471,361,822.

3746) Further, the reported balance is net of a prior year adjustment of Kshs.1,720,222,259 whose nature was not explained or supported. Further, the supporting schedules for the trade payables balance, reflected debts that have remained outstanding since 2014 and whose supporting documents were not provided for audit scrutiny. No satisfactory explanation was provided on why the Management has not settled the long outstanding liabilities.

3747) In addition, Note 19 to the financial statements, reflects an amount of Kshs.2,618,939,976 that was transferred to the National Cereals and Produce Board (NCPB) to cater for pending bills. However, records maintained by the Board reflected an amount of Kshs.2,495,415,105 as having been received to pay pending bills for purchase of maize for 2017/2018 financial year, leaving an unreconciled balance of Kshs.123,524,871.

3748) Under the circumstances, the validity and accuracy of the trade payables from exchange transactions balance of Kshs.12,942,778,768 could not be confirmed.

Submission by the Accounting Officer

3749) The Accounting Officer submitted that the opening stock as per the previously audited financial is Kshs 13,181,494,364 therefore there was no error. The anomaly in the prior year adjustment of Kshs 1,720,222,259 was noted and will be restated in the financial statements for the current year.

3750) **Committee Observations and findings**

The committee observes the following;

(i) The balance of Kshs.13,181,494,364 was not supported and differed with the previous year's audited financial statements balance of Kshs.4,710,132,542 by Kshs.8,471,361,822.

(ii) The reported balance is net of a prior year adjustment of Kshs.1,720,222,259 whose nature was not explained or supported.

3751) **Committee Recommendation**

Within three (3) months after tabling and adoption of this report, the Auditor General to conduct a forensic audit into the validity of payables of Kshs. 13,181,494,364

1300. Irregular Payment of Pending Bills

3752) The trade and other payables from exchange transactions balance of Kshs. 12,942,778,768, as disclosed under Note 19 to the financial statements, is net of Kshs. 1,800,000,000 that was paid to one company during the year under review on account of pending bills. However, the payment was made without authorization of the Strategic Food Reserve Oversight Board as required under Regulation 14 of the Public Finance Management (Strategic Food Reserve Trust Fund) Regulations, 2015. Further, no payment voucher(s) or any other supporting documents were provided for audit verification.

Submission by the Accounting Officer

3753) The Accounting Officer submitted that an amount of Kshs1.8 Billion was paid to Commodity House as disclosed under note 19 in the Financial Statement. The amount was part payment of a long outstanding pending bill that have been attracting high interest. The Cabinet had directed to pay pending bills and National Treasury approved the use of SFR money. The payment of Kshs1.8 billion was tabled to the board on 30.10.2019 and approval was granted.

3754) The issue of pending bill had been discussed by SFR Oversight Board and it was agreed that pending bills should be sorted out as per Treasury Directive. The Internal Auditor and a task force appointed by the Head of Public Service had verified the pending bills. A copy of the payment voucher has been availed to the Auditor for Audit Verification. It should be noted that EACC found out in their investigation that the Pending Bills was legible.

3755) **Committee Observations and findings**

The committee observes the following;

(i) The explanation provided by the Accounting Officer on the audit query was satisfactory.
(ii) **The Committee therefore marked the matter as resolved.**

1301. Accuracy of the Financial Statements

3756) The financial statements as presented for audit are inaccurate and, in some cases, misleading as enumerated below:

1301.1 Statement of Financial Performance

3757) The comparative figures reflected in the statement of financial performance differ with the audited figures for the financial year 2017/2018. A footnote to the statement indicates that the cost of sales was restated by Kshs. 3,533,772,933. However, it is not clear what was being restated and how the amounts were arrived at. Further, the figures in the statement are different from the figures appearing in the disclosure notes to the financial statements as shown in Notes 8, 9, 14 and 15.

Submission by the Accounting Officer

The Accounting Officer submitted that the above anomalies were noted and will be corrected in the restated financial statements for the current year.

1301.2 Statement of Financial Position

3758) A review of the statement of financial position revealed that several accounts' balances have been revised without a Note to explain the prior year adjustments. Trade and other payables figures were adjusted upward by Kshs.4,658,392,970. The reserves and accumulated deficit balances were also revised. In general, the opening balances are inaccurate and inexplicable. In addition, the creditors balances for the year under review are inaccurate as the balance of Kshs.4,172,621,560 described as importers of maize creditors was accounted for under the balance of Kshs.13,181,494,364 disclosed as opening balance under Note 19 to the financial statements.

3759) Under the circumstances, the statement of financial position is incorrect and misleading.

Submission by the Accounting Officer

The Accounting Officer submitted that the above anomalies were noted and will be corrected in the restated financial statements for the current year.

1301.3 Statement of Changes in Net Assets

3760) The statement of changes in net assets was restated and no support documentation was provided to support the restatement. In addition, the statement shows a transfer to reserves of Kshs.6,150,818,866 that was not supported with Notes or any other supporting documentation.

Submission by the Accounting Officer

3761) The Accounting Officer submitted that the above anomalies were noted and will be corrected in the restated financial statements for the current year.

1301.4 Statement of Cash flows

3762) The cash flow statement prepared does not comply with the reporting guidelines issued by the Public Sector Accounting Standards Board. Under the circumstances, it is not clear whether all the transactions of the Fund have been captured during the year.

Submission by the Accounting Officer

3763) The Accounting Officer submitted that the matter is noted and will be sorted out in future by applying one accounting policy consistently.

1301.5 Statement of Comparison of Budget and Actual Amounts

3764) The statement of comparison of budget and actual amounts was also not prepared in accordance with the requirements of the Public Sector Accounting Standards Board (PSASB). It is not clear what the budget was as all figures provided are the actual figures. Consequently, it is not reliable as a source of information. The statement of comparison of budget and actual amounts reflects a budget figure of Kshs.7,684,785,688 which is the same amount as the actual expenditure while the performance difference has been disclosed as Kshs.1,419,479,759. This is contradictory and hence misleading.

Submission by the Accounting Officer

3765) The Accounting Officer submitted that the above anomalies were noted and will be corrected in the restated financial statements for the current year.

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1301.6 Notes to the Financial Statements

3766) The Notes to the financial statements are also incomplete and in some of the Notes the figures have no comparatives or have figures that are not in agreement with the corresponding figures reflected on the face of the financial statements. Consequently, they are not useful in disclosing the transactions of the Fund during the year.

Submission by the Accounting Officer

3767) The Accounting Officer submitted that the above anomalies were noted and regretted and correction will be made in the restated financial statements of the current year.

1301.7 Restatement and Casting Errors of Comparative Balances

3768) The financial statements for the year ended 30 June, 2019 include restated comparative figures as shown below:

Component	Restated Figure for 2017/2018 (Kshs.)	Audited Figurefor the Year Ended 30 June 2018 (Kshs.)	Variance(Kshs.)
Purchases	20,353,837,593	46,104,511,751	25,750,674,158
Accumulated Capital Reserves	46,587,162,751	64,874,935,811	18,287,773,060
Accumulated Deficit	(43,756,489,113)	(47,248,450,759)	3,491,961,646
Board Expense	41,831,286	0	41,831,286
Total Current Liabilities	17,839,88,333	13,181,494,364	4,658,392,969

3769) However, no disclosure notes and explanations have been included in the financial statements to support the restated comparative year figures and the restated balances were not supported by any documents.

3770) In addition, casting errors were noted in the financial statements as shown in the table below:

Component	Comparative Figure in the Financial Statements (Kshs.)	Casted Figure (Kshs.)	Variance(Kshs.)
Total Expenses	6,882,529,993	40,491,402,795	33,608,872,802
Total Non-Current Assets	20,670,560,970	30,807,999,415	10,137,438,445
Total Trade Payables(Note 19	4,710,132,546	8,318,343,571	3,608,211,025
Total Net Assets andLiabilitie	2,830,763,638	2,830,673,638	90,000

3771) Consequently, the accuracy and validity of the comparative figures as reported could not be confirmed.

Submission by the Accounting Officer

3772) The Accounting Officer submitted that the above anomalies were noted and will be restated in the financial statements for the current year.

3773) **Committee Observations**

The committee observed the following;

(i) The SFR failed to prepare accurate financial statements.

(ii) The financial statements were misleading.

3774) **Committee Recommendations**

The committee recommends the following;

1) **The Principal Secretary National Treasury to reprimand the Accounting Officer in writing for failing to prepare accurate financial statements.**
2) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**

1302. Inconsistencies Between Financial Statements and Disclosure Notes

3775) The statement of financial performance reflects an expenditure of Kshs.1,044,205,014 under repairs and maintenance of motor vehicles while the corresponding Note 9 reflects Kshs.432,766,952 for the expenditure. The comparative year's balance of receivables from exchange transactions as disclosed on the statement of financial position is Kshs.18,160,523,581 while Note18 discloses a balance of Kshs.8,023,085,136.

3776) The financial statements also include a disclosure on cost of sales under Note 22 which does not support the financial statements for the period ended 30 June, 2019. Further, the statement of financial position does not include cost of sales. The reason for deviation from the previous year's format has also not been disclosed.

Submission by the Accounting Officer

3777) The Accounting Officer submitted that the above anomalies were noted and will be restated in the financial statements for the current year.

3778) **Committee Observations**

The committee observed the following;

(i) The SFR failed to prepare accurate financial statements.

(ii) The financial statements were misleading.

3779) **Committee Recommendations**

The committee recommends the following;

1) **The Principal Secretary National Treasury to reprimand the Accounting Officer in writing for failing to prepare accurate financial statements.**
2) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or**

disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

1303. Other Information to the Financial Statements

1303.1 Chairman's Statement

3780) According to the 2018/2019 financial year reporting template issued by Public Sector Accounting Standards Board, the Chairman's statement should be included in the annual report and financial statements submitted for audit. However, the financial statements submitted for audit did not include the Chairman's statement. Further, there was no evidence that the financial statements were discussed and adopted by the Board of Directors (Strategic Food Reserve Oversight Board).

Submission by the Accounting Officer

3781) The Accounting Officer submitted that it is regretted that Board Chairman Statement was omitted. The error is noted for action in future.

1303.2 The Board of Directors

3782) The information on the Board of Directors does not include photographs of two (2) of the directors as required under the revised reporting template. In addition, the data on the Principal Secretary – State Department for Devolution was not revised or updated to reflect the correct information about the current Principal Secretary.

Submission by the Accounting Officer

3783) The Accounting Officer submitted that the error has been corrected in the current financial year.

1303.3 Statement of Trustees Responsibilities

3784) Paragraph one (1) of the statement of trustees' responsibilities indicates that the financial statements are prepared in accordance with Section 14 of the State Corporations Act while paragraph three (3) states that preparation of the financial statements conforms to the State Corporations Act. This is misleading because the Fund derives its mandate from the Public Finance Management (Strategic Food Reserve Trust Fund) Regulations, 2015.

Submission by the Accounting Officer

3785) The Accounting Officer submitted that the error has been corrected in the current financial year.

1303.4 Unresolved Prior Year Audit Matters

3786) Various matters reported in the prior year under basis for disclaimer of opinion section of the audit report remained unresolved as at 30 June, 2019. The action taken by the Management on the issues was not disclosed under the progress on follow up of auditor's recommendation section of the financial statements as required by the Public Sector Accounting Standards Board (PSASB) since the section was omitted from the financial statements.

Submission by the Accounting Officer

3787) The Accounting Officer submitted that the above anomalies were noted and will be corrected in the restated financial statements for the current year.

3788) **Committee Observations**

The committee observed the following;

(i) The SFR failed to prepare accurate financial statements.

(ii) The financial statements were misleading.

3789) **Committee Recommendations**

The committee recommends the following;

1) **The Principal Secretary National Treasury to reprimand the Accounting Officer in writing for failing to prepare accurate financial statements.**
2) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**

1304. Expired Agency Agreement

3790) The Government of Kenya on behalf of Strategic Grain Reserve Fund entered into a contract with the National Cereals and Produce Board (NCPB) for procurement of maize, storage and management of stocks on 19 October, 2016 and the agreement was to remain in force for a duration of 2 years. It was however, noted that a new agreement was not entered into after the previous agreement lapsed. This implies that there was no valid agency agreement between the two entities and they have continued to rely on an unenforceable agreement.

Submission by the Accounting Officer

3791) The Accounting Officer submitted that there was an oversight in the renewal of the Agency agreement between SFR and NCPB. In view of the above, the Ministry through the cabinet memo took the decision to merge SFRTF with NCPB to resolve some of these perennial challenges.

3792) However, the functions of SFR were transferred to NCPB.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3793) **Conclusion**

1305. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3794) **Conclusion**

1306. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

THE COMMITTEE WAS INFORMED THAT THE REPORTS ON THE COMMODITY FUND AND THE AGRICULTURAL INFORMATION CENTRE REVOLVING FUND APPEARING ON PARAGRAPHS 1309 TO 1325 WERE EXAMINED BY THE SPECIAL FUNDS ACCOUNTS COMMITTEE.

34. STATE DEPARTMENT FOR FISHERIES AQUACULTURE AND THE BLUE ECONOMY

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1166

Dr. Francis O. Owino, CBS, the Principal Secretary and Accounting Officer for the State Department of Fisheries Aquaculture and the Blue Economy (Vote 1166) appeared before the committee on 22nd February, 2022 to adduce evidence on the Audited Financial Statements for the State Department of Fisheries Aquaculture and the Blue Economy (Vote 1166) for the Financial Year 2018/2019. He was accompanied by the following officials:

1. Mr. Kassim Farrah - Senior Accountant
2. Mr. James W. Thuita - Head of Accounting Unit
3. Mr. Martin K. Wamwea - Senior Chief Finance Officer
4. Mr. Patrick Kiara - Deputy Director Fisheries

and submitted as follows:

Basis for Qualified Opinion

1326. Financial Statements Inaccuracies

1324.1 Cash and Cash Equivalent

3795) The statement of assets and liabilities reflects cash and cash equivalents balances of Kshs.62,171,105 made up of bank balances of Kshs.61,868,827 held in four (4) bank accounts and cash in hand balances of Kshs.302,278 as shown under Note 9A and 9B to the financial statements. However, the revised IFMIS trial balance reflects credit balances for recurrent, development and deposit bank accounts of Kshs.264,641,258, Kshs.634,330,805 and Kshs.89,130,208 respectively. Further, the Central Bank of Kenya Account No. 30861002 reflects an amount of Kshs.28,957,192 while the same has not been reflected in the IFMIS trial balance. In addition, cash in hand balance of Kshs.302,278 differ with the IFMIS trial balance figure of Kshs.1,637,691,980 by an amount of Kshs.1,637,389,702 as summarized below:

Account	**Revised Financial Statements (Kshs.)**	**Revised IFMIS Trial Balance (Kshs.)**	**Variance (Kshs.)**
Recurrent Bank Balance	61,801	(264,579,457)	264,641,258
Development Bank Balance	942,373	(634,330,805)	635,273,178

Deposit Bank Balance	31,907,461	(89,130,208)	121,037,669
Central Bank of Kenya Account No.30861002	28,957,192	0	28,957,192
Total Bank Balances		**61,868,827**	
Cash in hand	302,278	(1,637,691,980)	1,637,389,702

3796) The variances have not been reconciled casting doubt on the accuracy and completeness of cash and cash equivalents balance of Kshs.62,171,105 as at 30 June, 2019.

Submission by the Accounting Officer

3797) The Accounting Officer submitted that it was true that the statement of assets and liabilities reflects different amounts in the revised financial statements as compared to the revised IFMIS trial balance. This is attributed to IFMIS cash management module function which had not been functioning properly.

3798) It was true that the Central Bank of Kenya Account No.30861002 reflects an amount of KShs.28,957,192 which is not reflected in the IFMIS trial balance.

3799) This is attributed to the fact that as at the period under review the mapping of this account (which belongs to the KEMFSED Project, started in the course of the financial year under review) had not been done by the IFMIS department. However, this mapping was later done during the subsequent financial year and is currently appearing under the IFMIS trial balances as a separate bank account.

3800) **Committee Observations and Findings**

(i) The Committee observed that the evised IFMIS trial balance reflects credit balances for recurrent, development and deposit bank accounts of Kshs.264,641,258, Kshs.634,330,805 and Kshs.89,130,208 respectively;

(ii) The Committee further observed that the difference in the statement of assets and liabilities and the revised financial statements as compared to the revised IFMIS trial balance were reconciled; and

(iii)The Committee therefore marked the matter as resolved.

3801) **Committee Recommendations**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1324.2 Other Inaccuracies between the Financial Statements and the Trial Balance

3802) Further comparison between the financial statements and the supporting trial balance revealed variances of Kshs.615,399,024 which were not explained or reconciled as analysed below; -

Details	Financial Statements (Kshs.)	IFMIS Trial Balance (Kshs.)	Variance (Kshs.)
System Required Liabilities	0	(8,029,677)	8,029,677
Cash Clearing Account	0	(607,369,347)	607,369,347
Total Variance			

3803) In the circumstances, the accuracy of the financial statements for the year ended 30 June, 2019, could not be confirmed.

Submission by the Accounting Officer

3804) The Accounting Officer submitted that it was true there was a variance between the amounts shown in the financial statement and IFMIS trial balance on system required liabilities of cash clearing accounts. This can be attributed to IFMIS cash management module function which had not been functioning properly.

3805) **Committee Observations and Findings**

(i) The Committee observed that the revised IFMIS trial balance reflects credit balances for recurrent, development and deposit bank accounts of Kshs.264,641,258, Kshs.634,330,805 and Kshs.89,130,208 respectively;

(ii) The Committee further observed that the difference in the statement of assets and liabilities and the revised financial statements as compared to the revised IFMIS trial balance were reconciled; and

(iii)The Committee therefore marked the matter as resolved.

3806) **Committee Recommendations**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1327. Unsupported expenditure

3807) The statement of receipts and payments reflects an amount of Kshs.641,394,950 under use of goods and services. As disclosed under Note 4 to the financial statements, the amount includes Kshs.11,295,260 relating to rentals of produced assets. The expenditure of Kshs.11,295,260 relates to the amount paid for office space at 13th Floor of the National Hospital Insurance Fund (NHIF) Building for the Kenya Fisheries Service (KFS) for the financial year 2018/2019 and the last two (2) quarters of the financial year 2017/2018.

3808) However, out of the total expenditure of Kshs.11,295,260, only an amount of Kshs.4,428,147 relating to the occupancy period for two (2) quarters effective from 01 February to 30 April, 2018 and 01 May to 31 July, 2018 were supported with documentary evidence of cash book entries and payment vouchers maintained by the State Department. The remaining amount of Kshs.6,867,113, though traceable from the IFMIS records was not supported with documentary evidence such as payment vouchers.

3809) An audit verification exercise carried out on 25 November, 2019 revealed that the office space remained unoccupied for twenty-one (21) months from 01 February, 2018 to date and only the boardroom was found to be in use. Although the State Department has explained that the payment was made to reserve the office space and delay in occupancy was occasioned by unavailability of budget to procure furniture, this explanation is not satisfactory in regard to the time and expenditure incurred. This contravenes Regulation 43(d) of Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer to manage, control and ensure that policies are carried out efficiently and wastage of public funds is eliminated.

3810) Consequently, the propriety of the expenditure of Kshs.11,295,260 incurred on rentals of produced assets could not be ascertained.

Submission by the Accounting Officer

3811) The Accounting Officer submitted that it was true that Kshs.11,295,260 relate to item 2210600 – rental of produced assets. This item consists of several sub items including 2210603 – payment of rent and rates non-residential under which payments of Kshs.4,428,147 was made for office rent of 13th Floor NHIF Building for Kenya Fisheries Service. Kshs.6,867,113 relate to payment under sub item 2210604 – hire of transport, equipment. Payment vouchers and recepits were availed to the Committee for perusal.

3812) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer was satisfactory;

(ii) The Committee further observed that the Kshs.11,295,260 relate to item 2210600 – rental of produced assets which consists of several sub items including 2210603 – payment of rent and rates non-residential under which payments of Kshs.4,428,147 was made for office rent of 13th Floor NHIF Building for Kenya Fisheries Service and, Kshs.6,867,113 relate to payment under sub item 2210604 – hire of transport, equipment; and

(iii) The Committee therefore marked the matter as resolved.

3813) **Committee Recommendations**

(i) The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.

(ii) The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

Other Matter

1328. Pending Accounts Payable

3814) As disclosed in Note 15.1 to the financial statements the State Department had pending bills totalling Kshs.266,319,936 as at 30 June, 2019 which were not settled during the year under review but instead were carried forward to 2019/2020 financial year. Had these bills been settled and the expenditure charged to the relevant items of account for 2018/2019, the statement of receipts and payments for the year ended 30 June, 2019 would have reflected a deficit of Kshs.241,404,953 instead of the surplus of Kshs.24,914,983 now shown.

Submission by the Accounting Officer

3815) The Accounting Officer submitted that it was true that the State Department had a list of pending bills totaling Kshs.266,319,936 as at June, 2019 as disclosed in Note 15.1 to the financial statements. Had the bills been settled, the expenditure could have increased with the same amount. For pending bills to be settled, exchequer issues would also increase. Consequently, that will balance off. The surplus will remain Kshs.24,914,983.

3816) **Committee Observations and Findings**

(i) The Committee observed that the pending Bills have been gradually and partially settled with a balance of Kshs.24,914,983 remaining to be settled in the year in 2020/2021; and

(ii) The matter remained unresolved.

3817) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

1329. Budget Control and Performance

3818) During the year under review, the State Department had actual receipts totaling to Kshs.1,363,336,563 against estimated receipts of Kshs. Kshs.2,270,260,146 resulting in a shortfall of Kshs. 906,923,583 or 40%. Further, actual expenditure for the year amounted to Kshs.1,338,421,580 against a budget of Kshs.2,200,260,146 resulting in an under expenditure of Kshs.861,838,566 or 39%. Management has attributed the under collection, mainly under proceeds from foreign borrowings, to delay in submission of payment certificate by the project consultants while the underutilization was caused by delay in uploading development budget to the Integrated Financial Management System (IFMIS). The State Department may have failed to achieve its planned development and operational objectives impacting negatively on service delivery to the citizens of Kenya.

Submission by the Accounting Officer

3819) The Accounting Officer submitted that it was true that there was a shortfall of 40% on the receipt. This was due to shortfall of exchequer receipt. Proceeds from foreign borrowings are direct payment settled by the donor. Delay in submission of payment certificate by the project consultants; also determined the same.

3820) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to budget control and performance was satisfactory; and

(ii) The Committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1330. Procurement of Goods from Unqualified Firms

3821) The statement of receipts and payments reflects an amount of Kshs.641,394,950 under use of goods and services, which includes expenditure relating to routine maintenance services of other assets of Kshs.4,593,482 and specialized materials and services of Kshs.85,445,298 as disclosed in Note 4 to the financial statements. An examination of payment records at the Mombasa Office revealed that a firm was paid Kshs.276,312 for maintenance services that involved fixing of floor tiles and repair of a submersible pump. The firm presented a Tax Compliance Certificate (TCC) number KRANER8309392017 dated 20 September, 2017 whose expiry period was indicated as 22 June, 2019. However, a verification from the KRA website TCC checker shows that the certificate had expired on 19 September, 2018, implying that the compliance certificate was a forgery.

3822) In addition, procurement and payment records show that another firm was issued with a local purchase order number 2466456 dated 29 March, 2019 and paid Kshs.1,130,000 for supply of fishing gears at the Mombasa Office. However, the firm provided an invalid TCC number KRAMSN5900842017 which had expired on 06 April, 2018. These procurements, therefore, contravened Section 55(1)(f) of the Public Procurement and Asset Disposal Act, 2015.

Submission by the Accounting Officer

3823) The Accounting Officer submitted that it was true that the two firms provided an invalid Tax Compliance Certificate (TCC). These being quotations from pre-qualified firm at the Mvita Sub-County the due diligence on the authenticity of the submitted documents with regards to expiry date of the Tax Compliance Certificate (TCC) being different from the one in the Kenya Revenue Authority (KRA) website was not conducted leading to the anomaly. Henceforth, due diligence is being undertaken to all procurements and payments.

3824) **Committee Observations and Findings**

3825) The Committee observed that the procurements of floor tiles and repair of a submersible pump and fishing gears at the Mombasa Office contravened Section 55(1)(f) of the Public Procurement and Asset Disposal Act, 2015.

3826) **Committee Recommendations**

(i) Within three months of the adoption of this report, the Accounting Officer (during the period under review) must provide an explanation for incurring expenditure of Ksh.90,315,092.00 and entering into a contract for procurement without lawful tender documents contrary to the provisions of Section 55(1)(f) of the Public Procurement and Asset Disposal Act, 2015.

(ii) Where the Accounting Officer fails to provide an explanation, the Accounting Officer (during the period under review) should be surcharged Ksh.90,315,092.00 pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.

(iii) Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

1331. Failure to Observe Two Third (2/3) Basic Salary Rule

3827) The statement of receipts and payments reflects an amount of Kshs.266,783,423 under compensation of employees. As disclosed under Note 3 to the financial statements, the amount includes Kshs.160,955,966 relating to basic salaries for permanent employees. An examination of the payroll from July, 2018 to June, 2019 of the State Department revealed that fourteen (14) officers were paid net salary totalling Kshs.424,512 while a third (1/3) of their basic salary was totalling Kshs.526,073, resulting in an over deduction of Kshs.101,561. The net salaries were, therefore, less than a third (1/3) of their basic salary contrary to Section C.1(3) of the Public Service Commission - Human Resource Policies and Procedure Manual.

Submission by the Accounting Officer

3828) The Accounting Officer submitted that it was true that the net salary was less than a third (1/3) of their basic salary. This was occasioned by reduction of Rental House allowance after the transfers and officers retiring and Saccos recovering their loans.

3829) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to failure to observe two third (2/3) basic salary rule was satisfactory; and

(ii) The Committee marked the matter as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3830) **Conclusion**

1332. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REVENUE STATEMENTS - STATE DEPARTMENT FOR FISHERIES, AQUACULTURE AND THE BLUE ECONOMY

REPORT ON THE REVENUE STATEMENTS

3831) **Unqualified Opinion**

1333. There were no material issues noted during the audit of the revenue statements of the State Department.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3832) **Conclusion**

1334. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3833) **Conclusion**

1335. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECT

KENYA MARINE FISHERIES AND SOCIO-ECONOMIC DEVELOPMENT PROJECT (IDA CREDIT NO. V1310-KE)

REPORT ON THE FINANCIAL STATEMENTS

3834) **Unqualified Opinion**

1336. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1337. Receipts through the Special Account

3835) The statement of receipts and payments for the year ended 30 June, 2019 reflects proceeds from domestic and foreign grants which include Kshs.50,988,970 paid to the Project through the special account controlled by the entity. However, the special account statement shows withdrawals and disbursements to the Project during the year totalled Kshs.30,387,623. The difference amounting to Kshs.20,151,347 between the two (2) sets of records has not been explained.

3836) My opinion is not modified in respect of this matters.

Submission by the Accounting Officer

3837) The Accounting Officer submitted that it was true that receipts and payments statement show receipts of Kshs.50,988,970 which comprises of an opening balance of Kshs.20,186,952 and disbursements from the special account during 2018/19 of Kshs.11,128,168 and Kshs.19,673,850.

3838) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to receipts through special account was satisfactory; and

(ii) The Committee marked the matter as resolved.

Other Matter

1338. Budget Control and Performance

3839) The statement of comparative budget and actual amounts reflects actual receipts of Kshs.152,795,960 against a budget of Kshs.180,988,970 resulting to underfunding of Kshs.28,193,010 or 16%. However, the Project spent an amount of Kshs.123,838,769 against the approved budget of Kshs.169,999,296 resulting to an under expenditure of Kshs.46,160,527 or 72% of the budget. The Management has attributed the under expenditure to delay in the submission of payment certificate by consultants, delayed Exchequer releases and slow procurement process.

3840) In the circumstances, the citizens have not received the services as planned.

Submission by the Accounting Officer

3841) The Accounting Officer submitted that it was true that there was an underfunding of kshs.28,193,010 equivalent to 16%. This is due to delay by project consultants in submission of payment certificates since direct payments are part of Exchequer releases.

3842) Also the project had an under expenditure of kshs.46,160,527 equivalent to 28% due to a long procurement process.

3843) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to budget control and performance was satisfactory; and

(ii) The Committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3844) **Conclusion**

1339. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3845) **Conclusion**

1340. There were no material issues relating to effectiveness of internal controls, risk management and governance.

35. STATE DEPARTMENT FOR IRRIGATION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1167

Mr. Joseph W. Irungu, the Principal Secretary and Accounting Officer for the State Department for Water Services (Vote 1167) appeared before the Committee on 2nd August, 2021 to adduce evidence on the Audited Financial Statements for the State Department for Water Services (Vote 1167) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Eng. Samuel A. O. Alima - Water Secretary
2. Ms. Agnes Waweru - Assistant Accountant General
3. Eng. Simon G. Mwangi - FM- KWSCRE
4. Mr. Kihara Ndungu - Personal Assistant to Principal Secretary

And submitted as fololows

Basis for Qualified Opinion

1341. Unaccounted for Proceeds from Sales of Assets

3846) The statement of receipts and payments reflects an amount of Kshs.365,938,792 against proceeds from sale of assets which, as disclosed in Note 4 to the financial statements relates to receipts from sale of certified seeds and breeding stock by the National Irrigation Board. However, the financial statements of the National Irrigation Board reflect related sales of Kshs.221,943,021 during the year, resulting in a variance of Kshs.143,995,771, which has not been reconciled or explained. Further, the breakdown of the proceeds as per individual ledger transactions has not been provided to support the receipts.

3847) Under the circumstances, the accuracy and completeness of the proceeds from sales of assets amounting to Kshs.365,938,792 cannot be confirmed.

Submission by the Accounting Officer

3848) The Accounting Officer submitted that it was true the receipts and payments report in the Financial Statement reflects an amount of Kshs.365,938,792 erroneously captured as AIA proceeds from sale of assets from NIB. The correct AIA collection confirmed by NIB is Kshs.221,943,021 for the period under review, resulting in a variance of Kshs.143,995,771. This amount being a contra entry affected both the receipts and payments and so has no effect on the reported surplus for the State Department. In the subsequent year the correct amount of AIA was reported and the Financial Statements reflected the right position as at the end of the year 2019/2020. The relevant supporting journal was passed to support receipt vide letter ref. No. NIB/HQ/F1/32 VOL.VIII of Kshs.

365,938,792. However, the correct amount of Kshs.221,943,021 is supported by letter ref no. NIB/HQ/F1/32 VOL.VIX from the National Irrigation Board.

3849) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to the unaccounted for proceeds from sales of assets was satisfactory;

(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification.

3850) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012 and also ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

1342. Unreconciled Transfers to Other Government Units

3851) As disclosed in Note 7 to the financial statements, the statement of receipts and payments reflect an amount of Kshs.6,826,614,028 under transfers to other government units. The amount relates to funds transferred to the National Irrigation Board out of which Kshs.5,510,537,964 relates to a disbursed development grant. The development grant amount differs with the amount reflected in the financial statements of the National Irrigation Board of Kshs.5,770,665,379, resulting in an unreconciled variance of Kshs.260,127,415.

3852) In the circumstances, the accuracy of the transfers to other government units of Kshs.6,826,614,028 could not be confirmed.

Submission by the Accounting Officer

3853) The Accounting Officer submitted that the National Irrigation Authority reports on accrual basis of accounting while the State Department of Irrigation reports on cash basis. The variance of Ksh 260,127,415 is as a result of timing difference whereby transfers of 2017/2018 were reported by entity under the F/Y 2018/2019. The reconciliation was carried out and the issue did not recur in the subsequent year Audit.

3854) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to the unreconciled transfers to other government units was satisfactory;

(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the

Auditor General for verification.

3855) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012 and also ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

1343. Unaccounted for Fuel

3856) The statement of receipts and payments reflects an amount of Kshs.81,884,076 under use of goods and services, and as disclosed in Note 6 to the financial statements, the amount includes an amount of Kshs.4,733,650 incurred on fuel oil and lubricants. Examination of the expenditure incurred on petrol, diesel, oil and lubricants revealed that expenditure amounting to Kshs.3,269,254 was not supported by documents and records to show how the fuel was consumed.

3857) Under the circumstances, the completeness and accuracy of the expenditure of Kshs.4,733,650 incurred on petrol, diesel, oil and lubricants cannot be confirmed.

Submission by the Accounting Officer

3858) The Accounting Officer submitted that fuel and lubricants payments are made in advance after an LPO is issued and proforma invoice received. Further fuel consumption is normally supported through work ticket entries and detail orders. The relevant documents and records on how the fuel of Ksh 4,733,650 was consumed has been provided to the auditor for verification. A sample of work tickets has also been included in this document.

3859) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to the Unaccounted for Fuel was satisfactory;

(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification.

3860) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012 and also ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

1344. Unauthorized Reallocation of Expenses

3861) As disclosed in Note 8 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.1,177,456,537 under acquisition of assets. Included in the expenditure is an amount of Kshs.9,035,914 relating to domestic travel. No approval was sought for the reallocation of funds, and no explanation was given for posting domestic travel expenditure to acquisition of assets.

3862) Under the circumstances, the expenditure on acquisition of assets is not correctly stated.

Submission by the Accounting Officer

3863) The Accounting Officer submitted that the budget for acquisition of assets was under two items; 3110500-Contruction and civil works and 3111400-Reasearch, Feasibility studies, project preparation and design, project supervision. Ksh.9, 035,913.70 was charged from item 3111400 and relates to expenses incurred during monitoring and evaluation of projects within the State Department of Irrigation as per the projects work plan for financial year 2018/19.

3864) Under the Budget item 3111400 there was a component of domestic travel and as thus there was no approval required as it was not a reallocation.

3865) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to the unauthorized reallocation of expenses was satisfactory;
(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification.

3866) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012 and also ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

1345. Inaccurate Cash and Cash Equivalents

3867) The statement of assets and liabilities reflects a balance of Kshs.166,789,222 as cash and cash equivalents as at 30 June, 2019. Examination of bank reconciliation statements and the cash books revealed cash and cash equivalents of Kshs.178,242,758 as that date as detailed below:

Bank Account	Cashbook (Kshs.)	Financial Statements (Kshs.)	Variance (Kshs.)
Recurrent - 1000384115	1,835,053	1,487,823	347,230
Development - 1000384123	15,484,942	10,575,854	4,909,088
Deposits - 1000384131	160,922,763	154,725,545	6,197,218
Total	**178,242,758**	**166,789,222**	**11,453,536**

3868) The resulting variance of Kshs.11,453,536 has not been reconciled or explained. In the circumstances, the accuracy of cash and cash equivalents balance of Kshs.166,789,222 as at 30 June, 2019 cannot be confirmed.

Submission by the Accounting Officer

3869) The Accounting Officer submitted that the Deposit Balance was erroneous captured by the Auditor as Kshs145,725,545 instead of Ksh.154,725,545. However, the correct cashbook balance is Kshs.196,610,003.65 which has been restated in the financial statements for 2019/2020. The Recurrent balance in the financial Statements has also been revised and restated to Kshs.1,835,053 as shown in the Financial Statement for 2019/2020.

3870) The Development cashbook balance was erroneously indicated due to a casting error that was corrected and reconciled, hence showing the correct balance of Ksh. 15,409,342 and not 15,484,942 as supported by Bank Reconciliation Statement.

3871) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to the inaccurate cash and cash equivalents was satisfactory;

(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification.

3872) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012 and also ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012

1346. Unsupported Accounts Payables

3873) Disclosed in Note 11 and 15.2 to the financial statements is pending accounts payables amounting to Kshs.154,725,545 as at 30 June, 2019 due to third parties. However, Management has not availed a detailed analysis of this balance and an Annex 3 referred to in Notes 15.2. to the financial statements in support of these payables, have not been attached to these financial statements. In addition, a prior year pending accounts payables balance of Kshs.85,535,580 has not been supported by any documentary evidence. Further, the State Department did not maintain individual creditors ledger on pending accounts payables during the year under review, making it difficult to perform age analysis of these payables.

3874) As a result, the completeness and accuracy of the pending accounts payables balance of Kshs.154,725,545 as at 30 June, 2019 cannot be ascertained.

Submission by the Accounting Officer

3875) The Accounting Officer submitted and confirmed that the balance of Ksh85, 535,580 was restated to Ksh106, 494,466 and relates to deposits amounts and not pending bills. The Balance of the deposit account as per restated financial year 2018/19 was Kshs.196,610,003.65 which was fully supported by the Bank Reconciliation.

3876) The department maintains a deposit Account Register and cashbook, where receipts and payments are recorded.

3877) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to the unsupported accounts payables was satisfactory;

(ii) The Accounting Officer did not avail the supporting documents at the time of audit which constitute dereliction of duty. However, the documents were subsequently availed to the Auditor General for verification.

3878) **Committee Recommendation**

The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012 and also ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012

Other Matter

1347. Pending Bills

3879) As disclosed under Note 15.1 to the financial statements, the State Department for Irrigation had pending bills totalling Kshs.14,399,818 as at 30 June, 2019 that were not settled during the year 2018/2019 but were instead carried forward to 2019/2020. Failure to settle bills during the year in which they relate to, adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

3880) The Accounting Officer submitted that this was due to insufficient exchequer receipts. However, during the F/Y 2019/20 the State Department for Irrigation cleared Ksh 8,988,217.85 and the balance of Ksh5,411,600 was cleared in the Financial Year, 2020/2021.

3881) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to pending bills was satisfactory; and,

(ii) The Committee further observed that the Pending Bills of Ksh.8,988,217.85 and the balance of Ksh5,411,600 were cleared in the Financial Years 2019/2020 and 2020/2021 respectively; and

(iii)The Committee therefore marked the matter as resolved.

3882) **Committee Recommendation**

The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

1348. Lack of Payee Details on IFMIS Report

3883) The statement of receipts and payments reflects total expenditure of Kshs.8,296,013,796 for the year ended 30 June, 2019. However, the IFMIS general ledger report on expenditure item lacked details of payees against the payments. Under the circumstances, the payments cannot be posted in the cash book and confirmed in the bank statement for lack of payee details.

Submission by the Accounting Officer

3884) The Accounting Officer submitted that this is a system configuration issue and that IFMIS ledger reports ordinarily do not give details of the payees. However, using the system it is possible to drill down to the payee using the ledger details. The system also generates supplier payment analysis which includes payee and all other payment details, this has been demonstrated to the auditor.

3885) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to lack of payee details on IFMIS report was satisfactory; and,
(ii) The Committee therefore marked the matter as resolved.

1349. Wasteful Expenditure

3886) As reported in the previous year's report, the state department incurred expenditure of Kshs.26,915,000 comprising of procurement of branded caps and tops, polo shirts, men's shirts and corporate uniform on the aborted launching of the Thwake Multi-Purpose Development Project. The Project was to be launched in 2017/2018 financial year, but to date, it has not been launched. A visit to the stores in December, 2018 revealed that the procured items were still lying in the store and had not been issued. The expenditure of Kshs.26,915,000 is, therefore, wasteful and could have been avoided.

Submission by the Accounting Officer

3887) The Accounting Officer submitted that the expenditure of Kshs. 26,915,000 was indeed incurred and that it is true the items are still in the store. These items were to be used during the launch of the project by His Excellency the President which had been planned but unfortunately did not take place.

3888) He also stated that the said expenditure was not wasteful as the project is still ongoing and the items are still in store and will be used for the intended. The stock cards attached as confirmed by the Auditors. Further the PAC report adoption also corroborate and confirms the Audit issue on wasteful expenditure as resolved. Copy to stock ledger attached.

3889) **Committee Observations and Findings**

The Committee had discussed the matter in 2017/18 and confirmed the items were in store for future use and therefore marked the matter as resolved.

1350. Failure to Maintain a Complete Assets Register

3890) Disclosed under Annex 4 to the financial statements is a summary of fixed assets register which shows that the State Department had assets with a historical cost of Kshs.7,395,922,890 as at 30 June, 2019. However, the opening balance of the assets figure of Kshs.6,218,466,353 differs with the last year's closing balance of Kshs.6,221,276,816 by Kshs.2,810,463. In addition, a review of addition of assets during the year revealed that additions amounting to Kshs.216,779,247 were omitted from the summary of fixed assets.

3891) Further, a review of the assets register provided for audit verification revealed that the register had not been fully updated with details such as the nature of the asset, acquisition date, cost, serial/title number, location, additions and disposals during the year. The register besides being incomplete is not secure in that it is maintained in an excel sheet which is prone to manipulation.

3892) As a result, the accuracy, completeness and valuation of the fixed assets schedule cannot be confirmed.

Submission by the Accounting Officer

3893) The Accounting Officer submitted that it was true that on 30th June 2018 the closing balance of the asset figure was Kshs.6,221,276,816 however there was a summation error in the opening balance of 2018/2019 resulting to a variance of Ksh.2,810,463 this was later corrected in the sub sequent Financial Statement. The error did not have any financial implication.

3894) Further on the amount of Ksh.216,779,247, we wish to clarify that Kshs.197,280,517 related to AIA relating to Mwea Irrigation Project (Thiba dam) which was budgeted under capital grants and was reported as a transfer and not as an asset. While Ksh.19,498,730 is in relation to expenses incurred during Monitoring and Evaluation Projects. A fixed asset Register was submitted and verified.

3895) This can also be corroborated by PAC report 2017/18 VOL.I paragraph 764.2 and marked as resolved.

3896) **Committee Observations and Findings**

(i) The Committee had discussed the matter in 2017/18 and confirmed the items were in store for future use and therefore marked the matter as resolved.

(ii) Further assets omitted have since been included in the asset register.

3897) **Committee Recommendation**

The Committee reemphasized the recommendation made in the financial year 2017/18 that the Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

Projects Management

1351.1Non-Payment, Stalled and Terminated Water Pans/Small Dams – Water Projects Under National Water Harvesting and Ground Water Exploitation Programme

3898) The Projects status report as at 30 June, 2019 indicates that in the year 2016/2017, the Management awarded tenders for construction of water pans/small dams in various counties through an open tender. Included in the status report are thirty-six (36) complete projects with a contract sum of Kshs.510,487,758 out of which payments of Kshs.159,513,151 have been made to date, resulting in unpaid certified works of Kshs.350,974,607. No satisfactory explanation has been provided for failure to pay the outstanding amount yet there were budgetary provisions for the same. In addition, eight (8) projects with a contract sum of Kshs.78,809,649 were terminated and no action has been taken to re-advertise and give the works to new contractors.

3899) Consequently, stakeholders may not get value for their resources and public funds may go to waste if these projects are not completed and put to their intended use.

Submission by the Accounting Officer

3900) The Accounting Officer submitted that from the list of 36 projects referred to, contracts for five (5) projects namely Kaptumo, Kamulabani, Kapngemui, Ntulet and Nasal indicated were issued in FY 2017/2018 and no budgetary provision in FY 2016/2017. The same could not be included in any payment in FY 2016/2017. The other 31 projects were FY 2016/2017 contracts. By 30th June 2017, all were partially complete and Interim Payment Certificates (IPC) No1 for a total of Ksh.159, 513,151.00 was paid for measured works which varied between 30% -80%.

3901) Even with budgetary provision, it was not possible to pay as works were not substantially completed. Works were certified complete the following FY 2017/2018 and IPC No 2 paid. In FY 2017/2018, the program was affected by Supplementary cuts and insufficient exchequer release. It was also affected by transfer of the program to the Ministry of Water and Sanitation vide Executive Order No 1 of June 2018. Funds were only made available and final payments paid as pending bills in June 2019.Correspondences between The National Treasury and Department on request for allocation to clear pending bills on the same were availed for perusal by the Committee.

3902) Of the 8 Contracts referred to with contract sum of Ksh.78,809,649, two (2) projects namely Kimuruk and Kimuri/Ngeria earth dams were executed to satisfactory completion after contractors appealed against termination with reasons and the same lifted and works on site completed. The outstanding six (6) were terminated and the department was cautious in re-advertising as there was no budgetary line following transfer of the programs' budget to the Ministry of Water and Sanitation All completed projects are in use, no public funds paid for terminated projects.

3903) **Committee observations and findings**

(i) The Committee observed that the State Department may incur more cost if the six contracts are not mutually terminated; and

(ii) The matter remained unresolved.

Additional Submissions by accounting officer for paragraph 1351.1 and 1351.3 after PAC Committee meeting of 2nd August 2021

3904) Out of 141 and 58 contracts signed in financial year 2016/2017 under paragraphs 1351.1 and 1351.3 respectively, contractors for six (6) water pans/ small dams and nine (9) boreholes either did not mobilise to site or abandoned site before completion of work. The Ministry initiated the process of formal termination of these contracts as evidenced by attachments provided. **The same will be concluded in line with contract agreement.**

Further Committee observations and findings

3905) The Committee observed that based on the Ministry's additional information after PAC committee meeting, that the Ministry initiated the process of formal termination of these contracts, the Ministry has not yet finalized the termination process in line with contract agreements.

3906) **Committee Recommendation**

1) **The Accounting Officer should ensure that works certified and pending bills to be paid in accordance with the Public Finance Management Act, 2012.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer to provide the Parliament with evidence the terminated contracts were done in accordance with terms of contract to avoid future claims by the contractors.**

1351.2Stalled Project - Construction of Lekasuyuni Water Pan in Laikipia North, Laikipia County

3907) A contract was awarded for the construction of Lekasuyuni Water Pan in Laikipia North, under the National Water Harvesting and Ground Water Exploitation Program at a contract sum of Kshs.12,539,395 in the financial year 2016/17. Records available indicate that construction of the dam which has a design capacity of 20,320 cubic meters was stopped by the National Youth Service (NYS) due to conflict over ownership of the land between the NYS and the community after 80% of the reservoir had been excavated. It is not clear how the project was designed; a contract signed and works commenced up to 80% completion without establishment of land ownership.

3908) Further, a review of payment voucher No.1284 of 30/6/2019 showed that the contractor was paid an amount of Kshs.6,327,840, representing about 50% of the contract sum. The amount paid was explained by the Management to have been arrived at based on the signed reports of the inspection and acceptance team that inspected the site in March, 2018. However, no inspection reports and certified works certificate were provided to support the payment. Consequently, the propriety of the expenditure of Kshs.6,327,840 cannot be confirmed.

Submission by the Accounting Officer

3909) The Accounting Officer admitted that a contract of a sum of 12,539,395 which was awarded for construction of Lekasuyuni water pan in Laikipia North, Liakipia County was stopped by the NYS due to conflict over ownership between the beneficiaries and NYS after 80% of the water pan had been excavated and that the contractor was paid 50% of contract sum of Ksh6.327,840.

3910) The Accounting Officer submitted that the site for construction of this water pan was public land recently issued for settlement. The community and local leadership reported site as public land during site identification and design. Considering that water is a good for all; NYS or local communities then once ownership is sorted, the project will be completed.

3911) The contractor was paid for measured works; 50% valued at Ksh 6,327,840.00. Copies of IPC No 1 and Inspection and Acceptance team Report dated 19th July 2017 were availed for perusal by the Committee.

3912) **Committee observations and findings**

(i) The Committee observed that the documents referred to by the Accounting Officer have not been verified by the Office of the Auditor General as they were submitted late;

(ii) The Committee further observed that the National Youth Service being a Public Entity the issues can be resolved amicably by the two Accounting Officers;

(iii) In addition, the Committee observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and

(iv) The matter remained unresolved.

Additional by accounting officer for paragraph 1351.2 after PAC Committee meeting of 2nd August 2021

3913) The Ministry is in contact with the DG-National Youth Service (NYS) to allow the Ministry complete the outstanding works for this water pan and project be availed for use either by NYS or neighbouring communities. Previous correspondence on the same has been attached on of the additional information.

Further Committee observations and findings

3914) The Committee observed that based on the Ministry's additional submissions, the matter is still outstanding since the Ministry has indicated that it is in contact with the DG-National Youth Service (NYS) to allow the Ministry complete the outstanding works for this water pan and project be availed for use either by NYS or neighboring communities.

3915) **Committee Recommendation**

Within one (1) month upon tabling and adoption of this report, the Accounting Officer should to provide Parliament with progress report on the resolution of the matter.

1351.3Non-Payment, Stalled and Dry Boreholes - Water Projects for Schools and Micro Irrigation Projects

3916) The projects status report as at 30 June, 2019 indicates that the Management awarded tenders for construction of boreholes in various counties in the year 2016/2017 through open tender for National Water Harvesting and Ground Water Exploitation Program Water for Schools and Micro Irrigation Projects. Included in the report are fourteen (14) complete projects with a contract sum of Kshs.101,358,768 out of which payments totalling Kshs.45,446,171 have been made to date resulting in unpaid certified works of Kshs.55,912,597. No satisfactory explanation has been provided for failure to pay the outstanding amount yet there were budgetary provisions for the same.

3917) Further, a review of the status report shows forty-four (44) stalled projects with a combined contract sum of Kshs.342,115,980 out of which payments totalling Kshs.16,722,487 have been made to date. No explanation has been given on when these projects will be completed and put to use. Management has not levied liquidation damages on the contractors for delay in completion of these projects.

3918) In the circumstance, stakeholders may not get value for their resources and public funds may go to waste if these projects are not completed and put to their intended use.

Submission by the Accounting Officer

3919) The Accounting Officer submitted that in the FY 2017/2018 there was budgetary allocation for 14 completed projects, however exchequer released by June 2018 was insufficient to pay all certificates leaving outstanding amount of Ksh.55,912,597. The same were paid by June 2019.

3920) He admitted that contractors' temporarily deserted 42 sites signed in FY 2016/2017 after drilling and casing or 30-50% completion but re- mobilized in FY 2017/2018. Twenty six (26) project sites are complete, handed over and in use, 2 projects for Lenana High School model golf site ongoing. Seven sites (7) were abandoned due to low yields or poor water quality and to date no payment made. Contracts for nine (9) sites were terminated and shall be re-advertised when program is funded in future.

3921) It was difficult to levy liquidation damages when the programs had no budgetary allocation and those who completed not paid till June 2019 when funds were eventually allocated as pending bill. The 26 sites are complete, in use and beneficiaries enjoy public investment. Model golf course in Lenana School is multi-sectoral and still ongoing. The other 16 sites have challenges as reported above and to date no public funds paid

3922) **Committee observations and findings**

(i) The Committee observed that out of 46 bore hole only 26 sites are complete and in use while 7 sites were abandoned due to low yield and poor water quality;

(ii) The Committee further observed that the of Hydrological survey conducted by the State Department was questionale since some of the boreholes were found dry upon drilling; and

(iii)The matter remained unresolved.

Additional Submissions by accounting officer for paragraph 1351.1 and 1351.3 after PAC Committee meeting of 2nd August 2021

3923) Out of 141 and 58 contracts signed in financial year 2016/2017 under paragraphs 1351.1 and 1351.3 respectively, contractors for six (6) water pans/ small dams and nine (9) boreholes either did not mobilise to site or abandoned site before completion of work. The Ministry initiated the process of formal termination of these contracts as evidenced by attached. **The same will be concluded in line with contract agreement.**

Further Committee observations and findings

3924) The Committee observed that based on the Ministry's additional information after PAC committee meeting, that the Ministry initiated the process of formal termination of these contracts, the Ministry has not yet finalized the termination process in line with contract agreements.

3925) **Committee Recommendation**

1) **The Accounting Officer should ensure that works certified and pending bills to be paid in accordance with the Public Finance Management Act, 2012.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer to provide the Parliament with evidence that the terminated contracts were done in accordance with terms of contract to avoid future claims by the contractors.**

1351.4Unsupported Expenses on Drilling and Equipping of Boreholes and Construction of 20,000 Litres Elevated Steel Water Tanks in Schools

3926)

1351.4.1 Examination of the project payment records on various dates revealed that contractors for the above works were paid amounts totalling Kshs.5,281,200 in respect of preliminary bills which were not supported with verifiable documents.

3927) Consequently, the validity and propriety of the expenditure totalling Kshs.5,281,200 cannot be confirmed.

Submission by the Accounting Officer

3928) The Accounting Officer admitted that in FY 2016/2017, the Ministry issued a contract for drilling and equipping of a borehole at Olashiapani Primasy School in Narok South constituency, Narok County and that Ksh 2,519,950 paid in June 2019 for works done.

3929)

1351.4.2 The State Department awarded a contract for the drilling and equipping of a borehole and construction of a 20,000 litres elevated steel water tank at Olashapani Primary School in Narok South Constituency at a contract sum of Kshs.7,443,450. During the year under review, Kshs.2,519,950 was paid vide payment voucher No.1217 dated 30 June, 2019. Available records in support of the above payment indicate that, the contractor drilled up to a depth of 276 meters where the borehole was found to be of low yield and the water was highly mineralized. The borehole was capped and the contractor was to be given a new site. The contractor requested payment for cost of mobilization/demobilization, statutory requirements and the drilling of 276 meters. The certified works at the time of stoppage according to Certificate No.1 issued by the resident engineer was Kshs.2,267,955.

3930) Its however not clear why the State Department increased the payment to Kshs.2,519,950 resulting in an unexplained variance of Kshs.251,995.

Submission by the Accounting Officer

3931) The Accounting Officer submitted that the amount payable to contractor according to the IPC No 1 (copy provided) is Ksh 2,519,950 for gross work done. Ksh 2,267,955 is less 10% retention which the RE recovered in IPC presentation, there was no increment, overpayment or loss of Ksh 251,995 as reported.

3932)

1351.4.3 Examination of the contract records for the drilling and equipping of borehole and construction of elevated steel water tanks at Rugakori Primary School in Gachoka Constituency revealed that, the contractor under Item 4.4 of the Bills of Quantities (BQs) was to supply, deliver to the site, and mount on the tower platform centre a 20m3 capacity high quality strong external flanged fabricated steel panel tank, complete with fittings at a cost of Kshs.850,000. However, a plastic water tank of 10,000 Litres at a price of Kshs.500,000 was delivered instead. No supporting documentations for the variations of works were availed for audit review.

Submission by the Accounting Officer

3933) The Accounting Officer submitted that the borehole had a yield capacity of 1.5m³, it was agreed a heavy duty 10m³ plastic tank is sufficient to serve the school and saving used to install solar pump that is sustainable.

3934)

1351.4.4 The Contract for the drilling and equipping of borehole and construction of elevated steel water tanks in Lenana School, Dagoreti South Constituency was awarded to a company on 9 March, 2017 at a contract sum of Kshs.6,953,940 inclusive of tax. The contract was signed on 21 April, 2017 and the site was handed over to the contractor on 10 July, 2017 for commencement of works. However, a status report on the project as at 30 June, 2019 was not availed for audit review.

Submission by the Accounting Officer

3935) The Accounting Officer submitted that Inspection and Acceptance Report on the status Lenana school borehole as at 8th March 2018 with conclusion that overall physical works were at 85% completion is available for review.

3936) **Committee Observations and Findings in regards to the Entire paragraph 1351.4**

(i) The Committee observed that the documents referred to by the Accounting Officer for paragraph 1351.4 have not been verified by the Office of the Auditor General as they were submitted late;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) In addition, the Committee observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and

(iv) The matter remained unresolved.

3937) **Committee Recommendation**

Within one (1) month upon tabling and adoption of this report, the Accounting Officer should ensure that all documents are submitted and the Auditor General has completed review of the documents submitted and report the outcome to the National Assembly.

1351.5 Construction Works at Lenana Model Golf Course and Installation of Irrigation System

3938) A contract for construction of Lenana Model Golf Course and Installation of an irrigation system was signed on 30 May, 2018 at a contract sum of Kshs.14,974,541. Examination of payment voucher No.1269 dated 30 June, 2019 revealed payment amounting to Kshs.6,213,421 for installation of irrigation system under community-based irrigation programme. No certificate or invoice from the company to confirm the amount paid was attached to the payment voucher. It is, therefore, not clear what formed the basis for the paid amount. Further, Local Service Order (LSO) supporting the payment was generated from IFMIS and signed on 1 July, 2019 after the end of 2018/2019 financial year.

3939) Consequently, the validity and propriety of the expenditure amounting to Kshs.6,213,421 cannot be confirmed.

3940) **Committee Observations and Findings**

(i) The Committee observed that the documents referred to by the Accounting Officer for paragraph 1351.5 have not been verified by the Office of the Auditor General as they were submitted late;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) In addition, the Committee observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and

(iv) The matter remained unresolved.

3941) **Committee Recommendation**

Within one (1) month upon tabling and adoption of this report, the Accounting Officer should ensure all documents are submitted and the Auditor General has completed review of the documents submitted and report the outcome to the National Assembly.

1351.6 Jilia Earth Dam Ganze, Kilifi County

3942) The Contract for construction of Jilia Earth Dam was awarded to a contractor at a contract sum of Kshs.27,043,863 under the National Water Harvesting and Ground Water Exploitation Programme. Information available indicates that the inspection and acceptance committee had recommended that the contractor be paid Kshs.22,824,917 contrary to an approved payment certificates of Kshs.17,802,330.

3943) No explanation has been provided for the variation of Kshs.5,022,587 between the inspection report and the payment certificates. In addition, Management did not deduct retention money from the certified works. Further, an amount of Kshs.1,970,000 was paid for preliminaries and general items. However, no supporting documents were provided for the same.

Submission by the Accounting Officer

3944) Construction of Jilla earth dam in Ganze Kilifi County was paid Ksh.22,824,917 on completion of works. The management did deduct the retention money from certified works as evidenced by Payment Voucher No 01327 payable to Rhino Technical Works (the contractor) for Ksh.22,824,917 and a recovery of 10% retention of Ksh.2,282,491.70.

3945) **Committee Observations and Findings in regards to the Entire paragraph 1351.6**

(i) The Committee observed that the documents referred to by the Accounting Officer have not been verified by the Office of the Auditor General as they were submitted late;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) In addition, the Committee observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and

(iv) The matter remained unresolved.

3946) **Committee Recommendation**

Within one (1) month upon tabling and adoption of this report, the Accounting Officer should ensure all documents are submitted and the Auditor General has completed review of the documents submitted and report the outcome to the National Assembly.

1351. Procurement Management

1352.1 Unsupported Procurement of Goods

3947) Examination of payment records during the year under review indicates that goods worth Kshs.6,556,350 were procured through request for quotations by the State Department. However, the Management has not availed for audit review, original quotation forms, approved budget for the purchase of the items, user departments/sections requisition forms and evaluation reports.

3948) In the circumstances, it was not possible to determine if the procurement of these items was done in accordance to provisions of the Public Procurement and Asset Disposal Act, 2015 and its regulations.

Submission by the Accounting Officer

3949) The Accounting Officer admitted that some of quotations lacked user requisition forms. However, all the procurement of goods/services done or undertaken during this financial year 2018/2019 had been raised and approved by the accounting officer as required by the law. Approved requests are kept in a separate file for safe custody and for the future reference.

1352.2 Procurement Without User Request

3950) A firm was paid a sum of Kshs.1,990,000 for supply of 10,000 file folders at a unit cost of Kshs.199. No documentary evidence was provided to show that the user department had requested for the folders. The stores department also did not document the optimal stock, re-order levels, minimum and maximum stock to hold.

Submission by the Accounting Officer

3951) The Accounting Officer submitted that being the first time for the department to procure branded folders, no previous records of the same was available since establishment of reorder level require historical record to ascertain or predict re-order level. Need to purchase and brand many folders was necessary as it is a fast moving item and is used in every section within department for the maintenance of records. In future stores will be able to maintain the optimal stock re-order levels since the State Department has opened stock card for future transaction.

3952) **Committee Observations and Findings in regards to the paragraph 1352.1 and 1352.2**

(i) The Committee observed that the State Department had indeed procured goods without user requisition contrary to provisions of the Public Procurement and Asset Disposal Act, 2015 and its regulations.

(ii) Procurement of goods without requests by user department may lead to procurement of goods that does not meet the needs of the users.

3953) **Committee Recommendation**

1) **The Committee reprimands the Accounting Officer for failing to ensure goods are only procured after being requested by users; and,**
2) **The Accounting Officer should ensure compliance with Public Procurement and Asset Disposal Act, 2015 and its regulations in all procurement processes.**

1352.3 Irregular Award of Contract for Conference Facility

3954) The State Department sourced for a conference facility to hold a team building activity for the senior officers and the procurement department through request for quotations method. The contract was awarded to the highest bidder at a cost of Kshs.1,352,500 yet the lowest bidder was Kshs.787,500 without any justifiable reason. Further, the firm was paid Kshs.1,462,500 instead of Kshs.1,352,500, resulting in unexplained overpayment of Kshs.110,000.

Submission by the Accounting Officer

3955) The lowest bidder did not have enough space to accommodate the team and the activities that they were to undertake. The organizing committee had to award the contract to the firm that had the facilities among the ones who had responded to the request for quotations. All documents have been submitted to the Auditor General for review and verification.

3956) **Committee Observations and Findings in regards to the paragraph 1352.3**

(i) The Committee observed that the Accounting Officer did not submit documents supporting the submissions of the lowest bidder not having enough space.

(ii) Further, the overpayment of Kshs.110,000 was not explained.

3957) **Committee Recommendation**

1) **The Committee reprimands the Accounting Officer for failing to provide the documents supporting the submissions to the Parliament and Auditor General for verification; and,**
2) **Within one (1) month of tabling and adoption of this report, the Accounting Officer to avail the documents and also explain how the overpayment of Kshs.110,000 arose.**

1352.4 Irregular Procurement of Air Tickets

3958) On 30 May, 2019, a firm was paid an amount of Kshs.772,360 for air tickets for officers who had travelled to Zambia to attend a conference. Although, the tickets were procured through request for quotation method, the quotations from the firms were not stamped to authenticate their validity. Further, Management has not explained why the contract was awarded to the second lowest bidder with a quote of Kshs.722,360 instead of the lowest bidder who had quoted Kshs.620,920 resulting in a difference of Kshs.101,440.

3959) In addition, a firm was paid Kshs.1,132,930 during the year under review for air-tickets for officers who travelled to Istanbul Turkey to attend Turkey-Africa Economic and Business Forum. However, the payment voucher was not supported by relevant documentary evidence making it difficult to confirm whether the expenditure is a proper charge to public funds.

Submission by the Accounting Officer

3960) The Accounting Officer admitted that the lowest bidder was disqualified. This is because he did not indicate enroute to describe destination which is a determinant factor of quoting for the cost. The Accounting Officer further admitted that the quotation for third bidder were not stamped because quotations were sent and received online via email.

3961) **Committee Observations and Findings**

(i) The Committee observed that the documents referred to by the Accounting Officer have not been verified by the Office of the Auditor General as they were submitted late;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) In addition, the Committee observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and

(iv) The matter remained unresolved.

3962) **Committee Recommendation**

Within one (1) month upon tabling and adoption of this report, the Accounting Officer should ensure that the Auditor General has completed review of the documents submitted and report the outcome to the National Assembly.

Observations on Verification of documents availed.

3963) No documentary evidence from the client has been availed to support the response that the lowest bidder had indicated that the return date to be 4th instead of 3rd to enable us confirm that this would have occasioned extra costs to the travelling team for a claim of extra day on per diems.

3964) Also, no tender evaluation report or any other documentary evidence from the client has been availed to support the response that the tour company had not indicated the travel route and therefore the delegation was not assured of the travel time.

3965) **Further Committee Observations and Findings in regards to the paragraph 1352.4** The Committee observed that the Accounting Officer did not submit documents supporting the submissions of the lowest bidder had indicated a return date that would occasion further additional costs in accommodation allowances.

3966) **Committee Recommendation**

1) **The Committee reprimands the Accounting Officer for failing to provide the documents supporting the submissions to the Parliament and Auditor General for verification; and,**
2) **Within one (1) month of tabling and adoption of this report, the Accounting Officer to avail the documents that support the submissions that indicated a return date that would occasion further additional costs in accommodation allowances.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1352. Non-Functional Audit Committee

3967) The State Department constituted an audit committee during the year under review. However, the committee did not convene or hold regular meetings during the year contrary to the requirements under Regulation 179 of the Public Finance Management (National Government) Regulations, 2015 which requires an audit committee to meet at least once in every three (3) months.

3968) Management is therefore in breach of regulation.

Submission by the Accounting Officer

3969) The Accounting Officer admitted that during the year under review the Audit committee was yet not established. The issue has since been addressed. The State Department has adopted the Ministerial Audit Committee.

3970) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Non-Functional Audit Committee was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

36. STATE DEPARTMENT FOR AGRICULTURAL RESEARCH

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1168

Prof. Hamadi I. Boga, the Principal Secretary and Accounting Officer for the State Department of Agriculture (Vote 1161) appeared before the Committee on 26th May, 2021 to adduce evidence on the Audited Financial Statements for the State Department of Agriculture (Vote 1161) for the Financial Year 2018/2019. He was accompanied by the following officers:

1.	Ms. Charity Muriuki	- Deputy Assistant General
2.	Mr. Charles N. Minjine	- Assistant Accountant General
3.	Mr. Joseph Kimote	- MD, NCPB
4.	Mr. Tobias Osano	- Chief Finance Officer
5.	Ms. Naomi Kamau	- Deputy Director, Crops
6.	Mr. Richard Ndegwa	- Ass. Snr. Director
7.	Mr. David Ndorongo	- Ass. Snr. Director
8.	Mr. John Kariuki	- Principal Agricultural Officer
9.	Mr. Edwin Oseko	- Principal Agricultural Officer, Farm Inputs
10.	Ms. Lucy N. Njenga	- Head of Policy
11.	Mr. Albert N. Bengi	- National Project Accountant, KCSAP

And he submitted as follows:

3971) Unqualified Opinion

1354. There were no material issues noted during the audit of the financial statements of the State Department.

Other Matter

1355. Pending Bills

3972) Note 11.1. to the financial statements reflects pending bills amounting to Kshs.14,101,280 as at 30 June, 2019. Subsequent to the year end, bills totalling Kshs.7,271,280 were settled, leaving an outstanding balance of Kshs.6,830,000. Had the pending bills of Kshs.14,101,280 been charged to the account and paid during the year under review, the State Department would have realized a deficit of Kshs.14,051,675 in its statement of receipts and payments instead of the surplus indicated of Kshs.49,605.

Submission from the Accounting Officer

3973) The Accounting Officer submitted that the state department had total pending bills of Kshs.14,101,280 as at 30.06.2019. This was occasioned by late approval of supplementary budget and lack of exchequer from the National Treasury. The pending bills were however cleared in the subsequent financial year.

3974) Committee Observations and Findings

(i) The Committee further observed that the Pending Bills of Kshs.14,101,280 were cleared in the Financial Years 2019/2020; and

(ii) The Committee therefore marked the matter as resolved.

3975) **Committee Recommendation**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3976) Conclusion

1356. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1357. Non-Functional Audit Committee

3977) The State Department for Agricultural Research constituted an audit committee during the year under review. However, the committee did not convene any meetings during the year, contrary to Regulation 179 of the Public Finance Management (National Government) Regulations, 2015 which requires an audit committee to meet at least once in every three months.

Submission from the Accounting Officer

3978) The Accounting Officer submitted that the State department had constituted an audit committee during the year under review. However due to budget constraints no meetings were convened during that financial year.

3979) **Committee Observations and Findings**

(i) The Committee observed that the State Department did not have a functioning audit committee at the time of the audit as required by section 73(5) of the Public Finance Management Act, 2012;

(ii) The Committee further observed that Monitoring and review of the effectiveness of the internal audit process, review of internal controls, risk management systems and financial statements did not take place in the absence of audit committee;

(iii)However, the Committee observed that the explanation given by the Accounting Officer with regards to lack of lack of Audit Committee was satisfactory; and

(iv) The Committee therefore marked the matter as resolved.

3980) **Committee Recommendations**

1) **Accounting Officers must at all times ensure that they have appropriate arrangements in place for conducting internal audit according to the guidelines of the Accounting Standards Board pursuant to the provisions of section 73(1)(a) of the Public Finance Management Act, 2012.**
2) **Accounting Officer must at all times ensure that they adhere to the provisions of Section 73(5) of the Public Finance Management Act 2012.**

DONOR FUNDED PROJECT

STRENGTHENING FERTILIZER QUALITY AND REGULATORY STANDARDS IN KENYA PROJECT

REPORT ON THE FINANCIAL STATEMENTS

3981) **Unqualified Opinion**

1358. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1359. Project Completion Status

3982) According to the financing agreement dated 23 July, 2014, (Schedule II - Conditions of the Grant Agreement) the Project ought to have been concluded by 30 June, 2017. The grant period was however extended through a letter from AGRA dated 19 February, 2018, for a period of six (6) months effective from January to June, 2018, after which the unspent fund balance was to be refunded to AGRA. However, the Management did not carry out or execute any activity during the extension period granted despite the availability of funds amounting to Kshs.7,315,322.

3983) Further, the Project has ceased operations and has not been active for over a year while the handing over of the Project and its assets to the parent Ministry of Agriculture, Livestock, Fisheries and Irrigation – State Department for Agricultural Research has not been done. In addition, the closing balance of Kshs.7,315,322 has not been surrendered to AGRA contrary to Clause 7 of the Financing Agreement which states that, "any unused grant funds not spent or committed for purposes of the Project must be promptly returned to the donor at the end of the grant period".

3984) In the circumstances, the Management was in breach of the Financing Agreement.

Submission from the Accounting Officer

3985) The Accounting Officer submitted that it was true that the unspent closing balance of Ksh.7,3153,22 at the project conclusion in June 2018 had not been returned back to the donor at the point of Submission of Financial Statement for Financial Year 2020/ 2021.

3986) However, we have since been furnished with the Relevant Bank Details by the Donor and the funds have been refunded to Alliance for a Green Revolution in Africa (AGRA). The project has also handed over the project Assets to the parent Ministry of Agriculture, Livestock, Fisheries and Irrigation.

3987) **Committee Observations and Findings**

The Committee observed that the unspent closing balance of Ksh.7,3153,22 at the project conclusion in June 2018 had not been returned back to the donor at the point of Submission of Financial Statement for Financial Year 2020/ 2021;

(i) The Committee further observed that the State Department has since been furnished with the Relevant Bank Details by the Donor and the funds have been refunded to Alliance for a Green Revolution in Africa (AGRA); and

(ii) The Committee also observed that the project has also handed over the Project Assets to the parent Ministry of Agriculture, Livestock, Fisheries and Irrigation; and

(iii)The Committee therefore marked the matter as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3988) **Conclusion**

1360. There were no material issues relating to effectiveness of internal controls, risk management and governance.

37. STATE DEPARTMENT FOR CO-OPERATIVES

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1173

Mr. Ali Noor Ismail, the Principal Secretary and Accounting Officer the State Department for Co-operatives (Vote 1173) appeared before the Committee 2nd August, 2021, to adduce evidence on the audited financial statement for the State Department for Co-operatives (Vote 1173) for the Financial Year 2018/2019. He was accompanied by the following officers:

1.	Mr. David K Obonyo	-CCD-State Department for Co-operatives
2.	Mr. Boniface K. Muli	-HSCMS.
3.	Mr Joseph Kimwele	-Senior Principal finance Officer.
4.	Ms Gladys Waitheka	-Principal Accountant.
5.	Mr. G. N Njangombe	-SDCSC-SDS.

And submitted as follows:

3989) **Unqualified Opinion**

1361. There were no material issues noted during the audit of the financial statements of the State Department.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3990) **Conclusion**

1362. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3991) **Conclusion**

1363. There were no material issues relating to effectiveness of internal controls, risk management and governance.

38. STATE DEPARTMENT FOR TRADE

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1174

Amb. Johnson Weru, the Principal Secretary and Accounting Officer for the State Department for Trade (Vote 1174) appeared before the Committee on 23rd August, 2021 to adduce evidence on the Audited Financial Statements for the State Department for Trade (Vote 1174) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Ms. Mildred Eve Akoth	– Deputy Accountant General.
2. Mr. Joash O. Akuma	– Chief Finance Officer
3. Mr. Issack Nur Osman	– Senior Support Staff.
4. Ms. Teresa W. Chege	– Supply Chain

And submitted as follows:

Basis for Qualified Opinion

1364. Cash and Cash Equivalents

3992) The statement of assets and liabilities reflects bank balances of Kshs.22,632,381. However, examination of the State Department's cashbooks, bank statements and bank reconciliation statements for the month of June, 2019, revealed the following anomalies:

1362.1 Receipts in Bank Statements not in Cashbook

3993) The bank reconciliation statements for the recurrent and deposits bank accounts reflected receipts in the bank but not recorded in the cashbooks totalling Kshs.1,183,840 as at 30 June, 2019. Although the Management has explained that receipts totalling Kshs.1,169,303 have now been updated in the cash books, the recurrent and deposit cash books have not been provided to confirm the postings.

Submission by the Accounting Officer

3994) The Accounting Officer submitted that it was true the Receipts of Kshs.1,183,840 were in Bank Statement but not recorded in Cash book. Failure to record Kshs.1,183,840 in Cash book and Cash book balances was as result of understatements delayed conclusion field exercises. However, reconciliations were done in the year ending 30 June 2020 and availed to the auditor for verification.

3995) **Committee Observations and Findings**

(i) There was late updating of cashbook with amounts Kshs.1,183,840 which was in the bank statement.
(ii) The recurrent and deposit cash books were not provided to the Auditor at the time of audit to confirm the postings.

3996) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1362.2 Receipts in Cash Book not in Bank Statements

3997) The bank reconciliation statements for the recurrent, development and deposits bank accounts for the month of June, 2019 reflect receipts in cash books but not in the bank statements totalling Kshs.272,057,297 some dating back to the year 2016. Although the Management explained that receipts totalling Kshs.261,944,309 were cleared in the month of July, 2019, the bank reconciliation statements for the recurrent, development and deposit accounts for the month of July, 2019 were not provided to confirm the clearance. Further, no explanation has been provided for failure to clear the remaining outstanding balance of Kshs.10,052,158.

Submission by the Accounting Officer

3998) The Accounting Officer submitted that it was true the receipts of Kshs.272,057,297 were reflected in Cash book but not in Bank Statement. Failure to explain the cause of Kshs.272,057,297 in Cash book but not in Bank Statement Cash book balance may be over stated. However, reconciliations were done by 30 June 2020 and Cash book extracts availed to the Auditor General for verification.

3999) **Committee Observations and Findings**

(i) That a balance of Kshs.10,052,158 remains unreconcilled and no explanation has been given,
(ii) The recurrent, development and deposit accounts cash books were not provided to the auditors at the time of audit to confirm the postings.

4000) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1362.3 Payment in Bank Statements not in Cash Book

4001) The bank reconciliation statements for the recurrent and development accounts reflect payments in bank statements not in cashbook totaling to Kshs.37,887,574 some of which have remained outstanding since 2016. Although the Management explained that payments totalling Kshs.27,835,416 had since been cleared, the recurrent and development cash books and respective bank reconciliation statements for the periods the amounts were cleared have not been provided for audit verification. Further, no explanation has been provided for failure to clear the remaining outstanding balance of Kshs.10,112,988.

Submission by the Accounting Officer

4002) The Accounting Officer submitted that it was true that there were payments of Kshs.37,887,574 in Bank Statement but not recorded in Cash book. Failure to record Kshs.37,887,574 in Cash book understated the cash book balance hence affecting the reconciliations as at 30 June 2020. The Cash book extracts were availed & verified by the auditors.

4003) **Committee Observations and Findings**

(i) There was no explanation provided for failure to clear the remaining outstanding balance of Kshs.10,112,988.
(ii) By the time of audit, the cashbooks were not provided for audit verification.
(iii)The cashbook extracts were availed later to the auditor for verification.

4004) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**

1362.4 Payment in Cash Book not in Bank Statements

4005) The bank reconciliation statements for the recurrent, development and deposits bank accounts reflected payments in cashbook not in bank totalling Kshs.307,776,819 out of which payments totalling, Kshs.40,027,065 had remained unpresented in the bank for over six (6) months and hence stale. Although the Management explained that Kshs.230,470,194 of the payments were cleared as per the February, 2020 bank reconciliation statement, it is not clear how stale cheques amounting to Kshs.40,027,065 were cleared yet they had not been reversed in cash books.

4006) Consequently, it has not been possible to confirm that the bank balances figure of Kshs.22,632,381 as reflected in the statement of assets and liabilities is fairly stated.

Submission by the Accounting Officer

4007) The Accounting Officer submitted that it was true that the payments of Kshs.307,776,819 were in Cash book but not in Bank Statement. This was due to uncleared cheques totaling Kshs.307,776,819 which were in Cash book balance in the statement. However, reconciliations were done by 30 June 2020 and Bank Statements availed to the Auditor General for verification.

4008) **Committee Observations and Findings**

Stale cheques amounting to Kshs.40,027,065 were cleared in the reconciliation statement yet they had not been reversed in cash books.

4009) **Committee Recommendations**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1365. Unsupported Adjustments on Acquisition of Assets

4010) The statement of receipts and payments reflected a figure of Kshs.50,885,399 for acquisition of assets. However, supporting documents and journal entries in support of adjustment of the figure by Kshs.24,507,436 from the Kshs.75,392,835 reported in the first set of financial statements submitted for audit were not provided.

4011) Under the circumstances, the accuracy of acquisition of assets balance of Kshs.50,885,399 could not be confirmed.

Submission by the Accounting Officer

4012) The Accounting Officer submitted that it was true that there was unsupported adjustment of Kshs.24,507,436 on acquisition of assets. Failure to support adjustment of Kshs.24,507,436 on acquisition of assets was due to delayed deposit of documents and store receipts which would imply that the acquisition of assets may not be fairly stated. However, the Journal entries have since been availed and verified by the Auditor General.

4013) **Committee Observations and Findings**

Journal entries and documents in support of adjustment of the figure on acquisition of assets by Kshs.24,507,436 were not availed to the auditor at the time of the audit.

4014) **Committee Recommendations**

The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1366. Unsupported Communication, Supplies and Services Expenditure

4015) The statement of receipts and payments reflects expenditure on use of goods and services amounting to Kshs.595,243,227. Included in this amount as disclosed in Note 5 to the financial statements is Kshs.16,679,574 in respect of communication, supplies and services whose analysis or breakdown and supporting documentation was not provided for audit review.

4016) Consequently, the accuracy and completeness of communication, supplies and service balance of Kshs.16,679,574 could not be confirmed.

Submission by the Accounting Officer

4017) The Accounting Officer submitted that it was true that the failure to provide analysis of Kshs.16,679,574 expenditure in respect to Communication, Supplies and Services was due to delayed analysis of Kshs.16,679,574 expenditure in respect to Communication, Supplies and Services. This has since been analysed and availed to the Auditor General for verification.

4018) **Committee Observations and Findings**

4019) The analysis of Kshs.16,679,574 in respect of communication, supplies and services were not provided for audit review.

4020) **Committee Recommendations**

The Accounting Officer must at all times ensure that accurate records and other supporting documents are provided pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1367. Non-Compliance with Reporting Template

4021) The financial statements presented for audit did not comply with the annual reports and financial statements reporting template prescribed by the Public Sector Accounting Standards Board (PSASB). The following prior year issues are not disclosed in the progress on follow up of auditor recommendations.

i. Unsupported scholarship and other educational benefits expenditure of Kshs.28,040,000.

ii. Variations between balances reflected in the financial statements, the Trial Balance and Information Financial Management System (IFMIS) figures.

4022) In the circumstances, the financial statements do not comply with International Public Sector Accounting Standards -1 on presentation of financial statements.

Submission by the Accounting Officer

4023) The Accounting Officer submitted that it was true that there were unsupported scholarship and other educational benefits expenditure of Kshs.28,040,000. This was because the expenditures could not be confirmed in good time. However, this has since been confirmed and necessary documents availed to the Auditor General for review and verification.

4024) It was also true that there were Variations between balances reflected in the financial statements, the Trial Balance and IFMIS. Failure to reconcile the variations between balances reflected in the financial statements was due variations between the Trial Balance and IFMIS Financial Statements. This variances have since been corrected and documents availed to the Auditor General for review and verification.

4025) **Committee Observations and Findings**

Prior year audit issues on the follow up of auditor`s recommendations on unsupported scholarship and other educational benefits expenditure of Kshs.28,040,000 as well as variations between balances reflected in the financial statements, the Trial Balance and IFMIS were not disclosed.

4026) **Committee Recommendations**

The Accounting officer should at all times ensure there is complete compliance to the IPSAS standards of reporting issued from time to time by the Public Sector Accounting Standards Board.

Other Matter

1368. Pending Bills

4027) Note 16.1 to the financial statements reflects pending bills totalling Kshs.36,500,026 which were not settled during the year under review but were instead carried forward to 2019/20. Management has cited liquidity problems due to inadequate Exchequer releases as the main reason for non-payment of the pending bills. Failure to settle bills in the year in which they relate adversely affects the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge to that year's budget provision.

Submission by the Accounting Officer

4028) The Accounting Officer submitted that it was true that the pending bills of Kshs.36,500,026 were not paid as at 30 June 2019. Failure to pay pending bills of Kshs.36,500,026 was due to lack of exchequer and revision of budget estimates. However, all the pending bills of Kshs.36,500,026 have since been paid and cleared.

4029) **Committee Observations and Findings**
The pending bills totalling Kshs.36,500,026 was not settled during the year ending 30 June 2019 were carried forward to 2019/20 Financial Year.

4030) **Committee Recommendations**
The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

1369. Delayed Completion of Contract – Kenya Institute of Business Training (KIBT)

4031) The State Department for Trade engaged a contractor for the proposed partitioning of offices for Kenya Institute of Business Training (KIBT) at Parklands Complex at a contract sum of Kshs.146,600,150. The six (6) months' contract period commenced on17 September, 2018 and the expected completion date was 17 March, 2019.

4032) An examination of the project file revealed that the contractor sought and obtained several contract completion period extensions from 17 March, 2019 to 17 May, 2019, then to 30 June, 2019 and 24 September, 2019. However, audit inspection of the Project carried out in October, 2019 revealed that the contractor was still on site carrying out partitioning works at the fourth floor of the complex. Similarly, partitioning works on ground and first floors were yet to commence. It is imperative to note that despite the several revisions of the completion dates, the contractor had not delivered at the expected time. This is a clear indication of weak contract administration which can lead to substantial losses to the Department in the event the Project stalls. Failure to discharge the contract fully in time as agreed in the contract contravenes the agreement terms and this may leave the Department exposed and at the convenience of the contractor.

4033) Further, an audit inspection carried out on 31 October, 2019 revealed that the underground room (basement two) was flooded. The water in the lower basement was almost overflowing to the upper basement floor while the lower basement floor and walls appeared to have cracks which allowed water to the underground rooms.

4034) In addition, there were roof leakages at the amphitheater section of the building which had not been repaired as at the time of the inspection. The cause of the flooding was not explained neither did Management explain the measures put in place to ensure that the building is safeguarded against water and moisture leakage to the underground floors.

4035) Consequently, the Department may not have achieved the set performance targets and benefited from the use of the building, thus affecting service delivery.

Submission by the Accounting Officer

4036) The Accounting Officer submitted that it was true that the SDT Signed a contract with M/S Mycal General Services Ltd as the main contractor, contract of which has been renewed three times and yet works are not complete. The original contract was for six (6) months and not six (6) weeks as stated in your report. The contract renewals at the request of the contractor however, were occasioned by delayed in awarding sub-contractors, delayed in insurance of interim certificate, and delay in effecting payment of certified works.

4037) It was also true that the partitioning works on ground and first floors were yet to commence despite being part of the contracted works due to change of plan and intended use of the floors. This was occasioned by the client's instruction because the said floors are now due to be take over for use by the Kenya Commodities exchange (KOMEX) for the establishment of a commodities exchange platform, which is a project in the SDT. Please, note that the partition needs of the KOMEX are quite different from the original plan that was meant for KIBT. The KOMEX team therefore, is currently processing partitioning designs and Bill of Quantities (BQs) with Public Works Ministry to facilitate the revised partitioning works.

4038) It was also true that basement two (2) of the building was flooded and the water had shown signs to overflow to the upper basement floor with the attendant risks. The SDT referred this concern to the Public Works Ministry, seeking to know the cause and how best to deal with it before completion of the project. In the meantime, the SDT has taken action to drain the water out through pumping to the main sewer line to create room for the Public Works Ministry engineers to assess the situation and advise on the way forward as soon as possible.

4039) The leaking roof of the Amphitheater has been noted and welcomed. This was occasioned by wear and tear and lack of maintenance overtime due to the fact that this project stalled for many years before works resumed a few years ago. The SDT shall address this problem in the next phase of the on-going partitioning project before works completion. Advice of the Public Works Ministry engineers on how to seal the leakage remains critical.

4040) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to discharge the contract fully in time as agreed in the contract; and

(ii) The query remained unresolved.

4041) **Committee recommendation**

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

1370. Unaccounted for Authorities to Incur Expenditure (AIEs) to Foreign Missions

4042) The statement of assets and liabilities reflects accounts receivable balance of Kshs.23,541,573 which as disclosed under Note 11 to the financial statements included Kshs.23,276,010 being AIEs sent to foreign missions not accounted for surrendered by the AIE holders as at 30 June, 2019. Evidence of communication on the unutilized balances from the AIE holders to the accounting officer as required under Section 117(1) of Public Finance Management (National Government) Regulations, 2015 was not provided. In addition, the funds were not surrendered to The National Treasury for re-voting as required under Section 117(2) of Public Finance Management (National Government) Regulations, 2015.

4043) In the circumstance, the regularity of the unaccounted for AIEs held by foreign missions could not be confirmed.

Submission by the Accounting Officer

4044) It is true that as at 30th June 2019 Authority to Incur Expenditure amounting to Kshs.23,276,010 had not been accounted for. However, as at today the outstanding unaccounted for AIEs is Kshs.20,380,584. After investigation the State Department for Trade found out the following Foreign Missions did not spend these balances:-

1. Washington DC USA -Kshs.3,057,996.75
2. Juba, South Sudan -Kshs. 341,476.55
3. Addis Ababa, Ethiopia -Kshs.9,081,345.94

4.	Islamabad, Pakistan	-Kshs.1,487,977.50
5.	Kampala, Uganda	-Kshs.5,592,922.00
6.	Pretoria, South Africa	-Kshs. 818,865.26
	Total	**-Kshs.20,380,584.00**

4045) The expenditure returns the State Department gets them from Foreign Affairs since the Commercial attaché is an employee of the Ministry of Foreign Affairs and he is the one accounting for all AIEs sent to Trade Attaches.

4046) The state Department has been writing to Foreign Affairs Ministry to furnish us with the expenditure Returns. I believe that the above responses sufficiently respond to the issues, and thus submitted for your consideration, review and further action.

4047) **Committee Observations and Findings**

The Committee observed that
(i) Out of Kshs.23,276,010 there is still outstanding unaccounted for AIEs of Kshs.20,380,584.
(ii) The state Department has been writing to Foreign Affairs Ministry to furnish them with the expenditure Returns without success.
(iii)The matter remained unresolved.

4048) **Committee Recommendation**

1) **Within three months of the adoption of this report, Accounting Officer should ensure that the outstanding AIE of Kshs.20,380,584 is accounted for in full pursuant to section 71 of the PFM Act 2012.**
2) **The Auditor General should undertake to confirm the existence of the consulate office and the staffing levels.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4049) **Conclusion**

1371. There were no material issues relating to effectiveness of internal controls, risk management and governance.

39. STATE DEPARTMENT FOR INDUSRIALIZATION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1175

Amb. Kirimi Peter Kaberia, CBS, the Principal Secretary and Accounting Officer the State Department for Industrialization (Vote 1175), appeared before the Committee on 4th August, 2021, to adduce evidence on the audited financial statement for the State Department for Industrialization (Vote 1175) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. Nicholus Kamau -Chief Finance Officer
2. Mr. Julius K. Kirima -Director Industrial
3. Ms. Rose Baraza -Head of Accounting Unit
4. Mr. George Njoroge -Personal Assistant- PS.
5. Mr. Stephen Odua -Director Industrial.
6. Ms. Ruth Wanyonyi -Deputy Head of Accounts.
7. Mr. Obiero Makari - Head of Supply Chain Management.

And submitted as follows:

1372. Unreconciled Cash and Bank Balances

4050) The statement of assets and liabilities as at 30 June, 2019 reflects bank balances amounting to Kshs.39,774,514 for four (4) bank accounts maintained by the State Department and Kshs.135,503 cash in hand as shown under Note 9A and 9B to the financial statements respectively. However, the balances differed with the figures in the revised trial balance as summarized below:

Account	Financial Statements (Kshs.)	IFMIS Trial Balance (Kshs.)	Variance (Kshs.)
Recurrent Bank Balance	17,615,086	(45,112,504)	(62,727,590)
Development Bank Balance	13,600,000	305,608,814	292,008,814
Deposit Bank Balance	7,436,572	(23,459,479)	(30,896,051)
Cash in hand	135,503	178,911,327	178,775,824

4051) Management has not explained or reconciled the variances casting doubt on the accuracy of the cash and cash equivalents balance of Kshs.39,910,016 as at 30 June, 2019.

Submission by the Accounting Officer

4052) The Accounting Officer submitted the variances between the financial statements and IFMIS trial balance was a result of timing differences between the manual cashbook and IFMIS cash book. He reported that the variances were identified, and cleared after the records held by the State Department (manual cash book) and the IFMIS ledger were reconciled.

4053) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to the variances was satisfactory;

(ii) The variances had been fully reconciled; and

(iii)The matter was marked as resolved.

4054) **Committee Recommendations**

Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012 and also ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

1373. Pending Bills

4055) Note 15.1 to the financial statements reflects pending bills amounting to Kshs.6,146,291 that were not settled in the year under review but were carried forward to 2019/2020 financial year. Failure to settle bills in the year to which they relate will adversely affect the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge to that year's budget provision.

Submission by the Accounting Officer

4056) The Accounting Officer submitted it was true the State Department had pending bills amounting to Kshs.6,146,291 as at 30th June, 2019. This was due to lack of exchequer from The National Treasury during the period. However, the State Department was able to clear these bills in the financial year 2019/2020.

4057) As at 30th June 2020 the pending bills for State Department (Headquarter) was Ksh.21,957,749 and Ksh.35,105,256 for Kenya Industrial Training Institute (KITI). The Ksh.15,747,723 mentioned in the Auditor General Report as pending bills relating to other entities relates to Bank balance for Deposit account which is money retained for specific activities which have not been undertaken. This mix –up was caused by the title in the standard reporting template under note 16.1(pending accounts payable). Currently as at 30th June, 2021 the pending bills is Ksh.24,284,862 for the state department headquarter, Ksh.77,687,181 for KITI and Ksh.3,053,239 for Kenya Industry & Entrepreneurship Project (KIEP).

4058) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to pending bills was satisfactory; and

(ii) The Committee further observed that the pending bills were settled and paid in full in the financial year 2019/2020;

4059) **Committee Recommendation**

The Accounting Officers should at all times ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

1374. Budgetary Performance and Control

4060) As reflected in the summary statement of appropriation - recurrent and development combined, the State Department for Industrialization had a budgeted revenue of Ksh.6,620,013,830 but received Ksh.5,663,574,763 resulting to under collection of Ksh.956,439,067 or 14%. Further, the State Department projected to spend the budgeted revenue of Ksh.6,620,013,830 on various budget lines but actually incurred expenditure totaling to Ksh.5,613,944,851 resulting to an overall budget under absorption of Ksh.1,006,068,979 or 15%.

4061) In the circumstances, the State Department may not have implemented all its planned activities creating a negative impact on service delivery to the public.

Submission by the Accounting Officer

4062) The State Department rely on Treasury for release of exchequer to be able to implement government programs and offer services to the public. The Accounting Officer admitted that during the year under review, the State Department had an under absorption of Ksh.1,006,068,979 or 15% of the approved budget. This was however due to lack of exchequer from the National Treasury.

4063) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Budgetary Performance and Control was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1375. Unresolved Prior Year Matter

1373.1 Transfer to Other Government Units and Other Grants and Transfers

4064) As previously reported, the statement of receipts and payments for the year ended 30 June, 2018 indicated that the State Department transferred Kshs.3,838,242,202 to other Government units and paid other grants and transfers amounting to Kshs.140,771,700, all totalling to Kshs.3,979,013,902. However, details extracted from the financial statements for the same period of the respective Government units and entities reflected grants received from the State Department totaling Kshs.3,857,791,878 resulting into an unexplained and unreconciled variance of Kshs.121,222,024.

4065) In the absence of reconciliations, it has not been possible to confirm the accuracy of the figure for transfers to other Government units and other grants and transfers as at 30 June, 2018.

4066) **Committee Observations and Findings**

The Committee observed that the issues were discussed during the examination of the State Department account for financial year 2017/18 and made the following recommendation;

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES.

4067) **Conclusion**

1376. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4068) **Conclusion**

1377. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECTS

KENYA PETROLEUM TECHNICAL ASSISTANCE PROJECT IDA CREDIT NO.5526-KE AND IDA GRANT NO. TFOA3418-KE

REPORT ON THE FINANCIAL STATEMENTS

4069) **Unqualified Opinion**

1378. There were no material issues noted during the audit of the financial statements of the project.

Other Matter

1379. Budget Control and Performance

4070) The statement of comparative budget and actual amounts reveals that the Project had budgeted to receive a total of Kshs.60,000,000 from External Development Partners but actual receipts amounted to Kshs.36,326,115 only resulting into a shortfall of Kshs.23,673,885 or 39% of the total budgeted receipts. Similarly, the Project had budgeted to spend an amount of Kshs.60,000,000 but actual expenditure was Kshs.49,699,291 against the receipts of Kshs.36,326,115 thereby exceeding the available fund by Kshs.13,373,176. The Project utilized past savings to finance the current activities. In particular, the Project spent an amount of Kshs.2,240,000 on compensation for employees without a budget. The under-utilization of funds implies that the project may therefore not be achieving its planned goals and objectives.

4071) Management has attributed the under-funding to the reduction of the grants due to the process of transferring the Project from the State Department of Industrialization to the state Department of Petroleum and Mining.

Submission by the Accounting Officer

4072) The Accounting Officer submitted it was true that the underfunding was attributed to the reduction of grants due to the process of transferring the project from the State Department for industrialization to State Department of Petroleum and Mining.

4073) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Budgetary Performance and Control was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES.

4074) **Conclusion**

1380. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4075) **Conclusion**

1381. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA INDUSTRY AND ENTREPRENEURSHIP PROJECT (CREDIT NO.6268-KE)

REPORT ON THE FINANCIAL STATEMENTS

4076) **Unqualified Opinion**

1382. There were no material issues noted during the audit of the financial statements of the project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES.

Basis for Conclusion

1383. Budget Control and Performance

4077) During the year under review, the project incurred expenditure amounting to Ksh.6,640,000 on compensation of employees against nil budgetary provision resulting to unauthorized expenditure of Ksh.6,440,000 contrary to section 68(1) of the Public Finance Management Act, 2012.Further, out of the budgeted amount of Ksh.124,977,348 only Ksh.23,874,144 equivalents of 19% of the total budget was utilized during the period resulting in unutilized balance of Ksh.101,103,204 or 81% of the total budget. Consequently, the achievement of the project's objectives and outcome could be delayed.

Submission by the Accounting Officers

4078) The Accounting Officer submitted that there was approved work plan for compensation of employees amounting to USD62,000. He further admitted that out of budgeted figure of Ksh.124,977,348 only Ksh.23,874,144 was utilized. This was because funds were released during the supplementary II in June 2019.

4079) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Budgetary Control and Performance was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4080) **Conclusion**

1384. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR INDUSTRIALIZATION
KENYA YOUTH EMPLOYMENT AND OPPORTUNITIES PROJECT (IDA CREDIT NO.5812-KE) - MICRO AND SMALL ENTERPRISE AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

4081) **Unqualified Opinion**

1385. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1386. Budget Control and Performance

4082) The statement of comparative budget and actual amounts reflects receipts budget and actual on comparable basis of Kshs.304,000,000 and Kshs.261,662,606 536 respectively resulting to an under-funding of Kshs.42,337,394 or 14% of the budget. Similarly, the Project spent an amount of Kshs.278,225,203 or 91% of the approved budget of Kshs.298,000,000. The under-funding could have affected the planned activities and impacted negatively on service delivery to the public.

4083) In the circumstances, the public has not received the services as planned.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4084) **Conclusion**

1387. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4085) **Conclusion**

1388. There were no material issues relating to effectiveness of internal controls, risk management and governance.

40. STATE DEPARTMENT FOR LABOUR

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1184

Dr. Peter Tum, the Principal Secretary, the Principal Secretary and Accounting Officer for the State Department of Labour (Vote 1184) appeared before the committee on 26th August 2021 to adduced evidence on the Audited Financial Statements for the State Department of Labour (Vote 1184) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. Ernest Mkatu - Head of Accounting Unit
2. Ms. Joyce Mwale - Director Administration
3. Mr. Bosco Chengiyaa - Personal Assistant to PS
4. Mr. Ambrose Ogango - Chief Finance Officer
5. Mr. John Maina - Supply Chain management
6. Dr. Musa Nyandusi - Secretary Occupation Safety & Health

And submitted as follows:

Basis for Qualified Opinion

1389. Inaccuracies in the Financial Statements

4086) The Statement Department's financial statements submitted for Audit on 30th September, 2019 reflected unsupported individual balances for various components which were later amended in the revised Financial Statements further resulting to material misstatements as summarized below:-

1387.1 Statement of Receipts and Payments

Component	Financial Statements 30/9/2019 (Kshs.)	Revised Financial Statement (Kshs.)	Variance (Kshs.)	%
Other Receipts	816,850	1,349,030	532,180	100
Use of goods and services	1,250,995,346	1,376,790,747	125,795,401	10
Acquisition of Assets	125,926,072	122,535,545	3,390,527	2

1387.2 Statement of Assets and Liabilities

Component	Financial Statements 30/9/2019 (Kshs.)	Revised Financial Statement (Kshs.)	Variance (Kshs.)	%
Cash balance	0	49,691	49,691	100
Accounts Receivables	17,418,553	16,837,312	581,241	3
Account Payables – Deposits	71,155,575	48,966,759	22,188.816	31

4087) The initial Financial Statement figures were not supported and journal entries in support of the movement from the initial to the revised financial statements were not availed for audit verification. In the circumstances, it has not been possible to confirm the accuracy and completeness of the financial statements for the year ended 30th June, 2019.

Submission by the Accounting Officer

4088) Journal Entry for adjustment of other receipts is available for audit verification. Journal entries schedule for adjustment of expenditure incurred at the State Department's regional offices which forms the variance on use of goods and services, acquisition of assets and Accounts Receivables are also available for verification.

4089) Committee Observations and Findings

(i) The Committee observed that, the explanation given by the Accounting Officer and the supporting documents (including the journal vouchers) provided to the Auditor-General was satisfactory;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012; And

(iii) The Committee also observed that the Accounting Officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit.

4090) **Committee Recommendations**

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012; and**

3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1387.3 Cash and Bank Balances

4091) The statement of assets and liabilities as at 30th June, 2019 reflects bank balances amounting to Kshs.73,044,493 for the four (4) accounts maintained by the state Department and a cash in hand balance of Kshs.49,691 as shown under Note 10A and 10B to the financial statements. However, the revised trial balance reflects credit balances for recurrent and development bank accounts of Kshs.129,700 and Kshs.73,436,582 respectively.

4092) Further, Deposit and Kenya Youth Employment and Opportunities Project (KYEOP) bank accounts had debit balances of Kshs.49,106,777 and Kshs.105,934,868 which differ from the financial statements balances of Kshs.48,966,759 and Kshs.22,197,041 by Kshs.140,018 and Kshs.83,737,827 respectively. In addition, cash in hand debit balance of Kshs.49,691 differ with the Trial Balance figure of Kshs.532,580 by a variance of Kshs.482,889 as summarized below:-

	Revised Financial Statements (a)	**Revised IFMIS Trial Balance**	**Variance (a-b)**
Accounts	**Kshs.**	**Kshs.**	**Kshs.**
Recurrent Bank Balance	129,700	(129,700)	259,400
Development Bank Balance	1,750,993	(73,436,582)	75,187,575
Deposit Bank Balance	48,966,759	49,106,777	(140,018)
Kenya Youth Employment and Opportunities Project (**KYEOP)**	22,197,041	105,934,868	83,737,827
Total Bank Balances	**73,044,493**		
Cash in hand	49,691	532,580	482,889
Total Cash and Cash Equivalent	**73,094,184**		

4093) Management has not reconciled the above variances and therefore the accuracy of cash and cash equivalents balance Kshs.73,094,184 cannot be confirmed.

Submission by the Accounting Officer

4094) With transfer to the exchequer account, the unspent balances of ksh.129,700 and ksh.1,750,993 on the recurrent and Development Bank accounts respectively on 26th july,2019 and 9th August, 2019, the IFMIS trial balance for 2019/2020 reconciles on the queried accounts. Reconciliation as at 30th June, 2019 is on-going.

4095) Committee Observations and Findings

(i) The Committee observed that, the explanation given by the Accounting Officer that the IFMIS trial balance for 2019/2020 had reconciled the queried accounts. However, reconciliations for balances as at 30th June, 2019 were on-going;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) In addition, the Committee observed that the Accounting Officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit ; And

(iv) The Committee also observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

4096) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should prepare and submit the reconciliations for balances as at 30 June 2019 to the Auditor- General for audit review.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **Accounting Officers must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1387.4 Accounts Payables – Deposits and Retention

4097) The statement of assets and liabilities reflects a balance of kshs.48,966,759 under accounts payables-deposits and retentions while the trial balance as at the same date, reflects a figure of Kshs.37,540,107 in respect of general deposits. The resultant variance of Kshs.11,426,652 between the two sets of records has not been explained or reconciled.

Submission by the Accounting Officer

4098) Reconciliation of the deposit account was done. The un-reconciled variance was Kshs.(140,018), which was reconciled later in 2019/20 (see trial balance 2019/20 (Appendix II). The reconciliations for balances as at 30th June, 2019 is ongoing.

4099) **Committee Observations and Findings**

(i) The Committee observed that, the explanation given by the Accounting Officer that the IFMIS trial balance for 2019/2020 had reconciled the queried accounts was satisfactory. However, reconciliations for balances as at 30th June, 2019 were on-going;
(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
(iii) In addition, the Committee observed that the Accounting Officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit ; and
(iv) The Committee also observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

4100) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should prepare and submit the reconciliations for balances as at 30th June, 2019 to the Auditor- General for audit review;**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012; and**
4) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1387.5 Other Inaccuracies between Financial Statements and Trial balance

4101) Further comparison between the financial statements and the supporting trial balance revealed total positive variances of Kshs.8,953,473 and negative variances totaling Kshs.495,629,663 that were not explained or reconciled as analyzed below: -

Details	**Financial Statements (a)**	**IFMIS Trial Balance (b)**	**Variance (a-b)**
Contractors Retention Money	0	(4,107,938)	4,107,938
Withholding Taxes	0	(4,845,535)	4,845,535
Total Positive Variance	**0**		**8, 953,473**
System Required Liabilities	0	305,529,535	(305,529,535)
Cash Clearing Account	0	81,271,325	(81,271,325)
General Provision	0	105,825,795	(105,825,795)

Debtors and Advances Employees	0	659,807	(659,807)
Other Debtors and Prepayments	0	2,343,201	(2,343,201)
Total	0	495,629,663	**(495,629,663)**

4102) In the circumstances, the accuracy and completeness of the State Department's financial statements could not be confirmed.

Submission by the Accounting Officer

4103) With the now activated auto-reconciliation module of IFMIS system. The State Department has embarked on the system reconciliations which is anticipated to complete in the month of September 2021. The State Department is committed to finish the backlog which will clear the records.

4104) **Committee Observations and Findings**

(i) The Committee observed that, the explanation given by the Accounting Officer that the auto-reconciliation had been activated. However, although the Department had activated auto-reconciliation module of IFMIS system, the reconciliations between Financial Statements and Trial balance as queried by the Auditor-General had not been completed;
(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
(iii) In addition, the Committee observed that the Accounting Officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit ; and
(iv) The Committee also observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

4105) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should reconcile the balances between Financial Statements and Trial Balance, prepare and submit the revised Financial statements to the Auditor- General for audit review;**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012; and**

4) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1390. Un-accounted for Disbursement to Consulate Offices

4106) The State Department disburses quarterly AIEs through the Principal Secretary, Ministry of Foreign Affairs to its Consular Offices in Qatar, Saudi Arabia, Geneva and the United Arab Emirates (UAE). During the year, a total of Kshs.128,655,030 was disbursed to the four (4) Consular Offices. However, the Management did not avail for audit verification expenditure returns in support of the disbursed amount. In the circumstances, it has not been possible to confirm the propriety of the disbursed amount of Kshs.128,655,030.

Submission by the Accounting Officer

4107) The expenditure returns from our foreign Missions are available for audit review.

4108) Committee Observations and Findings

(i) The Committee observed that accountability of Funds disbursed to Consulate Offices could not be verified in absence of expenditure returns from the Consulate Offices. The has been persistent delays by consulate officers submitting expenditure returns to the Accounting Officer for accountability of Public Funds in the respective Ministries.

(ii) The Committee further observed that, the explanation given by the Accounting Officer that the expenditure returns from our foreign Missions are available for audit review was satisfactory. However, the returns were not provided to the Auditor-General in good time to enable verification of the records prior to his/her appearance before the committee ;

(iii) In addition, the Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012; and

(iv) The Committee also observed that the Accounting Officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit.

4109) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Auditor General should verify the expenditure returns for Kshs.128,655,030 provided by the Accounting Officer. The Auditor-General should report, in writing, the findings of his/her review to this committee**
2) **The Committee and the Auditor-General should undertake to confirm the existence of the consulate offices and their staffing levels to establish the challenges leading to non-accountability and measures taken to ensure compliance with section 71 of the PFM Act 2012.**

3) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
4) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**
5) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012; and**
6) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1391. Outstanding Receivables

4110) Note 11 to the financial statements reflect accounts receivables totaling Kshs.16,837,312 in relation to outstanding imprests. However, the receivables were not supported by verifiable schedules. Further, the Trial Balance reflected an amount of Kshs.16,673,324 resulting in a variance of Kshs.163,992. In addition, a review of the imprest register revealed that some officers were issued with new imprests while still holding un-surrendered balances. In the circumstances, it has not been possible to ascertain the accuracy of the receivables amount of Kshs.16,837,312.

Submission by the Accounting Officer

4111) The schedule for outstanding imprest as at 30th June, 2019 is available for audit verification. The outstanding imprests have since been surrendered. On specific occasions, specific officers have been facilitated with new imprest before previous issued imprests are fully surrendered. This has been attributed to very active nature of the office they work in or hold.

4112) **Committee Observations and Findings**

The committee observed that the Accounting Officer did not take any action in line with Regulation 92 (5), (6) and (8) of the PFM (National Government) Regulations, 2015 for the failure to account for or surrender the imprest on the due date and issuing a second imprest before surrender of the first one.

4113) **Committee Recommendations**

The Accounting Officer must at all times ensure that;

1) **the holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.**

2) **in the event of the imprest holder failing to account for or surrender the imprest on the due date, the he/she shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.**
3) **In order to effectively and efficiently manage and control the issue of temporary imprests, no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary.**

Other Matter

1392. Pending Bills

4114) Notes 16.1 to the financial statements reflects pending bills amounting to Kshs.322,617,423 as at 30th June, 2019 which were not settled in the year under review but carried forward to 2019/2020 financial year. Failure to settle bills in the year to which they relate adversely affects he subsequent year's provisions to which they have to be charged.

Submission by the Accounting Officer

4115) The pending bills have since been cleared.

4116) **The Committee observed and found that:**
The committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

4117) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

1393. Delayed Construction of Research Institute office Complex

4118) As reported in the previous year, the State Department embarked on construction of a Research Institute office Complex project which was commissioned in February, 2010 at an estimated cost of Kshs.480,000,000 at the Directorate of Safety Health. However, as at 30th June, 2019 the Project had not been completed were availed despite an expenditure amounting to Kshs.343,458,956 having been incurred.,

4119) Further, during an audit inspection carried out in December, 2019, it was observed that no activities were ongoing at the site and the Project appeared to have stalled. No plausible reasons were given for the nine (9) years delay in completion of the Project whose primary objective was to enable the Directorate of Safety Health embrace changing dynamics in work environment relating to health and safety of workers.

Submission by the Accounting Officer

4120) The completion of this project has been affected by low and unpredictable funding, pending payments due to austerity measures. The project was allocated Kshs. 94 Million in FY 2020/21 which was reduced by half to Kshs. 47,018,947. The allocated budget was used to partially pay pending bills incurred in 2019/20 FY leaving a balance of Kshs. 28,686,841.12. The project has been allocated Kshs. 30 Million which will be used to clear the pending bills leaving a meagre balance of Kshs. 1,313,159 which will not be adequate to advance additional works. The Project will require considerable funding to ensure its completion.

4121) **Committee observations and findings**

(i) The Committee observed that the project had taken too long to complete and had lagged behind the contract completion date.

(ii) The Committee further, observed that the Accounting Officer did not institute elaborate mechanisms to ensure that the project proceeds as scheduled.

4122) **The Committee recommended as follows:**

1) **Within three (3) months upon adoption of this report, the Accounting Officer should institute elaborate mechanisms to ensure that the project proceeds as scheduled.**
2) **The Auditor General should review the matter and report back to the National Assembly expeditiously on the progress, status and elaborate mechanisms instituted by the Accounting Officer.**

1394. Construction of the National Employment Promotion Centre Kabete

4123) As previously reported, the construction of the proposed National Employment Promotion Centre at Kabete was awarded to a local company on 15th May, 2015 for a contract period of seventy-eight (78) weeks at a contract sum of Kshs.442,723,947. However, the Project stalled after an expenditure of Kshs.117,998,228 was incurred. A physical audit inspection during the month of December, 2019 revealed that, though the contractor was on site, there was minimal activity going on and the structure depicted an abandoned site.

Submission by the Accounting Officer

4124) The had was allocated a budget of 34.9Million in FY 2018/19 with a cumulative expenditure of 229.8Million. Completion stage as 30th June, 2019 was 48.1% approximate.

4125) **Committee observations and findings**

(i) The Committee observed that the project had taken too long to complete and had lagged behind the contract completion date.

(ii) The Committee further, observed that the Accounting Officer did not institute elaborate mechanisms to ensure that the project proceeds as scheduled and as the committee had recommended in 2017/2018.

4126) **The Committee recommended as follows:**

1) **Within three (3) months upon adoption of this report, the Accounting Officer should institute elaborate mechanisms to ensure that the project proceeds as scheduled.**
2) **The Auditor General should review the matter and report back to the National Assembly expeditiously on the progress, status and elaborate mechanisms instituted by the Accounting Officer.**

1395. Budget Control and Performance

4127) The summary statement of appropriation – recurrent and development combined reflects that the state Department recorded actual receipts of Kshs.2,630,065,021 against budgeted receipts of Kshs.3,957,559,574 resulting in a shortfall of Kshs. 1,327,494,552 or 34% of the budget. The shortfall on budgeted receipts adversely affected implementation of planned activities for the year under review and no satisfactory reasons were provided for the shortfall.

4128) Similarly, the State Department had a total budgeted expenditure of kshs.3,968,459,573 compared to the actual expenditure of Kshs.2,618,596,644 resulting in an under-expenditure implies that goals and objectives of the State Department were not achieved as planned for the fiscal year. oweverh

Submission by the Accounting Officer

4129) The State Department's budget was funded to a tune of 66% as observed by the Auditor General. The state Department thus ended up with pending bills for year amounting to KShs.322,617,423 as at 30th June, 2019. In addition, this affected performance contract targets for the year. However, the State Department reviewed and prioritized her activities to be in line with available budget.

4130) **The Committee observations and Findings**

(i) The Committee observed and found that the explanation and documents given by the Accounting Officer with regard to budget control and performance was satisfactory;

(ii) The committee also observed that the under absorption was as a result underfunding or in-adequate Exchequer releases.

4131) **Committee Recommendations**

The Accounting Officer for National Treasury should always ensure that the money belonging to the other State Departments is released in good time to enable implementation of development projects and provision of services.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4132) **Conclusion**

1396. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4133) **Conclusion**

1397. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUND PROJECT

KENYA YOUTH EMPLOYMENT AND OPPORTUNITIES PROJECT CREDIT NO.58120-KE; YEAR 2018/19

REPORT ON THE FINANCIAL STATEMENTS

4134) **Unqualified Opinion**

1398. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1399. Budgetary Control and Performance

4135) The project had budgeted to receive a total of Ksh.260,000,000 from external Development Partners but actual receipts amounted to Kshs. 105,551,195 resulting into a shortfall of Kshs.154,448,805 or 59% of the total budgeted receipts. Similarly, the project had budgeted to spend an amount of Kshs.260,000,000 but actual expenditure amounted to Kshs. 176,230,917 or 64% leaving an amount of Ksh.83,769,083 or 32% which mainly occurred under purchase of goods and services which recorded an under-collection of receipts, the management utilized past savings to finance current activities amounting to Kshs.70,679,722.

4136) The under-utilization of funds was attributed largely to delays in approvals from the World bank to undertake the Informal Sector Skills and Occupations Survey (ISSOS).Under-utilization of funds implies that the project did not achieve its planned goals and objectives.

Submission by the Accounting Officer

4137) The no objection to carry out the Informal Sector Skills and Occupations Surveys (ISSOS) was issued by World Bank on 1st August,2018. The Project was allocated Kshs.300 million in 2018/19 for the ISSOS Survey and other activities. The half-year allocation in 2018/19 FY was Kshs.105.5 million for the six (6) month period. The survey required Kshs. 170 million to be undertaken in three (3) consecutive months as such it was not possible to undertake the survey in the first half as allocated funds were insufficient. An appeal to the National Treasury to release the additional funds was responded in January, 2019. The first two (2) months in the third quarter 2018/19 FY was used for preparatory works including logistics for the survey. Hence, the Survey was carried out in fourth (4th) quarter 2018/19 FY to 1st Quarter 2019/20 FY. This further affected other activities planned in 2018/19 FY.

4138) **Committee Observations and Findings**

The Committee observed that there was delay in undertaking ISSOS Survey and other activities due to insufficient Funds. The delay was occasioned by the Donor and the National Treasury not releasing sufficient funds within the stipulated time period.

4139) **Committee Recommendations**

The Committee therefore recommends that:

1) **The National Treasury should ensure that the revenue targets for Donor Funding, Kenya Revenue Authority (KRA) and the Appropriations In Aid (AIA) factored by the Accounting Officers in annual budgets are realistic and achievable.**
2) **The Accounting Officers must at all times adhere to their annual work plans, procurement plans and cash disbursement schedule to increase their level of exchequer requests from the National Treasury.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4140) **Conclusion**

1400. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4141) **Conclusion**

1401. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR LABOUR

KENYA YOUTH EMPLOYMENT OPPORTUNITIES PROJECT (CREDIT NO. 5812-KE) – NATIONAL INDUSTRIAL TRAINING AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1402. Unsupported Payments

4142) As disclosed under Note 8.6 to the financial statements, the statement of receipts and payments reflects purchase of goods and services of Kshs.416,567,658 which includes training expenditure of Kshs.300,236,916. Included in training expenses is Kshs.1,752,279 paid to Kenyatta University out of which an expenditure amounting to Kshs.351,845 had not been supported with invoices. Further, comparison of payroll from the centers and payment schedules from headquarters resulted to unreconciled variance of Kshs.7,294,500. In view of the foregoing, purchase of goods and services of Kshs.300,236,916 could not be confirmed.

Submission by the Accounting Officer

4143) There were no submissions from the accounting officer.

4144) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

4145) **Committeee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

Emphasis of Matter

1403. Non-Remittance of Erroneous Miscellaneous Receipts

4146) As disclosed under Note 8.4 to the financial statements, the statement of receipts and payments reflects miscellaneous receipts of Kshs.120,000. This amount has been explained to have been erroneously deposited in the Project account by the Ministry of Environment. The Management explained that the amount relates to conference income that should have been banked to the National Industrial Training Authority (NITA) account. The error had not been corrected by the time the audit exercise was concluded. My opinion is not modified in respect to this matter

Submission by the Accounting Officer

4147) There were no submissions from the accounting officer.

4148) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

4149) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

1404. Budget Control and Performance

4150) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.928,187,007 and Kshs.793,474,648 respectively resulting to an under-funding of Kshs.134,712,359 or 15% of the budget. Similarly, the Project spent Kshs.518,719,342 or 35% of the approved budget of Kshs.928,187,007. Management has attributed the under absorption to non-recruitment of additional staff and late procurement process.

4151) The under absorption could have affected the planned activities and could have impacted negatively on service delivery to the public.

Submission by the Accounting Officer

4152) There were no submissions from the accounting officer.

4153) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

4154) Committee Recommendations

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4155) **Conclusion**

1405. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1406. Ineffective Project Monitoring and Evaluation

4156) The Management spent Kshs.300,236,916 on training expenses relating to stipend to beneficiary youth and fees for master craftsmen and formal training providers for the months of June, 2018 to June, 2019. An audit inspection during the month of September, 2019 revealed that some stations were not opened throughout the working hours and attendance registers for both trainers and trainees were not maintained and updated daily as required. Further, in Mombasa County, with ninety-three (93) craftsmen based in all the eight (8) sub-counties, only one Project Coordinator was supposed to carry out physical spot checks and attendance monitoring by commuting to the sub-counties.

4157) The feasibility of the coordination could not be confirmed or whether there are measures to ensure effectiveness of internal controls put in place to ensure the Project succeeds.

Submission by the Accounting Officer

4158) There were no submissions from the accounting officer.

4159) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

4160) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

1407. Untagged Fixed Assets

4161) The statement of financial assets reflects total assets of Kshs.109,141,639 as disclosed under Note 8.7 to the financial statements. Included in this figure are assets worth Kshs.9,113,180 that had not been tagged and serialized for ease of identification. Further, no evidence was made available to prove that the assets were verified quarterly as required by the Project implementation manual.

Submission by the Accounting Officer

4162) There were no submissions from the accounting officer.

4163) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

4164) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee**.

OCCUPATIONAL SAFETY AND HEALTH FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1408. Unsupported Transfer of Appropriations-In-Aid

4165) The statement of financial performance reflects a balance of Kshs.48,903,401 under general expenses. Included in the balance, and as disclosed in Note 8 to the financial statements, is an amount of Kshs.4,125,000 described as transfer of AIA to the Ministry of Labour and Social Security and no further details were availed for audit verification.

4166) In the circumstances, the propriety of the transfer of Appropriations-In-Aid amounting to Kshs.4,125,000 could not be ascertained.

Submission by the Accounting Officer

4167) There were no submissions from the accounting officer.

4168) **Committee Observations and Findings**

4169) The Committee observed that the Accounting officer did not respond to this paragraph.

4170) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

1409. Long Outstanding Reconciling Items

4171) The statement of financial position as at 30 June, 2019 reflects cash and cash equivalents balance of Kshs.22,293,547. A review of the supporting bank reconciliation statements for the year ended 30 June, 2019 indicated that there were debits in the bank statement totaling Kshs.8,282,854 which were not reflected as payments in the cashbook, out of which Kshs.5,800,500 dates back to the financial year 2017/2018.

4172) Further, it is not clear how the amounts were debited in the bank statement and not in the cashbook as payments are initiated by the Management before being cleared by the bank. In addition, the bank reconciliation statement reflects receipts in bank statement not in cashbook totaling Kshs.42,868,812. Although the Management has explained that these represent revenue banked at the Regions but whose returns were not submitted to the Headquarters, it was not clear why the returns had not been submitted.

4173) In the circumstances, the completeness and accuracy of the cash and cash equivalents balance of Kshs.22,293,547 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

4174) There were no submissions from the accounting officer.

4175) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

4176) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

Other Matter

1410. Budgetary Controls and Performance

4177) During the year under review, the Fund's actual receipts amounted to Kshs.60,951,446 against budgeted receipts of Kshs.70,570,000, resulting in a shortfall of Kshs.9,618,554 or 13% of the budgeted amount. Further, the Ministry's actual expenditure for the year amounted to Kshs.58,255,732 against budgeted expenditure of Kshs.70,570,000 resulting in an overall under expenditure of Kshs.12,314,268 or 17%. Failure to absorb the budget implies that the goals and objectives of the Fund were not achieved as planned and Citizens may have been denied critical occupational safety and health services.

Submission by the Accounting Officer

4178) There were no submissions from the accounting officer.

4179) **Committee Observations and Findings**

4180) The Committee observed that the Accounting officer did not respond to this paragraph.

4181) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**

2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

1411. Unresolved Prior Year Matters

4182) Various prior year's audit issues remained unresolved as at 30 June, 2019. Management has not provided reasons for the delay in resolving the prior year's audit issues. Further, the status of the unresolved prior year issues is not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

Submission by the Accounting Officer

4183) There were no submissions from the accounting officer.

4184) **Committee Observations and Findings**
The Committee observed that the Accounting officer did not respond to this paragraph.

4185) Committee Recommendations

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion
1412. Late Submission of Financial Statements

4186) The financial statements for the year ended 30 June, 2019 were submitted for audit on 27 November, 2019, two (2) months after the statutory timeline of 30 September, 2019. This is contrary to Section 81(4)(a) of the Public Finance Management Act, 2012 which requires Accounting Officers to submit financial statements to the Auditor-General within three (3) months after the end of each financial year. Late submission of financial statements affects the execution of the planned audit.

4187) Management was therefore in breach of the law.

Submission by the Accounting Officer

4188) There were no submissions from the accounting officer.

4189) **Committee Observations and Findings**

4190) The Committee observed that the Accounting officer did not respond to this paragraph.

4191) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

1413. Unaccounted for Imprests

4192) The statement of financial position reflects a balance of Kshs.1,759,200 being outstanding imprests which ought to have been accounted for on or before 30 June, 2019. This is contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station. Regulation 93(6) further provides that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with interest at the prevailing Central Bank Rate. The Fund Management was, therefore, in breach of the law.

Submission by the Accounting Officer

4193) There were no submissions from the accounting officer.

4194) **Committee Observations and Findings**

4195) The Committee observed that the Accounting officer did not respond to this paragraph.

4196) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at**

least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**

2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

1414. Construction of Research Institute Office Complex

4197) As previously reported, the construction of the Fund's Research Institute Office Complex Project which was commissioned in February, 2010 at an estimated cost of Kshs.480,000,000 was still incomplete as at 30 June, 2019. An audit inspection carried out in December, 2019, revealed that no activities were ongoing at the site stalled. Further, no reasons have been provided for the nine (9) years delay in completion of the project whose primary objective was to enable the Fund embrace changing dynamics in work environment relating to health and safety of workers.

4198) In the circumstances, the Fund has not obtained the envisioned value for money from the Kshs.343,458,956 or 72% of the contract price already paid to various contractors as at 30 June, 2019.

Submission by the Accounting Officer

4199) There were no submissions from the accounting officer.

4200) **Committee Observations and Findings**

4201) The Committee observed that the Accounting officer did not respond to this paragraph.

4202) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**

2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

1415. Revenue from Registration of Workplaces (Licenses and Permits)

4203) As previously reported, the Fund did not maintain an updated data on the registered workplaces which forms the basis of licenses and permits revenue amounting to Kshs.55,484,392 for the year ended 30 June, 2019. The number of registered workplaces in the year under review was not availed for audit verification as Management indicated that the system had broken down and there was no backup mechanism in place.

Submission by the Accounting Officer

4204) There were no submissions from the accounting officer.

4205) **Committee Observations and Findings**

4206) The Committee observed that the Accounting officer did not respond to this paragraph.

4207) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

41. STATE DEPARTMENT FOR SOCIAL PROTECTION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1185

Mr. Nelson Sospeter Marwa, the Principal Secretary and Accounting Officer the State Department for Social Protection (Vote 1185), appeared before the Committee 9th August, 2021, to adduce evidence on the audited financial statement for the State Department for Social Protection (Vote 1185) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. Beatrice Igwada - SDSP- Accounts
2. Mr. John Gachigi -Director
3. Mr. Noah M.O. Sanganyi -Director Children's service.
4. Ms. Josephine Mumuke -Director Social Development.
5. Mr. Willis O. Olwalo - Deputy Director Social.
6. Mr. Kennedy Okeyo -Chief Finance Officer

1416. Unfavourable Dealings with Payment Service Providers (PSPs)

4208) The State Department, in line with the social pillar of Vision 2030, focuses on equity in access, control and participation in resource distribution for improved livelihoods of vulnerable groups, specifically orphans and vulnerable children, the elderly and persons with disabilities. Towards this end, the State Department engaged the services of four (4) financial institutions namely; Equity Bank, Co-operative Bank of Kenya, Kenya Commercial Bank (KCB) and Post Bank as intermediaries to transmit funds to the beneficiaries. A review of the contract agreements signed between the State Department and the individual service providers revealed the following anomalies.

Submission by the Accounting Officer

4209) The Accounting Officer submitted that the Committee marked the matter as resolved in its report of the financial year 2017/2018.

1417. Failure to Provide Cash Transfer Reconciliation Reports

4210) The contract agreements signed between the State Department and the individual Project Service Providers (PSPs) requires that the latter avails reconciliation reports showing the funds received and disbursed to the beneficiaries. During the year under review, a total of Kshs.24, 520,726,909 was disbursed to beneficiaries but payrolls for each of the service providers and respective reconciliations were not provided by Management for audit review. Further, various reports including rejected credit reports, dormant accounts reports, performance reports, balance returned to principal by claw back, final reconciliation reports, total amount of money received from the State Department, total amount credited to beneficiary accounts, amount of funds withdrawn by beneficiaries on a monthly basis, non-collected amounts by beneficiaries and commission files both narrative and electronic detailing payments made, were not provided for audit review. Management has explained that it was unable to access the information, though it was enshrined in the contract, due to the confidentiality clause of the Banking Act. Consequently, the accuracy and completeness of the total amount of Kshs.24, 520,726,909 disbursed to the PSPs could not be ascertained as at 30 June, 2019.

Submission by the Accounting Officer

4211) In FY2018-2019 the Inua Jamii Programme made payments through the four contracted Payment Service Providers (PSPs) in three (3) payments covering the six (6) payment cycles, which amounted to KES 24,861,833,354 which was Direct Cash Transfers plus Commissions.

4212) The reconciliation for the amount of funds received and disbursed per PSP and final aggregated reconciliation has been done and attached. Further the under listed reports have been shared in HARD and SOFT copy format, and are also attached.

1. Rejected credit report
2. Dormant accounts report
3. Performance reports
4. Balance returned to Principal by claw back
5. Final reconciliation reports
6. Total amount of money received from the Ministry
7. Total amount credited to beneficiary accounts.
8. How much withdrawn by beneficiaries monthly
9. Non-collected amounts by beneficiaries

4213) **Committee Observations and Findings**

The Committee observed that although PSPs provided some information (1-9) as listed but were not in a format that could help in the preparation of an accurate aggregated cash transfer reconciliation as anticipated in the contract.

4214) **Committee recommendations**

The Accounting Officer should within three (3) months of tabling and adoption of this report provide the Auditor General, for verification, with information (1-9) as listed in a format that could help in the preparation of an accurate aggregated cash transfer reconciliation as anticipated in the contract and complete reconciliations.

1418. Beneficiaries Tied to One Bank Service Provider

4215) The contractual agreement with the PSPs provides for the beneficiaries to identify a convenient bank of their own choice. However, information from field audit inspections revealed that some beneficiaries were coerced into enrolling into PSPs they had not applied for. The affected beneficiaries who stated that their accounts were opened at KCB without their consent.

Submission by the Accounting Officer

4216) The enrolment of over 700,000 beneficiaries countrywide was marked by challenge with PSP agents trying to gain beneficiaries by various means, even unorthodox ones. Therefore, it saw many beneficiaries finding their accounts opened under a PSP not of their choice. This happened across all PSPs, with a large number of accounts being disputed amongst the contracted banks. It was envisioned that with the planned annual switch to a new PSP of choice the anomaly could get corrected. However, this switching did not take place since the later cohorts of beneficiaries were getting enrolled almost one year after the 70+ cohort. This therefore made it difficult to establish a unified starting point for switching, and coupled with the contract period drawing to a close, the Programme opted not to effect the switching.

4217) Nevertheless, with the close of the contract, the new contract will allow for fresh enrolment by newly contracted PSPs; and this will restore beneficiary choice.

4218) **Committee observations and findings**

(i) The Committee observed that the Accounting Officer admitted that some of the banks used unorthodox methods to acquire beneficiaries;

(ii) The Committee further observed that the new contract will allow for fresh enrolment by newly contracted PSPs, and this will restore beneficiary choice.

4219) **Committee recommendations**

Within three (3) months of tabling and adoption of this report, the DCI should institute investigations to establish whether any crime was committed by the concerned financial institutions in opening of beneficiaries' bank accounts.

1419. Untitled Parcels of Land

4220) Review of documents and records related to land matters revealed that the State Department occupies thirty-five (35) parcels of land of different sizes and values that had no ownership documents. No evidence was provided to demonstrate efforts to acquire title deeds for these pieces of land to avoid the invasion by unauthorized persons.

4221) Further, the State Department owns one hundred and eighty-six (186) permanent buildings erected on various parcels of land across the Country. A review of records availed for audit examination showed that out of the one hundred and eighty-six (186) buildings, one hundred and sixty-four (164) lacked ownership documents while the balance of twenty-two (22) which have allotment letters, others have titles, some are situated on Government land and, for others ownership documents were still being processed. This implies that the Department runs the risk of losing those developed buildings due to lack of requisite legal ownership documents, in the event the land is encroached upon.

4222) In the absence of these legal documents, the ownership and accuracy of the parcels of land reported in the financial statements as at 30 June, 2019 could not be ascertained.

Submission by the Accounting Officer

4223) The Accounting Officer admitted that the state department owns various parcels of land of different sizes and values across the county some of which permanent buildings have been erected. The state department is making efforts to ensure that they acquire the titles for the untitled land most of which are at different stages as depicted in the schedule below:

4224) The department also has permanent buildings erected on land that belong to either the County Commissioners or Deputy County Commissioners. These are the former DC's compounds housing most government Departments/ Ministries. In such cases, the State Department has letters from the County Commissioner/ Deputy County Commissioner. The Accounting Officer tabled report showing the parcels of land discussed and buildings

4225) On further deliberations by the Committee it was noted that the management has not effectively followed up to conclude the process of acquiring the title deeds. For example, according to letter dated 23/2/2018 from Department of Children Rescue Centre, Garissa to Director of Children Services, Nairobi, a promise was made that action would be taken after 60 days, it is now three years and there is no evidence that action has been taken or follow up made.

4226) **Committee observations and findings**

(i) The Committee observed that the Processing of title deeds for about 35 Parcels of Land at various stages;

(ii) The matter therefore remained unresolved.

4227) **Committee recommendations**

Within three (3) months of tabling and adoption of this report, the Accounting Officer, with support of National Land Commission, should take measures to expedite acquisition of ownership documents for the properties and report to the National Assembly on the progress.

Other Matters.

1420. Pending Bills

4228) As disclosed inNote13 to the financial statements, the State Department for Social Protection had pending bills totaling Kshs.49,525,400as at 30 June, 2019, that were not settled during the financial year 2018/2019 but were instead carried forward to 2019/2020 financial year. Failure to settle bills during the year in which they relate to adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

4229) The state department was able to acquire funding for the exchequer requests that were pending and therefore paid all its pending bills. As at date, the department has no pending bills as evidenced by reports from the Treasury on status of pending bills.

4230) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Pending Bills was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1421. Outstanding Imprests

4231) Included in the accounts receivables balance of Kshs.614, 616,022as at 30 June, 2019 is an amount of Kshs.2, 319, 968 in respect of outstanding imprests due for surrender by 30 June, 2019. A review of the position in November,2019 showed that an amount of Kshs.1,419,898 had been surrendered leaving an outstanding balance of Kshs.900,070.The recoverability of the outstanding accounts receivables balance remains in doubt and Management has not indicated measures put in place for recovery.

Submission by the Accounting Officer

4232) The management in an effort to adhere to the regulation governing the issue and surrender of temporary imprest took up the issue with the relevant office and wrote to the concerned office for all outstanding imprests to be recovered. The imprests have so far been recovered as per the attached byproduct.

4233) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to outstanding imprest was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1422. Unresolved Prior Year Matters

1422.1 Kabete / Getathuru Land -Directorate of Children Services Department

4234) As previously reported, ownership documents for Nairobi Children's Remand Home occupying 28.6 ha, were not availed for audit review despite the fact that the institution has existed since 1957 with only an allotment letter. Further, information available indicates that part of the land measuring 4.579 ha was being claimed by a private entity which was in possession of a title deed Ref: L.R. No. 22355 issued on 31 December, 2002. In addition, several other claimants to the land including M/s China Roads and Bridges Corporation, Kenya Power and Lighting Company and other individuals had also occupied portions of the land.

4235) It has not been clarified how individuals and these companies acquired Government land or whether any payments were made for the same.

Submission by the Accounting Officer

4236) The Accounting Officer submitted that the issue was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued therein.

4237) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and made the following recommendation;

The Cabinet Secretary responsible for matters of Social Protection and the Chairperson, National Land Commission should expedite the process of survey and issuance of titles for the land in the 30 institutions offering services to children across the country and report back the progress to the National Assembly within three (3) months after the adoption of this report.

1422.2 Non-Commissioning and Handing Over of Rehabilitation of Dagoretti Girls School Dormitory Project.

4238) As previously reported, the State Department awarded a construction company to undertake rehabilitation of a dormitory at Dagoretti Girls School at a contract sum of Kshs.21,370,280. The project had stalled at the upper slab level and the contractor had by September, 2017 abandoned the site. At the time the project stalled, the contractor had received payments totalling Kshs.9,731,997 or 45% despite completion level of only 20%. A review of the matter during the audit revealed that construction had been completed and the contractor paid the contract sum and part of retention money after completion of the contract. However, the project had not been commissioned and handed over to the institution due to lack of a sewerage system. Management has not explained why the structure was built without the necessary sewerage infrastructure.

4239) From the foregoing, the intended beneficiaries are unable to get value for money from the resources spent on the rehabilitation project.

Submission by the Accounting Officer

4240) The Accounting Officer submitted that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued therein.

4241) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and made the following recommendation;

The Auditor- General should undertake value for money audit of this project as provided for in Section 36(2) of the Public Audit Act, 2015 and report back to the National Assembly within three (3) months after tabling and adoption of this report.

1422.3 Unpaid Cash Transfers Balances held by Postal Corporation of Kenya

4242) The State Department contracted Postal Corporation of Kenya (PCK) as an agent to disburse cash to the vulnerable beneficiaries throughout the Country. However, after the expiry of the contract between the State Department and the agent (PCK), a balance of Kshs.169,300,000 remained unpaid. A review of the matter during the year, revealed that the status had not changed and the amount of Kshs.169,300,000 due to the State Department was still outstanding. Management has not demonstrated efforts being made to recover this long overdue refund from PCK.

Submission by the Accounting Officer

4243) The Accounting Officer submitted that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued therein.

4244) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and made the following recommendation:

The Director DCI should expedite investigation into this matter with a view to charge any public officer found culpable with an offence of financial misconduct as stipulated in Section 197 of the PFM Act, 2012.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1423. Grounded Motor Vehicles

4245) A review of the motor vehicles register produced for audit scrutiny revealed that fifty-two (52) motor vehicles with an undetermined value had been parked at various yards for several years with no indication of whether there were plans to repair or dispose the vehicles, which continue to depreciate in value. Further, as disclosed in Note 7 to the financial statements, the State Department acquired new motor vehicles worth Kshs.274, 627,380 despite the existence of unused vehicles at the department's yards.

Submission by the Accounting Officer

4246) Disposal committee was appointed by the principal secretary on the 21st August, 2019 and thereafter a letter written to all heads of departments to forward a list of all idle/obsolete/surplus/unserviceable stores, Equipment to H/SCMS for appropriate action. The current status has been captured in the table below.

No	Model / Make	Reg. No.	Location / Point of Use	Ownership	Conditions	Remark
1	Isuzu Double Cab	GK A247G	Nyeri Central	Gok	Serviceable. Inspection Carried Out	Awaiting Funds Allocation For Repair.
2	Mitsubishi D/Cab	GK B 857G	Kajiado	Gok	Serviceable. Inspection carried out.	Awaiting allocation of funds for repair
3	Pajero	GK Y 602	Kajiado West	Gok	Serviceable. Inspection carried out.	Awaiting allocation of funds for repair

Grounded Motor Cycle (DSD)

No	Model / Make	Reg. No.	Location / Point of Use	Ownership	Conditions	Remark
3.	Yamaha Motorcycle	GK A637N	Kapenguria Sub-County Social Development	GOK	Grounded Awaiting coordinator inspection	Requisition for inspection fee received from the

No	Model / Make	Reg. No.	Location / Point of Use	Ownership	Conditions	Remark
						county coordinator
4.	Yamaha Motorcycle	KAN 746H	Kapenguria Sub-County Social Development	GOK	Grounded. Awaiting inspection	Requisition for inspection fee received from the county coordinator
5..	Suzuki Motorcycle	GK A 203P	Kapenguria Sub-County	GOK	Grounded. Awaiting inspection	Requisition for inspection fee received from the county coordinator
6.	Suzuki Motorcycle	KAR 715Z	Kapenguria Sub-County Social Development	GOK	Grounded. Awaiting inspection	Requisition for inspection fee received from the county
7.	Yamaha Motorcycle	GK A 656N	Kapenguria Sub-County Social Development	GOK	Grounded Awaiting inspection	Requisition for inspection fee received from the county
8.	Yamaha Motorcycle	GK A 389N	Kapenguria Sub-County Social Development	GOK	Grounded Awaiting inspection	Requisition for inspection fee received from the county
9.	Yamaha Motorcycle	GK A636N	Kapenguria Social Development	GOK	Grounded Awaiting inspection	Requisition for inspection fee received from the county

No	Model / Make	Reg. No.	Location / Point of Use	Ownership	Conditions	Remark
10	YAMAHA	GK A208P	MBEERE NORTH	GOK	Grounded Awaiting inspection	Requisition for inspection fee received from the county
11.	Suzuki	KAR 707Z	MBEERE SOUTH	GOK	Grounded Awaiting inspection	Requisition for inspection fee received from the county
12	Yamaha	GKA 680N	MBEERE SOUTH	GOK	Grounded Awaiting inspection	Requisition for inspection fee received from the county
13	Suzuki	KAR 718Z	IMENTI SOUTH	GOK	Grounded Awaiting inspection	Requisition for inspection fee received from the county

STATUS OF DCS MOTOR VEHICLES IN RESPONSE TO AUDIT QUERIES (ANNEX 1423B)

S/No	GK Vehicles	Make	Office	Status As Per Audit Report	Response
1	GKA 938K	Nissan Urvan Van	Nakuru Children's Remand Home	Grounded	In Use
2	GKB 118H	Mitsubishi-200-D/Cabin	Dadaab	Grounded	Serviceable

S/No	GK Vehicles	Make	Office	Status As Per Audit Report	Response
3	GKS 803	Peugeot 505 P/Up	Othaya Children's Rehabilitation School	Grounded	Unserviceable. Recommended for Disposal
4	GKA 264U	Isuzu D/Max-D/Cabin	Nandi	Grounded	In Use
5	GKB 845G	Mitsubishi L-200-D/Cabin	Bungoma	Grounded	In Use
6	GKB 864G	Mitsubishi L-200-D/Cabin	Laikipia	Grounded	In Use
7	GKA 074M	Toyota Hilux-D/Cabin	Garissa	Grounded	Unserviceable. Recommended for Disposal
8	GKA 945K	Nissan Urvan Van	Nyeri Children's Rehabilitation School	Grounded	In Use
9	GKA 302Y	Nissan Urvan Van	Othaya Children's Rehabilitation School	Grounded	In Use
10	GKA 254U	Isuzu D/Max-D/Cabin	Makueni	Grounded	In Use
STATUS OF DCS MOTOR CYCLES					
1	GK A 341K	Motor Cycle-Yamaha	Wamumu	Grounded	Unserviceable/ Recommended for Disposal
2	GKA 237F	Motorcycle-Yamaha	Nyando Sub-County Children's Office	Grounded	Unserviceable / Recommended for Disposal
3	GK A477U	Motor Cycle-Honda	Manga Sub-County Children's Office	Grounded	Unserviceable/ Recommended for Disposal
4	GKA 811L	Honda Nxr Motor Cycle	Koibatek Sub-County	Grounded	Serviceable

S/No	GK Vehicles	Make	Office	Status As Per Audit Report	Response
			Children's Office		
5	GK A030G	Motor Bike-Yamaha	Marakwet-West Sub-county Children Office	Grounded	Serviceable
6	GKA 234F	Motor Cycle-Yamaha	Tana Delta Sub-County Children's Office	Grounded	Unserviceable /Recommended for Disposal

4247) **Committee observations and findings**

The Committee observed that the Accounting Officer has taken measures to address the audit query and was making good progress.

4248) **Committee recommendations**

1) **Within three (3) months of tabling and adoption of this report, the Accounting Officer should ensure that all the proposed steps are carried out to satisfaction and in complete compliance with applicable laws.**
2) **The Accounting Officer to ensure compliance with section 72(1)(b) of Public Finance Management Act 2012; which requires the Accounting Officer to ensure they manage assets that are under their responsibility in a way which ensures that the national government entity achieves value for money in acquiring, using and disposing of those assets.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1424. Lack of Audit Committee

4249) During the year under review, the State Department operated without an Audit Committee, contrary to Section 73(5) of the Public Finance Management Act, 2012 which requires every National Government entity to establish an Audit Committee to provide oversight over management activities, ensure the integrity of the Department's financial information, enhances stems of controls, monitor and review of the internal audit process and ensure that risk management systems are in place.

Submission by the Accounting Officer

4250) During the Financial Year 2018/2019, the Ministry of Labour and Social Protection initiated the process of establishing an independent audit committee in accordance with Sec. 174 (1&2) of Public Finance Management Act, 2012. Although there were some delays occasioned by re-advertisements due to lack of qualified candidates, the process is now complete and the committee has formally been appointed by cabinet secretary and they are operational.

4251) **Committee Observations and Findings**

(i) The Committee observed that the State Department did not have a functioning audit committee at the time of the audit as required by section 73(5) of the Public Finance Management Act, 2012;

(ii) The Committee further observed that Monitoring and review of the effectiveness of the internal audit process, review of internal controls, risk management systems and financial statements did not take place in the absence of audit committee;

(iii) However, the Committee observed that the explanation given by the Accounting Officer with regards to lack of lack of Audit Committee was satisfactory; and

(iv) The Committee therefore marked the matter as resolved.

1425. Weak Succession Planning

4252) Audit review of payroll data and employees' personal files for the year under review revealed that the State department had 1,912 staff in its establishment by the end of June, 2019. Overall, the number of staff above the age of forty (40) years was 1,174 or 62%, whereas those below the age of forty (40) years totaled 738 or 38%. Consequently, the aging staff distribution within the State Department's ranks calls for prioritization of succession planning to ensure service sustainability is maintained by the State Department.

Submission by the Accounting Officer

4253) The Accounting Officer submitted that to ensure service sustainability is maintained by the State Department in view of the aging workforce as depicted by the review of June, 2019 payroll the State Department in conjunction with the Public Service Commission has put in place the following measures;

1) Recruited Children's and Social Development Officers at Diploma and Degree level at entry grades. A total of 274 officers have been recruited as of 30th December, 2020**.** Undertaken promotions for six hundred and forty technical officers to fill in gaps within the ranks.
2) Have obtained authority to recruit drivers and the recruitment exercise which will commence upon concurrence by The National Treasury, and
3) Undertaken re-designation of officers from the support services who have acquired the requisite qualifications to various position in the Technical Departments**.**

4254) **Committee observations and findings**

The Committee observed that the Department has put in place adequate measures to address the issue of succession planning.

4255) **Committee recommendations**

1) **The Accounting Officer in collaboration with Public Service Commission should ensure the Department has a well-defined succession plan to ensure key functions are not affected due to lack of planning to replace staff who leave service through retirement and other causes.**
2) **Within six months of tabling and adoption of this report, the Public Service Commission should offer guidelines/policies to provide direction on how public entities will put in place proper succession plans within the confines of law.**

DONOR FUNDED PROJECTS

NATIONAL SAFETY NET PROGRAM FOR RESULTS - PROGRAM NO. P131305

REPORT ON THE FINANCIAL STATEMENTS

4256) **Unqualified Opinion**

1426. There were no material issues noted during the audit of the financial statements of the Program.

Other Matter

1427. Budget Control and Performance

4257) During the year under review, the Program's actual receipts amounted to Kshs.24,900,101,937 against the budgeted amount of Kshs.31,561,050,228 resulting in a receipts shortfall of Kshs.6, 660,948,291 or 21%. Similarly, the Program utilized a total of Kshs.29,672,007,133 or 94% of the approved budget of Kshs.31,555,350,228.

4258) The under expenditure occurred under two main items namely; Cash transfer for Persons with Severe Disabilities and Hunger Safety Net Programme where an amount of Kshs.236,054,470 and Kshs.1,089,210,300 respectively was not utilized. Management has not explained by way of notes, the material variances between the budget and actual amounts as provided.

Submission by the Accounting Officer

4259) While it is true that there was under receipt and expenditures during the financial year 2018/19, in most of the cases, was due to lack of exchequer from the Government of Kenya Counterpart fund. Nevertheless, the variances which were below the threshold of 10% need not to be explained as per PFM Act. This therefore implies that the risk of the realization of the State Department's goals and objectives was at its minimal.

4260) The under receipt on CT-OVC, which had a fund balance brought forward from the previous period and used to finance the budget for 2018/19 hence raising the utilization variance to a bare minimum of 1% as opposed to 34% reported.

4261) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to budget control and performance was satisfactory; and

(ii) The Committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4262) **Conclusion**

1428. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS IN INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1429. Lack of Audit Committee

4263) Regulation 74(1) of the Public Finance Management Act, 2012 requires every National Government entity to establish an Audit Committee to provide oversight over Management activities. Contrary to the above, Management did not avail any documents in support of the existence of an Audit Committee such as appointment letters, membership, tabled reports or recommendation and follow-ups. Lack of an Audit Committee implies that the Program's activities were not internally appraised.

4264) In the circumstances, the Program has not complied with the provisions of the Public Finance Management Act, 2012 in respect of establishment of an audit committee.

Submission by the Accounting Officer

4265) During the Financial Year 2018/2019, the Ministry of Labour and Social Protection initiated the process of establishing an independent audit committee in accordance with Sec. 174 (1&2) of Public Finance Management Act, 2012. Although there were some delays occasioned by re-advertisements due to lack of qualified candidates, the process is now complete and we have audit committee in place.

4266) **Committee Observations and Findings**

(i) The Committee observed that the State Department did not have a functioning audit committee at the time of the audit as required by section 73(5) of the Public Finance Management Act, 2012;

(ii) The Committee further observed that Monitoring and review of the effectiveness of the internal audit process, review of internal controls, risk management systems and financial statements did not take place in the absence of audit committee;

(iii)However, the Committee observed that the explanation given by the Accounting Officer with regards to lack of lack of Audit Committee was satisfactory; and

(iv)The Committee marked the matter as resolved.

CASH TRANSFER FOR ORPHANS AND VULNERABLE CHILDREN (CT-OVC) PROGRAMME - IDA GRANT NO.TF097272

REPORT ON THE FINANCIAL STATEMENTS

4267) **Unqualified Opinion**

1430. There were no material issues noted during the audit of the financial statements of the Programme.

Emphasis of Matter

4268)

1431. I draw your attention to the non-financial information on page (ii) Paragraph 1.2 of the financial statements which has disclosed that the Programme came to an end on 31 December, 2018. Further, as disclosed in Note 6.1 - Programme bank account, the balance of the fund amounting to Kshs.7,447,219 was effectively surrendered to the donor through The National Treasury in March, 2019.

4269) My opinion is not modified in respect to the effect of this matter.

Other Matter

1432. Budget Control and Performance

4270) The Programme's final approved budget for the year under review totalled Kshs.445,199,603 against actual receipts of Kshs.346,111,690 resulting to a shortfall of Kshs.99,087,913 or about 22% of the budgeted receipts.

4271) Similarly, the Programme spent an overall amount of Kshs.441,187,204 against an approved budget of Kshs.445,199,603 resulting to an under expenditure of Kshs.4,012,399 which is only 1% of the approved budget.

4272) Management has however attributed the deviation to the closure of the Programme activities as at 31 December, 2019 after the expiry of the Programme.

Submission by the Accounting Officer

4273) While it is true the project closed on 31 December 2019, the under expenditure which was barely at 1% which needed not to be explained as per PFM act was attributed to the winding up of activities as project. Similarly as the project closes, it required less funding as per the financing agreement and the gap was bridged by utilizing the brought forward fund balances of the previous years hence over receipt of 23% against the budget.

4274) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to budget control and performance was satisfactory; and

(ii) The Committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4275) **Conclusion**

1433. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1434. Management of Assets

4276) As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects cumulative non-financial assets balance of Kshs.472,474,728. It was however, noted that the assets register maintained did not reflect values against each of the asset. Further, Management did not keep its own assets register from that used in recording the State Department's assets.

4277) Consequently, the Management may not have instituted proper safeguard and custody of the assets under the Programme.

Submission by the Accounting Officer,

4278) While it was true the management did not keep its own assets register for recording the State Department's assets this was due to ineffective asset management system. However, the department through the development partner (UNICEF) has secured the same.

4279) **Committee Observations and Findings**

(i) The Committee observed that adequate measures have since been put in place for proper and effective asset management by the Department.

(ii) The Committee therefore marked the matter as resolved.

4280) **Committee Recommendations**

The Accounting Officer should always ensure proper records are maintained as required by Public Finance Management Act, 2012.

1435. Ineffective Communication and Call Centres

4281) The Social Protection Secretariat through the support of World Food Programme applied for a memorable short code and was awarded a 1533 toll free line by Communication Authority of Kenya. This was aimed at responding to the cash transfer queries from the beneficiaries of the National Safety Net Programme. A physical inspection of the call centre in the month of September, 2019 revealed that the centre has only two (2) officers, considerably inadequate to operate the system.

4282) Further, whereas the toll-free line operates between 8am to 5pm on Mondays to Fridays thus limiting access to the facility, there is no Internet Voice Response (IVR) system to provide automatic answers to the location, hours of operation and solutions to simple problems like information about targeting, opening of accounts, change of caregiver and direct beneficiaries to the appropriate solutions for any challenges during these times. Since the calls are one way, feedback on the toll-free line is curtailed.

4283) In addition, a non-subscriber to a particular subscriber line cannot reach the toll-free number 1533, and when the system is experiencing network issues, proper feedback to and from callers is limited.

Submission by the Accounting Officer

4284) The Accounting Officer state it was true that the Inua Jamii Call Centre has not been upgraded. This is due to the fact that the Call Centre was envisioned to take place under the funding from the Department for International Development (DfID) and World Bank Trust Fund, in the financial year 2018/2019. However, the requirements for the purchase of equipment exceeded the available allocation during that period; hence inability to procure what was intended.

4285) Despite the challenges cited by the Auditors, the following developments with regard to the Call Centre have taken place recently:

4286) The State Department is working on the full establishment of the Call Centre under Kenya Social and Economic Inclusion Project (KSEIP). The KSEIP Program Agreement Document (PAD) envisions having "a functional module to record the grievances and case management received and the actions taken";

i. The Programme has had meetings with Telkom Kenya and Airtel to configure their systems to be part of the Toll-Free line for all callers, which is on-going;
ii. Going forward, in the event that the CCTPMIS experiences network challenges the Call Centre Personnel use the Test CCTPMIS Environment (which is a replica of the live environment) to provide feedback to the clientele; and
iii. The recent elevation of the Programme to a Directorate will make it possible to have more personnel at all levels, including the Call Centre.

4287) **Committee Observations and Findings**

(i) The Committee observed that the call center is ineffective and not adequately resourced to address the matters it was intended to handle.

(ii) Beneficiaries using Airtel and Telkom Mobile phone services cannot access the toll free line.

4288) **Committee recommendations**

1) Within three (3) months of tabling and adoption of this report, the Accounting Officer to report to the National Assembly on measures taken ensure the call center is well resourced and effective.

2) Within three (3) months of tabling and adoption of this report, the Accounting Officer should finalize engagements with Telkom Kenya and Airtel to configure their systems to be part of the Toll-Free line for all callers.

42. STATE DEPARTMENT FOR MINING

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1192

Mr. Andrew K. Kamau, CBS, Principal Secretary and the Accounting Officer for the State Department of Mining (Vote 1192) appeared before the Committee on 12th May, 2021 to adduce evidence on the Audited Financial Statements for the State Department of Mining (Vote 1192) for the Financial Year 2018/2019. He was accompanied by the following officials:

1. Mr. Raymond Mutiso - Ag. Director of Mines
2. Mr. Charles Maina - Assistant Accountant General
3. Mr. Charles Maina - Principal Finance Officer
4. Mr. Jonathan Kiilu - Senior Supply Chain Management Officer

And submitted as follows:

1436. Unsupported Fixed Assets Additions and Misallocation of Expenditure

4289) The statement of receipts and payments reflects Kshs.247,054,005 being payments for acquisition of assets and which represents assets acquired during the year under review. However, the supporting schedules provided for audit indicated that the bulk of the payments reported under the acquisition of assets related to purchase of air tickets, payment of allowances and imprest surrenders. Further, it could not be confirmed that the State Department complied with Section 43 of Public Finance Management Act, 2012 which prohibits reallocation of funds appropriated for capital expenditure and Regulation 43 (b) of Public Finance Management (National Government) Regulations, 2015.

4290) Under the circumstances, the accuracy of the acquisition of assets expenditure of Kshs.247,054,005 and the fixed assets balance of Kshs.464,024,300 as at 30 June, 2019, reflected under Annex 3 -Summary of Fixed Assets Register, could not be confirmed.

Submission by the Accounting Officer

4291) During the FY 2018/19, the State Department incurred expenditure amounting to Kshs.247,054,005 in relation to acquisition of assets. The Kshs.247,054,005 comprised of Kshs.72,000,649 being additional acquisition cost of buildings and structures, Kshs.24,261,000 being additional acquisition cost on transport equipment, Kshs.316,900 being additional acquisition cost on office equipment, furniture and fittings and Kshs.150,475,456 being acquisition cost on other machinery and equipment.

4292) However, the above expenditure included Kshs.30,609,003 not related to acquisition of assets. The expenditure was incurred during acquisition, mobilization and commissioning of exploration machinery and equipment. The expenditure also includes expenses incurred by Geologists, Drillers, Mining Engineers and other technical staff during mineral exploration and acquisition of small field equipment.

4293) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer breached section 68 (2) (k) of the PFM Act 2012 by failing to provide supporting documents for audit verification;

(ii) The Committee also observed that the Authority to reallocate funds was not provided to support expenditure charge to the unrelated accounts.

4294) **Committee Recommendation**

1) **The Cabinet Secretary for the National Treasury & Planning should within three (3) months of tabling and adoption of this report, issue a written reprimand to the Accounting Officer for failure to comply with Section 43 of Public Finance Management Act, 2012 which prohibits reallocation of funds appropriated for capital expenditure to recurrent expenditure and Regulation 43 (b) of Public Finance Management (National Government) Regulations, 2015.**
2) **The Accounting Officer should ensure compliance with Section 43 of Public Finance Management Act, 2012 which prohibits reallocation of funds appropriated for capital expenditure to recurrent expenditure and Regulation 43 (b) of Public Finance Management (National Government) Regulations, 2015.**

Other Matter

1437. Pending Bills

4295) As disclosed under Notes 16.1 to the financial statements, the State Department had pending bills totalling Kshs.145,486,150 as at 30 June, 2019, that were not settled during the year 2018/2019 but were instead carried forward to 2019/2020. Failure to settle bills during the year in which they relate to adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

4296) The Accounting Officer submitted that the Ministry's net approved budget for FY 2018/19 amounted to Kshs.959,216,695 which was later reduced to Kshs.873,424,978 in the Supplementary Estimates No 2 in line with the austerity measures introduced by the National Treasury aimed at mitigating the effects of unrealized revenue. The reduction of the budget by Kshs.85,791,717 targeted travel costs, hospitality costs, communications costs, routine maintenance, general office expenses among other operating costs under Recurrent budget and purchase of geological and laboratory equipment under Development budget. These target areas constituted a bigger chunk of Kshs.118,055,019 pending bills carried over from FY 2017/18.

4297) The Ministry carried over pending bills amounting to Kshs.118,055,019 from FY 2017/18. The State Department for Mining paid Kshs.96,487,579 pending bills carried over from FY 2017/18 as guided by the National Treasury, vide the National Treasury Circular No. 4/2018 of 19th June, 2018 on Guidelines for the implementation of the Financial Year 2018/19 and Medium-Term Budget; to avoid litigation against accrual of interest on unpaid bills.

4298) He also added that the department used part of the Exchequer received in FY 2018/19 to settle pending bills carried from FY 2017/18. The budget cuts introduced under the FY 2018/19 supplementary budgets and late delivery of invoices by suppliers limited the State Department's capacity to meet all contractual obligations.

4299) **Committee Observations and Findings**

The Committee observed that the pending bills had been cleared by the Accounting Officer and provided documents for audit verification;

4300) **Committee Recommendation**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1438. Stalled Head Office Refurbishment Project

4301) The statement of receipts and payments reflects expenditure totalling Kshs.593,673,831 for use of goods and services which as disclosed under Note 6 to the financial statements, includes Kshs.45,662,359 on routine maintenance of other assets. The latter amount includes a sum of Kshs.13,875,378 paid to contractors and sub-contractors undertaking refurbishment works at the Ministry's Head Office - Madini House.

4302) The twenty-four (24) months period refurbishment works contract was signed in July, 2017 at a contract sum of Kshs.46,100,888. However, as at the time of concluding the audit in December, 2019, five (5) months after the original completion date, the works were yet to be completed and appeared to have stalled since the contractor was not on site. At the time the works stalled, a total of Kshs.20,997,055 had already been paid to the contractor.

4303) In view of the foregoing, value for money on Kshs.20,997,055 paid to the contractor could not be confirmed. Further, Management has not indicated when the stalled works will be completed.

Submission by the Accounting Officer

4304) The Accounting Officer submitted that the State Department for Mining had entered into a contract with Aventure Limited in July 2017 to carry out proposed refurbishment works at Madini House at a contract price of Ksh.46,100,888 following an open tender process. The current physical status is that building works are almost complete at 85% while mechanical and electrical works stands at 66% complete. Currently the works are incomplete and have stalled since the contractors are not on site. This has been due to delayed payment of certificates occasioned budgetary constraints brought about by austerity measures by the National Treasury leading to budget cuts. The amount of certificate paid up to date is Ksh.21,147,055.

4305) **Committee Observations and Findings**

The Committee observed and found that:

(i) The committee observed the works had stalled due to nonpayment of certified work due to budgetary constraints.

(ii) The Committee observed that the explanation given by the Accounting Officer with regard to value for money Kshs.20,997,055 paid to the contractor for refurbishment of Madini House was satisfactory; and

(iii)The Committee therefore marked the matter as resolved.

4306) **Committee Recommendation**

1) **The Accounting Officer should ensure the pending payments are prioritized for settlement to ensure the contractor returns to site and completes the outstanding work within 2021/22 financial year.**
2) **The Accounting Officer should not commence new projects without completing existing ones.**

1439. Irregular Award of Tender for Consultancy Services

4307) The State Department tendered for provision of consulting services to develop a gender mainstreaming strategy during the year under review. The tender attracted four (4) respondents who were evaluated and ranked in the order of marks awarded. However, a flawed formula used to determine the financial scores resulted in award of the contract to the higher of the two responsive bidders thus occasioning a loss of Kshs.1,786,400.

Submission by the Accounting Officer

4308) The Accounting Officer submitted that the tender was floated and six (6) consultants responded. The State Department for Mining had the tenders opened by Tender opening committee on 18th October 2017. An Ad hoc Evaluation Committee was appointed to undertake the evaluation both the technical and financial bids and two bidders passed the technical evaluation thereby proceeding to financial evaluation.

4309) A combined technical and financial score, the evaluation committee used a set formula to determine the best quality bid, the formula used was (FM x F/20) whereby FM – fee quoted by the bidder, F – estimated cost by the State Department. The State Department has taken up measures to ensure total compliance to public Procurement and Asset Disposal Act 2015 and the subsequent Regulations 2020.

4310) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to award of Tender for Consultancy Services was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1440. Unestablished Audit Committee

4311) The State Department did not have an Audit Committee in place as at the time of audit in December, 2019. Although an advertisement was placed in local newspapers in December, 2018, where qualified Kenyan citizens were invited to submit applications to serve in the State Department's Audit Committee, evidence of the progress of the selection process was not provided.

4312) Consequently, monitoring and review of the effectiveness of the internal audit process, review of internal controls, risk management systems and financial statements among other functions of the Audit Committee were not executed thus hindering good corporate governance at the State Department.

Submission by the Accounting Officer

4313) The Accounting Officer submitted that the State Department for Mining is yet to establish an audit committee. During the financial year 2018/19 the State Department had made strides on establishing an Audit Committee and placed the advertisement in the dailies on 10th December 2018 for the Audit Committee chairman and members. The Principal Secretary for Mining had made a request to the Principal Secretary for Petroleum on 14th October, 2019 to appoint two officers to the shortlisting panel.

4314) The Principal Secretary Petroleum on his response on 23rd October, 2019 appointed two officers to undertake the assignment. The shortlisting didn't take place due to various Government administration changes within the State Department in January 2020. The earlier advertisement was then disregarded (December 2018) and a fresh advert was put in the dailies on March 17th March 2020.

4315) The applications from qualified applicants were received and the Director Human Resource in the State Department of Mining had completed shortlisting process; however, interviews are yet to be conducted due to Covid 19 interruptions. He assured the Committee that the process of recruitment will be fast-tracked and looking forward to resolving the matter within the financial year 2020/21.

4316) **Committee Observations and Findings**
The Committee observed that the explanation given by the Accounting Officer with regard to the progress made in the establishment of the Audit Committee was satisfactory;

4317) **Committee Recommendation**
The Accounting Officer should take measures to expedite establishment of an audit committee to ensure the functions of audit committee as contemplated under Regulation 175 Public Finance Management (National Government) Regulations, 2015 of are fully executed.

REVENUE STATEMENTS - STATE DEPARTMENT FOR MINING

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

1441. Unsupported Transfers to the Exchequer Account

4318) The statement of receipts and transfers reflects non-tax receipts totaling Ksh.1,579,065,345 and an amount of Kshs.159,235,100 brought forward from the prior year. The statement, further, shows that a sum of Kshs.1,716,622,717 was transferred to the Exchequer Account during the year. However, Kshs.458,258,892 of the transferred amount was not captured in the Integrated Financial Management Information System (IFMIS) ledger managed by The National Treasury. In their response, Management indicated that they did not have control over entries in the ledger and therefore could not explain the system's failure to capture the transfers.

4319) In the circumstances, the accuracy and validity of the reported transfers to the Exchequer Account balance of Kshs.1,716,622,717 could not be confirmed.

Submission by the Receiver of Revenue

4320) The Receiver of Revenue submitted that in the financial year 2018/ 2019, The National Treasury Revenue estimates, State Department for Mining had the following Revenue items (Centres): Cement Levy, Mineral Royalties, Base Titanium, Magadi Soda and Export fees.

4321) However, when capturing revenue receipts in the same year, only Cement Levy and Mineral Royalties were mapped in State Department of Mining IFMIS Vote. Magadi Soda, Base Titanium and Export fee were never mapped to IFMIS during the budget loading. Revenue received from (3) three companies of these could not be accepted by the system, this resulted into manual ledger preparation for purposes of preparing the Revenue Account for that year. This issue was addressed to Director of IFMIS National Treasury and has now been resolved.

4322) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Receiver of Revenue with regard to the unsupported transfers to the Exchequer Account was satisfactory; and

(ii) The committee also noted during the year under review, the revenue was not captured in full in IFMIS.

4323) **Committee Recommendation**

The Receiver of Revenue should also ensure all revenue streams budgeted for are mapped into IFMIS at the beginning of financial year.

1442. Revenue Arrears

1442.1 Long Outstanding and Unreported 2018/19 Cement Levy from East African Portland Cement Company (EAPCC)

4324) The statement of arrears of revenue as at 30 June, 2019 reflects cement levy arrears totalling Kshs.1,016,146,970 owed by various companies. Included in the balance, is Kshs.280,329,449 owed by EAPCC accrued in the period 2014/2015 to 2017/2018. Further, the Company did not file a self-declaration assessment and was, therefore, not assessed for cement levy due in the year under review. As a result, no arrears have been reported against the Company in the financial year under review.

4325) No plausible explanation was provided by Management as to why levies chargeable to the Company in the year under review were not assessed and included in the financial statements, and why the long outstanding arrears totalling Kshs.280,329,449 were not collected.

Submission by the Receiver of Revenue

4326) The Receiver of Revenue submitted that the East African Portland Cement Company Limited had not been assessed for cement levy due for the year under review. This had been caused by the Company being unresponsive to demand letters and unwillingness to meet the State Department officers seeking to audit their books of accounts. The State Department is looking for legal options of recovering the arrears which by law are civil debt, and has written to the Attorney General for a legal opinion on the options for recovering the arrears.

4327) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Receiver of Revenue with regard to the long outstanding and unreported cement levy from East African Portland Cement Company was not satisfactory;

(ii) The Committee also observed that the Receiver of Revenue did not provide any measures put in place to ensure the outstanding levies are cleared; and

(iii) The Committee therefore marked the matter as resolved.

4328) **Committee Recommendation**

The Receiver of Revenue should within three months provide information to Parliament on measures taken to recover the outstanding arrears including instituting legal measures to recover any outstanding amounts.

1442.2 Long outstanding Cement Levy from Savanna Cement Company

4329) Similarly, out of the aggregate outstanding cement levy sum of Kshs.1,016,146,970, Kshs.285,625,707 was owed by Savanna Cement Company from the financial year 2016/2017. Although an agreement signed in August, 2017 between the State Department and the Company provided for a payment plan that required the Company to clear the arrears in twenty-four (24) monthly installments starting September, 2017, the Company has since contended that it has no mineral rights granted by the Ministry and is therefore, not liable to pay. Evidence of the State Department's effort to enforce the payment plan or seek the opinion of the Attorney-General on the matter was not provided.

Submission by the Receiver of Revenue

4330) The Receiver of Revenue submitted that the State Department had entered into payment agreement with Savanna Cement Kenya Limited in August 2017 where it was agreed that the Company clears the outstanding cement levy arrears in 24 monthly instalments starting September 2017. However, the Company did not honor the payment plan and remains in arrears to date. The company has no mineral rights (licences) granted by the State Department and the provisions in the Mining Act, 2016 under section 147(1)(a) on recovery of unpaid fees and charges through suspension or revocation of a licence do not apply.

4331) The State Department sought an advisory from the Attorney General on the matter, and more so whether the State Department can opt for civil proceedings in recovery of the minerals levy owed, as provided for under Section 182(5) of the Mining Act.

4332) However, as Attorney General response was being awaited, Savannah Cement Kenya Limited went to court, vide Nairobi HCPT No. 224 of 2020 challenging the legal Notice No 222 of 2013 and demand letters by the State Department on payment of cement minerals levy since the Company does not have mineral rights (licence) as it imports the clinker it uses for cement manufacture. The matter is still pending in Court.

4333) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Receiver of Revenue with regard to the long outstanding and unreported cement levy from Savanna Cement Company was not satisfactory;

(ii) The Committee also observed that the Receiver of Revenue did not provide any measures put in place to ensure the outstanding levies are cleared; and

(iii) The matter therefore remained unresolved.

4334) **Committee Recommendation–**

The Receiver of Revenue should within three months provide information to Parliament on measures taken to recover the outstanding arrears including instituting legal measures to recover any outstanding amounts.

1442.3 Long Outstanding Dues from Magadi Soda Company and Carbacid (CO2) Limited

4335) Out of the total reported arrears of revenue of Kshs.1,548,139,469 is Kshs.438,671,977 due from Magadi Soda Company which has accrued since the financial year 2015/2016. Although the State Department held meetings with the Company with a view to recovering the arrears, no significant progress was made.

4336) The reported arrears also include a sum of Kshs.30,464,301 due from Carbacid (CO2) Limited. The arrears relate to the financial years 2017/2018 and 2018/2019. However, review of correspondences revealed that the Company Management had expressed their reservations to pay the royalties before a consensus on payment rates was reached.

Submission by the Receiver of Revenue

4337) The Accounting Officer submitted as follows:

(i) **Outstanding Dues from Tata Chemicals Magadi Soda Limited**

4338) Tata Chemicals Magadi operates under a land lease, issued in 1924 under the then Lands Act, by the then Commissioner of Lands. The land Lease authorized the Company to undertake mining operations. Initially the company was paying royalties for its products to the Commissioner of Lands. However, the Company was later directed to pay royalties to the Commissioner of Mines, under the then Mining Act Cap 306.

4339) Further, authorization of exports is through the State Department, hence the mandate to enforce payment of royalties. Under Legal Notice 221 of 2013, the royalties for Magadi Soda products were set at 2% of gross sales for the period from 1st July, 2013 to 30th June 2015; at 3% from 1st July, 2015 to 30th June 2017; at 4% from 1st July, 2017 to 30th June 2019; and at 5% of gross sales value from 1st July 2019 and thereafter.

4340) The company has however claimed that a royalty rate above 3% is economically unviable and will cripple its operations. The company has since 2017 requested for review of the royalty rates applicable to its products to a flat rate of 3%. The State Department is currently reviewing all mineral royalty rates so as to conform to the provisions of the Mining Act, 2016 and the Constitutional requirement of public participation in law making. Until the royalty rates are reviewed, the applicable royalty rates are those gazetted vide legal Notice No 221 of 2013.

(ii) **Outstanding Dues from Cabarcid (CO2) Limited**

4341) Just like Magadi Soda Company, Carbacid (CO2) Limited has an issue with royalty rate applicable to its Carbon Dioxide gas extraction. The company was advised on 9th September, 2019 that royalties are payable as prescribed in the legal notice and any arrears are civil debt and that when royalty rates are reviewed, they take effect from the date of publication going forward.

4342) The company did not respond to the advice but instead wrote to the Cabinet Secretary justifying reduction of royalty rate to 1%. The review of royalty rates is now being fast tracked. However, until the royalty rates are reviewed, the current rates are still applicable, and the company has been advised accordingly.

4343) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the outstanding dues from Magadi Soda Company and Carbacid (CO2) limited was not satisfactory;

(ii) The Committee also observed that the Accounting Officer did not provide any measures put in place to ensure the outstanding levies are cleared; and

(iii) The matter therefore remained unresolved.

4344) **Committee Recommendation**

The Receiver of Revenue should within three months provide information to Parliament on measures taken to recover the outstanding arrears including instituting legal measures to recover any outstanding amounts.

1442.4 Unrecovered Mining Royalties

4345) The statement of arrears of revenue reflects outstanding mining royalties totalling Kshs.56,423,141. Included in this balance, is the sum of Kshs.11,518,589 accruing from Africa Diatomite Industries Limited. Although the Company had earlier committed to offset the arrears, payments for the royalties had not been received and evidence of measures taken by the State Department to recover the amount owed were not provided for audit.

4346) In the circumstance, the accuracy, completeness and recoverability of the aggregate arrears of revenue balance of Kshs.1,548,139,469 reflected in the statement of arrears of revenue could not be confirmed.

Submission by the Receiver of Revenue

4347) The Receiver of Revenue submitted that the African Diatomite Industries has defaulted in payment of royalties and by June 2020 had accumulated royalty arrears to Kshs.14,736,833.43. The State Department had sent several demand letters to company to pay up the royalty arrears. In a letter dated 17th April 2020, the Company complained of volatile business environment due to Covid-19 Pandemic and committed to be reducing royalty liability by paying Kshs.200,000 every month to remain compliant going forward.

4348) However, the company did not honor this promise, instead on 15th June 2020, requested for the State Department's tolerance in delay in the payment plan as the Covid 19 Pandemic had crippled business operations and revenues.

4349) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Receiver of Revenue with regard to the outstanding dues Africa Diatomite Industries Limited was not satisfactory;

(ii) The Committee also observed that the Receiver of Revenue did not provide any measures put in place to ensure the outstanding levies are cleared; and

(iii) The matter therefore remained unresolved.

4350) **Committee Recommendation**

The Receiver of Revenue should within three months provide information to Parliament on measures taken to recover the outstanding arrears including instituting legal measures to recover any outstanding amounts.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1443. Mineral Exporters Without Permits

4351) The statement of receipts and transfers reflects Kshs.7,203,125 and Kshs.74,422,975 being receipts from mineral export levy and mining royalties respectively. The receipts are comprised of levies on sales of minerals and permits for mineral exports. Regulation 18 of the Mining Act (Dealings in Minerals) Regulations, 2017 provides that a person shall not export a mineral unless the person holds a permit granted by the Cabinet Secretary for that purpose while Regulation 19 provides that a person shall not be qualified to apply for a permit to export minerals unless such a person is a holder of a mining license, mining permit or a dealer's permit.

4352) However, mineral export records at the Kenya Revenue Authority (KRA) for the year under review, revealed exports of minerals by persons and companies who, according to the State Department's data, were not holders of valid export, mining or dealers' permits as listed below:

Mineral Export	No. of Unlicensed Exporters
Gold	3
Gemstones	5
Salt	7
Soapstone	29

4353) In the circumstances, it was not possible to confirm how the exporters were allowed to trade in the minerals without permits or how the permits, if any, may have been issued without payment of mineral export levies.

Submission by the Receiver of Revenue

4354) The Accounting Officer submitted that the exports of gold and gemstones have always required an export permit under the repealed Mining Act, Cap 306 of 1940 and the current Mining Act, 2016. The Kenya Revenue Authority had also made export permit a requirement for soapstone and other minerals not specified in the Mining Act.

4355) However, for salt the requirement for an export permit was introduced by the Mining Act, 2016, and it is possible that Kenya Revenue Authority, which is responsible for border control, could have overlooked this requirement. A letter had since been written bringing to the attention of salt exporters and KRA on the requirement of complying with the Mining Act, 2016, when exporting salt.

4356) Further a request had been made to the Kenya Revenue Authority to avail information on all mineral exports through Kenya's ports of exit. Comparison of exports in KRA with our records will enable unravel the unauthorized exports and inform subsequent legal actions to be taken.

4357) In addition, the State Department is working with the Kenya Trade Network Agency (KENTRADE) to ensure that that all mineral exports are processed through the Kenya TradeNet System /Single Window System. The system which is linked to the KRA Simba System, will improve governance, accountability and transparency in mineral trade and curtail any illegal mineral exports.

4358) **Committee Observations and Findings**

(i) The Committee observed that the Receiver of Revenue had made efforts to ensure all mineral exporters had been registered and acquired export permits;

(ii) The Committee also observed that despite several correspondences from the Receiver of Revenue, no single company had made any response;
(iii) The Committee further observed that although contact has been made with KRA no evidence of measures being taken to ensure all exporters are licenced as required in the Mining Act 2016; and
(iv) The matter therefore remained unresolved.

Further submission by the Kenya Revenue Authority – KRA
Mr. James Githii Mburu, the Commissioner General Accounting Officer for the Kenya Revenue Authority – KRA appeared before the Committee on 9th June, 2021 and submitted as follows:

On whether KRA collects Mining levies from Mineral Dealers

- Issuance of export permits was a prerogative of the Cabinet Secretary Ministry of Mining and Petroleum
- The authority only confirms from the Ministry that the permits are valid before allowing any mineral to be exported.

1444. Un-Procedural Export of Mineral Samples
4359) During the year under review, the State Department granted licenses to several companies to export soils and crushed rocks as mineral samples with no commercial value and which, therefore, would not attract royalty payments. However, one company that exported ore residue samples of unknown quantity to Tanzania failed to submit results of tests and analyses of the exported samples to the State Department as required under Regulation 26 (5) of the Mining Act (Dealings in Minerals) Regulations, 2017. Further, export permits for the samples were not made available.

4360) In view of the foregoing, it was not possible to confirm the chemical composition of the exported samples and the quantities and values thereof.

Submission by the Receiver of Revenue
4361) The Receiver of Revenue submitted that the State Department has confirmed that it did not grant an export permit for this particular consignment. Action has been taken to verify the said export permit samples by requesting information on mineral exports from the Kenya Revenue Authority during the year in review and have also written to the exporter demanding that they produce documents used to authorize the mentioned export.

4362) **Committee Observations and Findings**
(i) The Committee observed that the Receiver of Revenue indeed confirmed exports were done without an export permit;

(ii) The Committee also observed that the Receiver of Revenue had made to verify the permits presented for the said export permit samples by requesting information on mineral exports from the Kenya Revenue Authority;
(iii) The Committee further observed that the Receiver of Revenue had also written to the exporter demanding that she produces documents used to authorize the mentioned export; and
(iv) The matter therefore remained unresolved.

1445. Uncollected Revenue

1445.1 Un-Assessed Royalties Due from Salt Mining Companies

4363) The First Schedule of the Mining Act, 2016 specifies salt as a mineral under the administration of the Act. However, during the year under review, there were at least seven (7) salt mining companies operating in Kenya without mining licenses and for which assessment for royalties due was not done. The companies extracted the salt in the coastal region and sold their products locally and abroad without export permits for the salt exports. Although Management indicated that the State Department had engaged the salt mining operators with a view to formalizing their operations as provided for in the Mining Act, 2016, delay in formalizing the operations hindered the State Department from collecting revenue from the companies.

Submission by the Receiver of Revenue

4364) The Receiver of Revenue submitted that the Salt manufacturing companies are required to formalize their operations in accordance with the Mining Act, 2016. As the formalization engagements are ongoing, the companies have been informed of the requirement to pay royalties on salt sold.

4365) Further vide a Gazette Notice No 2756 of 26th March 2021, the Cabinet Secretary for Petroleum and Mining appointed a Taskforce for the development of a regulatory framework for the integration of salt works into the mining legislative framework.

4366) **Committee Observations and Findings**

(i) The Committee observed that the Salt Companies had not formalized their operations in line with the provisions of the Mining Act, 2016;
(ii) The Committee also observed that the Cabinet Secretary had appointed a Taskforce vide Gazette Notice No 2756 of 26th March 2021 to develop a regulatory framework for the integration of salt works into the mining legislative framework as a way of resolving the matter. The Taskforce has not yet submitted a report; and
(iii) The matter remained unresolved.

4367) **Committee Recommendation**

The Accounting Officer should ensure that the Taskforce completes its work within six months upon adoption of this report and ensure full implementation of its recommendations in collaboration with all stakeholders, including the salt companies.

1445.2 Inconclusive Negotiations on Review of Titanium Royalties Regime

4368) In February 2014, the Government entered into a deed agreement with Base Titanium Company Limited to negotiate and review upwards royalty rates prescribed in the Special Mining Lease. Negotiations commenced soon thereafter and a number of proposals were advanced by both parties with Base Titanium eventually making its final proposal ("Bridge Proposal") that agreed to the royalty rate increase from 2.5% to 5%, effective 2014.

4369) According to documents available at the State Department, including minutes of meetings between the two parties, an agreement was reached in November, 2018 to increase the royalty rate from 2.5% to 5% effective 1 July, 2018 for the remainder of the special mining lease which was to be formalized by a deed variation. However, at the time of concluding the audit in January, 2020, the deed of variation had not been finalized. Management have indicated that they are still seeking input on the deed from relevant government offices. Had the deed variation been finalized on time, the State Department would have collected additional revenue totalling Kshs.519,564,262.

4370) In view of the foregoing, it could not be confirmed that the Management complied with the provisions on responsibility for revenue management as provided under Regulation 64 of Public Finance Management (National Government) Regulations, 2015, which include application of adequate safeguards for prompt revenue collection and adequate measures including legal action where appropriate, to obtain payment.

Submission by the Receiver of Revenue

4371) The Receiver of Revenue submitted that it was true that in January 2020, the deed of variation was yet to be concluded. The non-conclusion of the negotiations has been because there arose a dispute over a VAT refund claim of Kshs.1,764,485,715 in relation to construction phase of the Kwale project for the period December 2011 and December 2013. The claim had been disallowed by KRA.

4372) Over the years the company held that the VAT claim was payable and consequently wished to have it off-set against the royalty .uplift for the period February 2014 to June 2018. Through government multi–agency consultations, it was resolved in July 2020 that a royalty uplift rate of 5% applies effective from February 2014 to February 2019 and be revised upwards to 10% effective from March 2019 to March 2024.

4373) He added that the implementation of the resolution was tasked to the State Department for Mining with guidance from the office of the Attorney General. Base Titanium rejected the position by Governments and in December 2020 gave a Notice of Dispute, and intention to commence International Arbitration Proceedings in London against the Government.

4374) The Government, through the National Treasury, requested for suspension of the arbitration proceedings to pave the way for negotiations, where a window of 60 days (from 25th February 2021 to 26th April 2021) was allowed for the negotiations.

4375) Negotiations by the Government's Multi-agency technical team with that from Base Titanium failed to agree. On 23rd April 2021, the Cabinet Secretary, the National Treasury requested company's management for concurrence to suspend the arbitration proceedings for an additional 30 days to enable negotiations. Base Titanium has agreed to further pause and suspend the arbitration proceedings for a period of 30 days to 26th May 2021. The parties are scheduled to meet on Thursday 13th May 2021.

4376) As a result, the royalty uplift is yet to be effected as the company has tied the royalty uplift to its VAT refund claim which is now subject of International Arbitration proceedings in London.

4377) **Committee Observations and Findings**

The committee observed that the matter had been exhaustively discussed and recommendations made in its report of 2017/2018 and made the following recommendations;

1) **Within three (3) months upon tabling and adoption of this Report, the Receiver of Revenue should ensure that the multi-agency team involving the National Treasury, the State Law Office and Department of Justice, Kenya Revenue Authority, the State Department for Mining and Base Titanium sign the Deed Variation Agreement (DVA) and submit a copy to the National Assembly.**
2) **Within three (3) months upon tabling and adoption of this Report, the Receiver of Revenue must ensure that the final settlement on the final ("Bridge Proposal") as made by Base Titanium to have the royalty rate increased from 2.5% to 5% and backdated to 2014, is reached and copies sent to the National Assembly**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4378) **Conclusion**

1446. There were no material issues relating to effectiveness of internal controls, risk management and governance.

43. STATE DEPARTMENT FOR PETROLEUM

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1193

Mr. Andrew Kamau, CBS, the Principal Secretary and Accounting Officer for the State Department of Petroleum (Vote 1193) appeared before the Committee on 26th August 2021 to adduce evidence on the Audited Financial Statements for the State Department of Petroleum (Vote 1193) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. Charles Liyayi – Deputy Accountant General
2. Mr. Matthew K. Musyoka – Head of Finance.

And submitted as follows:

4379) **Unqualified Opinion**

1447. There were no material issues noted during the audit of the financial statements of the State Department.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4380) **Conclusion**

1448. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1449. Lack of Risk Management Policy

4381) Assessment of the internal control system in place at the State Department revealed that Management had not established a risk management policy to identify, mitigate and control operational and other risks that the Department may face from time to time. In addition, the Department had not carried out any risk assessments to identify and address key areas of concern and document specific controls in response to risks noted.

Submission by the Accounting Officer

4382) The Accounting Officer submitted as follows:

i) Management noted and acknowledged the need for developing and implementing risk management frameworks and strategies as per the treasury circular No3/2009 of 23 February 2009.

ii) In view of the aforesaid the management has developed a risk management policy document that will help in safeguarding public funds and other assets under our custody.

4383) **Committee Observations and Findings**

(i) **The Department delayed in developing the Risk Management Policy as a tool to help identify, mitigate and control operational and other risks.**

(ii) **The Risk Management Policy Document was developed and subsequently rolled out for implementation in line with the National Treasury circular No3/2009 of 23 February 2009.**

(iii) **The Committee therefore marked the matter as resolved**.

1450. Lack of an Audit Committee

4384) Section 174(1) of the Public Finance Management (National Government) Regulations, 2015, requires every National Government entity to establish an Audit Committee. However, during the year under review, the State Department did not have an Audit Committee in place. Consequently, the oversight purposes and functions expected to be fulfilled by the Committee were not realized.

Submission by the Accounting Officer

4385) The Accounting Officer submitted as follows:

i) The Ministry now has an audit committee in place after the positions for Audit Committee members were advertised via MyGov and Nation newspapers on 17th March 2020 MOM/CR/2/27

ii) The shortlisting exercise took place on 19th May 2021 and the interviews conducted between Wednesday 2nd June 2021 to Friday 4th June 2021 at works building 3rd floor.

4386) **Committee Observations and Findings**

(i) **Minutes of interviews and appointment letters for the Audit Committee were provided for perusal by the Committee. However, there was no indication on whether the committee has been inaugurated and commenced work.**

(ii) **The Committee therefore marked the matter as resolved**.

4387) **Committee Recommendation**

The Accounting Officer must ensure that the Audit Committee is inaugurated and functional pursuant to Section 174(1) of the Public Finance Management (National Government) Regulations, 2015.

<u>**PARAGRAPH 1451 TO 1463 RELATES TO PETROLEUM DEVELOPMENT LEVY FUND TO BE EXAMINED BY SPECIAL FUND COMMITTEE**</u>

44. STATE DEPARTMENT FOR TOURISM

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1202

Hon. Safina Kwekwe Tsungu, the Accounting Officer for the State Department of Tourism (Vote 1202) appeared before the Committee on 28th June 2021 to adduce evidence on the Audited Financial Statements for the State Department of Tourism (Vote 1202) for the Financial Year 2018/2019. She was accompanied by the following officers:

1. Mr. Peter Chemwile - Senior Chief Finance Officer
2. Mr. Richard Mwangi - Deputy Accountant General
3. Mr. Joseph M. Gikonyo - Principal Finance Officer
4. Ms. Aloyce D. Obama - Principal Accountant

And submitted as follows:

Basis of Qualified Opinion

1464. Presentation of Financial Statements

4388) Failure to disclose the fact that the financial statements were prepared and presented by the State Department for a period of less than a year that is nine (9) months contrary to the provisions of paragraph 66 of the International Public Sector Accounting Standards 1 which requires that when annual financial statements are presented for a period longer or shorter than one year, an entity shall disclose the period, the reason for using a longer or shorter period and the fact that comparative amounts for certain statements such as the statement of financial performance, statement of changes in net assets/equity, cash flow statement and related notes are not entirely comparable.

Submission by the Accounting Officer

4389) The Accounting Officer submitted that the State Department for Tourism was created vide Executive Order No. 1 of 2018 (Revised) on reorganization of the Government and started operations in October 2018 meaning it could only report on nine (9) months period during the year under review.

4390) The State Department for Tourism could not provide comparative figures for mid-year because State Department for Tourism vote 1202 and Ministry of Tourism Vote 1204 are two different departments/entities as configured in IFMIS.

1) The Financial Statement for the period July – September 2018 for the Ministry of Tourism and Wildlife vote 1204 were prepared and submitted to Auditor General by the State Department for Wildlife.

4391) **Committee Observations and Findings**

(i) The State Department failed to disclose the fact that financial statements prepared and presented were for a period of less than a year that is nine (9) months.
(ii) The Committee observed that the explanation given by the Accounting Officer with regards to Presentation of Financial Statements was satisfactory.

4392) **Committee Recommendations**
The Accounting Officer must at all times ensure there is complete compliance to the IPSAS standards of reporting issued from time to time by the Public Sector Accounting Standards Board.

1465. Inaccurate Cash and Cash Equivalents

4393) The statement of assets and liabilities and note 10A to the financial statement reflects a total of Kshs.158,460,405 under cash and cash equivalents which differs with the balances reflected in the supporting Trial balance a tabulated below:

Bank Account No.	Balance as Per Trial Balance Kshs.	Balance as Per Financial Statement Kshs.	Difference Kshs.
1000395548-Recurrent Account	-	14,622,503.00	(14,622,503.00)
1000395637-Development Account	-	2,276,844.70	(2,276,844.70)
1000395699 -Deposit Account	-	141,561,057.90	(141,561,057.90)
Cash in hand	190,625,246.00	-	190,625,246.00
Cash in transit	1,693,419,765.90	-	1,693,419,765.90

4394) In view of the above unreconciled differences, it has not been possible to confirm the accuracy and completeness of the reported cash and cash equivalents balance of Kshs.158,460,405 as at 30 June 2019.

Submission by the Accounting Officer

4395) The Accounting Officer submitted that it was true that the statement of assets and liabilities reflected Ksh.158,460,405 under cash and cash equivalent. This amount differed by amounts reflected in the trial balance. The difference was due to challenges in the IFMIS system.

(a) Missing bank statements
(b) Duplicated statements

4396) The challenges were reported to the National Treasury and they were corrected. The amounts of Ksh.158,460,405 reflected in the statement of assets and liabilities as at 30th June 2019 has been reconciled with financial statements and trial balance as indicated in the table below.

Table

	Account	2018/2019	2018/2019
		Financial Statement balance	**Trial balance**
1000395548	Recurrent	14,622,503.00	14,622,503.00
1000395637	Development	2,276,844.70	2,276,844.70
1000395699	Deposit	141,561,057.90	141,561,057.90
	TOTAL	**158,460,405.00**	**158,460,405.00**

4397) **Committee Observations and Findings**

(i) The Committee observed that State Department for Tourism has provided adjusted Trial balance which reflect balances of Kshs.158,460,405 under cash and cash equivalents;

(ii) The Committee further observed that the balances were reconciled with the statement of assets and liabilities and note 10A to the financial statement; and

(iii)The Committee therefore marked the matter as resolved.

1466. Expenditure on Payment of a Pending Bill and Non-Disclosure

4398) Expenditure on payment of a bill whose initial payable was Kshs.12 million to a media firm for rendering advertising services. Lack of diligence on the side of the then Ministry officials in allowing the Media firm to continue offering services without a valid contract after the contract period had expired in June 2004.

4399) As at 17 June 2010 the bill had accumulated to Kshs.52,606,872 being outstanding amount plus 3% interest since 2004. Negligence of not adhering to the professional advice by the Attorney General in August 2011 to pay the contractual amount and negotiate the interest payable even though there was no formal contact for phase II.

4400) The Firm went to court for nonpayment and by the judgement dated 24 July 2012 the firm was awarded Kshs. 110,061,691 which included the initial amount of Kshs.12 million and 26% interest since April 2004. Part Payment of Kshs.65 million was made in July 2013. As at December 2016, the outstanding bill had accumulated to Kshs.210 million.

4401) As previously reported the ministry had made a payment of kshs.150million during the year 2016/2017 financial year. In 2017/2018 financial year a further payment of Kshs.70 million was made despite the fact the Ministry then had paid Kshs.220 million against the Kshs.210 million accumulated as at December 2016, the Ministry had since received an estimation statement from the Attorney General instructing the Ministry to pay further amount of Kshs.62 million arising from the accrued interest. The same has not been disclosed in the financial statements. Had the attorney general advice been followed, this could have saved the government the accumulated interest of Kshs.198 million.

Submission by the Accounting Officer

4402) On 8th June 2020, the Parliamentary Accounts Committee directed the State Department to settle this pending bill owed to Tele News Africa and Atlantic Region without further delay. However, because the budget cycle for the preparation of the FY 2020/21 budget was at the tail end, the State Department had to wait for the FY 2020/21 Supplementary Estimate 1.

4403) The following are the specific measures the State Department for Tourism has put in place on settlement of the pending bill:

(a) On July,2020, Tele News Africa and Atlantic Region through their lawyer; Maosa and Company, Vide letter TM/SSK/16/1 dated 7th July 2020, stated that the outstanding due to them was Kshs. 74,000,000 .The amount was to be settled in July 2020; first quarter of the FY 2020/21. The State Department on 16th July responded to the client informing him that it had engaged the National Treasury on modalities of expediting the payment. However, the funds were not availed to the State Department and hence the claim could not be settled.

(b) Vide letter MOT/3/11/VOL.11/ (16) dated 17th November, 2020, the State Department requested the National Treasury to approve reallocation from within (particularly from SAGAs) to provide for this pending bill. The request, however, was not approved and the State Department was requested to rationalize its budget (this is referenced in the National Treasury Letter Ref 1202/20/01'A' (33).

(c) During the submission of the Financial year 2020/21 Supplementary Estimate No. 1 in a letter dated 30th November, 2020, the State Department requested for rationalization of SAGAs budget to cater for Kshs.82M to pay the Tele News. In lieu of authority for this rationalization to cater for this pending bill, the State Department requested the National Treasury to consider providing an additional funding of Kshs. 82M.

(d) On 15th December 2020, the State Department further requested the National Treasury for additional funding for legal fees of Kshs. 82M.

(e) On the 4th January, 2021 the National Treasury informed the State Department that it was unable to grant the requested additional funding therefore advising the State Department to rationalize its budget from within to provide for the said expenditure. The rationalization of SAGAs budget was however, not approved. The State Department analysed its FY 2020/21 budget and it was unable to provide for this amount without jeopardizing the basic operations.

(f) As at February, 2021, the amount which includes accrued interest stood at Ksh. 85,735,950. The negotiation culminated on an agreement such that freezing of interest due from February 2021 and the balance of Kshs. 85,735,950 would be settled as the final payment. This would be contingent on the outstanding balance should be settled within the FY 2020/21.

(g) With no allocation in the FY 2020/21 Supplementary Estimate I, the State Department in a letter dated 26th April, 2021, requested the National Treasury for rationalization of SAGAs budget in the Supplementary Estimate II to provide for payment of the pending bill.

(h) The approval on rationalization of SAGAs budget was granted on 30th April 2021 and the State Department on letter dated 7th May, 2021 rationalized the budget in Supplementary Estimate II.

(i) To date, the State Department is waiting for the approval of FY 2020/21 Supplementary Estimate II by the National Assembly. With the approval, the State Department will be in position clear the pending bill.

4404) **Committee Observations and Findings**

(i) The Committee observed that payment, so far, made to the media firm against a contract whose initial contract sum was Kshs.12 million for rendering advertising services without a valid contract after the initial contract period had expired in June 2004 amounts to Kshs.285million;

(ii) In addition, the Committee observed that had the Attorney-General's advice of August 2011 been followed, this could have saved the government the accumulated interest and charges of Kshs.358 million. (Kshs.370 less initial bill of Kshs.12 million);

(iii)The Committee observed that all outstanding payments were eventually made to the media firm.

(iv)The Committee therefore marked the matter as resolved.

4405) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills exist, they should form the first charge in the budget of the subsequent year.

Other Matters

1467. Unresolved Prior Year Matters

4406) The following matters reported in the prior year remained unresolved as at 30 June, 2019.

1467.1 Unrelated Expenditures on Various Items and Unrealistic Budget

4407) As previously reported, the Ministry's mandate entails spending mainly on items aimed at development of tourism policy and standards, development, promotion, and marketing of tourism, tourism research and monitoring, protection of tourism and regulations, tourism financing, tourism training, tourism recovery and supervision. However, Kshs.63,731,876 was spent on various heads/items which were not related to tourism recovery.

Submission by the Accounting Officer

4408) The State Department Tourism appeared before Public Accounts Committee on 10th March 2020 and responded on this matter. The committee was satisfied with the evidence adduced by the Accounting Officer and the query was cleared as per the attached response.

4409) **Committee Observations and Findings**

The Committee reiterates its observation in 2017/2018 PAC Report that:

(i) A tourism recovery budget was proposed and passed by Parliament as a one-line item that various expenditures were funded from;

(ii) The Committee further observed that currently, tourism recovery has been un-bundled and each tourism project has an individual code/line in the budget; and

(iii)The Committee therefore marked the matter as resolved.

1467.2 Acquisition of Assets - Tourism Recovery

4410) As previously reported in the year ended 30 June, 2017, the Ministry spent an amount of Kshs.1,042,214,337 under expenditure item acquisition of assets (tourism recovery) sub-item; research, studies, project preparation, design and supervision. The scrutiny of the expenditure in the previous year revealed that an amount of Kshs.206,569,933 was incurred on items not related to tourism recovery. Further, most of the expenditure was recurrent in nature rather than development (acquisition of assets) as ought to have been the case. Consequently, it was not possible to confirm the propriety of funds amounting to Kshs.206,569,933 as then reflected in the financial statements.

Submission by the Accounting Officer

4411) The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued therein. The State Department for Tourism further made more submissions to the Auditor Office on 10th March 2020 and responded on this matter. The committee was satisfied with the evidence presented by the Accounting Officer and marked the matter as resolved as per the attached response.

4412) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18. The Committee was satisfied with the evidence presented by the Accounting Officer and marked the matter as resolved.

1468. Budget Control and Performance

4413) The summary statement of appropriation-recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.4,667,695,321 and Kshs.3,764,909,831 respectively resulting to an under-funding of Kshs.902,785,490 or 19% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.4,667,695,321 and Kshs.3,748,929,316 respectively resulting to an under-expenditure of Kshs.918,766,005 or 20% of the budget. Based on the approved estimates, the underfunding and the under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

Submission by the Accounting Officer

4414) The underfunding was due to lack of exchequer provision as indicated below: -

SUMMARY STATEMENT OF APPROPRIATION: RECURRENT AND EVELOPMENT COMBINED

Receipt	Final Budget	Actual On Comparable Basis	Budget Utilization Difference	% of Utilization
Receipts				
Exchequer releases	2,703,695,321	1,878,291,800	825,403,521	69%
Other receipts AIA	1,964,000,000	1,886,618,031	77,381,969	96%
Total receipts	**4,667,695,321**	**3,764,909,831**	**902,785,490**	**81%**

4415) Also the statement reflect final expenditure budget and actual on comparable basis of Kshs.4,667,695,321.00 and Ksh.3748929316.00 respectively resulting to an under expenditure of Kshs.918,766,005.00 of 20% of the budget.

4416) The under expenditure was due to the following: -

(a) Mama Ngina Water front was not completed in 2018/2019 Financial Year although we had the provision in the budget for the project and the contractor had not done the work to completion for payment.
(b) Underutilization of use of goods and services was due to non-implementation of Ushanga Kenya Initiative programme because the implementation framework was not complete.
(c) The money for charter incentive programme was not utilized. The programme that ran from January, 2016 to June, 2018 was not renewed.

Summary Statement of Appropriation: Recurrent and Development Combined

Payment	Final Budget	Actual On Comparable Basis	Budget Utilization Difference	% of Utilization
Use of goods and services	566,241,049	268,227,206	298,013,843	47%
Subsidies	15,000,000	0	15,000,000	0
Transfers to other government units	3,417,123,200	2,939,741,231	477,381,969	86%
Other grants and transfers	15,000,000	15,000,000	0	100%
Social security benefits	1,817,451	1,321,254	496,197	73%
Acquisition of assets	513,362,000	385,488,005	127,873,995	75%
Total payments	**4,667,695,321**	**3,748,929,316**	**918,766,005**	80%

4417) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Budget Control and Performance was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1469. Pending Bills

4418) Note 13.1 to the financial statements reflects pending bills totaling Kshs.39,073,194 as at 30 June, 2019. Management has not explained why the bills were not settled during the year they occurred. The Department is at risk of incurring significant interest costs and penalties with the continued delay in payment. Failure to settle bills during the year they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

Submission by the Accounting Officer

4419) The Accounting Officer submitted that the bills were not paid during the year under review due to lack of exchequer and late submission of invoices by the contractors.

4420) However, the pending bills formed the first charge in the financial year 2019/2020 and they were fully paid.

4421) **Committee Observations and Finding**

(i) The Committee observed that the State Department for Tourism made payments of Kshs. 30,122,211 as 24th December 2019 for the pending bills in the financial year 2019/2020 leaving unpaid bills of Kshs.8,950,982.

(ii) The Committee further observed that as at 25th June 2021, the State Department for Tourism has provided evidence of payment of Kshs.32,740,124 leaving an amount of Kshs.5,932,875 as unpaid; and

(iii)The matter remain unresolved.

4422) **Committee Recommendations**

1) **Within two weeks upon the adoption of this report, the Accounting Officer should provide to the Office of the Auditor General evidence of payment of the outstanding balances for Audit Verification.**
2) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis of Conclusion

1470. Office Lease Agreements

4423) The State Department engaged a contractor to carry out partitioning of offices at the Tourism Fund Building at a contract sums of Kshs. 138,500,657 without a formal lease agreement for the office space. The department had occupied offices at the NSSF building under unclear terms since the lease agreement was not provided for audit.

4424) It could not be confirmed that the resources of the State Department were used in an effective, efficient, economical and transparent manner as required under section 68(1) of the Public Finance Management Act, 2012.

Submission by the Accounting Officer

4425) Currently, the State Department for Tourism is accommodated at both NSSF Building part 15th, part 20th and part 21st floor and Utalii House 6th and 7th floors. Following the re-organization of Government in 2015 the State Department for Tourism was in the then Ministry of East African Affairs, Commerce and Tourism was merged with the State Department of Wildlife. The Headquarters for East African Affairs, Commerce and Tourism was at Teleposta Towers while Wildlife and Environment was at NSSF Building. Offices previously housed at Teleposta Towers moved to NSSF to be temporarily accommodated by the State Department for Wildlife. This resulted in a lot of congestion.

4426) The State Department for Tourism was offered space by its State Corporation (Tourism Fund) on 7th, 8th, 9th and 10th floor of Tourism Fund Building with a view to accommodate all the staff both at Utalii House and NSSF Building. The State Department for Tourism did not enter into a lease agreement with Tourism Fund because it already held an existing lease agreement with Tourism Finance Corporation at Utalii House. The lease agreement will be signed when the State Department shall have occupied the spaces at Tourism Fund. Tourism Fund forwarded a letter of offer to the State Department for Tourism on the terms. The State Department sought advice and recommendation from the Ministry of Housing and reverted the same to Tourism Fund. Discussions have been ongoing between the Tourism Fund, State Department for Tourism and the State Department for Housing with a view to finalizing the Lease Agreement. Kindly note that the State Department does not pay for the space at NSSF Building, the space is paid by the State Department for Wildlife who administer the lease agreement for the said space.

4427) **Committee Observation and Findings**

(i) The Committee observed that explanation by the Accounting Officer on why the State Department does not pay for the space at NSSF Building was satisfactory;

(ii) The Committee further observed that according to Valuation Certificate no 1 dated 22th March 2019 the contract commencement date was 16th April 2018 with anticipated completion date of 1st October 2018 for contract period of twenty-four (24) weeks however, to date the contract works has not been completed. No evidence of extension of the contract (if any) has been provided;

(iii) In addition, the State Department of Tourism made Payment of Kshs. 24,000,000 on 14th May 2020 to the contractor being part payment of work done and certified amount of Kshs. 34,208,735 as per Valuation Certificate no.1 dated 22nd March 2019. No evidence for the current status of contract completion has not been provided.

(iv) The matter therefore remained unresolved.

4428) **Committee Recommendation**

The Accounting Officer for the State Department for Tourism during the audit period should be reprimanded for engaging a contractor on partitioning of offices at the Tourism Fund Building at a contract sums of Kshs.138,500,657 without a formal lease agreement for the office space.

1471. Unutilized / Irregular Payments for Ushanga Initiative

4429) An amount of Kshs.2,250,000 was paid to a hotel for Ushanga Initiative activities which had been planned to take place on 15 and 16 June, 2018 but which had not been undertaken as at 30 June, 2019. The payment was therefore contrary to Section 146 of the Public Procurement and Asset Disposal Act, 2015 which restricts payments in advance. Although Management explained that the event was cancelled and a refund requested, the amount had not been recovered as at the time this audit report was finalized. In addition, evidence that the hotel services were procured competitively was not provided for audit verification.

4430) In the circumstances, the propriety and value for money on the expenditure could not be confirmed.

Submission by the Accounting Officer

4431) An amount of Kshs.2,250,000 was paid to Sarova Whiteands Hotel Limited for Parliamentary conference on Ushanga Kenya Initiative which was to take place on 15th and 16th June, 2018. This payment was made towards the end of the financial year 2017/2018 in anticipation of the event taking place before the closure of the Financial Year. Further the hotel had requested for commitment to ensure reservation.

4432) Request for quotation procurement method was used to select the facility to be used for conference and accommodation. Sarova White lands Hotel Limited was identified as the ideal venue for the activity in consideration of the stature of the participants, time factor and convenience of the location. A quotation was sought from the hotel and the price quoted was reasonable compared to other hotels of the same star.

4433) However, the hotel did not refund the funds but acknowledged to the fact that they were still holding the credit amount paid awaiting utilization of the facility for our planned accommodation and conference activity. This they argued was because they had already mobilized resources for the conference.

4434) The coordinator, Ushanga Kenya Initiative vide letter ref. MOT/1/14/7 dated 28th February, 2020 wrote to the Accounting Officer informing her of the unutilized payment for the service and requested her to notify the Parliamentary committee on the proposed dates and organize for the conference. While follow up was being made on this matter, Covid 19 struck in March 2020 and most events were put on hold. Further, following government reorganization Ushanga Kenya initiative was transferred to the State Department for Culture and Heritage. Consequently, both Assets and Liabilities inclusive of this unutilized payment were handed over to them for their further action.

4435) **Committee observations and findings**

(i) The Committee observed that the explanation given by the Accounting Officer took note of the submission by the Accounting Officer and will make its determination of the matter in its report to plenary; and

(ii) The matter remained unresolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis of Conclusion

1472. Lack of an Audit Committee

4436) Section 73(5) of the Public Finance Management Act, 2012 provides that every national government public entity shall establish an Audit Committee whose composition and functions shall be as prescribed by the regulations. However, the State Department did not have an Audit Committee. In the absence of a functioning Audit Committee, monitoring and review of the effectiveness of the internal audit process, review of internal controls, risk management systems and financial statements among other functions of an Audit Committee did not take place which may have hindered good corporate governance at the Department.

Submission by the Accounting Officer

4437) The Ministry advertised to recruit the Chairperson and members on Daily Nation Newspaper dated 22nd October, 2019. The recruitment process aborted because only two applicants applied, a number considered not sufficient to continue with the process. However, in an endeavour to constitute the Audit Committee, the Ministry restarted the recruitment process which is about to be concluded. The shortlisted applicants were interviewed between 7th and 8th June, 2021 awaiting the conclusion of the process.

4438) **Committee observations and findings**

(i) The Committee observed that the State Department for Tourism does not have a functioning audit committee to date as required by section 73(5) of the Public Finance Management Act, 2012;

(ii) The Committee further observed that monitoring and review of the effectiveness of the internal audit process, review of internal controls, risk management systems and financial statements has not taken place in the absence of audit committee; and

(iii) The matter remained unresolved.

4439) **Committee Recommendation**

The Accounting Officer must ensure that the Audit Committee is inaugurated and functional pursuant to Section 174(1) of the Public Finance Management (National Government) Regulations, 2015.

45. STATE DEPARTMENT FOR WILDLIFE

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1203

Prof. Fred Segor, the Principal Secretary and Accounting Officer for the State Department of Wildlife (Vote 1203), appeared before the Committee on 9th August, 2021 to adduce evidence on the Audited Financial Statements for the State Department of Natural Resources (Vote 1203) for the Financial Year 2018/2019. He was accompanied by the following officers:

1.	Mr. Benson Kinywa	-	Assistant Accountant General
2.	Mr. John K. Chelimo	-	Secretary Administration
3.	Ms. Margaret Otieno	-	National Coordinator.
4.	Mr. John Gicaci	-	Chief Finance Officer
5.	Dr. Erustus Kanga	-	Secretary Wildlife
6.	Mr. George Madanji Obuya	-	Assistant Director Supply Chain Management
7.	Mr. Shaiya Sheikh Adan	-	Wildlife clubs of Kenya.

And submitted as follows:

Basis for qualified opinion

1473. Undisclosed Prior Year Comparative Figures

4440) The State Department for Natural Resources was reorganized in June, 2018 under Executive Order No.1 of 2018 creating the then Ministry of Tourism and Wildlife which lasted for three (3) months' ending 30 September, 2018. The Ministry was further reorganized through Executive Order No.1 of 2018 (revised) to the current State Department for Tourism and State Department for Wildlife with separate votes. However, no formal separation was done to reflect what assets belongs to each Department in the two reorganizations. The State Department for Wildlife submitted accounts for nine (9) months.In view of the foregoing, the accuracy, completeness and presentation of the financial statements as at 30 June, 2019 could not be ascertained.

Submission by the Accounting Officer

4441) The Accounting Officer submitted that the comparative figures for Financial Year 2017/2018 were not provided because State Department for Wildlife never existed as a vote but as a Directorate in the State Department for natural Resources under the Ministry of Environment and Natural resources.

4442) **Committee observations and Findings**

4443) The State Department for Natural Resources was re-organized two times within a period of three months. However, there was no formal and structured separation of assets and liabilities for each Department in the two reorganizations.

4444) **Committee Recommendation**

The Cabinet Secretary for the National Treasury should within three months of adoption of this report, develop a framework for vesting of assets and liabilities at any time of re-organization of government.

1474. Variances between the Financial Statements and Integrated Financial Management Information System (IFMIS) Generated Financial Statements

4445) Comparison between the financial statements and the IFMIS generated financial statements indicate the following unexplained and unreconciled variances.

Item	Figure as per Financial Statements (Kshs.)	Figure in the IFMIS Financial Statements (Kshs.)	Variance (Kshs.)
Accounts Payable-deposits	1,179,565	2,118,934,024	(2,117,754,459)
Accounts Receivable	1,172,780	596,510	904,836
Bank Balances	2,606,407	267,944	2,338,463
Cash Balances	1,482	2,120,670,674	(2,120,669,192)
Net Financial Assets	2,601,104	21,215,235,128	(21,212,634,024)

4446) Consequently, it has not been possible to confirm the accuracy of the financial statements for the nine (9) months' period ended 30 June 2019.

Submission by the Accounting Officer

4447) The Accounting Officer submitted that it was true that comparison between the financial statements and the financial statement generated from IFMIS both presented for audit have various unexplained /unreconciled variances. The balances shown in the IFMIS generated cashbook are not reconciled due to systems challenges with the cash management module that includes:

i. Missing online bank statements
ii. Creation of system acquired liabilities
iii. Missing transactions when bank statements are loaded.

4448) The Department is being assisted by the National Treasury (IFMIS Department) to clear the unreconciled variances.

Committee observations and Findings

4449) Comparison between the financial statements and the financial statement generated from IFMIS both presented for audit have various unexplained /unreconciled variances. The Accounting Office attributed this to systems challenges with the cash management module that includes missing online bank statements, creation of system-acquired liabilities, and missing transactions when bank statements are loaded.

4450) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

Emphasis of Matter

1475. Unconfirmed Value of Assets

4451) Annex 2 to the financial statements, reflects the summary of fixed assets with a balance of Kshs. 23,202,874 as at 30 June, 2019. However, accurate data for the assets was not availed for audit verification since after the re-organization of the Ministry of Environment and Natural Resources to create two (2) separate entities (Ministry for Environment and State Department for Natural Resources) the vesting of the assets to the two (2) entities remains outstanding. The State Department for Natural Resources was in 2018 further re-organized creating the Ministry of Tourism and Wildlife and again to the current State Department for Tourism and State Department for Wildlife which are two separate reporting entities with different votes. In the circumstances, it has not been possible to reliably confirm the value of the assets relating to the State Department for Wildlife.

Submission by the Accounting Officer

4452) The Accounting Officer submitted that it was true that Annex 2 to the financial statements summary of fixed assets reflect a figure of Kshs. 23,202,874. However, vesting of Assets and Liabilities for the Ministry for Environment and State Department for Natural Resources remains outstanding. The officers who were in-charge of the physical and financial assets and liabilities diligently oversaw the transition in a manner that no assets got lost or misused. Forest Conservation and Wildlife Conservation Directorates retained their unique operational identities until the time when State Department for Natural Resources and State Department for Environment separated.

4453) The asset register has been compiled and the value of assets included based on the cost of acquisition since the records are available from the stores S3 cards.

4454) **Committee observations and Findings**

Summary of fixed assets reflect a figure of Kshs. 23,202,874. However, vesting of Assets and Liabilities for the Ministry for Environment and State Department for Natural Resources remains outstanding.

4455) **Committee Recommendation**

The Cabinet Secretary for the National Treasury should within three months of adoption of this report, develop a framework for vesting of assets and liabilities at any time of re-organization of government.

Other Matter

1476. Pending Bills

4456) Note 13.3 to the financial statements reflects pending bills totaling Kshs.1,179,565 which were not settled during the year under review but were instead carried forward to 2019/20. Management has not provided reasons for non-payment of the pending bills. Failure to settle bills in the year in which they relate adversely affects the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge to that year's budget provision.

Submission by the Accounting Officer

4457) The Accounting Officer submitted that it was true that Note 13.3 to the financial statements disclose other pending payables amounting to Kshs. 1,179,565.00 for the State Department of Wildlife as at 30 June 2019. This relates to payments that were returned by the bank due to various reasons and not pending bills. These payables are normally cleared when the error occasioning the rejection is corrected. The Pending Bills have since been cleared.

4458) **Committee Observations and Finding**

(i) The Committee observed that the items reported as pending bills were payments that were returned by the bank due to various reasons and not pending bills;

(ii) The Committee further observed that the payables are normally cleared when the error occasioning the rejection is corrected and thus the Pending Bills have since been cleared; and

(iii)The Committee therefore marked the matter as resolved.

4459) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

1477. Non-Submission of Financial Statements for Wildlife Clubs of Kenya

4460) Under the background information on page 5 of the financial statements, Management has indicated that the Wildlife Clubs of Kenya was formed in 1968 as a charitable, Non-Governmental Organization. Further, Annex 3 to the financial statements lists the Wildlife Clubs of Kenya as one of the entities under the State Department for Wildlife. Available information indicates that the Clubs received over 60% of its budget funding from the State Department for Wildlife from both recurrent and development votes. However, the Clubs has not submitted any financial statements to the Auditor-General for audit, despite receiving public funds amounting to Kshs.49,000,000 in 2018/2019 financial year and an undetermined amount paid in the previous years since 1968 when it was formed. In addition, information available indicate that the financial statements for 2016/2017, 2017/2018 and 2018/2019 were audited by a private auditor not appointed by the Auditor-General as provided in Section 23 of Public Audit Act, 2015. Consequently, Management was in breach of the law.

Submission by the Accounting Officer

4461) The Accounting Officer submitted that the Wildlife Clubs of Kenya has forwarded their audited financial statements for the last three (3) years for verification and has been directed to forward their financial report for the financial year 2019/2020 to the Auditor General for audit as required by Public Finance Management Act, 2012 and the Public Audit Act 2015. The national coordinator/CEO of Wildlife Clubs of Kenya confirmed submission of Financial Report for audit vide letter Ref. No. SDW/4/21/ (4) dated 21st October, 2020.

4462) **Committee Observations and Findings**

(i) The Committee observed that the Wildlife Clubs of Kenya has forwarded their audited financial statements for the last three (3) years for verification;

(ii) The Committee further observed that the Accounting Officer has also been directed to forward their financial report for the financial year 2019/2020 to the Auditor General for audit as required by Public Finance Management Act, 2012 and the Public Audit Act 2015; and

(iii) The Committee therefore marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4463) **Conclusion**

1478. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4464) **Conclusion**

1479. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR WILDLIFE

KWS-KENYA ROADS BOARD PROJECT - KENYA WILDLIFE SERVICE

REPORT ON THE FINANCIAL STATEMENTS

4465) **Unqualified Opinion**

1480. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1481. Budget Control and Performance

4466) The statement of comparative budget and actuals indicates that the Project received Kshs.708,635,422 against the approved budget of Kshs.551,250,000, therefore resulting to an over-collection by Kshs.157,385,422 or 29% of the approved budget. Further, the Project spent an amount of Kshs.425,088,444 or 77% of the budgeted amount of Kshs.551,250,000. In addition, Management has disclosed that the work plan for 2017/2018 with an approved budget of Kshs.551,250,000 was implemented in 2018/2019 while most of the works for the 2018/2019 work plan will be implemented in 2019/2020. Due to the low absorption, the public particularly the tourists who visit the National Parks may not have obtained value in respect of roads earmarked for routine maintenance.

4467) Management has however, explained measures put in place to accelerate the implementation of its work plans which includes shortening the implementation contract period from six (6) months to three (3) months and fast tracking of the procurement processes to clear the backlog.

4468) No submission made on this paragraph

4469) **Committee Observations and Findings**

The Committee notes with concern the Accounting Officer did not respond to this issue raised by the Auditor General**.**

4470) **Committee Recommendation**

1) **The Committee reprimands the Accounting Officer for failing to respond on the audit query by the Auditor General,**
2) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCE

Basis for Conclusion

1482. Non-completion of Bridge Rehabilitation Works-Meru Park

4471) During the year under review, an amount of Kshs.29,455,734 was paid to a contractor for repairs and maintenance at Meru Park. Examination of documents availed for audit review indicated a payment was made in respect of Certificate No.3 for repairs and maintenance. However, the bill of quantities and contract agreement between KWS and the contractor indicated that the contractor was meant to rehabilitate two (2) bridges on the road. Physical inspection carried out on the road in September and October, 2019 revealed several unsatisfactory matters.

4472) No submission made on this paragraph

4473) **Committee** Observations and Findings

The Committee notes with concern the Accounting Officer did not respond to this issue raised by the Auditor General.

4474) **Committee Recommendation**

1) **The Committee reprimands the Accounting Officer for failing to respond on the audit query by the Auditor General.**
2) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1483. Poor Projects Management on Road Works

1483.1 Poor Workmanship on Voi - Sala Gate Road E682 –Tsavo East

4475) During the year under review, the Project Management awarded Contract No. KWS/OT/R&F/42/2017-2018 to a construction firm for road construction at a contract sum of Kshs.14,396,180 against a budget of Kshs.17,333,682. The Project estimated start date was 13 November, 2018 and end date of 13 February, 2019. The field visit carried out in early October, 2019 showed that the routine maintenance had been done on the Voi-Sala Gate Road E682. The Works included light grading, gravel patching and culverts constructed to drain water from the road. However, it was noted that the road level was generally lower as compared to the surrounding land level making some sections of the road to have poor drainage and water clogging on the road surface. Most of the road length did not have camber resulting in water clogging on the road surface. The drains in some sections of the road were no longer effective for draining water from the road

4476) No submission made on this paragraph

4477) **Committee Observations and Findings**

The Committee notes with concern the Accounting Officer did not respond to this issue raised by the Auditor General.

4478) **Committee Recommendation**

1) **The Committee reprimands the Accounting Officer for failing to respond on the audit query by the Auditor General.**
2) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

46. MINISTRY OF TOURISM AND WILDLIFE

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1204

Prof. Fred Segor, the Principal Secretary and Accounting Officer for the State Department of Wildlife (Vote 1203), appeared before the Committee on 9th August, 2021 to adduce evidence on the Audited Financial Statements for the State Department of Natural Resources (Vote 1203) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. Benson Kinywa - Assistant Accountant General
2. Mr. John K. Chelimo - Secretary Administration
3. Ms. Margaret Otieno - National Coordinator.
4. Mr. John Gicaci - Chief Finance Officer
5. Dr. Erustus Kanga - Secretary Wildlife
6. Mr. George Madanji Obuya - Assistant Director Supply Chain Management
7. Mr. Shaiya Sheikh Adan - Wildlife clubs of Kenya.

And submitted as follows:

Basis for Qualified Opinion

1484. Accuracy completeness and presentation of financial statements

1484.1 Unexplained variances between the financial statements and IFMIS generated Trial Balance.

4479) Comparison between the financial statements and the trial balance items revealed variances in accounts payables –deposits, cash and cash equivalents, and accounts receivables which were not explained or reconciled as tabulated below.

Item	Figure as per Financial Statements Kshs.	Figure in the Trial Balance Kshs.	Variance Kshs.
Accounts Payables – Deposits	34,999,242	10,000,000	24,999,242
Cash and Cash Equivalents	48,393,370	1,231,079,035	(1,182,685,665)
Accounts Receivables -Outstanding Imprest and Clearance Accounts	1,331,527	877,193	454,334

Submission by the Accounting Officer

4480) This was occasioned by IFMIS System Users challenges. The State Department assisted by the National Treasury (IFMIS Department) is in the process of addressing the variances with the aim of reconciling and explaining the same as raised by the Auditor General.

4481) **Committee Observations and Findings**

(i) The Committee observed that the process of reconciliation is ongoing;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) In addition, the Committee observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

4482) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.

1484.2 Undisclosed Prior Year Comparative Figures

4483) The State Department for Natural Resources was re-organized in June, 2018 under Executive order No. 1 of 2018 creating the ministry of Tourism and Wildlife and the Ministry of Environment and Forestry. The Ministry of Tourism and Wildlife operated under vote 1204 for a period of three (3) months ending 30th September, 2018, before it was further re-organized through Executive Order No. 1 of 2018 (Revised) to the current State Department for Tourism and State Department for Wildlife which have separate votes. However, the financial statements for the three (3) months period do not have comparative figures for prior year period to reflect account balances inherited from the State Department for Natural Resources.

4484) In view of the foregoing, the presentation, accuracy and completeness of the financial statements as at 30th September, 2018 could not be confirmed.

Submission by the Accounting Officer

4485) The Accounting Officer admitted that no comparative figures for prior year were provided to reflect account balances inherited from the State Department for Natural Resources. This was occasioned by the fact that the Ministry of Tourism and Wildlife was created in June, 2018 under Executive Order No.1 of 2018 and never existed as a vote before.

4486) **Committee observations and Findings**

The State Department for Natural Resources was re-organized two times within a period of three months. However, there was no formal and structured separation of assets and liabilities for each Department in the two reorganizations.

4487) **Committee Recommendation**

The Cabinet Secretary for the National Treasury should within three months of adoption of this report, develop a framework for vesting of assets and liabilities at any time of re-organization of government.

1484.3 Unsupported Bank Balances

4488) The Statement of assets and liabilities reflects a bank balance of Kshs.48,373,926 which represents funds held in various bank accounts operated by the Ministry as at 30th September, 2018. However, the balances was not supported by bank reconciliation statements, board of survey reports and certificates of bank balances as at 30th September, 2018. In addition, the management did not give the status of the bank accounts and balances contained thereof as the ministry is no longer in operation.

4489) Under the circumstance, the completeness, existence and accuracy of the bank balances of Kshs.48,373,926 could not be ascertained.

Submission by the Accounting Officer

4490) The Accounting Officer admitted that the statement of assets and liabilities reflects a bank balance of Ksh.48,373,926 which represents funds held in various bank accounts operated by the Ministry as at 30th September 2018. The Bank balance was for Recurrent and Deposits as tabulated below:-

Bank Balances Analysis

Account type	**Account no**	**Amount (Kshs.)**
Recurrent Bank	1000384735	14,964,041
Deposit Bank	1000384751	33,409,886
	TOTAL	**48,373,927**

4491) The recurrent bank balances are supported by Bank statement as at 11th December, 2018 and a banking slip of 24th June, 2019. The Recurrent Account balance of Kshs14,964,041 comprises of cash in hand of Kshs.19,444 which was later banked on 24th June, 2019 and Ksh.14,944,596.70 as per bank statement of 11th December, 2018 to make a total of Kshs.14,964,041 as shown in the financial statements. The Deposit bank account balance of Ksh.33,409,885.70 was transferred as indicated in the table below vide letter Ref. No. DENR/4/4 Vol. 1 (64) dated 15th May, 2019.

Deposit Transfer Analysis

State Department	Date of transfer	Bank account NO	Amount (Ksh.)
Tourism		1000395699	31,506,997.30
Wildlife		1000395702	1,902,888.40
		TOTAL	**33,409,885.70**

4492) **Committee observations and findings**

(i) The Committee observed that the Bank certificate of balances, bank reconciliation statements, board of survey reports for all the reported bank accounts were not availed among the evidence submitted;

(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(iii) In addition, the Committee observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and

(iv) The matter remained unresolved.

4493) **Committee Recommendations**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1485. Unsupported Bank Balances

4494) The statement of assets and liabilities reflects a bank balance of Kshs.48,373,926 which represents funds held in various bank accounts operated by the Ministry as at 30 September, 2018. However, the balance was not supported by bank reconciliation statements, board of survey reports and certificates of bank balances as at 30 September, 2018. In addition, the Management did not give the status of the bank accounts and the balances contained thereof as the Ministry is no longer in operation.

4495) Under the circumstances, the completeness, existence and accuracy of the bank balances of Kshs.48,373,926 could not be ascertained.

1486. Unsupported Accounts Receivables

4496) As disclosed in Note 8 to the financial statements, the statement of assets and liabilities reflects a balance of Kshs.1,331,527 under accounts receivables which comprise of government imprests, salary advances and clearance accounts of Kshs.309,300, Kshs.482,480 and Kshs.539,747 respectively. However, supporting schedules for the salary advances and the clearance accounts balances were not availed for audit review.

4497) Under the circumstances, the recoverability and accuracy of the accounts receivables balance of Kshs.1,331,527 could not be confirmed.

1487. Unconfirmed Value of Assets

4498) The statement of receipts and payments reflect an amount of Kshs.9,940,500 incurred on acquisition of assets in the period under review. However, the Ministry did not have an accurate record of all its assets, including non-current assets inherited from the State Department for Natural Resources in June, 2018. This was occasioned by the fact that the vesting of assets to the Ministry of Tourism and Wildlife, and Ministry of Forestry and Environment was not concluded after re-organization of the State Department for Natural Resources.

4499) Under the circumstances, it was not possible to confirm the value of assets relating to the Ministry of Tourism and Wildlife as at 30 September, 2018.

1488. Late submission of financial statements

4500) Contrary to the provisions of section 68(2)(k) and 81(4) of the Public Finance Management (PFM) Act, 2012, the financial statements for the three (3) months' period ended 30thSeptember, 2018 were submitted for audit on 9th March, 2020. This was over five (5) months after the prescribed deadline of 30th September, 2019. Management is in breach of the law to this extent.

Submission by the Accounting Officer

4501) The Accounting Officer admitted that there was late submission of the financial statements for the three (3) months period ended 30th September, 2018. This was unintentional and is highly regretted. The Financial Statements were prepared and were ready for signing by 30th September, 2019, however, the delay in submission was occasioned by reorganization of the Ministry of Tourism and Wildlife.

4502) **Committee observations and findings**

The financial statements for the three (3) months' period ended 30thSeptember, 2018 were submitted for audit on 9th March, 2020. This was over five (5) months after the prescribed deadline of 30 September, 2019. Management is in breach of the law to this extent.

4503) **Committee Recommendation**

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year in line with Article 229 of the Constitution.

47. STATE DEPARTMENT FOR PUBLIC SERVICE AND YOUTH AFFAIRS

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1211

Ms. Mary Kimonye, the Accounting Officer for State Department for Public Service (Vote 1211) appeared before the Committee on 12th July, 2021 and 14th July, 2021 to adduce evidence on the audited financial statement for the State Department of Interior (Vote 1211) for the Financial Year 2018/2019. They were accompanied by the following officers:

1. Ms. Matilda Sakwa - Director General NYS
2. Ms. Margaret Wamoto - Director ADM
3. Ms. Agnes Waweru - Assistant Accountant General
4. Mr. Peter Kabebe - Head of Accounting Unit
5. Mr. Elius Kimani - Head of Accounting Unit NYS
6. Mr. Harrison Rioba - Director Accounting
7. Mr. James K. Kairu - Director Supply Chain Management Service
8. Mr. Francis Muteti – Chief Finance Officer – Public Service
9. Mr. John O. Olima – Senior Principal Finance Officer – NYS.
10. Ms. Faith Ithiga – Principal Accountant - NYS.
11. Mr. Kosgei Yego - Principal Accountant
12. Mr. Isaac Nyeri – Parliamentary Liaison Officer

And submitted as follows:

Basis for Qualified Opinion
1490. Unaccounted for Receipts

4504) The statement of receipts and payments reflects a total revenues figure of Kshs.3,103,670,982 comprised of transfers from The National Treasury and proceeds from sale of assets of Kshs.3,103,460,390 and Kshs.210,592 respectively. The amount excludes unquantified Appropriations-in-Aid (AIA) generated from commercial activities undertaken by the National Youth Service (NYS) and its various field stations. The activities include the textile factory at NYS headquarters, farming activities at Yatta, Naivasha, Tumaini and Mavoloni field stations and water packaging and distribution at Turbo field station.

4505) Further, the bank statement for Director National Youth Service bank account held at the National Bank of Kenya shows receipts from various institutions totalling Kshs.49,351,256 out of which Kshs.42,194,387 relate to contracts for supply of security personnel to the institutions and Kshs.7,156,869 relate to receipts from other sources.

4506) Although the receipts comprise AIA for the State Department for Public Service and Youth, the amount has not been included in the financial statements neither has these receipts been provided for audit examination.

4507) Consequently, the accuracy and completeness of total revenues of Kshs.3,103,670,982 for the year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

4508) The Accounting Officer submitted that the A.I.A collected was deposited directly to the Ministry's Accounts and accounted for at the Ministerial level. However, the amount deposited in the Director General Accounts was allowance for service men and women and not A.I.A. After reconciliation it was noted that the amount of Kshs.7,156,869 was wrongly deposited in the Director General account instead of depositing direct to the Ministry Account. This revenue has been accounted for in the financial year 2019/2020.

4509) **Committee Observations and Findings**

(i) The Committee observed that the explanation provided by the Accounting Officer was satisfactory; and
(ii) The Committee therefore marked the matter as resolved.

4510) **Committee Recommendations**
Accounting Officers must at all times endeavor to prepare and keep proper accounting records pursuant to Section 68 (2) (b) of the PFM Act, 2012.

1491. Unsupported Expenditure on Training Expenses

4511) As disclosed in Note 4 to the financial statements, the statement of receipts and payments for the year under review reflects Kshs1,088,880,899 under training expenses, out of which an amount of Kshs.191,221,670 paid during the year related to services purportedly rendered from prior years. However, a review of pending bills disclosed for the financial year 2017/2018 indicated that the same were not disclosed or included as pending bills. No sufficient explanation has been provided for failure to disclose the pending bills in the financial statements as required under Regulation 23 (1) (c) and (d) of the Public Finance Management (National Government) Regulations, 2015.In the circumstances, the accuracy and propriety of use of goods and services expenditure amounting to Kshs.1,088,880,899 for the year ended 30 June, 2019 could not be ascertained.

Submission by the Accounting Officer

4512) The Accounting Officer submitted that the amount of Kshs.191,221,670.00 was inadvertently omitted from the pending bills disclosed at the close of the Financial Year

2017/18 and were settled in the FY 2018/19. The management has since put in place administrative measures to ensure that all pending bills are disclosed during the preparation of financial statements:

- At the end of the Financial year the Head of accounts unit, writes to all units to disclose all outstanding bills to be consolidated as pending bills to be declared in the Financial Statements.
- The Service has established an internal pending bills verification Committee to verify the disclosed bills before they are paid as first charge in the following financial year in accordance with the PFM Act.

4513) **Committee Observations and Findings**

The Committee observed that the Accounting Officer admitted oversight in the disclosure of pending bills in the Financial Statement in line with Regulation 23 (1) (c) and (d) of the Public Finance Management (National Government) Regulations, 2015:

4514) **Committee Recommendations**

Accounting officers must at all times endeavor to prepare and keep proper accounting records pursuant to Section 68 (2) (b) of the PFM Act, 2012.

1492. Unsupported Expenditure on Hospitality, Supplies and Services

4515) The statement of receipts and payment reflects a balance of Kshs.1,887,665,809 under use of goods and services. The balance includes an amount of Kshs.37,960,539 in respect of hospitality, supplies and services that has payments of Kshs.3,077,000, Kshs.1,350,000 and Kshs.3,715,000 in respect of selection panels for recruitment of Chairperson and Members of Commission on Administrative Justice, Salaries and Remuneration Commission and National Gender and Equality Commission respectively. The following were noted in these payments:

1492.1 Commission on Administrative Justice (CAJ)

4516) Payment for facilitation allowances to Chairperson, Members and Secretariat of the selection panel includes an amount of Kshs.2,987,000 paid to eleven (11) officers of the supporting secretariat including the team leader who was paid Kshs.900,000 for a period of forty-five (45) days at a rate of Kshs.20,000 per day, four (4) members who were paid a total of Kshs.1,260,000 at a rate of Kshs.7,000 per day for forty-five (45) days, five (5) secretarial staff who were paid a total of Kshs.675,000 at a rate of Kshs.5,000 per day for twenty-seven (27) days and one clerical officer who was paid Kshs.152,000 for thirty-eight (38) days at a rate of Kshs.4,000 per day. However, the following was observed:

4517) The Circular of Salaries and Remuneration Commission Ref. No. SRC/TS/AG/3/37 VOL. V (113) dated 19 June, 2018 on rates for payment of allowances for members of selection panels and secretariat staff provided for the rates payable but capped the allowance payable to be limited to the period specified in the letters appointing members of the panel. However, the secretariat staff were paid Kshs.1,832,000 for an additional thirty (30) days over and above the fifteen (15) days period worked by the selection panel in contravention of guidelines provided by Salaries and Remuneration Commission. Further, it should be noted that members of the secretariat are full time service employees who draw a monthly salary from the State Department for Public Service.

4518) Although the payment was supported by a list of payees, no evidence was provided to show that the respective attendance registers for days worked on the exercise had been maintained rendering the payments doubtful. Further, the roles and responsibilities of each member of the secretariat has not been defined to justify the use of eleven (11) officers to serve six (6) panelists.

Submission by the Accounting Officer

4519) The Accounting Officer submitted as follows:

(i) In any recruitment process, the secretariat works extra days, before, during and after the recruitment process in ensuring the receiving and registering all the applications to come up with a long list to assist the panelist shortlist the candidates. After the shortlisting they prepare the interview schedules, candidate profile sheets, scoring guides and preparation of folders for the panelist on each of the candidates to be interviewed.

(ii) During the interview they receive and usher in the candidates, tabulate the score sheets up to averaging and feed the information back to the panel with a confirmation schedule on a daily basis that the interviews are taking place.

(iii) After the interviews there is archiving of the interview documents and preparation of a draft report for the panelists.

4520) The State Department for Public Service is responsible for providing secretarial services during recruitment of various Commissions as guided by the Act. The attendance register was provided and the role and responsibilities were stipulated in the appointment letters. The documents have been availed to the Auditors.

4521) **Committee Observations and Findings**

(i) Even though the Committee was satisfied with the explanation provided by the Accounting Officer, it could not vouch for the authenticity of the schedules submitted as evidence, since some of the names in the availed schedules were not signed against; and

(ii) The matter remained unresolved.

4522) **Committee Recommendations**

Accounting Officers must at all times endeavor to prepare and keep proper accounting records pursuant to Section 68 (2) (b) of the PFM Act, 2012.

1492.2 Salaries and Remuneration Commission (SRC)

4523) Payment of facilitation allowances to support Secretariat of the selection panel includes an amount of Kshs.1,350,000 paid to five (5) officers of the supporting secretariat including the team leader who was paid Kshs.600,000 for a period of thirty (30) days at a rate of Kshs.20,000 per day, three (3) members who were paid a total of Kshs.630,000 at a rate of Kshs.7,000 per day for thirty (30) days, one (1) Clerical officer who was paid Kshs.120,000 for thirty (30) days at a rate of Kshs.4,000 per day. However, the following was observed:

4524) The Circular by Salaries and Remuneration Commission Ref. No. SRC/TS/AG/3/37 VOL. V (113) dated from 19 June, 2018 on rates for payment of allowances for members of selection panels and secretariat staff provided for the rates payable but capped the allowance payable to be limited to the period specified in the letters appointing members of the panel. The secretariat staff were however, paid Kshs.675,000 for an additional fifteen (15) days over and above the fifteen (15) days period worked by the selection panel in contravention of guidelines provided by Salaries and Remuneration Commission. Further, it should be noted that members of the secretariat are full time service employees who draw a monthly salary from the State Department for Public Service.

4525) Although the payment was supported by a list of payees, no evidence was provided to show that respective attendance registers for days worked on the exercise had been maintained rendering the payments doubtful. Further, the roles and responsibilities of each member of the secretariat has not been defined to justify the use of five (5) officers to serve five (5) panelists.

Submission by the Accounting Officer

4526) The Accounting Officer submitted as follows:

(i) In any recruitment process, the secretariat works extra days, before, during and after the recruitment process in ensuring the receiving and registering all the applications to come up with a long list to assist the panelist shortlist the candidates. After the shortlisting they prepare the interview schedules, candidate profile sheets, scoring guides and preparation of folders for the panelist on each of the candidates to be interviewed.

(ii) During the interview they receive and usher in the candidates, tabulate the score sheets up to averaging and feed the information back to the panel with a confirmation schedule on a daily basis that the interviews are taking place.

(iii) After the interviews there is archiving of the interview documents and preparation of a draft report for the panelists.

4527) The State Department for Public Service is responsible for providing secretarial services during recruitment of various Commissions as guided by the Act.

4528) The attendance register was provided and the role and responsibilities were stipulated in the appointment letters. The documents have been availed to the Auditors.

4529) **Committee Observations and Findings**

(i) Even though the Committee was satisfied with the explanation provided by the Accounting Officer, it could not vouch for the authenticity of the schedules submitted as evidence, since some of the names in the availed schedules were not signed against; and

(ii) The matter remained unresolved.

4530) **Committee Recommendations**

Accounting Officers must at all times endeavor to prepare and keep proper accounting records pursuant to Section 68 (2) (b) of the PFM Act, 2012.

1492.3 National Gender and Equality Commission (NGEC)

4531) Payment of facilitation allowances to Chairperson, Members and Secretariat of the selection panel includes an amount of Kshs.3,700,000 paid to ten (10) officers of the supporting secretariat including the team leader who was paid Kshs.1,000,000 for a period of fifty (50) days at a rate of Kshs.20,000 per day, five (5) members who were paid a total of Kshs.1,750,000 at a rate of Kshs.7,000 for fifty (50) days, three (3) secretarial staff who were paid a total of Kshs.750,000 at a rate of Kshs.5,000 per day for fifty (50) days and one (1) clerical officer who was paid Kshs.200,000 for fifty (50) days at a rate of Kshs.4,000 per day. However, the following was observed:

4532) The Circular by Salaries and Remuneration Commission Ref No. SRC/TS/AG/3/37 VOL. V (113) dated 19 June, 2018 on rates for payment of allowances for members of selection panels and secretariat staff provided for the rates payable but capped the allowance payable to be limited to the period specified in the letters appointing members of the panel. The secretariat staff however, paid Kshs.1,460,000 for additional twenty (20)days over and above the thirty (30) days period worked by the selection panel in contravention of guidelines provided by Salaries and Remuneration Commission. Further, it should be noted that members of the secretariat are full time service employees who draw a monthly salary from the State Department for Public Service.

4533) Although the payment was supported by a list of payees no evidence was provided to show that respective attendance registers for days worked on the exercise had been maintained rendering the payments doubtful. Further, the roles and responsibilities of each member of the secretariat has not been defined to justify the use of fourteen (14) officers to serve eight (8) panelists.

4534) In the circumstances, it has not been possible to confirm the propriety of the expenditure amounting to Kshs.8,142,000 included in hospitality, supplies and services expenditure.

Submission by the Accounting Officer

4535) The Accounting Officer submitted as follows:

(i) In any recruitment process, the secretariat works extra days, before, during and after the recruitment process in ensuring the receiving and registering all the applications to come up with a long list to assist the panelist shortlist the candidates. After the shortlisting they prepare the interview schedules, candidate profile sheets, scoring guides and preparation of folders for the panelist on each of the candidates to be interviewed.

(ii) During the interview they receive and usher in the candidates, tabulate the score sheets up to averaging and feed the information back to the panel with a confirmation schedule on a daily basis that the interviews are taking place.

(iii) After the interviews there is archiving of the interview documents and preparation of a draft report for the panelists.

(iv) The period for the panel involved in the interviews for Gender Commission was extended due to failure to raise the minimum Gender requirement. The advert was done afresh to attract a responsive Gender requirement. The supporting documents have been availed to the Auditor.

4536) The State Department for Public Service is responsible for providing secretarial services during recruitment of various Commissions as guided by the Act. The attendance register was provided and the role and responsibilities were stipulated in the appointment letters. The documents were availed to the Auditors for review and verification.

4537) **Committee Observations and Findings**

(i) Even though the Committee was satisfied with the explanation provided by the Accounting Officer, it could not vouch for the authenticity of the schedules submitted as evidence, since some of the names in the availed schedules were not signed against; and

(ii) The matter remained unresolved.

4538) **Committee Recommendations**

Accounting Officers must at all times endeavor to prepare and keep proper accounting records pursuant to Section 68 (2) (b) of the PFM Act, 2012.

1493. Irregular Payment of Token of Appreciation to Officers of the State Department

4539) On 25 June, 2018 the Senior Deputy Secretary wrote a Memo to the Principal Secretary requesting for consideration and approval for a payment of Kshs.4,640,000 to three hundred and thirty (330) officers of the State Department as a token of appreciation. The payment was in respect of provision of support services towards realization of various programmes, performance targets and other assignments. The approval was granted on 28 June, 2018. However, a review of details of the payment revealed that the payments were not made directly to the recipient's bank accounts but through thirteen (13) officers who in turn paid the recipients. In such a circumstance, it was not possible to confirm that the amounts benefited the planned beneficiaries and no explanation has been provided for charging the expenditure to employee benefits yet the amounts were not budgeted and paid to the beneficiaries, as it is the case with other employee benefits.

4540) The Memo clearly stated that the request for approval was being made for a nominal payment of Kshs.1,000 per day for twenty (20) days. The same Memo further stated contradicting information that the required amount was Kshs.4,640,000. However, no explanation has been provided on the rate used, the total amounts requested and the number of beneficiaries.

4541) Further, the approval for the payment was requested and granted in the financial year 2017/2018, but the payments were made in the subsequent financial year 2018/2019 yet there were no budgetary provisions thereby adversely affecting the budget for 2018/2019 financial year.

Submission by the Accounting Officer

4542) The Accounting Officer submitted that a total of 232 officers were paid despite the fact that 330 officers were budgeted for and the actual figure was Kshs.1,000 per person per day for twenty (20) days for the officers. The schedule confirming the payment of Kshs.4,640,000 to the 232 beneficiaries has been availed to the Auditor for verification. The actual figure was Kshs.1,000 per person per day for twenty (20) days for 232 officers instead of 330 initially stated.

4543) On the approval being granted in the Financial Year 2017/2018 and the payment being done during the Financial Year 2018/2019, this was occasioned by lack of exchequer to pay in the Financial Year 2017/2018 and therefore was treated like any other pending payments and charged in the 2018/2019 Financial Year.

4544) **Committee Observations and Findings**

The Committee observed that there were a number of crucial documents required for examination of the above query but were missing in the appendices of the submissions.

4545) **Additional documents requested for were all subsequently submitted as follows:**

1. The approved Memo
2. Names of the 13 officers who received the payment
3. Evidence that the above 13 persons received payment
4. Evidence that the remaining 232 persons received payment

4546) **Further Committee Observations and Findings**

(i) The Committee observed that the explanation provided by the Accounting Officer was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

4547) **Committee Recommendations**

Accounting officers must at all times endeavor to prepare and keep proper accounting records pursuant to Section 68 (2) (b) of the PFM Act, 2012.

Other Matter

1494. Unresolved Prior Year Matters

4548) In the previous year's audit report, several issues were raised under the Report on Financial Statements leading to a disclaimer of opinion. The issues raised included inability to confirm the accuracy of cash and cash equivalents balance as at 30 June, 2018, unsupported expenditures, unreported and unsupported pending bills, irregular procurement of goods and services, among others. Although the issues have since been discussed by the Public Accounts Committee (PAC), they remain unresolved as PAC is yet to give recommendations for implementation.

Submission by the Accounting Officer

4549) The Accounting Officer submitted that the State Department acknowledges receipt of the prior year's PAC recommendations. PAC has since come up with recommendations on the issues raised and the State Department is in the process of implementing the recommendations.

4550) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommended was made in that regard

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4551) **Conclusion**

1495. The Committee observed that there were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4552) **Conclusion**

1496. The Committee observed that there were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL YOUTH SERVICE – MECHANICAL AND TRANSPORT FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

1497. Statement of Changes in Net Assets

4553) Paragraph 21 of IPSAS 1 – Presentation of Financial Statements - provides that a complete set of financial statements comprises, among other statements, the statement of changes in net assets. However, the financial statements submitted for audit did not include the Statement of changes in net assets. In the circumstances, the financial statements were not complete.

Submission by the Accounting Officer

4554) The Accounting Officer submitted that this was an omission that the statement of changes in net assets was not provided. However, the fund management has availed the statement of changes in net assets to the Auditors and have been reviewed and verified.

4555) **Committee Observations and Findings**

(i) The Accounting Officer failed to prepare complete financial statements for audit.

(ii) The missing financial statements were subsequently provided by the Accounting Officer.

4556) **Committee Recommendations**

Accounting Officers must always ensure that financial statements submitted for audit are complete in accordance to financial reporting framework approved by Public Sector Accounting Standards Board

1498. Inaccurate Comparative Balances

4557) The revised financial statements reflect various comparative figures which differed with the 2017/2018 financial year audited figures as follows:

Item	**Revised Financial Statements (Kshs.)**	**Audited Financial Statements (Kshs.)**	**Difference (Kshs.)**
Total Revenue	333,434,186	351,337,186	(17,903,000)
Total Expenses	652,609,539	504,227,904	148,381,635
Total Current Assets	1,803,142,765	2,306,628,736	(503,485,971)
Fund Balance	7,134,175,160	8,434,951,013	(1,300,775,853)

4558) No explanation or supporting documentation have been provided to show that the financial statements for the financial year 2017/2018 were restated. Consequently, the accuracy of the balances reflected in the financial statements for the financial year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

4559) The Accounting Officer submitted that the supporting schedule of the differences between the revised financial statement and the audited financial statement have been availed to the auditors for verification giving a reconciliation of how the differences arose.

4560) **The Committee observations and Findings**

The Accounting Officer submitted inaccurate financial statements for audit. The inaccuracies were subsequently corrected through reconciliation submitted to the Committee and Auditor General.

4561) **Committee Recommendations**

Accounting Officers must always ensure that financial statements submitted for audit are accurate and prepared in accordance to financial reporting framework approved by Public Sector Accounting Standards Board.

1499. Unsupported Adjustments in the Revised Financial Statements

4562) The supporting documents for adjustment of the following balances reflected in the revised financial statements were not provided for audit:

Item	Initial Balance (Kshs.)	Revised Balance (Kshs.)	Difference (Kshs.)
Inventories	601,564,368	255,027,237	346,537,131
Trade Payables	15,178,418	15,120,143	58,275

Submission by the Accounting Officer

The Accounting Officer submitted that this was an omission, however the supporting schedule for the adjustments between initial balance and the revised balance has been availed to the auditor for verification giving a reconciliation of how the differences arose.

The committee observed the following;

4563) The Accounting Officer submitted financial statements for audit which were not in agreement with support schedules for inventories and trade payables. The variances were subsequently resolved through reconciliation submitted to the committee and Auditor General.

4564) **Committee Recommendations**

Accounting Officers must always ensure that financial statements submitted for audit are well supported and prepared in accordance to financial reporting framework approved by Public Sector Accounting Standards Board

1500. Cash and Cash Equivalents

4565) As disclosed in Note 14 to the financial statements, the statement of financial position reflects a balance of Kshs.13,307,759 in respect of cash and cash equivalents. However, the bank reconciliation statement reflected an amount of Kshs.11,3700,961 relating to receipts in bank not in cashbook which included Kshs.4,754,539 which had been outstanding for more than six (6) months. No explanation has been provided for failure to establish the source and purpose of the direct deposits.

4566) Under the circumstances, the accuracy of the reported cash and cash equivalents balance of Kshs.13,307,758 could not be confirmed.

Submission by the Accounting Officer

4567) The Accounting Officer submitted that the direct deposits appearing in bank statement amounting to Kshs.4,754,539 were as a result of payments banked directly by customers for various services being rendered by MTF. There was however a time lapse between when customers made deposits and when they came to the office for services. The MTF management has since carried out a reconciliation to identify the clients who pre-paid for the services and has since issued them with official receipts for the purpose of recognizing them as revenue.

4568) The official receipts amount has been posted in the cashbook and the corresponding amount has been treated as sundry creditors in the revised financial statement. Attached was a copy of the cashbook showing the posting of the amount.

4569) **Committee Observations and Findings**

The committee marked the matter as resolved.

1501. Unsupported Income

4570) The statement of financial performance reflects total income of Kshs.358,423,947 as revenue earned during the financial year 2018/2019. Included in the revenue balance is Kshs.270,552,129, Kshs.12,502,869 and Kshs.74,131,789 relating to domestic hire, hire of buses and hire of water rigs, plant and equipment respectively. However, the following observations were made:

1501.1 Income from Domestic Hire

4571) The Fund has leased motor vehicles and transport equipment to the National Youth Service. However, no lease agreement, schedule or listing of distribution of the leased motor vehicles and machinery leased to each field station showing the duration of hire and rates charged for each vehicle or equipment were availed in support of the reported figure of revenue for domestic hire. Further, the invoices availed for audit review had no control numbers or any accountability references and therefore, the completeness and accuracy could not be established. In addition, there is no policy document or contract agreement between the National Youth Service and the Mechanical and Transport Fund showing the applicable rates and mode of leasing for the assets.

4572) Under the circumstances, the accuracy and completeness of the amount of Kshs.270,552,129 relating to revenue from domestic hire could not be confirmed.

Submission by the Accounting Officer

4573) The Accounting Officer submitted that the fund management has been relying on the Legal Notice No 15 of 2011 and Rules, Procedures and Guidelines for the operation of the fund matters. The list of vehicles, machines and equipment distributed to various NYS units has been availed to the auditors for verification.

4574) The availed invoice for the financial year 2018/2019 had no control number. However, the fund management has since rectified the error and currently all fund invoices and quotation have control numbers. This documents were availed to the auditors for review and verification. A sample of invoices with the control number were availed to the Committee for perusal.

4575) **Committee Observations and Findings**

The Committee marked the matter as resolved.

1501.2 Income from Commuter Buses

4576) The buses operate as Public Service Vehicles but the mode of operation revealed that the daily receipts summaries used to record the revenue had no verification checks on the accuracy and reliability of the data by a responsible officer such as route commanders and the accountant in charge to reconcile the collections to the receipts. In addition, the money received as per the daily receipts summaries could not be traced in the miscellaneous receipts book on a daily basis or as a batch and hence the banking of the collections could not be verified.

4577) Further, the bank deposits slips provided in support of the receipts did not show the date the funds were received from commuter buses or reconciled to the specific daily receipts to which they related to, making it difficult to confirm the accuracy and completeness of the recorded and the banked revenue. Although the schedule given to support the revenue earned from commuter buses agreed with the amounts recorded in the financial statements, the revenue recorded in the daily control sheets could not be reconciled to the bankings and the cash book.

4578) As a result, the accuracy and completeness of the Kshs.12,502,869 reported revenue relating to hire of buses could not be ascertained.

Submission by the Accounting Officer

4579) The Accounting Officer submitted that the figure of Kshs.12,502,869 is made up of commuter buses revenue of Kshs.6,659,600 and normal hiring of buses of Kshs.5,843,269. For the Commuter bus revenue, a schedule is attached showing how the money received as per the daily receipts summaries is traceable to the miscellaneous receipt book as a batch and the banking of the collection are availed for audit verification. A schedule has been attached showing normal hiring of buses revenue of Kshs.5,843,269 were directly bank in the fund account.

4580) **Committee Observations and Findings**

The Committee marked the matter as resolved.

1501.3 Hire of Water Rigs, Plant and Equipment

4581) Information availed for audit examination in support of the income, revealed that income was recognized based on miscellaneous receipts issued and not amount invoiced contrary to the accruals principle of accounting which requires that revenue should be recognized when earned and not received. Further, the quotations and the invoices issued did not have control checks such as pre-numbering hence susceptible to manipulation or change without proper authority.

4582) There were no official quotation receiving registers, acknowledgements and acceptance from the requisitioning entity marked on the documents as proof or confirmation of figures neither were there executed contracts in support of the amounts charged to various customers.

4583) Consequently, the accuracy and completeness of the reported income from hire of water rigs, plant and equipment of Kshs.74,131,789 could not be confirmed.

Submission by the Accounting Officer

4584) The Accounting Officer submitted that the Miscellaneous receipts are issued based on the invoice and quotation given to the clients. The fund management recognizes revenue when service has been rendered to the client whether paid or not paid. Money for work not done are treated as prepayment in the statement of financial position.

4585) The fund management has since corrected the omission and currently all quotations and invoices issued at the MTF have control checks of pre-numbering and contain proper authority and currently the fund maintains a receiving, acknowledgement and acceptance registers from the requisition entities. Attached are a sample of quotations and invoices for audit verification.

4586) **Committee Observations and Findings**

The committee marked the matter as resolved.

1502. Unsupported and Unauthorized Council Expenses

4587) The statement of financial performance reflects an amount of Kshs.17,565,851 relating to council expenses. As disclosed under Note 12 to the financial statements, the amount constitutes payments for the full council meetings and sub-committee meetings retreat cost and induction of council members. However, information availed in support of the payments showing the dates, venues of the meetings, nature of the meetings, number of days, rates payable and invitation letters for the council members were not availed for audit verification.

4588) Further, the expenditure related to the National Youth Service Governing Council and not the Mechanical and Transport Fund. The Fund's enabling legal framework and Legal Notice No. 15 of 2011 has no provision for the Governing Council and payments are therefore, not supported by any legal justification and approval from the Accounting Officer of the parent ministry.

4589) As a result, the propriety, validity and accuracy of the expenditure of Kshs.17,565,851 relating to council expenses for the year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

4590) The Accounting Officer submitted that the expenditure was in line with the MTF approved annual work plan for 2018/2019 financial year. The fund management has availed information in support of the payment of kshs17,565,851 showing the dates, venue of the meetings, nature of the meetings, number of days and rate paid. A copy showing approvals of the council expenses was availed for perusal by the Committee.

4591) **Committee Observations and Findings**

The committee marked the matter as resolved.

1503. Sundry Creditors

4592) The statement of financial position as at 30 June, 2019 reflects a balance of Kshs.8,579,223 relating to sundry creditors. As reported in the prior years report, the balance has been outstanding for over five (5) years and there is no clear justification on why the amount has not been settled to date. Further, the balance which had been classified as a non-current liability in financial year 2016/2017 was re-classified to current liabilities in financial year 2017/2018 without any justification.

Submission by the Accounting Officer

4593) The Accounting Officer submitted that the matter raised above was from prior years and the same was resolved in the Twelfth Parliament – Fifth Session (Public Accounts Committee) Report of 2017/2018 under paragraph 1277.

4594) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18.

1504. Unsupported Commercial Debt

4595) The statement of financial position for the year ended 30 June, 2019 reflects a balance of Kshs.222,314,863 in respect of receivables from external operations. However, the breakdown of the commercial debts showing the outstanding invoices issued relating to the services rendered by the fund and the periods, were not availed for audit verification. Further, review of individual files provided in support of these debts, revealed that the terms of the quotation for equipment hire charges are strictly payable upfront before commencement of works. Therefore, the Fund Management should not authorize the works commencement before payment is received. No explanation was provided to show how the equipment were mobilized for private works before receiving the payments.

4596) It was also noted that the quotations and invoices issued have no control checks to ensure accountability as they have no sequence numbers, official receiving stamp and acceptance acknowledgement from the requisitioning entity. Further, the other debts receivables of Kshs.30,408,557 include an outstanding balance of Kshs.2,464,500 in respect of a customer, while summation of the invoices attached to the customer's file reflect a revenue of Kshs.2,635,584 with no receipts recorded to date. In addition, the amount recognized as revenue for the year under review for the particular customer was Kshs.2,239,940 resulting in an unexplained and unreconciled variance of Kshs.395,644.

4597) Under the circumstances, the accuracy and validity of the commercial debts figure of Kshs.222,314,863 as at 30 June, 2019 could not be ascertained.

Submission by the Accounting Officer

4598) The Accounting Officer submitted that the fund management has since provided a schedule showing a breakdown of commercial debt balance as presented in the statement of financial position and has since initiated use of MOUs and formal contracts before mobilizing equipment's and machineries to clients's site. The omission has since been corrected and currently all quotations and invoices issued at the MTF have control check of pre-numbering and contain proper authority. Attached are few sample quotation and invoices for auditing verification. Kshs.395,644 was due to casting errors which has been corrected in the revised statement of financial position.

4599) **Committee Observations and Findings**

(i) The explanation given by the Accounting Officer with regard to the unsupported prior year adjustments was satisfactory;
(ii) The Accounting Officer had not availed the supporting documents at the time of audit. However, the documents were subsequently availed to the Auditor General for verification.

4600) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012 and also ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1505. Unauthorized Lending

4601) The statement of financial position reflects a figure of Kshs.1,287,669,763 relating to receivables from the National Youth Service. Included in the amount is Kshs.635,899,313 borrowed by the National Youth Service during the financial year 2017/2018 and yet to be refunded as at 30 June, 2019. It was also observed that an additional Kshs.74,196,000 was borrowed on 15 November, 2018 without proper authority from the Cabinet Secretary and refunded on 5 March, 2019.

4602) Under the circumstances, the Fund is in breach of the Government financial regulations.

4603) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18.

1506. Prepayments

4604) The statement of financial position reflects an amount of Kshs.38,488,596 relating to the closing balance of prepayments by clients as at 30 June, 2019. However, the figure of Kshs.40,996 for clients deposits reflected under Note 20 to the financial statements, have been carried forward for over four (4) years and no explanation has been provided on why services in respect of this prepayment have not been offered yet. Further, the breakdown and supporting documents for the prepayment of Kshs.4,880,005 relating to Embu County Government reflected under Note 20 to the financial statements has not been provided for audit verification.

4605) Consequently, the accuracy and completeness of the figure for prepayments of Kshs.38,488,596 could not be confirmed.

Submission by the Accounting Officer

4606) The Accounting Officer submitted that it was noted that the figure of Kshs.40,996 is a client deposit as reflected under note 20 of the financial statement. The fund management is in the process of tracing the client with a view to refund. Copies of the Embu County Government General ledger to support a closing balance of Kshs.4,880,005 were attached for perusal by the Committee.

4607) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to Embu County Government General ledger was satisfactory;
(ii) The Committee further observed that the fund management is in the process of tracing the client with a view to refund Ksh 40,996;
(iii)The matter remained unresolved.

4608) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012 and also ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1507. Inventory

4609) The statement of financial position as at 30 June, 2019 reflects a figure of Kshs.255,027,237 relating to inventories (spares). However, physical verification of stocks as at March, 2020 revealed that tyres of unquantifiable amount were being held in the stores since 2017 and had not been captured in the stores ledger cards or taken on charge in the inventory records. Under the circumstance, the inventory, though belonging to the Fund had not been included in the total inventory value as at 30 June, 2019 and hence the stock value reported in the financial statement is understated and inaccurate.

4610) Further, the inventory balance as at 30 June, 2019 includes spares procured in the financial year 2014/2015 amounting to Kshs.175,780,240 which have had no movement or consumption during the year 2017/2018 and 2018/2019 hence may be obsolete or have no use. There is need to adhere to assets management as per Regulation 139 of the Public Finance Management (National Government) Regulations, 2015.

4611) In addition, the closing inventory of Kshs.255,027,237 for the year ended 30 June, 2019 has no supporting documents with regard to the quantities and the inventory valuation, neither was there evidence or disclosure of the criteria used to value the inventories reported in the statement of financial position in line with paragraph 15 of IPSAS 12 which requires that inventory be reported at the lower of cost or net realizable value.

4612) Consequently, the accuracy and completeness of the figure of Kshs.255,027,237 for inventories could not be confirmed.

Submission by the Accounting Officer

4613) The said tyres are still a subject of an ongoing court case. The stock worth of Kshs.175,780,240 relates to spare parts which came as package with the procurement of equipment &machines during the financial year 2014/2015. Out of Kshs.175,780,240, stock worth kshs.36,000,000 has already been used during the financial year 2019/2020.The remaining stock balances continue to be used on a need basis. Stock taking report as at 30 June 2019 is attached to support the closing inventory of Kshs.255,027,237.

4614) **Committee Observations and Findings**

The Committee marked the matter as resolved.

1508. Non-Current Assets

4615) The statement of financial position as at 30 June, 2019 reflects a total non-current assets balance of Kshs.4,951,705,420 which includes an amount of Kshs.3,213,778,096 relating to plant and heavy machinery. However, the Fund's Management has not valued the plant and heavy machinery for financial reporting purposes since inception.

4616) In addition, the statement of financial position as at 30 June, 2016 and the non-current assets movement schedule under Note 3 reflected a total net book value of Kshs.6,263,076,867 while the computed figure using appropriate rates showed a balance of Kshs.6,366,028,632. The resulting variance of Kshs.102,951,765 has not been analyzed or explained to date.

4617) Further, and as previously reported in 2015/2016, the accumulated depreciation brought forward as at 1 July, 2016 of Kshs.2,178,510,682 included unsupported adjustments of

Kshs.3,662,814.25 relating to plant and heavy machinery and unaccounted for depreciation of Kshs.94,168,883. No documentation has been provided in support of these adjustments to date.

4618) Also, physical verification of assets owned by the Fund revealed that assets procured during the year at a cost of Kshs.12,962,212 which included ten (10) motor cycles, twenty-one (21) diesel generators and ten (10) water pumps could not be verified. Evidence that the Fund Management complied with the public procurement law and procedures to purchase the items and the distribution list for the items were not provided for audit verification. Logbooks or ownership documents for assets amounting to Kshs.43,821,753 were not availed for audit verification. Five (5) of the twenty-seven (27) buses used for commuter services were not in use due to maintenance challenges hence grounded. No evidence has been provided to show that procurement of spares to reinstate the vehicles back in service is ongoing.

4619) Consequently, the accuracy of the figure for net non-current assets of Kshs.4,951,705,420 could not be confirmed.

Submission by the Accounting Officer

4620) The Accounting Officer submitted that the valuation of non-current assets was split into two phases. Phase one has been done and completed by officers from the State Department for Public Works who are mandated to undertake the exercises. Phase two is almost complete. After the completion of phase two, proper values for non-current assets will be obtained. Any variances from the prior year's adjustment will be adjusted in the current financial year as guided by the IPSAS section of prior year adjustment. The pre-inspection, requisition, professional opinion, local purchase, S13, S11 and post-inspection report are attached showing that procurement of spares and overhauling of the 4 buses out of 5 which were grounded are now operating.

4621) The 10 motorcycle, 21 generators and 10 water pumps have been part of MTF non-current assets since 2010 when they were bought and later distributed. Attached are copies of logbooks to support the date of acquisition and schedule of distribution of the motorcycles to various NYS units.

4622) **Committee Observations and Findings**

The Committee marked the matter as resolved.

1509. Procurement and Payment for Servicing of Motor Vehicles and Machinery

4623) The statement of financial performance reflects a figure of Kshs.54,803,862 relating to stores and service expenses for the year. Analysis of the ledger shows various payments to twelve (12) service providers totalling to Kshs.16,122,656 were made in the final week of the financial year. However, the details relating to requisitions, procurement process approvals, professional opinions and certificate of inspection and acceptance for services were not provided to the Fund.

4624) Under the circumstances, the propriety, accuracy and authenticity of the expenditure of Kshs.16,122,656 could not be confirmed.

Submission by the Accounting Officer

4625) The Accounting Officer submitted that the fund management has since availed to the auditors all requisitions, approvals, professional opinions and job cards to justify Kshs.16,122,656 incurred during the financial year ended 30 June 2019.

4626) **Committee Observations and Findings**

The Committee marked the matter as resolved.

1510. Stores and Service Direct Procurement Through Cash

4627) The statement of financial performance and Note 5 of the financial statements reflects an amount of Kshs.54,803,862 in respect of stores and services. Examination of the accounting records indicated that the Fund paid an amount of Kshs.8,042,746 for various supplies in cash through the Officer in Charge being direct payments for services without compliance with Section 104 of the Public Procurement and Asset Disposal Act, 2015. Further, the payments were not supported with appropriate user requisitions, approvals and certificate of inspection and acceptance for services rendered to the Fund. No explanation has been provided for non-compliance with the law on procurement for goods and services.

Submission by the Accounting Officer

4628) The Accounting Officer submitted that an amount of Kshs.8,042,746 was expensed through a standing imprest reimbursement, starting from 1st July 2018 to 30th June 2019. Attached is schedule showing expenses incurred from the standing imprest whereby the costs were of low value amount kshs.30,000 and below.

4629) **Committee Observations and Findings**

The Committee marked the matter as resolved.

1511. Prior Year Audit Issues

4630) Although a number of issues reported in the prior years' audit reports remained unresolved as at 30 June, 2019, Management did not disclose the progress on follow up of the auditor's recommendations on the matters in the financial statements as required by the Public Sector Accounting Standards Board. The matters remained unresolved as at 30 June, 2019.

Submission by the Accounting Officer

4631) The Accounting Officer submitted that the actions on the Public Account Committee recommendations of the status report for the year ended 30 June 2018 is ongoing.

4632) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was made to that effect.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4633) **Conclusion**

1512. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4634) **Conclusion**

1513. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

48. STATE DEPARTMENT FOR GENDER

REPORT ON THE FINANCIAL STATEMENTS – VOTE 1212

Prof. Collette Akinyi Suda, FKNA, CBS the Principal Secretary and Accounting Officer for State Department for Gender (Vote 1212) appeared before the Committee 15th September, 2021 to adduce evidence on the audited financial statement for the State Department for Gender (Vote 1212) for the Financial Year 2018/2019. She was accompanied by the following officers:

1. Mr. Henry Mabegi - Assistant Accountant General
2. Mr. Caliph N. Ombate - Chief Finance Officer
3. Mr. James Sangori - Director Gender
4. Mr. Andrew M. Kimalu - Senior Supply Chain Management Services
5. Mr. Protus Onyango - Director Gender
6. Mr. Henry Omosa - Director Human Resource Management
7. Ms. Verity Mganga - Director Gender
8. Mr. Francis M. Muriuki - Assistant Director-ICT
9. Mr. Duncan Muraguri - Internal Auditor

And submitted as follows:

Basis for Qualified Opinion

1514. Accuracy and Completeness of the Financial Statements

1514.1 Unexplained Variances Between Financial Statements and IFMIS Balances

4635) A comparison between the financial statements for the year ended 30 June, 2019 and the supporting schedules generated from the Integrated Financial Management Information System (IFMIS) revealed various variances as shown below:

Item	Financial Statements (Kshs.)	IFMIS Supporting Schedule (Kshs.)	Variance (Kshs.)
Bank Balance	706,549	2,767,771,614	(2,767,066,065)
Cash Balance	0	7,970,692,008	(7,970,692,008)
Receivables – Imprests &	1,109,552	24,545,755	(23,436,203)
Clearance			
Payables	0	4,018,691,633	(4,018,291,633)
Prior Year Adjustments	4,207,522	0	4,207,522

Management has not explained or reconciled the variances.

Submission by the Accounting Officer

4636) The Accounting Officer submitted that the variances were caused by incomplete Auto-bank Reconciliations due to IFMIS challenges. The Reconciliations have since been completed and the figures in Financial Statements (column (a)) and those from IFMIS (column (b)) are now in agreement as in the table below: (Table I and II).

Table I

Item	Financial Statements (Kshs)	IFMIS Supporting Schedule (Kshs)	Variance (Kshs)
Bank Balance	706,549	2,767,771,614	(2,767,066,065)
Cash Balance	0	7,970,692,008	(7,970,692,008)
Receivables – Imprests & Clearance	1,109,552	24,545,755	(23,436,203)
Payables	0	4,018,691,633	(4,018,291,633)
Prior year adjustments	4,207,522	0	(4,207,522)

Table II

Reconciled Financial Statements

Item	Financial Statements (Kshs) (a)	IFMIS Supporting Schedule (Kshs) (b)	Variance (Kshs) C=(a)- (b)
Bank Balance	706,549	706,549	0
Cash Balance	0	0	0
Receivables– imprests & Clearance	1,109,552	1,109,552	0
Payables	0	0	0
Prior year adjustments	4,207,522	4,207,522	0

4637) Copies of the Trial Balance, Notes to Financial Statements and Cash Flow were availed to the Committee.

4638) **Committee Observation and Findings**

(i) The financial statements for the year ended 30 June, 2019 and the supporting schedules generated from the Integrated Financial Management Information System (IFMIS) were not reconciled as at the time of audit.

(ii) The revised financial statements for financial year 2018/2019 were not submitted for audit review and verification.

4639) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting officer should prepare the revised financial statements and submit to the Auditor-General for review and reporting to the National Assembly.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1514.2 Unsupported Prior Year Adjustments

4640) The statement of assets and liabilities and the statement of cash flows for the year ended 30 June, 2019 reflects prior year adjustments amounting to Kshs.4,207,522. However, the justification for these adjustments and the documentary evidence to support the figures have not been provided for audit verification. Further, the prior year adjustments have not been done in line with the International Public Sector Accounting Standards which require restatement of all affected prior year balances in the financial statements.

Submission by the Accounting Officer

4641) The Accounting Officer submitted that the figure Comprised of the previous year bank balance of Kshs. 166, 852, and outstanding imprest of Kshs. 4,040,670. The bank balance was subsequently recovered by the National Treasury and the imprests have since been surrendered. Copies of Certificate of bank balance and current status of outstanding imprest register were availed to the Committee.

4642) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer did not prepare financial statements for the financial year in a form prescribed by the Accounting Standards Board.
(ii) The committee observed that the Accounting Officer had not taken any action in line with Regulation 92 (5), (6) and (8) of the PFM (National Government) Regulations, 2015 for

the failure to account for or surrender the imprest on the due date and issuing a second imprest before surrender of the first one.

Committee Recommendations

4643) **The Accounting Officer must at all times ensure that;**

1) **The holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.**
2) **In the event of the imprest holder failing to account for or surrender the imprest on the due date, he/she shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.**
3) **In order to effectively and efficiently manage and control the issue of temporary imprests, no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary.**

1514.3 Non-Compliance with Financial Reporting Guidelines

4644) The financial statements presented for audit review contain an unsigned forward by the Cabinet Secretary in line with guidelines issued by the Public Sector Accounting Standards Board. The financial statements are therefore, not fully signed as required.

Submission by the Accounting Officer

4645) The Accounting Officer submitted that it was true that the financial statements submitted had an unsigned section by the Cabinet Secretary. However, the other signatories that is the Accounting Officer and the Principal Accounts Controller had signed.

4646) The State Department regrets the anomaly.

4647) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not prepare financial statements for the financial year in a form prescribed by the Accounting Standards Board.

4648) **Committee Recommendations**

The Accounting Officer must at all times comply with the requirements of the Accounting Standards Board when preparing the financial statements for the financial year.

1515. Unsupported Routine Maintenance – Other Assets

4649) The statement of receipts and payments reflects an expenditure of Kshs.573,338,957 under use of goods and services which includes Kshs.13,774,341 incurred on routine maintenance – other assets. The latter balance includes cost of office partitioning works amounting to Kshs.8,512,000 undertaken by a contractor. However, the following documents were not made available for audit review; terms and conditions of contract, specifications of material for use, drawings and priced bills of quantities.

4650) Consequently, the accuracy, propriety and validity of the routine maintenance – other assets expenditure of Kshs.13,774,341 for the year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

4651) The Accounting Officer submitted that the Tender Documents for Office Partitioning were availed to the Auditors for review and verification. Copies of the tender Documents were availed to the Committee.

4652) **Committee Observations and Findings**

(i) The Committee observed that terms and conditions of contract, specifications of material for use, drawings and priced bills of quantities were not provided for audit review as at the time of audit.
(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
(iii) In addition, the Committee observed that the Accounting Officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit ; and
(iv) The Committee therefore marked the matter as resolved.

4653) **Committee Recommendations**

1) **The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also, ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1516. Non-Disclosure of Retention Fees - Deposits

4654) The statement of assets and liabilities for the year ended 30 June, 2019 reflects a nil balance for deposits. However, whereas the Department undertook and paid for partitioning works costing Kshs.8,512,000 during the year under review, the records maintained does not show any retention withheld for the financial year 2018/2019. As a result, the accuracy of the nil balance for deposits in respect of the financial year ended 30 June, 2019 could not be ascertained.

Submission by the Accounting Officer

4655) The Accounting Officer submitted that the certificate of completion showed that work was completed on 3rd August 2018. The first Payment was made in September after work had been certified, therefore we thought it was unnecessary to make retentions. Copies of the Certificate of work Completion and Payment vouchers were availed to the Committee.

4656) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not deduct retentions to cater for defects within the defect liability period thus risking public funds through poor workmanship.

4657) **Committee Recommendations**

The Accounting Officer must ensure Effectiveness of Internal Controls and Risk Management.

1517. Outstanding Imprest

4658) The statement of assets and liabilities reflects a balance of Kshs.1,109,522 (2017/2018 - Kshs.4,040,670) as outstanding imprest for the year ended 30 June, 2019. These imprests should have been surrendered or recovered in full from the salaries of the defaulting officers with interest, as they were more than three months old as at the year end. The non-recovery or non-surrender has not been explained.

4659) Further, the outstanding imprests amounting to Kshs.1,109,522 (2017/2018 - Kshs.4,040,670) as per the financial statements does not agree with the balances reflected in the trial balance and Imprest register of Kshs.7,810,615 (2017/2018 - Kshs.6,851,199) and Kshs.2,500,624 (2017/18 - Kshs.11,414,313) respectively. The resultant variances between the three sets of records have not been reconciled.

4660) Under the circumstances, the completeness, accuracy and recovery of the outstanding imprests of Kshs.1,109,522 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

4661) The Accounting Officer submitted that the outstanding imprest balance of Kshs.1,109,522 were not surrendered in 2018/2019 due to insufficient funds. The imprests were however fully surrendered in the subsequent year 2019/2020. Copies of outstanding imprest register and surrender vouchers were availed to the Committee.

4662) The variances between the financial statements, the trial balance and the imprest register have since been reconciled through auto-bank reconciliations. These variances were as a result of using two sources of information: Manual vs. IFMIS records. The agreement of the trial balance and the imprest register has since been confirmed, reviewed and verified by the Auditor General.

4663) **Committee Observations and Findings**

4664) The Committee observed that the Accounting Officer did not take any action in line with Regulation 92 (5), (6) and (8) of the PFM (National Government) Regulations, 2015 for the failure to account for or surrender the imprest on the due date and issuing a second imprest before surrender of the first one.

4665) **Committee Recommendations**

1) **The holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.**
2) **In the event of the imprest holder failing to account for or surrender the imprest on the due date, the he/she shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.**
3) **In order to effectively and efficiently manage and control the issue of temporary imprests, no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary.**

1518. Summary of Fixed Assets Register

4666) The summary statement of fixed assets reflects a fixed assets balance of Kshs.305,822,165 which includes intangible assets of Kshs.239,437,500 acquired during the year under review. However, the State Department did not maintain an updated fixed asset register as required. Further, the brought forward fixed assets balance of Kshs.38,692,930 was not reconciled to the comparative acquisition of assets figure of Kshs.482,888,200 shown in Note 6 to the financial statements.

4667) Under the circumstances, it has not been possible to confirm the completeness and accuracy of the fixed assets balance of Kshs.305,822,165 (2017/2018 - Kshs.38,692,930) as reflected in the financial statements for the year ended 30 June, 2019.

Submission by the Accounting Officer

4668) The Accounting Officer submitted that it was true that the Department did not maintain a summary of fixed asset register during the year under review. The Department has since maintained a fixed asset register which is updated as and when new assets are required by the IPSAS.

4669) The matter was discussed by the Public Accounts Committee on 21st May 2020 for the accounts of the year 2017/2018. The Committee on paragraph 1295 page 823 of the report recommended that the matter be marked as resolved.

4670) **Committee Observation and Findings**

The committee observed that the Accounting Officer did did not maintain a summary of fixed asset register during the year under review.

(i) The fixed asset register was not submitted for audit review and verification.

4671) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting officer should submit the fixed asset register to the Auditor-General for review and reporting to the National Assembly.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1519. Pending Bills

4672) Note 12 and Annex 1 of the financial statements, reflects pending bills of Kshs.107,300,408 as at 30 June, 2019, for supply of sanitary pads, that were not settled during the year 2018/2019 but were instead carried forward to 2019/2020. Failure to settle bills during the year in which they relate to adversely affects the provisions of the subsequent year to which they have to be charged. Further, records to support the delivery of 1,761 packets of sanitary pads worth Kshs.48,780 were not produced for audit review. Consequently, the completeness and accuracy of the pending bills balance of Kshs.107,300,408 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

4673) The Accounting Officer submitted that it was true that during the year ended 30th June 2019 there were pending bills amounting to Ksh107,300,408 for supply of sanitary pads due to lack of exchequer. These bills were subsequently paid in FY 2019/2020 as the first charge. Copies of the list of pending bills and payment status were attached for perusal by the Committee.

4674) **The Committee observed and found that:**

The Committee observed that the Accounting Officer gave the underlying reason for the not settling the pending bills as lack of exchequer and the contingency measures put in place to address the problem.

4675) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

1520. Compensation of Employees

4676) The compensation of employees amounting to Kshs.205,404,606 for the year ended 30 June, 2019, includes an amount of Kshs.3,819,832 paid to a senior officer, Secretary-Gender Affairs. However, it was noted that the declaration of the vacant position of the

Secretary- Gender Affairs was not processed through the Ministerial Human Resource Management Advisory Committee (MHRMAC) as per the requirements of Section B.3(3) of the Human Resource Policy and Procedure Manual, the officer's recruitment was not done through competitive process and the officer recruited did not possess the required qualification of strategic leadership development course at the time of recruitment.

4677) Further, the officer recruited on local agreement terms for a period of three years was placed at the maximum of the salary scale of that job group contrary to the requirement of Section C. (2) of the Human Resource Manual which requires that on first appointment, an officer will enter the salary structure at the minimum point of the respective salary scale. This resulted to salary overpayment of Kshs.1,853,103, including arrears of Kshs.145,243, in the year under review. The Local Agreement Form PSC 38, Employment on Contract Terms, submitted for audit review ware both unsigned and undated.

4678) In the absence of evidence that due process was followed in the declaration, recruitment and salary determination, the regularity, accuracy and validity of the amount of Kshs.3,819,832 paid as compensation to the officer included in the compensation of employees expenditure of Kshs.205,404,606 for the year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

4679) The Accounting Officer submitted that while it was true that the Position of Secretary, Gender was not processed through Ministerial Human Resource Management Advisory Committee - MHRMAC as per the requirements, she pointed out that the position was declared by the State Department for Gender to the Public Service Commission (PSC) for competitive filling and the Candidate identified (Ms. Kasiva) was recommended by the Authorized Officer for the Ministry of Public Service and Gender for appointment to the Grade because she possessed unique qualifications and experience obtained while working at an International Organization. This was in accordance with Section 13 (3) of the Public Service Commission Act of 2010 which states that;

> "the Commission may, in the best interest of the service, efficiency, effectiveness or parity of treatment, and on a case-by-case basis recommend to an Authorized Officer the need to appoint persons to hold offices established by the Commission".

4680) MHRMAC is an advisory body to the Authorised Officer on Management of Human Resource (HR) matters including recruitment. He or She is not legally bound to follow the advice of the Committee. That she did not consult MHRMAC prior to her recommendation to PSC for Ms. Kasiva's appointment implied that she chose to be guided by the PSC Act already highlighted above which is a legal document.

4681) Ms. Kasiva was appointed by the Public Service Commission to the Grade of Secretary, Gender, Job Group "T" on Local Agreement Terms and the decision communicated to the Authorized Officer vide their letter Ref. No. PSC/13/104/1/1; PSC/13/104/ (7) dated 7th June, 2018. The Contract was for a period of thirty-six (36) months. The Officer reported for duty with effect from 3rd July, 2018. Copy of the letter was attached.

4682) The Public Service Commission, as an Appointing Authority has a final decision on appointment of officers to the Public Service and their decision is usually not subject to any challenge and failure to implement the Commission's decision might attract a disciplinary action being taken against whoever is concerned. This is in line with the Section 9 (3) of the PSC Act of 2010 which states that:

> "A person who refuses or fails to implement the decisions of the Commission commits an act of misconduct and shall be subject to the penalties specified in Section 68 of the Act or disciplinary proceedings in accordance with his or her terms of service".

4683) The Officer was appointed without the qualification of Strategic Leadership Development Programmes (SLDP) since the Cabinet Secretary (CS) in her letters dated 27th March, 2018 and 10th April, 2018, while recommending her for appointment to the grade of Secretary Gender, had in fact informed the PSC that the candidate did not possess SLDP and therefore she had disclosed the material fact about the candidate's lack of that qualification. The fact that the PSC went ahead and appointed her to the grade of Secretary Gender Job Group 'T' despite that disclosure implied that the Commission had waived the requirements of SLDP. Copies of letter by the Cabinet Secretary were availed to the Committee.

4684) The Officer was placed on the Maximum salary scale of J/G 'T' because she met the requirements for such a placement. The provisions on salary structure, Section C.2 (2) of the Human Resource Policies and Procedures Manual, May, 2016, stipulates that,

> "on first appointment, an officer will enter the salary structure at the minimum point of the respective salary scale. However, an officer maybe granted incremental credit for previous relevant experience at the rate of one increment for each complete year of approved experience provided the maximum salary of the Job Group assigned to the post is not exceeded".

A copy of the HRM Manual, 2016 was availed.

4685) The Officer had outstanding past experience spanning over ten (10) years obtained while working with the UN Women and UNDP. The candidate had also served in the Authorized Officer's office as an Advisor in Gender Matters w.e.f May 2013 to August 2014. Copies of letter by the Cabinet Secretary were availed to the Committee.

4686) In addition, in May, 2017 to February, 2018 on request by the Government of Kenya, she was brought on board on a Special Assignment in the Office of the then Cabinet Secretary, Public Service, Youth and Gender Affairs as a Gender Advisor. Her main role was to provide Policy Advice to the Cabinet Secretary as well as support the State Department for Gender in the Implementation of Gender Programmes across the country, a function she carried out diligently. It is for this reason that the Authorized Officer approved her placement at the Maximum salary of Job Group "T" the Grade the Public Service Commission had appointed her to. Copy of the CV was availed to the Committee.

4687) The officer's Local Agreement Forms were not signed by both the Authorized officer and the Officer herself due to an oversight and the error is highly regretted. The error has now been corrected in the officer's personal records.

4688) Her contract has since been renewed by the PSC for a further period of thirty six (36) months with effect from 2nd July, 2021 vide their letter No. PSC/158/1/(2) dated 3rd March, 2021. Copy of the PSC letter was availed.

4689) **Committee Observation and Findings**

i) The committee observed that the Position of Secretary, Gender was not processed through Ministerial Human Resource Management Advisory Committee - MHRMAC as per the requirements contrary to Section B.3(3) of the Human Resource Policy and Procedure Manual.
ii) The committee also observed that the officer was recruited on local agreement terms for a period of three years was placed at the maximum of the salary scale of that job group contrary to the requirement of Section C. (2) of the Human Resource Manual which requires that on first appointment, an officer will enter the salary structure at the minimum point of the respective salary scale.

4690) **Committee Recommendations**

The Accounting Officer must ensure full compliance with Section B.3(3) and Section C. (2) of the Human Resource Policy and Procedure Manual.

1521. Wasteful Expenditure included in Domestic Travel and Subsistence

4691) The statement of receipts and payments reflects an expenditure of Kshs.573,338,957 under use of goods and services which includes Kshs.40,458,428 incurred on domestic travel and subsistence. As disclosed in Note 3 to the financial statements, the balance of Kshs.40,458,428 includes an amount of Kshs.1,074,000 incurred to facilitate a private function in respect of the launch of a book by a senior citizen at State House, Nairobi. The expenditure was paid in form of allowances, entertainment and hiring of vehicles of Kshs.814,000, Kshs.220,000 and Kshs.40,000 respectively. However, no evidence was provided to show whether the activity was included in the Department's annual work plan. Further, no authority was sought or obtained from Salaries and Remuneration Commission

(SRC) as constitutionally required to guide on the payment of the allowances to the participants, and no documentation was provided to support how the entertainment groups and the service providers were identified and procured.

4692) In addition, it was not explained why public funds were used to facilitate a private function and how the Kenyan public got value for the amount spent. Further, the procurement method used for cash purchases was irregular as the purchases were in excess of the allowed threshold.

4693) In these circumstances, it has not been possible to ascertain the propriety and value for money of the Kshs.1,074,000 included in the domestic travel and subsistence expenditure of Kshs.40,458,428 for the year ended 30 June, 2019.

Submission by the Accounting Officer

4694) The Accounting Officer submitted that His Excellency the President invited the Ministry and prominent women leaders to recognize and award those women and men who had played outstanding roles in the development of the country in all sectors that include;

1. Commerce and Industry
2. Education, Science and Technology
3. Politics and leadership
4. Arts and Sports
5. Health, etc

4695) This event falls under the Ministry's Trailblazer and Award programme and thus the Ministry was responsible for inviting and catering for the women leaders. The event was meant to recognize, award high achievers and encourage other leaders to enhance their efforts in contributing towards gender equality and women's empowerment. One of the activities held as a side event during the awards programme was the Launch of Mama Phoebe Asiyo's Memoir. The book is a documentation of the journeys of women trailblazers in different sectors. The launch of the book was therefore just a sub-set of the main event.

4696) The event was held at State House on 23rd August, 2018 with H.E. the President presiding over the event. Women Leaders were invited from all the eight regions of Kenya and the awards were given in different categories as explained in paragraph one.

4697) The event was successful, and the women leaders were grateful to H. E. the President. The President on his part committed to hosting it annually. The Awards were given this year on 8th March during the International Women's Day (IWD) presided over by H.E. the 1st Lady, Mrs. Margaret Kenyatta.

i. **Lack of Authority from SRC on payment of allowance to participants.**

4698) The Notice from State House was very brief and could not allow the Department to obtain authority from SRC on payment of travel and subsistence allowances. What the department did was to go by market rates and thus paid Ksh. 5000/- for one way trip from Western, Nyanza, Coast, North Rift and North Eastern, 3000/- from Central and 1000/- from Nairobi regions. For delegates coming from outside Nairobi Kshs 5000/- was paid for accommodation in a reasonable hotel in Nairobi for 2 days. Minutes of Planning meeting dated 6th August, 2018 were availed.

ii. **How Entertainment groups and service providers were identified and procured**

4699) This being a high-end event, only two entertainment groups, namely, Hellen Mtawali (patriotic song) and Catherine Masheti (poem on women in leadership) were procured to entertain guests. Choice of these groups was based on their high standing in the entertainment arena and recommendations of the Presidential Events Management Office in the Office of the President in Harambee House.

iii. **As to whether Public Funds were used to finance a private event**

4700) This was a public event in implementation of the State Department of Gender's Workplan for the FY 2018/19 - to confer awards to women and men who had made outstating contributions to the attainment of gender equality and the empowerment of all women and girls (Annual Workplan 2018/2019). Copy of the Annual Workplan and Budget was availed.

iv. **How the public got value for money spent**

4701) The State Department for Gender provides social services in furthering gender equality and the empowerment of all women and girls as provided in Article 27 of the Constitution of Kenya SDG No.5 and Executive order No.1 of May 2016(Revised 2019 and 2021). This event was meant to recognize, award high achievers and encourage other leaders to enhance their efforts in contributing towards gender equality and women's empowerment. This helps the Government improve on its international gender equality rating (gender equality index). The following copies of supporting documents were availed to the Committee: - Constitution of Kenya, Sustainable Development Goals - SDG 5, Executive order No. 1 of 2020, Gender Gap Index and Global Gender Gap Index.

Committee Observation and Findings

4702) The committee observed that the His Excellency the President had invited the Ministry and prominent women leaders to recognize and award those women and men who had played outstanding roles in the development of the country in all sectors and the launch was just an activity within the event. However, the information and the related supporting documentation were not provided for audit review.

4703) **Committee Recommendations**

The Accounting Officers must ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.

1522. Outstanding Previous Year Audit Issues

The following previous year audit issues remained unresolved as at 30 June, 2019.

1522.1 Presentation of the Financial Statements - Unsupported Adjustments

4704) As previously reported, adjustments made on the first set of submitted financial statements and the amended financial statements were not supported. Thus it was therefore not possible to ascertain whether the financial statements presented a true and fair view as at 30 June, 2018. Further, in Note 7 to the statements, the comparative balance for the proceeds from foreign borrowings was not consistent with the previous year audited financial statements and the balance indicated in Note 3, proceeds from domestic and foreign grants was not reflected in the statements for the year ended 30 June, 2018.

Submission by the Accounting Officer

4705) The Accounting Officer submitted that the Committee discussed the matter in its report of the financial year 2017/2018 and recommended that:

1) **The Accounting Officer must comply with the requirements of the Accounting Standards Board when preparing the financial statements for the financial year.**
2) **Accounting Officers must at all times ensure that the complete financial statements are submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**

1522.2 Misstatement of Social Security Benefits Account Balance

4706) As in the previous audit report, included in the total payments amount of Kshs.3,931,970,274 was an amount of Kshs.6,820,000 disclosed under Note 17 as Social Security Benefits. The amount refers to service gratuity paid to the former Accounting Officer after termination of contract of service on 30 May, 2018. According to the appointment letter, the officer was appointed as a Principal Secretary effective from 27 June, 2013 to 30 June, 2018 (both days inclusive) and hence the payable gratuity was Kshs.6,095,773. Records held by the Department showed that gratuity paid to the officer amounted to Kshs.7,845,269 whereas the financial statements reflected an expenditure of Kshs.6,820,000 for the same item. The account balance was therefore understated by Kshs.1,025,269 which was wrongly charged to the basic wages.

Submission by the Accounting Officer

4707) The Accounting Officer submitted that the Committee discussed the matter in its report of the financial year 2017/2018 and recommended that:

1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**
2) **The Accounting Officer must at all times ensure that she avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that she prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

4708) **Committee Observation and Findings**

(i) The committee observed that gratuity paid to the officer amounted to Kshs.7,845,269 whereas the financial statements reflected an expenditure of Kshs.6,820,000 for the same item and thus understated

(ii) The revised financial statements for financial year 2018/2019 were not submitted for audit review and verification.

4709) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting officer should prepare the revised financial statements and submit to the Auditor-General for review and reporting to the National Assembly.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1522.3 Cash and Cash Equivalents

4710) As previously reported, included in the statement of assets and liabilities and statement of cash flows was a bank balance of Kshs.166,852. Both the Central Bank Certificate of balance and the bank statement showed a figure of Kshs.986,547 while the cash book as at 30 June, 2018 reflected a balance of Kshs.166,852. The variance between the two amounts has not been reconciled or explained. Further, receipts amounting to Kshs.139,799 in the cash book comprising of R/D Loan Agencies of Kshs.50,969.85, unspent balance surrender of Kshs.67,465.08 and unspent AIE balances of Kshs.21,364 have not been supported. Consequently, the accuracy of the cash and cash equivalents balance of Kshs.166,852 as at 30 June, 2018 could not be confirmed.

Submission by the Accounting Officer

4711) The Accounting Officer submitted that the Committee discussed the matter in its report of the financial year 2017/2018 and recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor-General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

4712) **Committee Observation and Findings**

(i) The committee observed that the Central Bank Certificate of balance and the bank statement showed a figure of Kshs.986,547 while the cash book as at 30 June, 2018 reflected a balance of Kshs.166,852. However, the variance between the two amounts had not been reconciled or explained.

(ii) The financial statements for financial year 2017/2018 were not revised and submitted for audit review and verification.

4713) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should reconcile the balances and submit the revised financial statements to the Auditor-General for review.**
2) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**

1522.4 Communication Supplies and Services

4714) During the year ended 30 June, 2018, the Department procured airtime credit cards for the officers worth Kshs.1,335,000. Out of this payment, airtime worth Kshs.141,000 was procured through temporary imprest in contravention of the regulations on control over imprest. Airtime credit cards worth Kshs.1,194,000 for the months of July to September, 2017 was procured through direct procurement method but the Department has not provided evidence to show that the procurement was reported to the Public Procurement Regulatory Authority as required.

4715) Further, out of the total of Kshs.1,335,000 airtime given to officers, airtime worth Kshs.627,000 was provided to officers over and above their applicable entitlement contrary to regulations. As a result, the propriety of the airtime expenditure of Kshs.1,335,000 and recovery of the overpayment of Kshs.627,000 could not be ascertained.

Submission by the Accounting Officer

4716) The Accounting Officer submitted that the Committee discussed the matter in its report of the financial year 2017/2018 and recommended that:

4717) **Committee Observation and Findings**

(i) The committee observed that the airtime worth Kshs.141,000 was procured through temporary imprest in contravention of the regulations on control over imprest.

(ii) The committee further observed that airtime credit cards worth Kshs.1,194,000 was procured through direct procurement method. However, the procurement was not reported to the Public Procurement Regulatory Authority as required.

(iii)The committee also observed that, airtime worth Kshs.627,000 was provided to officers over and above their applicable entitlement contrary to regulations.

4718) **The Committee recommends that:**

Within three months of tabling and adoption of this report, the Accounting Officer should recover the amounts overpaid failure to which the overpaid amount should be recovered from him/her.

1522.5 Domestic Travel and Subsistence

4719) Included in the domestic travel and subsistence allowance balance of Kshs.41,394,453 were irregular payments for taskforces allowances amounting to Kshs.5,028,000. The officers were paid when performing various tasks that were under their normal work obligations and in line of their duties. Further, the payments were made without the requisite authorities from the Accounting Officer. Also included in the domestic travel and subsistence is an amount of Kshs.500,000 paid to one thousand (1,000) participants during a Women Enterprise Fund (WEF) capacity building program as refunds for fare.

4720) However, it was not explained which criteria was applied to identify the participants and why an expense relating to WEF was included in the Department's financial statements and not the WEF financial statements. Consequently, the propriety of the total expenditure of Kshs.5,528,000 could not be confirmed.

Submission by the Accounting Officer

4721) The Accounting Officer submitted that the Committee discussed the matter in its report of the financial year 2017/2018 and recommended that:

Within One (1) month upon tabling and adoption of this report, the Accounting Officer should provide all necessary approvals that led to formulation of the Taskforce.

4722) **Committee Observation and Findings**

The committee observed that some officers were paid when performing various tasks that were under their normal work obligations and in line of their duties. Further, the payments were made without the requisite authorities from the Accounting Officer

(i) The committee further observed that airtime credit cards worth Kshs.1,194,000 was procured through direct procurement method. However, the procurement was not reported to the Public Procurement Regulatory Authority as required.

(ii) The committee also observed that, airtime worth Kshs.627,000 was provided to officers over and above their applicable entitlement contrary to regulations.

4723) **The Committee recommends that:**

Within three months of tabling and adoption of this report, the Accounting Officer should recover the amounts irregularly paid failure to which the amount should be recovered from him/her.

1522.6 Pending Bills

4724) During the year under review the financial statements under Note 28.1 and Annex 1, reflects pending bills amounting to Kshs.222,945,974 as at 30 June, 2018. The following issues were noted:

1522.6.1 Procurement

4725) The State Department contracted various suppliers for supply and delivery of sanitary towels to public primary, special primary and secondary schools at a total cost of Kshs.420,618,059. The contracts were signed on 27 and 28 March, 2018 with deliveries expected between 27 April and 15 June, 2018. The expenditure on sanitary towels of Kshs.218,421,103 was reported as pending bills and paid in the subsequent financial year, 2018/2019. Further, some contractors were either overpaid or underpaid by Kshs.6,189,081 and Kshs.5,273,863 respectively. The overpayments and under payments were not explained.

Submission by the Accounting Officer

4726) The Accounting Officer submitted that the Committee discussed the matter in its report of the financial year 2017/2018 and recommended that:

Accounting Officers should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

4727) **Committee Observation and Findings**

i) The Committee observed that all pending bills have since been cleared in the subsequent Financial Year.

ii) The Committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

4728) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

1522.6.2 Deliveries

4729) Records held by the State Department showed that for the contractors paid, out of the expected quantities of 7,451,146 units only 7,050,460 units were supplied. The under supply of 449,186 units worth Kshs.12,447,742 which are past the due dates of deliveries as per the contracts have not been explained.

4730) In view of the foregoing, the completeness and accuracy of the pending bills balance of Kshs.218,421,103 could not be confirmed as at 30 June, 2018.

Submission by the Accounting Officer

4731) The Accounting Officer submitted that the Committee discussed the matter in its report of the financial year 2017/2018 and recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

4732) Committee **Observation and Findings**

(i) The Committee observed that all pending bills have since been cleared in the subsequent Financial Year;

(ii) The Committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

4733) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

1522.7 Un-Accounted for Fuel, Oils & Lubricants

4734) The State Department paid for supply of fuel worth Kshs.10,921,980 in the year ended 30 June, 2018. Although the procurement was done procedurally, the procured fuel was not accounted for in both the fuel registers and the motor vehicles work tickets. As a result, the expenditure of Kshs.10,921,980 on fuel, oils and lubricants had not been accounted for as at 30 June, 2018.

Submission by the Accounting Officer

4735) The Accounting Officer submitted that the Committee discussed the matter in its report of the financial year 2017/2018 and recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

4736) Committee **Observation and Findings**

The Committee observed that the Accounting officer did not provide the fuel registers and the motor vehicles work tickets to the Auditor-General for review

4737) **The Committee recommended that:**

1) **Within three months of tabling and adoption of this report, the Accounting officer should provide the fuel registers and the motor vehicles work tickets to the Auditor-General for review and reporting to the National Assembly.in the event of failure to provide the documents the amount should be recovered from the officer responsible at the time.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1523. Irregular Procurements

1523.1 Irregular Procurement Methods

4738) The State Department paid Kshs.8,512,000 for partitioning works of its offices. However, it was noted that whereas the restricted tendering method of procurement was used, none of the conditions stipulated in the Public Procurement and Asset Disposal Act, 2015 were satisfied and no explanation has been provided for the use of the method. Further, the Department procured services for event organizing and paid Kshs.2,800,000. However, there was no explanation on which procurement method was applied and therefore, it was not possible to confirm whether value for money was achieved and that the department adhered to the existing laws as outlined in the relevant regulations.

Submission by the Accounting Officer

4739) The Accounting Officer submitted that the State Department for Gender Moved to Telposta Towers (GPO) 4th Floor from Treasury building. The offices at Telposta Towers were open Offices and required argent Partitioning to allocate each directorate. However, restricted tender method was used in partitioning works due to the urgency and nature of the works and the value involved. Section 102(B) of the Public Procurement & Asset Disposal Act 2015 allows use of a restricted tender method where; the time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of goods, works or service to be procured.

4740) It was true that the department procured services for event organizing and paid Kshs.2,800,000 for the International Window's Day which was held at KICC. The method used for the procurement was through request for quotation. Quotations were sourced from event organising firms under the category of AGPO who quoted different prices for different items in the quotation. However, after evaluation the firm that quoted lowest price in each item was awarded. The law allows use of request for quotation where the value of the subject matter is below Kshs.2,000,000/= per item. It was on this background that the firm was identified to offer the service of event organizing.

4741) **Committee Observations and Findings**

The Committee observed that the procurement services for event organizing, was done through request for quotation. However, the amounts are above the set threshold in the Public Procurement and Asset Disposal Regulations thus the Accounting Officer breached the law.

4742) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Cabinet Secretary, National Treasury should reprimand all the officers involved in the procurement and payment processes.

1523.2 Uncompetitive Procurements

4743) The State Department paid Kshs.1,240,000 for the supply of toners and Kshs.690,000 for supply and delivery of photocopying papers. However, from the documents submitted for audit, it was noted that the three (3) firms invited to quote and which responded for each of the procurement have the same person as the contact person. In addition, the Department paid Kshs1,755,260 for supply and delivery of assorted furniture and Kshs.1,532,000 for supply and delivery of television sets. It was however observed that two (2) of the bidders in each of the procurement have a common director and their quotation documents had been stamped with the stamps of the two firms.

4744) From the foregoing the competitiveness of the procurement process could not be confirmed and value for money may not have been obtained.

Submission by the Accounting Officer

4745) The Accounting Officer submitted that it was true that the department procured colour toners worth Kshs.1,240,000 through request for quotation method. The quotations were floated to prequalified suppliers of tonners as required. However, as at the time the quotations were being floated the department was not aware that the three firms were owned by one person. The Department undertakes to always conduct due diligence at the time of prequalification so that such anomalies are avoided.

4746) It was also true that the Department procured assorted furniture for the office of Principal Secretary from Ms. Justland International Limited for a value of Kshs.1,755,260. All the four firms are registered under the category of AGPO and therefore eligible to bid for the contract. The said procurement of furniture was done through request for quotations to the four firm Ms. Justland International Limited, Ms. Davijust Agencies, Ms. Decision Analyst Limited and Blue Arrow Trading Company. According to the records in the IFMIS all the four (4) companies have different Directors.

4747) The Firm awarded the bid was Ms. Justland International Limited. IFMIS Records were availed to the Committee for perusal.

4748) **Committee Observations and Findings**

The Committee observed that the procurement did not allow fairness, equitability, transparency, cost-effectiveness and competition among those who submitted their applications contrary to Section 58 (2) Public Procurement and Asset Disposal Act 2015.

4749) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Cabinet Secretary, National Treasury should reprimand all the officers involved in the procurement and payment processes.

1523.3 Procurement without Specifications

4750) The State Department procured iPad tablets for Kshs.815,992. However, no specifications were stated in the said procurement. It was therefore not possible to establish how the evaluation was carried out for uniformity and what the inspection and acceptance committee relied on in its inspection and acceptance of the delivered items.

Submission by the Accounting Officer

4751) The Accounting Officer submitted that the specifications for the iPad procured were availed late because the time given for the production of the documents was not sufficient to enable compiling the documents, hence the delay of which is regretted.

4752) **Committee Observations and Findings**

The Committee observed that the procurement did not give specific requirements that are clear, that give a correct and complete description of what is to be procured and that allow for fair and open competition contrary to Section 60 (1) Public Procurement and Asset Disposal Act 2015.

4753) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Cabinet Secretary, National Treasury reprimand all the officers involved in the procurement and payment processes.

1523.4 Retrospective Procurements Approvals

4754) The State Department paid Kshs.800,000 for supply of tonners. However, while the professional opinion was issued on 3 May, 2019 recommending the awarding to the lowest bidder at a cost of Kshs.800,000, the purchase order had already been raised on 28 January, 2019.

4755) Further, the State Department paid Kshs.754,000 on 30 June, 2019 for supply of branded items. However, while the professional opinion for this procurement was dated 24 June, 2019 and the purchase order raised on 30 June, 2019, the delivery was made on 21 June, 2019 implying that the delivery had long been made before the procurement process was completed. The inconsistency has not been explained. There was also no evidence that this purchase was competitively sourced since bids from other firms were not availed for audit scrutiny.

4756) In the circumstances, the procurements were made contrary to Section 69 (2) of the Public Procurement and Asset Disposal Act, 2015.

Submission by the Accounting Officer

4757) The Accounting Officer submitted that it was true that the professional opinion was approved on 3rd of May 2019 and the purchase order was raised on 28th January 2019. The order was approved and signed on 10th May 2019 after the accounting officer had approved the Professional opinion. Copies of Delivery note and Professional Opinion were availed to the Committee.

4758) It was also true that the department procured branded items through quotations send to three firms. The quotations were raised to the three firms on 21/6/2019, given the urgency of the assignment. The International widow's day was to be commemorated on 24/6/2019 and the department had just received funds for the event on 20/6/2019 in supplementary II.

4759) Due to the urgency of the services, the lowest bidder was verbally requested to urgently brand and deliver the items as the event was to take place on 24/6/2019.It is true that the supplier's delivery note is dated 21/6/2019. However, the Lessos were delivered and receive on 24/6/2019 during the event. It was true that the quotations were initially not provided for audit, however the quotations were afterwards availed for Audit. Copies of quotations were availed to the Committee.

4760) **Committee Observations and Findings**

The Committee observed that the procurement was made to operate retrospectively to a date earlier than the date on which it was made and no prove was provided that the procurement was in response to an urgent need. This was contrary to Section 69 (2) Public Procurement and Asset Disposal Act 2015.

4761) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Cabinet Secretary, National Treasury should reprimand all the officers involved in the procurement and payment processes.

1523.5 Procurement from Un-Prequalified Supplier

4762) The State Department paid Kshs.935,000 for provision of event organization services. However, the quotations opening committee minutes and evaluation reports were not availed for audit review. None of the firms who submitted their bids had been prequalified by the Department for the provision of these services and therefore, were ineligible to bid for the services. Further, information available shows that the firm awarded is in the business of supplying industrial chemicals and detergents.

Submission by the Accounting Officer

4763) The Accounting Officer submitted that the procedure for opening of quotation is that professional opinion is prepared, signed by the head of Procurement and the forwarded to

Principal Secretary for Approval. The Pre-qualification list of Suppliers is normally updated in the System after the Supplier has submitted Company's Profile.

4764) **Committee Observations and Findings**

The Committee observed that the procurement from non-prequalified suppliers contravened Section 95 (3) of the Public Procurement and Asset Disposal Act 2015. The section requires that a procuring entity shall invite tenders from only the approved persons who have been pre-qualified.

4765) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Cabinet Secretary, National Treasury should reprimand all the officers involved in the procurement and payment processes.

1524. Improper Use of Government Vehicles

4766) A work ticket No. 896626 showed that the respective vehicle left Mombasa for Nairobi on 1 September, 2017 at 9.00 am and arrived in Nairobi at 22.40 pm. It was however noted that the same vehicle vide work ticket No. M896617 left Nairobi for Kenya School of Government - Kabete on 1 September, 2017 at 8.00 am and arrived at 1.20 pm and covered a distance of 107 km. It has not been explained how one vehicle had two (2) work tickets opened for it and was in two (2) different places at the same time. Further, sixteen (16) motor vehicle work tickets were not availed for audit review.

Submission by the Accounting Officer

4767) The Accounting Officer submitted that Work Ticket No.896626 was issued to GKB422S in the Month of August 2017, On 1st September, 2017 the Vehicle was issued with Work ticket No. M896617 and ferried officers to Kenya School of Government, explaining the position of the Vehicle as at the time, Work –Ticket No.896626 was supposed to close the Motor Vehicles Movement up to 31st August 2017. Anomalies noted have been rectified through transport office to sensitize drivers on opening and closing of Motor Vehicle movement on Work Tickets. Work Tickets not availed were issued to Motor Vehicles from other departments but were not surrendered back for filling. However, efforts to get them back on going..

4768) The Department procured fuel worth Ksh.10, 921,980 through M/s National Oil Corporation for the year ended 30th June 2018. The Department accessed the fuel using a pre-paid Supa-Card at all the National oil petrol stations, the fuel catered for two financial year as per fuel register which was availed for perusal by the Committee.

4769) The procured fuel was also used for the Blue economy functions, which we had to fuel other government vehicles from other state departments that were assisting to carry out transport duties during the function. The evidence for all the transactions were recorded in our fuel register and availed work tickets.

4770) It was evident the ETR receipts showing how fuel was drawn from the stations are fading away, but the records were recorded in fuel register.

4771) **Committee Observations and Findings**

The Committee observed that the one vehicle GKB422S had two (2) work tickets opened for it and was in two (2) different places at the same time. The situation where one vehicle was in two locations at the same time implies misuse of both the accountable records and the Government vehicles.

4772) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Accounting Officer should recover any allowances paid to any officer using the work ticket to claim or surrender imprest or the value of fuel consumed by the vehicle in the two trips be recovered from the diver, the Transport officer and the Accounting officer at the time.

1525. Non-Compliance with Regulations and Executive Order Requirements

4773) There is no evidence that the State Department has complied with the Executive Order Number 2 of 2018 which require that all public procuring entities maintain and continually update and publicize, through official Government publications and platforms, the information required and detailed in the Order. No explanation has been given for the non-compliance with the Order.

4774) Further, the State Department did not comply with the mandatory reporting requirements to the Public Procurement Regulatory Authority (PPRA) within the stipulated timelines and format as prescribed in the Public Procurement and Asset Disposal Act, 2015 and Circular No. 01/2016 on 16 December, 2016.

Submission by the Accounting Officer

4775) The Accounting Officer submitted that it was true that that some of the information has not been publicized in the provided platforms as required by PPRA. The department has been not complied with the order due to some technical challenges. The department is in consultation with the PPRA management for assistance.

4776) **Committee Observations and Findings**

The Committee observed that some of the information has not been publicized in the provided platforms as required by PPRA and the department had not complied with the order due to some technical challenges. This is contrary to the Public Procurement and Asset Disposal Act, 2015 and Circular No. 01/2016 on 16 December, 2016.

4777) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Accounting Officer should provide evidence of compliance with the Public Procurement and Asset Disposal Act, 2015 and Circular No. 01/2016 on 16 December, 2016.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1526. Failure to Constitute an Audit Committee

4778) The State Department has not constituted an Audit Committee as required by Section 174(1) of the Public Finance Management Regulations, 2015 and Treasury Circular No. NT/IAG/GEN/055(163) of 26 April, 2016.

Submission by the Accounting Officer

4779) The Accounting Officer submitted that the Audit committee members were appointed and inauguration meeting presided over by the PS for State Department for Gender and PS State Department for Youth on 2nd September 2019. Copies of appointment letters were availed to the Committee.

4780) **Committee Observations and Findings**

The Committee observed that the State Department had not constituted an Audit Committee as required by Section 174(1) of the Public Finance Management Regulations, 2015 and Treasury Circular No. NT/IAG/GEN/055(163) of 26 April, 2016 as at the time of audit.

4781) **Committee Recommendations**

The Accounting Officer must at all times comply with Section 174(1) of the Public Finance Management Regulations, 2015 and Treasury Circular No. NT/IAG/GEN/055(163) of 26 April, 2016.

<u>Paragraphs 1527 to 1536 on Uwezo Fund were examined by the Special Funds Accounts Committee</u>

49. STATE DEPARTEMENT FOR PUBLIC SERVICE

REPORT ON THE FINANCIAL STATEMENTS – VOTE 1213

Ms. Mary Kimonye, the Principal Secretary and Accounting Officer, State Department for Public Service (Vote 1213), appeared before the Committee 14th July, 2021 and 15th July, 2021 to adduce evidence on the audited financial statement for the State Department of Public Service and Youth for the Financial Year 2018/2019. She was accompanied by the following officers:

1.	Ms. Matilda Sakwa	-	Director-General, NYS
2.	Ms. Margaret Wamoto	-	Director ADM
3.	Ms. Agnes Waweru	-	Assistant Accountant General
4.	Mr. Peter Kabebe	-	Head of Accounting Unit
5.	Mr. Elius Kimani	-	Head of Accounting Unit NYS
6.	Mr. Kosgei Yego	-	Principal Accountant
7.	Mr. Harrison Rioba	-	Director Accounting
8.	Mr. James K. Kairu	-	Director Supply Chain Management Service

And submitted as follows:

1537. Unsupported Cash and Cash Equivalents

4782) As disclosed under Note 9A to the financial statements, the statement of assets and liabilities reflects an amount of Kshs.99,332,002 in respect of cash and cash equivalents which includes Kshs.281,361 relating to recurrent account. The bank reconciliation for the recurrent account reflects several transactions in relation to payments in cashbook not in bank statements amounting to Kshs.397,979,021 which do not bear crucial details such as dates and reference numbers. Further, the bank reconciliation contains unexplained transfers without details totalling to Kshs.3,312,995 reflected as receipts in cashbook not in bank statement and whose details like source of the receipts and the date cleared in the bank statement were not provide for audit review.

4783) Consequently, the accuracy and completeness of the reported amount for cash and cash equivalents of Kshs.99,332,002 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

4784) The Bank Reconciliation statement reflects payments in Cashbook amounting to Ksh.397,979,021 not yet reflected in the Bank Statement as at 30th June 2019. These were payments processed and paid in IFMIS as at 30/06/2019 but due to delay in Exchequer releases by the National Treasury, they were paid and cleared by the Bank in July 2019. All these unreconciled items were cleared in the July 2019 bank reconciliation statement and the detailed that were missing are captured and availed to the auditors for verification.

4785) The transactions totalling Kshs.3,312,995 recorded in the Cashbook as receipts related to a credit back (Return to Drawer) payments originally paid, but returned by the bank due either to wrong bank account or delay by the payee to present supporting documents to the bank for payments. These receipts were immediately recorded in the Cashbook using Central Bank of Kenya transaction reference number awaiting voucher transmission. It was later paid to the various suppliers after availing their correct bank details and cleared in the cash book.

4786) **Committee Observations and Findings**
The Committee observed that the explanation given by the Accounting Officer on the reconciliations was satisfactory.

4787) **Committee Recommendations**

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Also, ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1538. Unreconciled Accounts Payables – Deposits

4788) The statement of assets and liabilities and Note 11 to the financial statements reflects accounts payables of Kshs.98,531,269 relating to deposit and AIE balance received from the State Department for Information Communications and Technology (ICT). The State Department for Public Service received Kshs.189,621,513 through AIE No. B046854. However, a letter dated 23 August, 2019 sent to the Principal Secretary, State Department for ICT shows that Kshs.143,435,585 had been expensed as at 30 June, 2019 leaving a balance of Kshs.46,185,928 unspent. However, analysis of the accounts payables shows that the State Department for Public Service spent Kshs.107,952,821 compared to the actual expenditure reported of Kshs.143,435,585 by the State Department for ICT leading to a variance of Kshs.35,482,764 which has not been explained or reconciled.

Submission by the Accounting Officer

4789) The State Department for Public Service received an AIE of Kshs.189,621,531 from State Department for ICT to settle bills owed to Telecommunication Companies in respect to provision of Internet Services to Huduma Centers.

4790) The AIE dated 18/06/2019 and was received in Cashbook in 30th June 2019, F/Y 2018/19. To avoid reporting as pending bills, the Department immediately cleared the bills of Kshs.107, 952,821 which were already processed in IFMIS by 30th June, 2019. The payment vouchers were recorded in Deposit Cashbook as at 30/06/2019 (F/Y 2018/19).

4791) On opening of the books for the F/Y 2019/20, the Internet Service Providers had already issued the invoices for the first quarter totaling Kshs.35,482,764 of the F/Y 2019/20 and hence the Department found it necessary to settle these invoices before returning the balance to State Department of ICT.

4792) The Principal Secretary for Public Service wrote to the Principal Secretary for ICT indicating that a total of Kshs.143,435,585 (107,952,821 + 35,482,764) had been spent out of the AIE of Kshs.189,621,531.00 leaving a balance of Kshs.46,185,928.

(a) Analysis of ICT AIE as at 05/08/2019
(b) RTGS printout to Principal Secretary ICT
(c) MPG/SDPS/ACCT/19(19) to Principal Secretary ICT

4793) **Committee Observations and Findings**

The Committee observed that the explanation given by the Accounting Officer on the reconciliations was satisfactory.

4794) **Committee Recommendations**

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Also, ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1539. Communication, Supplies and Services-Procurement of Fixed Data Internet Services

4795) The statement of receipts and payment as disclosed under Note 4 to the financial statements reflects a total amount of Kshs.1,366,359,069 for use of goods and services which includes an amount of Kshs.131,593,740 relating to communication, supplies and services. The State Department entered into a contract with an internet service provider for provision of wide area network links and internet services for the Huduma Centres, Huduma Kenya Secretariat and Huduma Data Centres across the Country at a monthly contract sum of Kshs.5,759,168 and for a period of two (2) years starting on 6 June, 2017 to 5 June, 2019. However, the following anomalies were noted in relation to the payments:

1539.1 Internet Provision (January, 2018 to March, 2018)

4796) A payment of Kshs.17,351,071 was made to an internet service provider on 30 June, 2019 for provision of internet services for the invoice period from January to March, 2018. The invoice from the service provider was raised and issued on 27 December, 2017 and should therefore have formed a charge to the financial year 2017/2018. This amount was not disclosed in the list of pending bills for the year ended 30 June, 2018 and hence was not part of the budget for the financial year ending 30 June, 2019. No evidence of approval of re-allocation of budget was provided for audit verification.

4797) Further, according to the contract documents, the agreed monthly sum for provision of internet services was set at Kshs.5,759,168 all totalling to Kshs.17,277,504 per quarter, whereas the computed quarterly charge as per the invoice attached is Kshs.17,351,071 resulting to an overpayment of Kshs.73,567 for that period.

Submission by the Accounting Officer

4798) The State Department confirm that the invoice of Kshs.17,351,071 for the period of service January to March 2018 was inadvertently not reported as a pending bill as at 30th June 2018. The State Department has put in place the following administrative measures.

- At the end of the Financial Year the Head of Accounts Unit, writes to all the spending units to disclose all outstanding bills to be consolidated as pending bills to be declared in the Financial Statements.
- The State Department has established an internal pending bills verification Committee to verify the disclosed bills before they are paid as first charge in the following financial year in accordance with the PFM Act.

4799) The overpayment of Kshs.73,567 in the invoice was a result of onboarding of new Huduma Centers namely Mandera, Kajiado West, Elgeyo Marakwet and West Pokot. These centres were operationalized in the second quarter, (October to December 2017). These services had not been billed for in the period October to December 2017 when the Centres became operational. As a result the service provider included the costs for the new Centres in the invoice for the period January to March 2018 to cater for the related expenditure.

4800) **Committee Observations and Findings**

The Committee observed that the Accounting Officer admits the omission and has put in place measures to forestall repeat of the same in future.

4801) **Committee Recommendations**

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Also, ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1539.2 Internet Provision April, 2019 to June, 2019

4802) Examination of payments to the same service provider showed that an amount of Kshs.17,762,964 was paid through payment voucher No.4 on 30 June, 2019 for services provided during the period from April to June, 2019. The contract documents explicitly provided that the end date for provision of the services was 5 June, 2019. However, invoice No.3102003 dated 2 April, 2019 was for the whole month of June, 2019, including the twenty-five (25) days after the expiry of the contract period, resulting into a payment without a contract of Kshs.4,736,790.

4803) Further, according to the contract document, the agreed monthly sum was set at Kshs.5,759,168 whereas the computed monthly charge as per the invoice attached was Kshs.5,920,988 resulting to an overpayment of Kshs.161,820 per month all totalling to Kshs.485,460 during the contract period.

Submission by the Accounting Officer

4804) The initial contract for the Internet Services for the Huduma Centres, Data Centre and the Huduma Kenya Secretariat was for a period of two (2) years from 6th June 2017 to 5th June 2019. Following the consolidation of the ICT related procurement under the Ministry of ICT in February 2018, the State Department for Public Service wrote a letter to the Ministry of ICT and a subsequent reminder on 30th April 2019 requisitioning the procurement of the Internet Services since the existing contracts were coming to an end.

4805) Following the delayed response from the Ministry of ICT in May 2019 whereas the contract was coming to an end in June 2019, the CEO Huduma Kenya Secretariat formally requested the Accounting Officer to approve the extension of the contract for a further six months on 28 May 2019. Subsequently, the Accounting Officer approved the extension of the contract for six (6) months effective 6th June 2019, which was the Agreement date on the initial contract. The payment of Kshs.4,736,790.40 to the service provider was therefore within the extended contract period.

4806) The payment of Kshs.485,460 over and above the initial contract sum resulted from the increased Excise Duty on Voice, SMS and Internet Data Services from 10% to 15%. The service provider effected this tax on subsequent invoices vide letter dated 1st November 2018.

4807) **Committee Observations and Findings**

The Committee observed that the Contract extension provided to support the payment in question was not effected in line with Section 139 (2) (a) of the Public Procurement and Asset Disposal Act,2015.

4808) **Committee Recommendations**

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Also, ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1539.3 Internet Service Provision (April, 2018 to March, 2019)

4809) Two (2) invoices dated 27 December, 2017 and 2 April, 2019 were raised and issued by the service provider to Huduma Kenya Secretariat for payment for the periods of service from January to March, 2018 and from April to June, 2019 respectively. The billing for the period between March 2018 and April 2019 was not provided. There was no evidence to show that the same was either paid or the amount was included in the pending bills as at 30 June, 2019.

Submission by the Accounting Officer

4810) The Accounting Officer submitted that the service provider billed for the services provided between March 2018 and April 2019 as per the invoices below:

No	Invoice Number	Service Period	Amount
1.	AUT/0180308/0000015/116/273/21	April 2018 – June 2018	17,085,268.80
2.	AUT/0180308/0000015/16/267/400	July 2018 – September 2018	17,033,904.00
3.	AUT/0180914/0000020	October 2018 – December 2018	17,762,964.00
4.	AUT/0181214/0000020	January 2019 – March 2019	17,762,964.00

All the above invoices were paid in full before the closure of the financial year on 30th June 2019.

4811) **Committee Observations and Findings**

(i) The Committee observed that, the explanation given by the Accounting Officer that on the omissions of bills was satisfactory.

(ii) The Committee also observed that the Accounting Officer gave the underlying reasons for not settling the pending bills and the contingency measures put in place to address the problem.

4812) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

1539.4 Internet Service Provision (April, 2019 to June, 2019)

4813) The State Department on 6 June, 2017 entered into a contract with another internet service provider for provision of wide area network links and internet services for the Huduma Centres, Huduma Kenya Secretariat and Huduma Data Centres across the Country at a monthly contract sum of Kshs.4,958,276 and for a period of two (2) years starting from

6 June, 2017 to 5 June, 2019. The payment of Kshs.14,874,828 was made on 30 June, 2019 in respect of the period from April, to June, 2019.

4814) However, the vendor issued an undated tax invoice for the period 1 April, 2019 to 30 June, 2019 which included a demand for payment for the whole month of June, 2019 including twenty five (25) days after the expiry of contract period on 5 June, 2019, resulting to an overpayment of Kshs.4,131,897. No extension of the contract to cover this period was provided for audit review.

Submission by the Accounting Officer

4815) The Accounting Officer submitted that before the expiry of the Contract, CEO Huduma Kenya Secretariat formally requested the Accounting Officer to approve the extension of the contract for a further period of six (6) months and subsequently the Accounting Officer approved the extension of the contract for six months effective 6th June 2019, which was Agreement date on the initial contract. This evidence has been availed to the Auditor for verifications.

4816) **Committee Observations and Findings**

The Committee observed that the Contract extension provided to support the payment in question was not effected in line with Section 139 (2) (a) of the Public Procurement and Asset Disposal Act,2015.

4817) **Committee Recommendations**

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Also, ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1540. Unsupported Routine Maintenance - Hire of Motor Vehicles

4818) Note 4 to the financial statements reflects an amount of Kshs.6,292,001 in respect of routine maintenance - vehicles and other transport equipment. The amount includes a payment of Kshs.1,472,000 for hire of twelve (12) cars for four (4) days. However, the contract between the State Department and the service provider detailing the rate payable per day for different vehicles was not attached to support the payment. As a result, it was not possible to ascertain whether the correct rates were charged, and that the vehicles requested and provided were as per requisition. Further, no accountable records showing or indicating the number of cars hired, vehicle engine capacity and registration numbers were availed for audit verification. Further, evidence of service delivery in form of certification of services rendered by the firm was not provided for audit verification.

4819) Consequently, the accuracy, completeness and authenticity of the expenditure amounting to Kshs.1,472,000 incurred on hire of motor vehicles could not be confirmed.

Submission by the Accounting Officer

4820) The State Department floated quotations and the winning firm was issued with the Local Service Order which indicated the rates. Payment of Ksh.1,472,000 was made for hire of 12 motor vehicles for four (4) days for use by dignitaries during the African Public Service Day Celebrations in 2018/2019. The vehicles were hired under three categories (Prado, Noah and Alphard) at the following rates.

(i) Prado - 32,500 per day
(ii) Noah - 21,500 per day
(iii)Alphard - 21,500 per day

4821) The registration numbers and the engine capacity of the vehicles hired are indicated in the table below:

Vehicle hired during the Africa Public Service Day Celebrations

No.	Model	Vehicle	Engine Capacity
1.	Toyota Prado	KCS 745J	2982CC
2.	Toyota Prado	KCP 989P	2982CC
3.	Toyota Prado	KCG 533L	2982CC
4.	Toyota Prado	KCH 963M	2982CC
5.	Toyota Prado	KCP 919X	2982CC
6.	Toyota Prado	KCL 551E	2982CC
7.	Toyota Prado	KCL 682R	2982CC
8.	Toyota Prado	KCM 165J	2982CC
9.	Toyota Prado	KCM 939L	2982CC
10.	Toyota Prado	KCG 014F	2982CC
11.	Toyota Alphard	KCQ 604B	2000CC
12.	Toyota Noah	KBW 485P	2000CC

4822) The evidence of the service delivered has been availed to Auditor for verifications.

4823) **Committee Observations and Findings**

The Committee observed that the Management of the funds had not given a satisfactory response with regard to the rates provided in support of expenditure Ksh.1,472,000 and were doubtful

4824) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Auditor-General should carry out a forensic audit on hire and routine maintenance costs of vehicles and other transport equipment within the State Department.

1541. Unsupported Expenditure on Africa Public Service Day (APSD) Celebrations

4825) As disclosed under Note 4 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.1,366,359,069 under use of goods and services which includes an amount of Kshs.148,998,412 in respect of hospitality supplies and services. Information available indicates that on 22 May, 2019, The National Treasury granted the State Department for Public Service authority to access funds amounting to Kshs.101,454,747 meant for the African Public Service Day celebrations. The funds were budgeted under Headquarters Administrative Services - DPSM in the revised recurrent expenditure estimates for 2018/2019 financial year. However, out of the budget of Kshs.101,454,747 for the APSD only Kshs.8,132,883 can be traced to the ledger for hospitality, supplies and services. The balance of Kshs.93,321,864 has not been accounted for or reconciled.

Submission by the Accounting Officer

4826) The State Department for Public Service was granted authority to access Kshs.101,454,747 for the African Public Service Day Celebrations vide Treasury Circular Ref. RES1213/18/01/A (36) dated May 22, 2019. The funds were allocated to the Headquarters Administrative Services under the budget item Boards, Committees, Conferences and Seminars.

4827) The summary of expenditure of Kshs.93,321,864 has been availed to the Auditor for verification.

4828) **Committee Observations and Findings**

The Committee observed that the summary or reconciliations provided as evidence by the Accounting Officer does not add to a total Kshs.93,321,864.

4829) **Committee Recommendation**

Within three months of tabling and adoption of this report, the Auditor-General should verify the reconciled records and report the outcome to the National Assembly for further consideration.

1542. Unapproved Expenditure on Purchase of ICT Equipment

4830) Review of the office and general expenses ledger shows that the State Department incurred an expenditure of Kshs.22,975,592 on acquisition of ICT equipment. The expenditure includes amounts of Kshs.12,513,000, Kshs.4,183,000 and Kshs.6,279,592 charged to office and general supplies, other operating expenses and routine maintenance

– other assets respectively. The expenditure ought to have been charged to the correct account code under acquisition of assets and proper authority sought from the State Department for ICT which procures all ICT equipment for MDAs and other public sector institutions. No explanation has been provided for the non-compliance with the reporting framework and government directive on harmonization of procurement of ICT equipment.

Submission by the Accounting Officer

4831) The expenditure of Kshs.22,975,592 related to the pending bills for the acquisition of ICT equipment during the 2017/2018 FY. The Government directive on harmonization of procurement of ICT equipment in all the MDAs and other public institutions came into effect in the 2018/2019 FY. The items related to office supplies and routine maintenance which were development in nature charged to recurrent to clear the pending bills.

4832) **Committee Observations and Findings**

(i) The Committee also observed that the authority to reallocate funds was not provided to support expenditure charged to the unrelated accounts.

(ii) The matter remains unresolved.

Other Matters

1543. Pending Bills

4833) As disclosed under Notes 13.1 to the financial statements, the State Department for Public Service had pending bills totalling Kshs.195,553,371, as at 30 June, 2019, that were not settled during the year 2018/2019 but were instead carried forward to 2019/2020. Failure to settle bills during the year in which they relate to adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

4834) The pending bills amounting to Kshs.195,553,371 as at 30th June 2019 were not settled due to inadequate budgetary allocation which was affected by reduction of the budget during that financial year 2018/2019 supplementary estimates.

4835) **The Committee observed and found that:**

The Committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

4836) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1544. Supply of Branded Shirts with Kitenge Decorations - Ankara Fabric

4837) On 26 June, 2019, the State Department paid a supplier Kshs.1,379,312 for supplying branded shirts with kitenge decoration - Ankara for use during the 7th Continental APSD celebrations which was to take place from 21 June, 2019. The professional opinion approved on 30 May, 2019 shows that the event took place between 21 and 23 June, 2019 while the delivery note No.2490 and S13 No.9091023 receiving the four hundred (400) branded T-shirts show that they were delivered and received at the stores on 27 August, 2019 and 28 August, 2019 approximately two months after the event had taken place. This is a clear indication that the promotional materials did not serve the intended purpose and hence it was not possible to confirm whether there was value for money on the expenditure. Further, the payment of Kshs.1,379,312 was made before the delivery, verification, inspection and acceptance of the materials.

Submission by the Accounting Officer

4838) The Accounting Officer submitted as follows:

(i) The 400 Branded Shirts with Kitenge Decorations - Ankara Fabric were delivered on 19/06/2019 and used for the intended purpose during the 7th Continental African Public Service Day (APSD) which took place between 21st - 23rd June, 2019. These items were entered in Form S11 No.9328501 of 20/06/2019.

Due to the urgency of the work, the necessary documentation was done later. Unfortunately, the details were inadvertently captured wrongly.

(ii) The items were received on the basis of approved Professional Opinion of 30/05/2019 and the Purchase Order No. 583 of 10/06/2019.

(iii) Payment voucher was processed on 28th June 2019 and paid on 9th July 2019.

(iv) The State Department confirms that the promotional items served the intended purpose and the observation by the Auditor was simply due to an error in documentation.

4839) **Committee Observations and Findings**

(i) The Committee observed that the Form S11 No.9328501 stated in support of the issuance of T-shirts confirms that the promotional materials were issued before they were received;
(ii) The Committee further observed that both delivery note no 2490 and payment vouchers were dated 27th June, 2019, four days later after the event has taken place;
(iii) The Committee also observed that the inspection committee report was dated 28th June, 2019, five days later after the event had taken place.

4840) **Committee Recommendations**

1) **The Committee reprimands the Accounting Officer at the material time for the breach of the section 58 (2) of the Public Procurement and Asset Disposal Act 2015 that requires the procurement process to ensure fairness, equitability, transparency, cost-effectiveness and competition among those who may wish to submit their applications.**
2) **The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also, ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1545. Non-Maintenance of a Fixed Assets Register

4841) The statement of receipts and payments reflects Kshs.217,241,003 under acquisition of assets. However, the State Department has not provided the fixed asset register as at 30 June, 2019 in contravention of Section 143(1) of the Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer to maintain a register of assets under his or her control or possession.

Submission by the Accounting Officer

4842) The Accounting Officer submitted that the Fixed Asset Register for Vote 1213 has been prepared pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. The register has since been availed to the Auditor for verification.

4843) **Committee Observations and Findings**

The Committee observed that, the explanation given by the Accounting Officer that the department had provided the Register to the Auditor General was satisfactory.

4844) **Committee Recommendation**

Within three months of tabling and adoption of this report, the Auditor-General should verify the register and report the outcome to the National Assembly for further consideration.

1546. Construction and Civil Works

4845) As analyzed under Note 8 to the financial statements, the statement of receipts and payments reflects a figure of Kshs.217,241,003 under acquisition of assets which includes Kshs.155,177,023 in relation to construction and civil works. However, the following anomalies were noted relating to the expenditure;

1546.1 Renovation Works to Fourth and Fifth Floors at Harambee House

4846) On 20 April, 2015, the State Department entered into a contract for renovation and rehabilitation works on 4th and 5th floor Harambee House at a contract sum of Kshs.43,745,412 with a completion period of three (3) months starting April, 2015. Examined documents show that as at 22 January, 2016, the contractor was not at site and the works were not completed. The delay in completion resulted to a request for authority to extend the contract period which were granted twice. The first request for fifty-six (56) weeks to 31 August, 2016 and another for eighty-eight (88) weeks from 31 August, 2016 to 10 April, 2018. No explanation was provided for extension of a contract with initial period of twelve (12) weeks and extension of one hundred and forty-four (144) weeks even though there was no change in scope of the project.

4847) Further, a downward variation was discussed and agreed by both parties from Kshs.43,745,412 to Kshs.39,756,931. Examination of payment voucher dated 30 June, 2019 of Kshs.28,974,373 paid to the contractor in relation to certificate No.2 dated 25 April, 2018 reveals that the inspection and acceptance certificate attached in support of the payment did not include key details such as contract date, contract title and actual delivery date, which are mandatory for any work certification.

4848) In addition, the undated inspection and acceptance certificate shows that only two (2) officers instead of three (3) officers inspected and certified the works done before payment contrary to Section 48 of Public Procurement and Asset Disposal Act, 2015.

4849) Further, the inspection report issued by the Ministry of Lands, Housing and Urban Development approving payment and the works was inspected and certified as complete by a six (6) member committee compromising of Officers from the State Departments for Public Works and State Department for Public Service as well as the contractor, on 5 April, 2018. A second certificate for the completed works from the State Department for Public Works was issued on 25 April, 2018 but the amount payable under the certificate was not included in the pending bills for the financial year 2017/2018. No explanation has been provided for failure to include the amounts payable in the list of pending bills payable. The approved re- allocation of the funds to enable payment of the amount has not been availed for audit confirmation.

Submission by the Accounting Officer

4850) The delay in implementation of Project Contract Number CWO/NRB/DIO3/16/2014-15 was occasioned by;

a) In April 20th 2015 under the then Ministry of Devolution and Planning, the contract was to run for three (3) months. However, one month after the contract was signed there was a governance issue that affected the top management of the then Devolution & Planning, hence this affected most of the ongoing projects.

4851) In November 2015, there was reorganization of government where the then Ministry of Devolution & Planning was split to create the Ministry of Public Service Gender & Youth Affairs among others. Since this was in the middle of the financial year, the vote was not created, the new Ministry continued operating under the State Department of Planning up to 30th June 2016. In the FY2016/2017, the vote head 1211 was created to cater for then Ministry of Public Service, Youth and Gender Affairs. However, there was no budgetary provision of the said project. The project only commenced in 2017/2018 FY after the necessary Budget provision.

4852) The downward variation from Kshs.43,745,412 to Kshs.39,756,931 was sanctioned by the project managers (county works officers) who advised for variation of the contract sum after taking into account the omission of 4th floor works and the changes in the 5th floor specification and revised architectural drawing.

4853) The completed works were inspected and certified by technical officers from the State Department of Public Works and a comprehensive Inspection Report issued to support the payment. We however note that an Inspection and Acceptance certificate ordinarily used for common user items was also unnecessarily attached to the payment voucher.

4854) The payment of the contract was erroneously left out on the list of pending bills of 2017/2018FY. The administrative action has been taken to make sure all pending bills are declared in every financial year. The funds were allocated through supplementary estimates hence there was no reallocation of funds.

4855) **Committee Observations and Findings**

(i) The Committee observed that, the explanation given by the Accounting Officer that the pending bill was inadvertently omitted from the pending bills was unsatisfactory. The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012; And

(ii) The Committee observed that the Accounting Officer gave the underlying reasons for not settling the pending bills and the contingency measures put in place to address the problem.

4856) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

1546.2 Proposed Renovation, Refurbishment and Partitioning Works on 12th Floor, Harambee House

4857) The Ministry of Public Service, Youth and Gender Affairs engaged a contractor on 28 February, 2018 for renovations, refurbishment and partitioning works at a contract sum of Kshs.22,306,365 for a period of four (4) weeks from 28 February to 28 March, 2018.

4858) Examination of payment voucher dated 18 March, 2019 shows that the Contractor was paid Kshs.22,306,365 upon certification of practical completion and handing over works through certificate of practical completion dated 14 March, 2018. However, the approval and authority for payment to the Contractor were granted on 18 February, 2018 and 27 February, 2018 respectively, periods before the commencement of the works on 28 February, 2018 and even before the handing over certificate which was issued on 14 March, 2018.

4859) Further, the certificate of practical completion attached in support of the payment, which was issued by a representative from County Works Office, Nairobi County was not dated and thus, it was not possible to ascertain the date on which the works were inspected and confirmed complete.

Submission by the Accounting Officer

4860) Approval and authority for payment were granted on 18th February 2019 and 27th February, 2019 and not on 18th February, 2018 and 27th February, 2018 as stated. The handing over certificate was issued on 14th March, 2018 before approval and authority for payment. The certificate of practical completion was not dated. However, the handing over certificate which is the final document was duly signed and dated, confirming that the works were satisfactorily completed.

4861) **Committee Observations and Findings**

The Committee observed that there were inconsistencies in the records provided for audit.

4862) **Committee Recommendation**

The Committee recommended that

Within three months of tabling and adoption of this report, the Auditor-General should carry out a procurement audit with a view to confirm whether procurement was done lawfully and in an effective way.

1546.3 Unsupported Payment on Refurbishment and Renovation Works at Harambee House

4863) The director of administration through unreferenced Internal Memo, requisitioned for refurbishment and renovation works for 11 Floor, Harambee House on 30 January, 2018 to the head of supply chain management unit who in turn sought concurrence with the Principal Secretary through professional opinion dated 28 February, 2018 (under item No.8). The professional opinion shows that the scope of works requested ranged from removal of old carpet, supply, delivery and fitting of new carpet, supply and fitting of window blinds to the new offices and supply, delivery and fitting of a window.

4864) Examination of payment voucher dated 24 June, 2019 shows that the service provider was paid Kshs.1,378,100 for handling two (2) work items namely hacking of VIP and common washroom and carting away debris at Ksh.682,900 as well as undertaking electrical installation and fitting at Ksh.695,200. The two (2) work items paid for at Ksh.1,378,100 did not match the requisitioned works. No explanation was provided for the changes in the nature of the works billed and paid for as compared to the procurement. Although a job card No.009 dated 30 May, 2018 was attached in support to the payment voucher, no tangible evidence was availed for audit verification to show that the works done underwent inspection and acceptance process before payment was made, as required under Section 48 of the Public Procurement and Asset Disposal Act, 2015.

Submission by the Accounting Officer

4865) The firm was also engaged through quotation No. MPSYG/SDPS/96 -2017/2018 to remove old carpets, supply and fit new carpets and window blinds as per memos dated 15th February, 2018 and 20th February, 2018. We confirm that the works paid for marched the requisitions.

4866) The work done was certified as complete vide Job Card No. 009 dated 30th May, 2018 signed by the Office Superintendent of the State Department. The duly approved Job card was used to demonstrate that the works were delivered as per the specifications.

4867) **Committee Observations and Findings**

(i) The Committee observed that there were inconsistencies in the records with regard to the works as per documents provided for audit.

(ii) The Committee further observed that the final certificate of completion from the State Department of Public Works ascertaining the actual date of completion of the project was not provided for verification;

(iii) The Committee also observed that no evidence was provided to show that the two (2) work items in question matched with the requisitioned works. Further, the required inspection and Acceptance Certificate was also not provided;

4868) **Committee Recommendation**

(i) The Committee reprimands the Accounting Officer at the material time and all other officers involved in the procurement process for the breach of the section 58 (2) of the Public Procurement and Asset Disposal Act 2015 that requires the procurement process to ensure fairness, equitability, transparency, cost-effectiveness and competition among those who may wish to submit their applications.

(ii) The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also, ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1547. Office and General Supplies and Services-Supply of Tonners, Envelopes and Spiral Pads

4869) As disclosed under Note 4 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.1,366,359,069 under use of goods and services which includes an amount of Kshs.106,223,848 relating to office and general supplies and services. The latter balance includes a payment of Kshs.2,064,000 to a supplier for supply and delivery of various items. The payment was made on 16 June, 2019 while the delivery as per the delivery note and invoice was done on 18 April, 2018. However, it was observed that one officer of the State Department was involved in quotation opening process, receiving of the goods into the stores and issuing of counter receipt voucher and was also involved in the inspection and acceptance committee in contravention of Section 44(h) of the Public Procurement and Asset Disposal Act, 2015.

4870) Further, analysis of request for quotation forms attached to the payment voucher shows that the State Department floated quotations to four (4) suppliers on 12 January, 2018 who in turn quoted prices before the given submission deadline date of 18 January, 2018. However, details in the quotation opening report revealed that the opening Committee violated provisions of Section 78 of the Public Procurement and Asset Disposal Act, 2015 by opening three (3) of the four (4) quotations (No's 1, 3 and 4) on 18 January, 2018 at 9.30 a.m. while quotation No.2 (the winning bidder) was opened on the same day at 10.00 a.m. Further, quotation No.4 was confirmed opened by two (2) committee members contrary to the requirements of Section 44 of the Public Procurement and Asset Disposal Act, 2015 which requires at least three (3) members to be present.

Submission by the Accounting Officer

4871) The Accounting Officer submitted as follows:

(i) Supply Chain Management Unit provides secretarial services in all the procurement Adhoc Committees. The Supply Chain Management Officer participated in the Tender Opening, receiving of goods and inspection of the same because there was scarcity of staff from the Supply Chain Management Unit at that time. However, going forward the Department has put in place measures to forestall such occurrence.

(ii) The state department has since requested and received supply chain officers from the National Treasury who now share responsibilities in conformity with the section 44(h) of the Public Procurement and Asset Disposal Act, 2015.

(iii) All the quotations were opened in the same sitting and were all part of the same transaction. The signing of one of the RFQs by the two instead of all the three members of the Opening Committee must have been inadvertent as the pattern of the signatories in the other RFQs is consistent all through.

(iv) The four quotations were opened on the same date, same time and immediately referenced number 1 to 4. However, the opening time for quotation 2 was erroneously indicated as 10.00 am instead of 9.30 am. This was an error of recording and it is noted and regretted.

4872) **Committee Observations and Findings**

The Committee observed that the Accounting officer concurs with the Auditor-General finding on the breach of Section 78 of the Public Procurement and Asset Disposal Act, 2015 and the procurement process may have been flawed.

4873) **Committee Recommendation**

The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also, ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1548. Use of Expired Contract to Procure Maintenance of Computer Services

4874) The State Department procured routine service and preventive maintenance of printers and computers and paid Kshs.1,385,600 through six (6) payments made between February and June, 2019 using a contract whose applicability was set for the year starting from 1 December, 2016 to 30 November, 2017. In the circumstance therefore, the State Department ordered and paid for services using an expired contract.

Submission by the Accounting Officer

4875) The Accounting Officer submitted that the Contract under No. MPSYG/SDPS/26/2016 -2017 was to run for a period of one (1) year ending 30th November, 2017. This contract was extended vide a letter Ref. MPYG1/1/75 dated 29th November, 2017. These services were rendered within the period of the contract extension.

4876) **Committee Observations and Findings**

The Committee observed that the explanation provided by the Accounting Officer was satisfactory.

4877) **Committee Recommendations**

The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also, ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1549. Printing, Advertising and Information Supplies and Services

4878) Note 4 to the financial statements reflects a figure of Kshs.131,593,746 relating to communication supplies and services. Examination of the ledger for the expenditure indicated that Kshs.27,183,090 was paid to two (2) media houses for provision of advertising services for the recruitment of Chair persons and Members of Commission of Administrative Justice (CAJ), National Gender and Equality Commission (NGEC) and Salaries and Remuneration Commission (SRC) from the month of June to July, 2018. However, no evidence of approval from Government Advertising Agency (GAA) has been provided for audit verification to show that the State Department complied with Treasury Circular No. 09/2015 which requires the advertising entity to seek approval from GAA.

Submission by the Accounting Officer

4879) The Accounting Officer submitted that the State Department was required to facilitate and provide support to the selection panels during the process of hiring the chairpersons and members of the three Commissions as provided in the Acts governing the NGEC, CAJ and SRC. The facilitation included advertising of the positions and shortlisted candidates. This is stipulated to be done within a given time period as provided in each of the respective Commission Acts. Therefore, in compliance with the timelines provided in the respective Acts, the State Department had to make efforts to run the adverts in the dailies. This was in order to ensure the public and the applicants receive required information on shortlisting and notice inviting them for interviews.

4880) The State Department in fulfilment of the above, is mandated to have the advert to go to widely circulated national dailies to be certain that the adverts will reach the intended readership. The GAA randomly places the weekly pull-out with adverts in any paper thus the State Department sought to have a direct placement with the two media houses (Standard and Nation) owing to the urgency to advertise the vacancies.

4881) **Committee observations and Findings**

The Committee observed that the explanation provided by the Accounting Officer was satisfactory and the matter was resolved.

4882) **Committee Recommendations**

The Committee recommends that the Accounting Officers must at all times ensure compliance with laws, regulations and other directives.

1550. Acquisition of Assets - Refurbishment of Buildings

4883) The statement of receipts and payments together with Note 8 to the financial statements reflect an amount of Kshs.217,241,003 under acquisition of assets which includes Kshs.23,044,901 relating to refurbishment of buildings. The amount includes a payment of Kshs.16,018,636 relating to design, generation of bills of quantities and fit out works for the proposed Garden City Huduma Centre. However, the following anomalies were noted in relation to this payment:

4884) The State Department procured and shortlisted three (3) building works and Project Management consultants to design and generate bills of quantities as well as undertake fit out works of the proposed centre. This was subjected to a mini competition in line with the provisions of Section 114(3)(b) of the Public Procurement and Asset Disposal Act, 2015. The consultants had a framework contract with the State Department for consultancy and civil works even though the framework contract referred to in this case did not include Garden City as one of the centres.

4885) The construction was being undertaken in a space not owned or leased by Huduma Secretariat but whose availability was based on a Memorandum of Understanding (MOU) between the owners of Garden City Mall and the Secretariat which had no legal backing. The MOU was not enforceable in law as it did not create legal obligations on the part of either the landlord or the Secretariat.

4886) According to the correspondences attached in support of the payment voucher, the State Department for Public Works, quantities and contracts was to offer oversight services to the project on behalf of the Secretariat. However, this role has not been evidenced on key documentary records such as the approved drawings, site visit meeting minutes and the regular project status report. Consequently, it was not possible to confirm that the works done were evaluated, inspected and certified as complete before payment.

4887) The detailed bills of quantities generated by the three (3) firms subjected to mini competition pursuant to provisions of Section 114(3)(b) of the Public Procurement and Asset Disposal Act, 2015 were not standardized or approved by the State Department for Public Works for the measurement of work level and quality.

4888) The invoice was issued on 15 May, 2018 and therefore the amount payable to the contractor should have formed a charge to the financial year 2017/2018 budget and if not paid should have been declared as a pending account payable as at 30 June, 2018. However, the invoice was not on the list of pending accounts payables totalling Kshs.967,434,264.69

as at 30 June, 2018 and hence was not part of the budget for the financial year ending 30 June, 2019. No evidence of approval of re-allocation of budget was provided for audit verification and therefore rendering the payment unauthorized.

4889) Consequently, the propriety of the refurbishment of building payments totalling Kshs.23,044,901 for the year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

4890) The Accounting Officer submitted as follows:

(i) The Consultant was paid for consultancy fees for the design and generation of Bills of Quantities of the proposed Huduma Centre at Garden City Mall. The Consultant was selected from a shortlist of consultants who had an existing framework contract with the State Department for Consultancy Services and Civil Works through a mini-competition in line with the provisions of Section 114 (3)(b) of the Public Procurement and Asset Disposal Act, 2015.

(ii) The Consultant provided the services in accordance with Clause 6.4 of the special conditions of the Contract. This Clause provided that the firm could be engaged to undertake other related works at the Secretariat.

(iii) The space on which the proposed Huduma Centre was being set up was leased to the Huduma Kenya Secretariat through a Letter of Offer, signed by the Accounting Officer.

(iv) We confirmed that the project was being managed by the State Department for Public Works. The project management minute and certificates serves as the evidence that State Department for Public Works was undertaking oversight of the project. Annex 1550.3

(v) The State Department for Public Works issued the Interim Certificates in support of the payment. Annex 1550.4

(vi) This was a design and build project whereby the three (3) consultants were expected to visit the proposed site, generated a design for the proposed Centre in line with the requirements indicated by the Secretariat and developed Bills of Quantities for the respective designs. The selected design with the Bills of Quantities was sent to the State Department of Public Works for approval. Annex 1550.5

(vii) We confirm that the Invoice was inadvertently not reported as a pending bill as at 30th June 2019. The State Department has put measures to ensure that all unpaid bills are disclosed as pending bills and given as first charge in the following financial year.

4891) **Committee Observations and Findings**

The Committee observed that the Accounting Officer admits the omission and has put in place measures to forestall repeat of the same in future. Further, the Committee found the explanation by the Accounting Officer satisfactory.

4892) **Committee Recommendations**

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Also, ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1551. Routine Maintenance Other Assets - Construction of Mandera Huduma Centre

4893) As disclosed in Note 4 of the financial statements, the statement of receipts and payments reflects an amount of Kshs.1,366,359,069 under use of goods and services which includes an amount of Kshs.183,605,977 relating to routine maintenance - other assets. The latter balance includes a payment of Kshs.17,048,582 in respect of construction of Mandera Huduma Centre. The payment represented approximately forty percent (40%) of the contract sum of Kshs.42,621,432. During the financial 2016/2017, the then State Department for Public Service and Youth Affairs had paid a down payment to contractor amounting to Kshs.25,572,858 representing sixty percent (60%) of the contract sum of Kshs.42,621,430.

4894) The Management of Huduma Centres had requested for approval to procure qualified building contractors for building works for establishment of six (6) Huduma Centres including Mandera Huduma Centre using the restricted tendering method. Even though, Management used the restricted tendering method citing Section 102(1)(b) of the Public Procurement and Asset Disposal Act, 2015, no evidence was provided to demonstrate that there was time pressure or that the costs of evaluation of the tenders would be disproportionate to the value of the goods, works or services to be procured.

4895) Further, the charging of development expenditure for construction of Mandera Huduma Centre to the recurrent account under use of goods and services without proper authority for reallocation is contrary to Section 43 of the Public Finance Management Act, 2012.

Submission by the Accounting Officer

4896) The Accounting Officer submitted that during the financial year 2016/2017, the State Department for Public Service and Youth Affairs paid Kshs.25,572,858 for the construction of Mandera Huduma Centre as per the Interim Certificate of Payment Number One (No.01) and Quantity Surveyor's Valuation for payment for works done. This amount represented 60% of the contract price of Kshs.42, 845,746.

4897) The balance of Kshs.17,048,582 was processed upon the completion of the project and subsequent handover in the FY 2017/2018 but was not paid due to lack of exchequer. It was thus reported as a pending bill for the FY 2017/2018 and paid during the FY 2018/2019.

4898) The establishment of the Huduma Center in Mandera County had been earmarked to be undertaken in the second quarter of the FY 2016/2017 (October to December 2016). The process required two (2) tendering processes:

a) Selection of Building Works and Project Management Consultants
b) Selection of Building Works Contractors

4899) The process of procuring the Building Works and Project Management Consultants was finalized in February 2017, with the signing of contracts on 2nd February 2017. The procurement of Building contractors was dependent on the on boarding of Building Works and Project Management Consultants. Hence, this process commenced after the signing of contracts with Building Works and Project Management Consultants. Further, the funds for the project were released in the third quarter (January 2017) following a request to the National treasury through letter dated 21st October 2016. The State Department could not commence the procurement process for the works without ascertaining the availability of required funds.

4900) Due to the above factors, the most prudent method applicable was Restricted Tendering so as to be able to utilize the funds reserved for the projects before closure of the financial year. This expenditure was charged under Development Vote.

4901) **Committee Observations and Findings**

(i) The Committee observed that the explanation provided by the Accounting Officer was satisfactory.
(ii) The Committee marked the matter as resolved.

1552. Purchase of Office Furniture and General Equipment

4902) The statement of receipts and payments reflects a figure of Kshs.217,241,003 under acquisition of assets. Included in the figures is Kshs.13,549,180 relating to purchase of office furniture and general equipment. The figure of Kshs.13,549,180 includes Kshs.10,611,600 paid to a supplier for supply of furniture items. Although the letter requesting for payment by Huduma Kenya Secretariat refers to the amount as pending bills, the same were not disclosed in the list of pending bills for the financial year 2017/2018. Therefore, the authenticity of the payment of Kshs.18,314,430 approved in the letter and which includes the payment Kshs.10,115,600 for the supplier could not be confirmed.

4903) Further, both the invoice and the delivery note are dated 16 May, 2018 but the inspection and acceptance was undertaken on 15 May, 2019. However, no explanation has been provided for appointment of the inspection and acceptance committee, carrying out inspection exercise and taking on charge the goods a year after they were received in contravention of Section 48(3) of the Public Procurement and Asset Disposal Act, 2015. In addition, the invoice includes supply of two (2) medium colour printers each at a price of

Kshs.120,000, totalling to Kshs.240,000 that were not taken on charge at the stores. No explanation has been given for the omission.

Submission by the Accounting Officer

4904) The Accounting Officer submitted that the items were delivered and duly received by an officer of the State Department and an invoice subsequently raised on 16th May 2018. When the invoice and the order were fully processed and forwarded to the Accounting Officer for approval of payment, who found it necessary to verify physical delivery of goods before authorization for payment. This informed the appointment of verification Committee a year later to verify physical existence of the goods before payment. The printers were supplied by the firm as ordered. This was confirmed by the S13.

4905) **Committee Observations and Findings**

The Committee observed that the Accounting Officer admits the delays, omission and has put in place measures to forestall repeat of the same in future.

4906) **Committee Recommendations**

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Also, ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4907) **Conclusion**

1553. There were no material issues relating to effectiveness of internal controls, risk management and governance.

50. STATE DEPARTEMENT FOR YOUTH

REPORT ON THE FINANCIAL STATEMENTS – VOTE 1214

Ms. Mary Kimonye, the Principal Secretary and Accounting Officer State Department for Public Service and Youth (Vote 1214), appeared before the Committee 14th July, 2021 and 15th July, 2021 to adduce evidence on the audited financial statement for the State Department of Youth (Vote 1214) for the Financial Year 2018/2019. She was accompanied by the following officers:

1.	Ms. Matilda Sakwa	-	Director General NYS
2.	Ms. Margaret Wamoto	-	Director ADM
3.	Ms. Agnes Waweru	-	Assistant Accountant General
4.	Mr. Peter Kabebe	-	Head of Accounting Unit
5.	Mr. Elius Kimani	-	Head of Accounting Unit NYS
6.	Mr. Kosgei Yego	-	Principal Accountant
7.	Mr. Harrison Rioba	-	Director Accounting
8.	Mr. James K. Kairu	-	Director Supply Chain Management Service

And submitted as follows:

Basis for Qualified Opinion

1554. Non-disclosure of Revenue

4908) The statement of receipts and payments reflects a balance of Kshs.8,548,730,775 as total revenues received during the financial year 2018/2019 which includes Kshs.230,823,350 described as other revenues. The figure of other revenues excludes Kshs.37,811,658 collected during the year and for which no evidence has been provided to show that it was surrendered to the Receiver of Revenue as required by Section 76(2) of the Public Finance Management Act, 2012.

4909) Consequently, the accuracy and completeness of other revenues balance of Kshs.230,823,350 reflected in the statement of receipts and payments for the year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

4910) The Accounting Officer submitted that the Kshs.37,811,658.60 which directly related to the Service projected AIA was deposited by the respective Commanding Officers to the Director General Accounts. Schedules came from various field units. These have since been reconciled and transferred to the Service Revenue Account and accounted for in the following financial year (F/Y 2019/20). Copies of the MR Receipt and Bank Statement were attached for perusal by the Committee.

4911) Committee Observations and Findings

(i) The committee observed that the schedules from the various field units were provided by the respective Commanding Officers.

(ii) The Committee further, observed that the schedules have since been reconciled and transferred to the Service Revenue Account and accounted for in the following financial year (F/Y 2019/20).

(iii) The also observed that copies of the MR Receipt and Bank Statement were provided to the Committee; And

(iv) The Committee marked the matter as resolved.

4912) **Committee Recommendations**

The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also, ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1555. Unsupported Pending Bills Settlement

4913) The State Department requested for funding to finance payment of historical pending bills amounting to Kshs.1,324,101,782 incurred at the National Youth Service Headquarters and various field stations. The money was transferred to the Director General's account from which Authority to Incur Expenditure (AIEs) were issued to the field stations as per the request for funds. However, no evidence was attached to the payment documents to demonstrate that the pending bills settled were in the list approved by the Multi-Agency Pending Bills Committee.

Submission by the Accounting Officer

4914) The Accounting Officer submitted that the AIEs were released with the letter attached together with a list of names. The Kshs.1,324,101,782.00 which was sent to field stations were based on the list/schedule produced by the Multi-Agency Pending Bill Committee which had been approved in the Supplementary Budget.

4915) **Committee Observations and Findings**

The Committee observed that, the explanation given by the Accounting Officer and the supporting documents (including the list/schedule produced by the Multi-Agency Pending Bill Committee) provided to the Auditor-General was satisfactory;

4916) **Committee Recommendations**

Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1556. Compensation of Employees

1556.1 Unsupported Basic Wages on Temporary Employees

4917) The statement of receipts and payments reflects total payments of Kshs.2,208,389,450 under compensation of employees which includes payments totalling Kshs.1,012,068,527 paid as basic wages for temporary employees. The latter balance includes a payment of Kshs.1,000,000,000 in respect of outstanding bills in form of wages, SACCOs and Huduma kitchen payments for the financial year 2017/2018. However, examination of the reported list of pending bills for the financial year 2017/2018 does not reflect this amount in the reported balance.

4918) As a result, it was not possible to confirm the nature and basis of arriving at the figure of Kshs.1,000,000,000 paid as pending bills in form of wages during the year under review.

Submission by the Accounting Officer

4919) The Accounting Officer submitted that the Kshs.1,000,000,000.00 included in the employee compensation is paid out in form of cohort wages, cohorts savings to Sacco and Huduma Kitchen for FY 2018/2019.

4920) The amount of Kshs. 1,000,000,000.00 was inadvertently omitted from the pending bills. It was however, declared among other pending bills and a provision was made in the supplementary budget. The management has since put in place administrative measures to ensure that all pending bills are disclosed during the preparation of financial statements:

- At the end of the Financial year the Head of accounts unit, writes to all units to disclose all outstanding bills to be consolidated as pending bills to be declared in the Financial Statements.
- The Service has established an internal pending bills verification Committee to verify the disclosed bills before they are paid as first charge in the following financial year in accordance with the PFM Act.

4921) **Committee Observations and Findings**
The Committee observed that the Accounting Officer gave the underlying reasons for not settling the pending bills and the contingency measures put in place to address the problem.

4922) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

1556.2 Disparity in Gratuity Computation and Salary Payments

4923) An officer was engaged under local agreement on non-variable terms effective 4 July, 2017 with a salary of Kshs.144,928 for a period of two (2) years. The officer was paid gratuity of Kshs.1,056,771 in respect of the period served. However, the gratuity and the salaries paid were based on amounts that were different from the contract as detailed below:

4924) The total gratuity paid to the officer of Kshs.1,056,771 was calculated using four (4) tranches. The periods indicating total salary (gross) of Kshs.132,756 for the period of twenty-eight (28) days starting 4 July, 2017 to 31 July, 2017, Kshs.153,160 for the period of twelve (12) months starting 1 July, 2017 to 30 June, 2018, Kshs.157,160 for a period of nine (9) months starting from 1 July, 2018 to 31 March 2019 and Kshs.78,580 for a period of fourteen (14) days starting from 1 April, 2019 to 14 April, 2019, whereas clause 9 of the Local Agreement (Schedule to Agreement) explicitly provided for gratuity to be computed on the basis of thirty-one (31%) percent of the of the total monthly salary as per the agreement of Kshs.144,928 leading to overpayment of Kshs.96,671. No reason has been provided for the non-conformity to the Agreement.

4925) Tranche No.1 of the schedule for gratuity calculation shows that it was for the period covering twenty-eight (28) days the Officer worked starting 4 July, 2017 to 31 July, 2017. A check on tranche No.2 on the other hand covered the same period consequently resulting to over-payment by Kshs.37,171.

4926) No explanation has been provided for the variation of payments even though the contract had a fixed amount of payment and the overpayment was not satisfactorily explained.

Submission by the Accounting Officer

4927) The Accounting Officer submitted as follows:

(i) A reconciliation was done and found that Ksh.51,922.20 was overpaid to the officer.

(ii) As per the reconciliation above, it's only Ksh.51,922.20 that can only be recovered from the officer. This was derived from underpayment of Ksh.12,172.00 in the month of July (4/7/2017-31/7/2017) and an overpayment of Ksh.64,094,.20 from the month of august2017 to April 2018 leading to overpayment of Ksh.51,922.20 which is the amount recoverable from officer. The service communicated to the officer to make the refund.

4928) **Committee Observations and Findings**

The Committee observed that, the explanation given by the Accounting Officer that the State Department had reconciled the queried accounts was not satisfactory. Despite the fact that reconciliation had been completed, the officer who was found to have been overpaid Ksh.51,922.20 had not yet made a refund.

4929) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should recover the amount overpaid and submit the evidence of recovery to the Auditor- General for audit review.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Also, the Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1557. Accounts Receivables – Outstanding Imprest and Clearance Accounts

4930) The statement of assets and liabilities reflects a figure of Kshs.22,744,284 under accounts receivables which includes an amount of Kshs.3,499,272 in respect to district suspense being Authority to Incur Expenditure (AIEs) issued to various field stations. However, comparison of AIE returns against AIEs disbursed to various stations showed that a total of Kshs.2,325,199 remained unspent as at 30 June, 2019. The reported amount of Kshs.3,499,272 did not agree with the derived balance of Kshs.2,325,199 resulting to an unexplained difference of Kshs.1,174,073.

4931) In addition, analysis of AIE returns reported in the general ledger shows a total of Kshs.1,333,891,908 being expensed during the financial 2018/2019. The figure differs with the amounts of the physically availed and verified AIEs issued to field stations during the financial year totalling Kshs.1,108,119,375. The resultant difference of Kshs.225,772,533, though reconciled, has not been supported with relevant documentations. Under the circumstances, the accuracy and validity of account receivables balance of Kshs.22,744,284 and the AIE returns of Kshs.1,333,891,908 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

4932) The analysis of the reports received from the respective sub county treasuries serving our field units where the Service issued AIEs was done. The variance of AIEs issued versus return has been reconciled and the relevant documentation has been availed to the Auditor for verification.

4933) **Committee Observations and Findings**

The Committee observed that, the explanation given by the Accounting Officer that the department had reconciled the queried accounts and was satisfactory. However, the reconciliation is yet to be verified by the Office of the Auditor General;

4934) **Committee Recommendation**

Within three months of tabling and adoption of this report, the Auditor General should verify the reconciliation and report the outcome to the National Assembly for further consideration.

1558. 1558 Unsupported Routine Maintenance – Motor Vehicles and Other Transport Equipment

1558.1 Payments to Mechanical Transport Fund

4935) The statement of receipts and payments reflects a balance of Kshs.5,327,148,756 in relation to use of goods and services which includes an amount of Kshs.172,256,919 under routine maintenance – vehicles and other transport equipment. The latter+ balance includes an expenditure of Kshs.7,007,380 for hire charges in respect of motor vehicles and machinery at Yatta field station for the months of December 2016, January, February and March, 2017 based on Mechanical and Transport Fund invoices.

4936) However, the following inconsistencies were noted:

(i) The amounts were not included in the pending bills for the State Department for Public Service and Youth during the financial year 2016/2017 and 2017/2018 and therefore, did not constitute an authorized charge in the current year's budget.

(ii) There were no documentations to fully support the receipts of services rendered to the Department.

(iii) The amount was not included in the receivables for Mechanical Transport Fund for the year 2017/2018 and therefore the origin of the bills could not be explained.

(iv) The billings have disparities in the number of vehicles and machinery hired in addition the number of hours worked which had not been supported.

(v) Further, the expenditure of Kshs.172,256,919 for routine maintenance – vehicles and other transport equipment includes an amount of Kshs.99,304,504 paid for hiring of motor vehicles and transport equipment relating to the financial years 2014 to 2016.

4937) However, the following anomalies were noted in the payment;

(a) The pending bills were not disclosed under Annex III-Pending Accounts Payables to the audited financial statements as at 30 June, 2018 and no explanation has been provided for the anomaly.

(b) The payment demand raised by the Officer in Charge of Mechanical and Transport Fund on 12 May, 2017 had AIE approved and used on 22 June, 2017 when the payment was approved. However, the actual payment was made on 29 June, 2019 which was two (2) years after approvals for payment. No documentation was provided to demonstrate how the AIE obtained in 2017 was utilized.

(c) The payment of Kshs.99,304,504 was supported by invoices raised and addressed to Commanding Officers of various NYS field stations purportedly for services rendered in 2014/2015 and 2015/2016. However, the invoices were not supported with confirmation of receipts of services by the respective units as there were no approved requisitions or any documentation for confirmation of accuracy and acceptance of the billed amounts.

4938) Consequently, the accuracy and completeness of the amount for routine maintenance – vehicles and other transport equipment of Kshs.172,256,919 for the year ended 30 June, 2019 could not be confirmed.

4939) **Submission by the Accounting Officer**

(i) The amount of kshs.7,007,380.00 was inadvertently omitted from the pending bills, the management has come up with measures to ensure that all pending bills are included in list during the preparation of financial statement.

(ii) The work tickets for motor vehicle and machines used in Yatta Field Unit during the period under review have been provided.

(iii) The amount of Ksh.7,007,380 was recognized and included as receivable in the MTF accounts.

(iv) The invoices have since been reconciled and discrepancies explained.

(a) This was an omission of not providing an explanation to the notes in the accounts, however the same had been disclosed in the pending bills annex as required in preparation of financial report. However, they were paid alongside with others in year 2018/2019.

(b) The AIE's certificate was signed on earlier date and due to lack of funding the payment was never paid until when the funds were availed in the year 2018/2019.

(c) The payments were made on the strength of invoices raised by the MTF on the strength of motor vehicle track register maintained at the MTF Office. However, the claims were part of the historical pending bills that were cleared and approved by the inter-agency committee. Also the vehicles are stationed in every units as per attached distribution list.

4940) **Committee Observations and Findings**

The Committee observed that, the explanation given by the Accounting Officer that the department had reconciled the queried accounts was satisfactory. However, the reconciliation is yet to be verified by the Office of the Auditor-General;

4941) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Auditor General should verify the reconciliation and report the outcome to the National Assembly for further consideration.

1558.2 Motor Vehicle Running Expenses

4942) In addition, the expenditure of Kshs.172,256,919 on routine maintenance of vehicles and other transport equipment includes payments by the State Department for Youth totalling Kshs.35,926,373 in relation to purchase of spare parts and maintenance of vehicles owned by the Mechanical Transport Fund – National Youth Service. However, the State Department pays hire charges for the same vehicles of which during the year the Department owed the Fund Kshs.270,552,129 therefore resulting to double payment for the same services.

4943) Consequently, the accuracy and authenticity of the expenditure of Kshs.35,926,373 relating to routine maintenance of vehicles and other transport equipment could not be ascertained.

Submission by the Accounting Officer

4944) The cost of repair and maintenance of vehicles was due to commitments of Kshs.35,926,373 being payment for historical pending bills which were charged in the same item though they never related to the current year.

4945) **Committee Observations and Findings**

The Committee observed that the Management of the Funds had not given a satisfactory response with regard to the commitments of Kshs.35,926,373 being payment for historical pending bills.

4946) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Auditor General should take a re-look at this particular reconciliation and report back to the National Assembly for further consideration.

1559. Non-Disclosure of Pending Bills

4947) Although the Management has disclosed a list of pending bills totalling to Kshs.1,913,365,037.33 in Annex 1, there was no disclosure of the pending bills in the Notes to the financial statements. Further, failure to settle bills during the year in which they relate to distorts the financial statements for that year and adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

4948) The Notes have been availed to the auditor for verification.

4949) **The Committee observed and found that:**
The Committee observed that the Accounting Officer gave the underlying reasons for not settling the pending bills and the contingency measures put in place to address the problem.

4950) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1560. Irregular Procurements

1560.1 Supply of Woollen Blankets

4951) The statement of receipts and payments reflects a figure of Kshs.5,327,148,756 under use of goods and service which includes an amount of Kshs.3,241,731,531 relating to specialized materials and services as disclosed under Note 4 to the financial statements. Included in the latter balance is an amount of Kshs.51,400,000 paid to a supplier in respect of supply and delivery of twenty thousand (20,000) woollen blankets based on a framework contract.

4952) Examination of payment documentation showed the following anomalies:

(i) It was noted that an officer-in-charge of stores was in the tender opening committee and also received the goods into the stores as per the delivery notes as well as the counter receipt vouchers.

(ii) The approved professional opinion shows that the procurement was based on a framework contract that was flawed as there were only six (6) approved firms as opposed to a minimum of seven (7) firms as required under Section 114 (1)(c) of Public Procurement and Asset Disposal Act, 2015.

(iii) Although the procurement was made and paid on the basis of a framework contract with six suppliers, no pre-award mini competition was undertaken and therefore the basis of selection of the supplier awarded the tender was not justified. The purported framework contracts do not meet the set criteria under Section 114(1)b of the Public Procurement and Asset Disposal Act, 2015.

(iv) No evidence has been provided to show that Management prepared and submitted quarterly reports detailing an analysis of items procured through framework agreements as required under Section 114(6) of the Public Procurement and Asset Disposal Act, 2015.

(v) The procurement method used did not comply with Section 114(1)(b) of the Public Procurement and Asset Disposal Act, 2015 which states that a procuring entity may enter into a framework agreement through open tender if the required quantity of goods, works or services cannot be determined at the time of entering into the agreement. However, in this case the purchase was based on a requisition dated 8 October, 2018 hence the quantities were known with certainty.

4953) No explanation has been provided for the irregularities in procurement of the above goods.

Submission by the Accounting Officer

4954) The Accounting Officer submitted as follows:

(i) The storekeeper though a member of tender opening committee was not involved in Inspection and Acceptance of goods. He only confirmed that the blankets were as per the requisition.

(ii) This was an open tender and only six firms qualified. The items were urgently required and repeating the process would have delayed the supply of the blankets for recruits and servicemen/women.

(iii) The Service implemented the frame work contracts through call-offs orders. This is in line with section 114 (3) (a) PPADA 2015.

(iv) The contracts were signed in February 19th 2019 approximately four months to the closure of the financial year. A report was prepared and submitted to the relevant authorities.

(v) The nature of the procurement of goods and services at the National Youth Service is such that the quantities cannot be predetermined as the number of recruits keep varying per intake.

4955) The number of items required as per the requisitions from the Quarter Master are estimates and not actual number of items required.

4956) **Committee Observations and Findings**

The Committee observed that there was possibility of conflict of interest in that, the officer-in-charge of stores was in the tender opening committee and also received the goods into the stores as per the delivery notes as well as the counter receipt vouchers. Further, the storekeeper though a member of tender opening committee was not involved in Inspection and Acceptance of goods but only confirmed that the blankets were as per the requisition.

4957) Committee Recommendations

The Accounting Officer and all other officers involved in the procurement process must at all times adhere to the provisions of section 66 (1) of the Public Procurement and Asset Disposal Act 2015 which states that a person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding.

1560.2 Supply of Digital Camouflage Material

4958) The expenditure of Kshs.3,241,731,531 under specialized materials and services further includes an amount of Kshs.74,970,000 paid to a supplier in respect of supply and delivery of one hundred and twenty-six thousand (126,000) metres of digital camouflage material. Examination of the payment documents showed the following anomalies:

(i) The approved professional opinion under item No.3 digital camouflage material shows that the head of supply chain management recommended for approval of framework contracts for five (5) firms as opposed to seven (7) firms vendors required under Section 114(1)(c) of the Public Procurement and Asset Disposal Act, 2015. No reason has been provided for the anomaly.

(ii) No evidence has been provided to show that Management prepared and submitted quarterly reports detailing an analysis of items procured through framework agreements as required under Section 114(6) of the Public Procurement and Asset Disposal Act, 2015.

(iii) The procurement method used did not comply with Section 114(1)(b) of the Act which states that a procuring entity may enter into a framework agreement through open tender if the required quantity of goods, works or services cannot be determined at the time of entering into the agreement but in this case the purchase was based on a requisition dated 8 October, 2018 and therefore the quantities were known with certainty.

(iv) Invoice No.0109 issued for payment bears no evidence that it was officially presented and acknowledged by the Director General for payment.

(v) The S.12 issue and receipt voucher No.039 shows that the items were received in stores on 31 October, 2018 and being a duo purpose accountable document, it did not show the issues, or the destination.

(vi) The procurement did not comply with Section 44(h) of the Public Procurement and Asset Disposal Act, 2015 which requires an Accounting Officer of an entity to ensure that the procurement processes are handled by different professional offices in respect of procurements, initiation, processing and receipt of goods, works and services. In this procurement, it was noted that the officer-in-charge of stores was involved in the tender opening committee and that the same officer was among the team which inspected, accepted and received the items in stores.

4959) No explanation has been provided for non-compliance with the law.

Submission by the Accounting Officer

4960) The Accounting Officer submitted as follows:

(i) This was an open tender and only five (5) firms qualified.

(ii) The items were urgently required and repeating the process would have delayed the supply of Digital camouflage material, need for recruits training and pass-out parade.

(iii) The report on the implementation of framework agreement was prepared and is now availed.

(iv) The nature of the procurement of goods and services at the Service is such that the quantities cannot be predetermined as the number of recruits keep varying per intake.

(v) The number of items required as per the requisitions from the Quarter Master are estimates and not actual number of items required.

(vi) The unit of issue for camouflage material was in metres the inspection and acceptance committee according to the certificate issued received and accepted. The issues were made using the following S.12 and hereby attached.

S12 No.	Quantity Issued	Issued By	Received By
0397325	60264M	SCMA4	CO TGTI
0388171	14055M	SCMA4	CO TGTI
0397339	5107.5M	SCMA4	CO TGTI

(vii) It has been confirmed that camouflage material was issued to TGTI for stitching. The Adhoc committees appointed as per provision of PPAD Act, 2015 are independent and execute their mandates as such even if an officer is a member found in more than one committee because the same Act assigns them roles such as users. This is because the user pursuant to section 48(4) (b) of PPAD Act, 2015 must confirm the goods, works or services meets the technical specifications in the contract.

(viii) Under the first schedule threshold Matrix of PPAD Regulations of 2006 which are the guiding regulations of PPAD Act, 2015, the head of user department is responsible for initiating procurement.

(ix) The PPAD Act, 2015 2015 and public procurement Regulations 2006 assigns the user the role of initiating procurement, inspecting and accepting of goods, works and services.

4961) **Committee Observations and Findings**

The Committee observed that the explanation by the Accounting Officer was satisfactory to the extent that the conditions set out in Section 91(2) of the Public Procurement and Asset Disposal Act 2015 on the use of an alternative procurement procedure were met.

4962) **Committee Recommendations**

Accounting Officers must at all times adhere to Section 91(2) of the Public Procurement and Asset Disposal Act 2015 which requires a procuring entity to use an alternative procurement procedure only if that procedure is allowed and satisfies the conditions under this Act for use of that method.

1560.3 Supply of High Ankle Military Boots

4963) Included in the expenditure of Kshs.3,241,731,531 under specialized materials and services is an amount of Kshs.29,800,000 paid to a supplier in respect of supply and delivery of ten thousand (10,000) pairs of high ankle military boots at a unit price of Kshs.2,980 under framework contract signed on 23 October, 2018 for a period of one year. Examination of the payment documents showed the following anomalies:

4964) Examination of the contract documents under Section III-General Conditions to the Contract (GCC) Subsection 3.71 with reference to Section IV-Special Conditions to the Contract (SCC) Sub-section 4.2 requires that within thirty (30) days of receipt of the notification of contract award, the successful bidder will furnish the procuring entity with performance security bond. However, no evidence was provided to show that the supplier furnished the State Department with a performance security bond of ten percent (10%) of the tender sum as required under contract.

4965) In addition, there was contradictory information in the tender documents on the subject of performance guarantee, as the form of tender document attached as part of the contract dated 31July, 2018 under Section 3 referred to 2% which differs with Section 3.7.1 which requires 10% of the tender sum.

4966) Examination of the contract document reveals that there were no specific quantities specified in the contract to justify use of call-offs order as required under Section 114 (4) of the Public Procurement and Asset Disposal Act, 2015. Further, analysis of the evaluation report shows that the least quoted amount was Kshs.2,785 as compared to the order price of Kshs.2,980, hence, if Section 114(3)(b) was applied, the State Department could have saved Kshs.1,950,000. Further, the requisition attached shows that a total quantity of 31,500 high ankle boots were required. However, there is no evidence attached to show how management arrived at the order quantity of 10,000 units.

4967) The contract document required for payments to be made within thirty (30) days upon delivery of acceptable goods. However, records attached in support of the payment indicated that the goods were deliverable within three (3) to four (4) weeks. The goods were however delivered in seven (7) deliveries and took the supplier more than the stipulated duration of three (3) to four (4) weeks with no explanation provided for the delay. Further, no evidence has been provided to show that authority was granted for the extended period as required by Regulation 53(1) of the Public Finance Management (National Government) Regulations, 2015.

4968) In addition, there was no local purchase order (LPO) or order to support the supply of 10,000 units given that the framework contract was a general purpose and not specific order contract hence the State Department failed to comply with Regulation 53 of the Public Finance Management (National Government) Regulations, 2015.

4969) No explanation has been provided for non-compliance with the law.

Submission by the Accounting Officer

4970) The Accounting Officer submitted as follows:

(i) The contract was a framework agreement as and when required and performance security under section 142 (1) states that the performance security is not more than 10% of contract amount which is submitted before the signing of the contract.

The procuring entity could not determine the Local purchase order amount before signing the contract. Therefore, it is not a requirement to issue performance security under framework agreement. The procuring entity used standard tender document as prescribed.

(ii) Pursuant to section 114 (3) (a) "call offs" were made to implement the frame work agreement because the quantities for High ankle boots were indefinite and could not be determined at the time of tendering.

(iii) The 31,500 pairs of Boots was just a one purchase requisition. The framework agreement had seven (7) contracts as ranked. The procuring entity choose any of the framework contractors because of the lead time taken to manufacture Boots specifically that meet the NYS requirements, therefore no single contractor would have delivered within the limited time required for recruits to pass- out, which had been scheduled for the 16th November, 2018. The procuring entity issued 10,000 pairs of high ankle boots each to 1st, 2nd and 3rd ranked framework agreement contractors as follows.

Rank	**Qty pair**	**Price Kshs.**	**Delivery date (between)**
Contractor 1	10,000	2785	13/01/2019 - 26/06/2019
Contractor 2	10,000	2980	04/01/2019 - 16/01/2019
Contractor 3	10,000	3000	15/1/2019 - 05/03/2019

4971) It was noted that the 1st ranked contractor delivered long after the 2nd and 3rd contractors had delivered. In Issuing the Local Purchase Order the procuring entity intended to have the right quantities at the Right Time.

4972) The delay in delivery by the contractor was caused by the long lead time development and manufacturing of High Ankle Boots that was required to meet the specific requirements of the user. The supplier serviced the Local Purchase Order within the frame work agreement time and therefore need for extension. The copy of LPO No. 3165056 dated 26/10/2018 is attached**.**

4973) **The Committee observed and found that:**

The Committee observed that the Accounting Officer gave the underlying reasons for the delay in delivery of High Ankle Boots and the contingency measures put in place to address similar problems in future.

4974) **Committee Recommendations**

Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1560.4 Supply of Canned Beef and Pineapples

4975) The expenditure of Kshs.3,241,731,531 in respect of specialized materials and services includes an amount of Kshs.31,739,000 paid to a supplier for supply and delivery of canned beef and pineapples which had the following anomalies:

(i) The Authority to Incur Expenditure (AIE) was approved on 11 January, 2019 the same day authority to procure food and rations was issued. However, an LPO was issued on 4 December, 2018, one (1) month before approval and confirmation of availability of funds contrary to Regulation 52(1)(a) of the Public Finance Management (National Government) Regulations, 2015.

(ii) The invoice in support of the payment was received on 5 April, 2019 yet the letter submitting the voucher for payment was issued on 22 March, 2019 which was long before the receipt of the invoice. Hence, it is not clear how the payment voucher processing was initiated without an invoice having been received.

(iii) The letter of notification and acceptance dated 26 July, 2018 indicates that the above procurements were executed through Contract No. GIL/1/2018- 2019/192 which was not availed for audit verification. In addition, the letter of notification and acceptance had a price list that was not acknowledged by the supplier.

Under the circumstances, it has not been possible to confirm whether the above items were procured within the law.

Submission by the Accounting Officer

4976) The Accounting Officer submitted as follows:

i) The Commandant Gilgil had requested Director General NYS to meet the expenses for dry ration vide his letter ref CGL/E&S/4/1 vol.VI(247) dated 5/4/2019.

ii) The drafting date was 22/3/2019 and the document was received at NYS Headquarters on 9/4/2019 where the invoice was dated 5/4/2019.

The LPO was written, however funds were later confirmed. Given the circumstances under which the Service was operating the recruits had to be fed.

iii) The document which was prepared by Gilgil sub county procurement office is now availed.

Committee Observations and Findings

4977) The Committee observed that there were inconsistencies in the records provided for audit.

4978) **Committee Resolution**

The Committee recommends that within three months of tabling and adoption of this report, the Auditor General should carry out a further audit on this particular procurement with a view to confirm whether it was done lawfully and in an effective way.

1560.4 Unauthorized Supply and Delivery of Uniform Materials

4979) The expenditure of Kshs.3,241,731,531 in respect of specialized materials and services further includes an amount of Kshs.20,160,000 paid to a supplier for supply and delivery of uniform materials. However, the following anomalies were noted;

(i) Examination of the cash book folio No.60 shows that the supplier was paid on 27 June, 2019 while the Authority to Incur Expenditure (on the AIE certificate) and authorization to make the payment were granted on 29 June, 2019 and 30 June, 2019 respectively, both dates were after the payment had already been made on 27 June, 2019. No explanation has been provided for the inconsistency.

(ii) A check on approvals on both AIE and to make payment to the supplier was in respect to supply of five thousand (5,000) pairs of high ankle military boots while all other supporting documentation including a LPO No.684 dated 13 June, 2019, are in relation to supply of camouflage materials. Again, no reason was provided for the inconsistency.

(iii) Invoice No.684 was raised on 13 June, 2019 almost two (2) weeks before the final delivery was made on 26 June, 2019 hence evidence that billing was done before delivery of the commodities.

(iv) Although Management sought and obtained funding for procurement of the ankle military boots, there is no documented authority for change of the order to camouflaged material.

4980) In the circumstances, it has not been possible to confirm the propriety of the expenditure amounting to Kshs.20,160,000 incurred to purchase the uniform materials.

Submission by the Accounting Officer

4981) The Accounting Officer submitted as follows:

(i) The discrepancy was an error from the posting of the cashbook. This was within the closure of the financial year hence the dates were not changed due to the bulkiness of the transaction.

(ii) It is true the description on the voucher was wrongly typed giving a misreading description different from the supporting document. However, the supporting document gave a true picture of what was procured, received and paid for as the correct item.

(iii) The invoice is No. 673 dated 26/6/2019 and No. 684 referred to is Local Purchase Order.

The invoice was received in the supply Chain Management Office (Stores) and forwarded by movement register dated 27/06/2019.

(iv) The funding was for camouflage material.

4982) **Committee Observations and Findings**

The Committee observed that there were inconsistencies in the records provided for audit.

4983) **Committee Recommendation**

The Committee recommends that within three months of tabling and adoption of this report, the Auditor General should carry out a further audit on this particular procurement with a view to confirm whether it was done lawfully and in an effective way.

1560.5 Payment of Domestic Debts and Commercial Debts

4984) The statement of receipts and payments reflects a figure of Kshs.5,327,148,756 under use of goods and services which includes an amount of Kshs.3,241,731,531 relating to specialized materials and services as disclosed under Note 4 to the financial statements. Included in the latter balance is an amount of Kshs.166,375,665 paid to Mechanical and Transport Fund in respect to services offered at Tana Road Project between September 2011 and August 2015. However, although correspondences in support of the payment indicates that the services amounting to Kshs.166,375,665 were offered to National Youth Service, Tana Road Basin Project Station, no documentation in support of the services rendered either from the Unit Commanding Officer or the Director General were provided for audit verification. In addition, there was no demonstration of the work done as the invoices did not match with the number of equipment billed and the work tickets and the billing rates applied was not supported by any contractual agreement. Further, although the amount was paid in the current financial year, it had not been disclosed as pending bills in the financial statements for the year ended 30 June, 2018.

4985) In the circumstances, the propriety of the expenditure amounting to Kshs.166,375,665 for the year ended 30 June, 2019 could not be confirmed,

Submission by the Accounting Officer

4986) The documents in support of service rendered to Commanding officer Tana River field unit are availed to the auditor for verification. The amount of kshs.166,375,665 was inadvertently omitted from the pending bills disclosed at the close of the Financial Year 2017/18 and were settled in the FY 2018/19. The management has since put in place administrative measures to ensure that all pending bills are disclosed during the preparation of financial statements:

- At the end of the financial year the Head of accounts unit, writes to all units to disclose all outstanding bills to be consolidated as pending bills to be declared in the Financial Statements.
- The Service has established an internal pending bills verification Committee to verify the disclosed bills before they are paid as first charge in the following financial year in accordance with the PFM Act.

4987) **Committee Observations and Findings**

(i) The Committee observed that, the explanation given by the Accounting Officer that Kshs.1,000,000,000.00 was inadvertently omitted from the pending bills was unsatisfactory. and

(ii) The Committee observed that the Accounting Officer gave the underlying reasons for not settling the pending bills and the contingency measures put in place to address the problem.

4988) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

1560.6 Supply of Gumboots to National Youth Service

4989) The expenditure of Kshs.3,241,731,531 under specialized materials and services includes an amount of Kshs.948,600 paid to a supplier for supply and delivery of gumboots. However, the following anomalies were noted:

(i) The requisition for the gumboots by the Quarter Master which informed the procurement was made on 17 May, 2016 which was five (5) days after the quotation had been obtained and opened on 12 May, 2016.

(ii) The professional opinion supporting the payment was made on 7 March, 2017 and approved on 10 March, 2017 after the quotations were opened on 12 May, 2016 which was more than nine (9) months later. There is no evidence provided to show the validity of the quotation was for more than nine (9) months.

(iii) The professional opinion was not supported by any quotation evaluation documentation to demonstrate the supplier was the lowest bidder.

(iv) The payment was made on the strength of a copy of an invoice dated 22 May, 2017 with no justification provided.

(v) Under the circumstances the propriety of the expenditure amounting to Kshs.943,600 could not be confirmed.

Submission by the Accounting Officer

4990) The Accounting Officer submitted as follows:

(i) The procurement procedure had conflicting dates on some documents. It is however confirmed that the goods were received and used for the intended purpose.

(ii) Three firms were invited in respect to quotation No. NYS/278/2015-2016. The price comparison schedule and professional opinion awarded the lowest bidder at Ksh.1054 per pair of gumboots.

(iii) The invoice attached in payment voucher is original.

Committee Observations and Findings

4991) The Committee observed that there were inconsistencies in the records provided for audit.

4992) **Committee Recommendation**

The Committee recommends that within three months of tabling and adoption of this report, the Auditor General should carry out a further audit on this particular procurement with a view to confirm whether it was done lawfully and in an effective way.

1560.7 1560.8 Supply and Delivery of Olive-Green Ribbed Jersey

4993) The expenditure of Kshs.3,241,731,531 under specialized materials and services further includes an amount of Kshs.49,500,000 paid for supply and delivery of olive-green ribbed jersey items under framework agreement for a duration of two (2) financial years (2018-2020) on as and when required basis.

4994) Review of the payment voucher and its supporting documents revealed the following inconsistencies:

(i) The tender opening and tender evaluation reports shows that the firm quoted Kshs.1,750 per unit while the evaluation committee recommended that the firm was to supply the product at a reduced price of Kshs.1,650. No evidence has been attached to show that the firm was invited for negotiations or accepted to supply at a lower price than quoted.

(ii) It is not clear why the Department opted to contract at a higher price when there were firms that quoted a lower price by a margin of Kshs.250 per unit which could have resulted in a saving of approximately Kshs.3,750,000.

(iii) The supplier was paid Kshs.49,500,000 on 27 June, 2019 two (2) days before the goods were delivered, inspected and accepted, taken on charge and invoice issued all which took place on 29 June, 2019. A further check on the payment voucher showed that AIE and authority to make this payment were granted on 29 June, 2019 and 30 June, 2019 respectively, after the payment had already been made on 27 June, 2019. No explanation has been provided for non-compliance with Regulation 52(1)(a) of the Public Finance Management (National Government) Regulations, 2015.

(iv) Section 44(h) of the Public Procurement and Asset Disposal Act, 2015 mandates an Accounting Officer of an entity to ensure that the procurement processes are handled by different professional offices in respect of initiation, processing and receipt of goods, works and services. However, in regard to this procurement, it was observed that one officer of the National Youth Service (NYS) requisitioned for the goods, paid for the goods, in this case among others, on behalf of the State Department, appointed and executed duties in the evaluation and sample evaluation committees and also took part in the inspection and acceptance committee as the chairman. No explanation was provided for this anomaly.

No explanation was provided for non-compliance with the law in all the above stated anomalies.

Submission by the Accounting Officer

4995) The Accounting Officer submitted as follows:

(i) The State Department issued a notification of an intention to enter into a contract to supplier which was accepted.

(ii) The firms that quoted the lower price were not financially responsive because the quoted below the prevailing market price which was between ksh.1650 and kshs.1750. (See market Survey). It was worthy noted that Quarter Master has projected a market price of Kshs.1966. See the market survey

(iii) There was an error in the posting date of the payments in the cash book, however the procurement procedure and payment processing were done in the right date as indicated in the payment voucher.

(iv) The Adhoc committees appointed as per provision of PPAD act, 2015 are independent and execute their mandates as such even if an officer is a member found in more than one committee. It is because the same Act assigns them roles such as users. Pursuant to section 48(4) (b) of PPAD Act, 2015, the user must confirm that the goods, works and services meet the technical specifications in the contract.

4996) Under the first schedule Threshold Matrix of Public Procurement Regulations 2006, the head of user department is responsible for initiating procurement, hence role in requesting.

4997) **Committee Observations and Findings**

The Committee observed that there were inconsistencies in the records provided for audit.

4998) **Committee Recommendation**

The Committee recommends that within three months of tabling and adoption of this report, the Auditor General should carry out a further audit on this particular procurement with a view to confirm whether it was done lawfully and in an effective way.

1560.8 Procurement, Supply and Delivery of Textile Materials for Police Uniforms

4999) The State Department entered into two (2) contracts with two (2) suppliers for supply and delivery of medium blue textile material on 18 February, 2019. The award was made through a professional opinion issued on 1 February, 2019 and approved by the Principal Secretary on 6 February, 2019. The suppliers were paid Kshs.23,400,000 each on 30 June, 2019. However, the following anomalies were observed;

(i) Although, there was negotiation on pricing, which was agreed at a price of Kshs.390, no minutes of the negotiation have been provided to support the award and payment.

(ii) The payment voucher was not supported by an inspection and acceptance certificate as required under Section 48(1) of the Public Procurement and Asset Disposal Act, 2015. Further, there was no evidence to show that the goods were taken on charge as required under Section 159 (1) of the Public Procurement and Asset Disposal Act, 2015.

5000) It was not possible to confirm whether the above procurement process adhered to the provisions of the procurement laws and whether the pricing was competitive.

Submission by the Accounting Officer

5001) The Accounting Officer submitted as follows:

(i) Minutes for the negotiation meeting held on Wednesday, 30th January 2019 at the NYS Boardroom 4th floor and attendance register were availed for perusal by the Committee.

(ii) The Inspections certificates and S13 cards showing entries have been availed to the auditor for verification were availed for perusal by the Committee.

5002) **Committee Observations and Findings**

The committee observed that the Accounting Officer was in breach of section 68 (2) (k) of the PFM Act 2012 for failing to provide supporting documentation to the financial statements within (3) three months after the end of the financial year. However, the Committee noted that the supporting documentation was eventually submitted for audit verification.

5003) **Committee Recommendations**

The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also, ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

1561. 1561 Unauthorized Reallocations

5004) Examination of various payment made during the year under review in respect of operations at National Youth Service showed expenditure amounting to Kshs.394,459,439 that had been charged to the wrong accounts. No explanation has been provided for charging the wrong accounts.

5005) Under the circumstances, the propriety and validity of the expenditure totalling Kshs.394,459,439 for the year ended 30 June, 2019 could not be ascertained.

Submission by the Accounting Officer

5006) The accounts charged were due to the payments of the pending bills. The exchequer was released after the release of the Supplementary II towards the close of the financial year and there was no window for reorganisation of the budget according to the items that were affected by the pending bills.

5007) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer fell short of the requirement of section 68 (2) (k) of the PFM Act 2012 by failing to provide supporting documents for audit verification. However, the Committee noted that the documentation was eventually provided;And

(ii) The Committee also observed that the authority to reallocate funds was not provided to support expenditure charge to the unrelated accounts.

5008) **Committee Recommendation**

The Accounting Officer should at all times ensure compliance with Section 43 of Public Finance Management Act, 2012 which prohibits reallocation of funds appropriated for capital expenditure to recurrent expenditure and Regulation 43 (b) of Public Finance Management (National Government) Regulations, 2015.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5009) **Conclusion**

1562. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECT

KENYA YOUTH EMPLOYMENT AND OPPORTUNITIES PROJECT (IDA CREDIT 58120-KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1563. Unsupported Expenditure

5010) The statement of receipts and payments for the year ended 30 June, 2019 reflects purchases of goods and services totalling Kshs.523,239,782 out of which expenditure amounting to Kshs.42,492,946 was not supported to show how it was incurred.

5011) As a result, the accuracy and validity of the purchase of goods and services balance totalling Kshs.523,239,782 reflected in the statement of receipts and payments for the year under review has not been confirmed.

Submission by the Accounting Officer

5012) There were no submissions from the accounting officer.

5013) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

5014) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

Other Matter

1564. Budget Control - Revenue Shortfall and Under-expenditure

5015) The statement of comparative budget and actual amounts for the year ended 30 June, 2019 reflects budgeted receipts and actuals on comparable basis amounting to Kshs.848,428,361 and Kshs.749,846,920 respectively resulting to a shortfall of Kshs.98,581,441 or 12% of the budget. In addition, the statement reflects actual expenditure totalling 563,913,314 resulting to under-expenditure of Kshs.284,515,047 equivalent to 33% of the budget for the year amounting to Kshs.848,428,361. Furthermore, actual expenditure for the year was equivalent to 75% of funds received and therefore 25% of the receipts were not spent.

5016) Management has attributed the low absorption of funds to the splitting of the Project between the State Department for Youth and the State Department for Public Service which resulted in minimal activity for part of the year. Management has, in addition, explained that the budget was cut in the Supplementary Budget and as a result, monies owed to some service providers were not paid.

5017) The revenue shortfall and under-expenditure constrained implementation of planned activities and attainment of the Project's objectives during the year under review. For instance, although the work plan for the year had indicated that 182,324 youth were to be trained in the year, only 34,071 equivalent to 19% of the budgeted number were trained.

Submission by the Accounting Officer

5018) There were no submissions from the accounting officer.

5019) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

5020) Committee Recommendations

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

1565. Unresolved Prior-Year Issues

1565.1 Unsupported Consultancy Services and Training Expenditures

5021) During 2017/18 financial year, a consultant was paid Kshs.27,461,500 to provide life skills training to youths in several counties at a cost of Kshs.8,500 per participant. The payment included Kshs.1,800,000 for supply of computers for use by the trainers. However, available records indicated that only 2,584 youths were trained at an aggregate cost of Kshs.21,964,000 against Kshs.25,461,500 paid to the consultant.

5022) No plausible explanation has been provided for the overpayment amounting to Kshs.3,697,500 made to the contractor and which translates to loss of public funds. Other records indicated that the Project paid stipends totalling Kshs.16,120,450 to the training course participants. However, only 2,584 youths were trained and paid Kshs.6,000 each resulting in expenditure totalling Kshs.15,504,000. The variance amounting to Kshs.620,450 between the expenditures shown in the two sets of records has not been explained.

Submission by the Accounting Officer

5023) There were no submissions from the accounting officer.

5024) **Committee Observations and Findings**

5025) The Committee observed that the Accounting officer did not respond to this paragraph.

5026) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

1565.2 Irregular Expenditure on Printing, Advertising and Information Services

5027) In 2017/18, financial year, the Project incurred Kshs.11,045,816 on printing, advertising and information services in respect of 300 training manuals, 6,200 students' workbooks and other learning materials. However, examination of documents revealed that identical items were procured at varying prices although bought from the same supplier and paid for on the same date. The price variances for identical items were as high as 33%.

5028) As a result, the validity and propriety of the expenditure totalling Kshs.11,045,816 incurred on printing, advertising and information services could not be confirmed.

Submission by the Accounting Officer

5029) There were no submissions from the accounting officer.

5030) **Committee Observations and Findings**

5031) The Committee observed that the Accounting officer did not respond to this paragraph.

5032) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

1565.3 Unconfirmed Youth Training Program Expenditure

5033) In 2017/18 financial year, Management paid Kshs.16,120,450 in stipends to trainee youths who participated in the life skills training course, and Kshs.27,461,500 to the consultants that provided the training. However, there was no evidence showing that the training curriculum was approved by Management. In addition, the contract did not indicate the Project outcomes targeted by the course.

5034) Consequently, it was not possible to confirm whether the Project received value for money on the expenditure totalling Kshs.43,581,900 incurred on the training.

Submission by the Accounting Officer

5035) There were no submissions from the accounting officer.

5036) **Committee Observations and Findings**

5037) The Committee observed that the Accounting officer did not respond to this paragraph.

5038) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

1565.4 High Administration Expenses

5039) Review of 2017/18 financial year expenditure indicated that Kshs.253,104,269 was incurred on administrative and youth training activities during the year. However, analysis of the respective payment vouchers indicated that only 21% of the total expenditure incurred on the items was related to youth activities and programs whereas the balance (79%), was incurred on administrative activities.

Submission by the Accounting Officer

5040) There were no submissions from the accounting officer.

5041) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

5042) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

1565.5 Irregular Appointment of Training Consultant

5043) The statement of receipts and payments for the year ended 30 June, 2018 reflected expenditure totalling Kshs.188,740,710 incurred on purchase of goods and services which included operating expenses amounting to Kshs.56,090,096. The later balance included Kshs.27,461,500 paid in June, 2018 to a consultant to provide life skills training.

5044) The following anomalies were observed in respect of this payment:

(a) The certificate of incorporation indicated that the bidder was a limited liability company incorporated on 24 May, 2007 whereas the confidential business questionnaire attached in support of the payment indicated that the service provider was a Non-Governmental Organization. However, the firm's certificate of registration from the Non-Governmental Organization Board was not disclosed. As a result, the status and authenticity of the firm engaged to offer the training services could not be verified.

(b) Minutes of meetings held between the bidder and Management in October, 2017 revealed that the consultant agreed with the State Department to abandon the original financial proposal and present a new one with trainee charge-rates that tallied with those prescribed in the terms of reference. This implied that the original bid was not responsive and should instead have been cancelled and a new tendering process initiated. Reconfiguring the proposal amounted to amendment of the tender contrary to Section 75(1) of the Public Procurement and Asset Disposal Act, 2015.

(c) The bid documents, tender opening and evaluation and minutes of the Committee meeting that shortlisted the bidders were not provided for audit verification. These matters were raised in the report for 2017/18 but have not been resolved as yet.

Submission by the Accounting Officer

5045) There were no submissions from the accounting officer.

5046) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

5047) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1566. Unsupported Consultancy Services Expenditure

5048) The Management entered into a framework contract with a consultant to offer life skills training to youths in seventeen (17) Counties in 2018. As at 30 June, 2019, the consultant had received payments totalling Kshs.44,128,350. However, the certificate of inspection and acceptance of the contract's deliverables was not availed for audit review. Further, the contract was signed seven (7) days after the award, contrary to Section 135 (3) of Public Procurement and Asset Disposal Act (PPDA), 2015 which requires public procurement contracts to be signed fourteen (14) days after award of a contract to allow for appeals by unsuccessful bidders, if any.

5049) As a result, the regularity of the expenditure amounting to Kshs.44,128,350 incurred on the consultant and the value obtained thereof has not been confirmed.

Submission by the Accounting Officer

5050) There were no submissions from the accounting officer.

5051) **Committee Observations and Findings**

5052) The Committee observed that the Accounting officer did not respond to this paragraph.

5053) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit**

review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.

1567. Irregular Consultancy Services Contract

5054) The Project in 2017/18 financial year paid Kshs.8,240,000 to a consultant to design and implement a management system referred to as Interim Information Management System (IIMS). However, documents presented for audit in support of the payment reflected several anomalies:

i) The contract was for a period of ninety (90) days from 28 July, 2017 to 31 March, 2018 and was priced at Kshs.16,000,000. However, the consultant's proposal was approved on 17 April, 2019 and the contract signed on 17 May, 2019. It was backdated to 1 April, 2018 and set to end after thirty two (32) months on December 31, 2020, or any other period as would be subsequently agreed by the parties in writing.

ii) Documents attached to the Kshs.8,240,000 payment voucher indicated that the payment was for services rendered from 03 April, 2018 to January, 2019. However, in this period, there was no contract or agreed output. The anomaly implied that the services were offered without a contract contrary to Section 135 (1) of Public Procurement and Asset Disposal Act, 2015. Management has not explained why the law was flouted in procuring the consultancy services.

iii) The annexure to the contract template included conditions to be fulfilled before payments were made to the contractor. However, in the actual contract signed with the consultant, the conditions were labeled as 'not applicable' and ignored.

5055) In view of these matters, the legality of the contract valued at Kshs.16,000,000 and value-for-money on expenditure amounting to Kshs.8,240,000 incurred on the contract during the year under review has not been confirmed.

Submission by the Accounting Officer

5056) There were no submissions from the accounting officer.

5057) **Committee Observations and Findings**

5058) The Committee observed that the Accounting officer did not respond to this paragraph.

5059) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**

2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

1568. Irregular Contract on Provision of Communication Specialist Services

5060) The statement of receipts and payments for the year ended 30 June, 2019, reflects use of goods and services totalling Kshs.523,239,782, as disclosed under Note 8.8 to the financial statements. The expenditure includes Kshs.4,800,000 paid to a consultant for provision of communication services at a monthly fee of Kshs.600,000 for a period of eight (8) months commencing May through to December, 2018, as specified in an unreferenced contract document dated November 8, 2017. However, examination of records revealed the following anomalies which were not explained:

i) Before signing the contract on November 8, 2017, Management had notified the consultant of the offer for the services through a letter dated 2 November, 2017 which the consultant accepted two (2) days later on 4 November, 2017. That was contrary to provisions of Section 135 (3) of the Public Procurement and Asset Disposal Act, 2015 which prescribes a fourteen (14) days window for appeals by unsuccessful bidders before contracts are signed.

ii) The conditions of the contract cited in the annexure to the contract document required several conditions to be fulfilled before any payments were made.

However, these were not observed as they were termed 'not applicable' and ignored.

iii) In all the payment vouchers examined, there was no evidence that the outputs agreed in the contract were attained before the respective payments were made. Furthermore, no certificate of inspection and acceptance of outputs was presented for audit review, and therefore its existence could not be confirmed.

5061) In the view of these anomalies, the legality and value-for-money on the expenditure amounting to Kshs.4,800,000 incurred on provision of communication specialist services during the year under review have not been confirmed.

Submission by the Accounting Officer

5062) There were no submissions from the Accounting Officer.

5063) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

5064) **Committee Recommendations**

5065) The Accounting Officer must a**t all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**

1) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.

1569. Non-Compliant Capacity-Building Consultancy Services Contract

5066) During the year under review, the Project spent Kshs.4,290,000 on a consultant hired to build capacity for technical assistance support. However, the following anomalies were noted in respect to the expenditure:

i) Signed and verified time sheets indicated that the consultant worked for a total of one hundred and fifty-four (154) days. However invoice No. KYEOP-04 dated May 20, 2019 issued by the consultant indicated that the work done covered one hundred and twenty-eight (128) days. No reason was provided for the anomaly.

ii) The certificate of inspection and acceptance of the contract outputs was not presented for audit and its existence could therefore not be confirmed.

5067) In the circumstances, Management paid the consultant Kshs.4,290,000 without confirming that the contracted services were delivered as expected. Therefore, the payment contradicted the requirements of Section 48(3) of the Public Procurement and Asset Disposal Act, 2015.

Submission by the Accounting Officer

5068) There were no submissions from the accounting officer.

5069) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

5070) **Committee Recommendations**

1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.

2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.

1570. Unconfirmed Execution of Paid Consultancy Contract

5071) The Project paid Kshs.427,500 to a consultant to review the National Youth Policy. Although the respective payment voucher indicated it was the final payment for the services rendered to the Project by the consultant, only a draft consultant's report was attached to the voucher. No evidence was available to show that a final report was presented by the consultant and evaluated and accepted by Management before the payments were processed.

5072) In view of the anomaly, it was not possible to determine whether any value was realized on the expenditure totalling Kshs.427,500 incurred on the consultant.

Submission by the Accounting Officer

5073) There were no submissions from the accounting officer.

5074) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

5075) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5076) **Conclusion**

1571. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PARAGRAPHS 1572 TO 1590 UNDER YOUTH ENTERPRISE DEVELOPMENT FUND WERE REFERRED TO THE SPECIAL FUNDS ACCOUNTS COMMITTEE.

51. STATE DEPARTMENT FOR EAST AFRICAN COMMUNITY

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1221

Mr. Kevit Desai, the Principal Secretary and Accounting Officer for State Department for East Africa Community (Vote 1221), appeared before the Committee on 29th July, 2021 to adduce evidence on the audited financial statement for the State Department of Youth (Vote 1221) for the Financial Year 2018/2019. accompanied by the following officers:

1. Mr. George Mwaura	-	Procurement.
2. Ms. Margaret Ratemu	-	Director Human Resource Manager
3. Mr Joseph Maina	-	Senior Finance Officer.
4. Mr. S. Ikua	-	Senior Accountant.
5. Ms . Maureen Oganya	-	Accountant.

And submitted as follows:

Basis for Qualified Opinion

1591. Irregular Procurement of Consultancy Services

5077) As disclosed under Note 4 to the financial statements, the statement of receipts and payments reflects a total expenditure of Kshs.600,432,274 incurred on use of goods and services which includes Kshs.176,535,868 incurred on other expenses. The later balance includes Kshs.120,977,931 relating to consultancy services for ease of doing business, paid in the year under review.

5078) A scrutiny of the records supporting the payments revealed that the consultancy services were procured from a consultancy firm by the Ministry of Industry, Trade and Cooperatives on 14th February, 2017, way before the function of doing business was transferred to the State Department for East African Community on 1st April, 2019. Further, the invoices amounting to Kshs.120,977,931 were not shown as pending bills in the former Ministry 's books (Ministry of Industry , Trade and Cooperative) in the years 2016/2017 and 2017/2018. In addition, the original documentation including invoices and the initial local service order issued in the year 2016/2017 when the services were procured, were not availed for audit verification. No plausible explanation was given to show why the State Department for East African Community took over and paid the unsupported pending bills.

5079) In the circumstances, the propriety of the expenditure amounting to Kshs.120,977,931 cannot be ascertained.

Submission by the Accounting Officer

5080) The Accounting Officer submitted that the Ease of Doing Business (EODB) function was transferred from the State Department of Industrialization to this State Department vide Executive Order OP/CAB.1/63A dated 1st April 2019.

5081) In view of the same, the pending bills for the consultancy totaling Kshs.120, 977,931 were forwarded to this State Department vide letter Ref.MOI/IND/7/78 dated 14th June 2019 by the Accounting Officer. The contract was for a period of two (2) years ending in 2018 and as such, the payments were treated as part of an ongoing project that was expected to receive adequate budget allocation in the normal budgeting cycles. The payments had not been made during the contract period due to budget cuts in-between the financial years. The Ministry of East African Community did not however, have reporting mandate for this matter before the function was transferred in 2019; but was handed over the total pending bill of Kshs.120, 977,931 together with the relevant documentation.

5082) According to the documents forwarded to us from the State Department for Industrialization by the Accounting Officer, the contract agreement for the consultancy services provides the consultancy milestones and the attendant schedules. Generally, for lump sum contracts that are paid as per delivery of the required milestones, an LSO is not necessary since all the contractual amounts are captured in the contract agreement which binds all the parties as executed.

5083) **Committee Observations and Findings**

(i) The Committee observed that the original LSO and invoices issued by the then Ministry of Industry, Trade and Cooperatives have not been submitted for audit verification;
(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
(iii) The Committee also observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
(iv) The matter remained unresolved.

5084) **Committee Recommendation**

Within three (3) months of tabling and adoption of this report, the Cabinet Secretary for the National Treasury & Planning should issue a written reprimand to the Accounting Officer at the material time **for failing to meet the timelines for preparation and submission of financial statements to the Auditor-General. This violated Article 229 (4) of the Constitution and Section 68 (2) (k) of the PFM Act, 2012**

1592. Acquisition of Non-Financial Assets
1592.1 Unsupported Renovations of Office

5085) Note 8 to the financial statements reflect an expenditure on refurbishment of buildings of Kshs.6,912,689 which includes an amount of Kshs.6,854,938.80 incurred by the State Department on renovation of the Principal Secretary's office. Information availed indicates that the Department contracted a local company at a contract sum of Kshs.6, 854,938 for a period of six (6) weeks. The works commenced on 21st June, 2018 and was completed as scheduled on 2nd august, 2018 and a handing over certificate issued. A payment of Kshs.6,853,938.80 was made on 22nd November, 2019 after certification of the renovation works by the State Department of Public Works. However, Management did not avail a price bill of quantities in support of the amount paid.

5086) In the circumstances, it was not possible to ascertain the authenticity of the expenditure incurred.

Submission by the Accounting Officer

5087) As part of the procurement process, the State Department had requested State Department of Public Works for the Bill of Quantities (BQs) including the drawings. The State Department of Public Works provided summary estimate vide letter Ref CQS/D118/GEN/VOL.1/9 dated 3rd May 2018 including the drawings.

5088) **Committee Observations and Findings**

(i) The Committee observed that the evidence submitted by the Accounting Officer was not priced Bills of Quantities rather than a summary of estimates;
(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
(iii) In addition, the Committee observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
(iv) The matter remained unresolved.

5089) **Committee Recommendation**

Within three (3) months of tabling and adoption of this report, the Cabinet Secretary for the National Treasury & Planning should issue a written reprimand to the Accounting Officer at the material time for failing to meet the timelines for preparation and submission of financial statements to the Auditor-General. This violated Article 229 (4) of the Constitution and Section 68 (2) (k) of the PFM Act, 2012.

1592.2 Unsupported Procurement of Furniture

5090) Note 8 to the financial statements reflects total expenditure of Kshs.29,915,208 under acquisition of assets which included Ksh.3,955,600 relating to purchase of furniture and general equipment. Out of this expenditure of Kshs.3,955,600, the state Department contracted two (2) local firms to supply furniture items for Kshs.1,749,200 through requests for quotations. However, Management did not avail the quotations issued to the firms for audit review. In addition, professional advice from the head of procurement to the Accounting Officer as required by Section 47(2) of the Public Procurement and Assets Disposal Act, 2015 was not availed for audit.

5091) In the circumstances, it has not been possible to confirm whether the State Department obtained value for money in incurring the expenditure of Kshs.1,749,200 on various furniture items.

Submission by the Accounting Officer

5092) The request for quotations were issued and responded to online. The bidders' response and the approved professional opinion was attached.

5093) **Committee Observations and Findings**

(i) The Committee observed that although the Accounting Officer has submitted copies of quotation of the participating companies, the report of the evaluation Committee and the professional opinion from the head of the procurement to the Accounting officer have not been submitted;

(ii) However, during the audit, the Committee further observed that the Accounting Officer had failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; And

(iii)The query remained unresolved

5094) **Committee Recommendation**

Within three (3) months of tabling and adoption of this report, the Cabinet Secretary for the National Treasury & Planning should issue a written reprimand to the Accounting Officer at the material time for failing to meet the timelines for preparation and submission of financial statements to the Auditor-General. This violated Article 229 (4) of the Constitution and Section 68 (2) (k) of the PFM Act, 2012.

1593. Unsupported Payments on Conference Facilities

5095) Note 4 to the financial statements reflects a total expenditure of Ksh.35,901,915 under hospitality supplies and services which includes Kshs.918,370 expended on an induction course. The State Department had initially planned to hold an induction course in Mombasa for East African Legislative Assembly (EALA) Kenya Chapter between 11th November, 2018 to 17th November, 2018, but due to a mix up of EALA Committee activities, the induction was rescheduled to take place between 14th January, 2019 and 18th January, 2019. The following anomalies were noted;

i. There was no request for quotations for half board accommodation of Kshs.15,000 and dinner charge of Kshs.3,774 per day respectively,
ii. There was extra charge of Kshs.10,000 daily for hiring a hall,
iii. Invoices dated 15th January, 2019 reflected attendance of fifty (50) persons, while supporting attendance register reflected forty four (44) persons in attendance,
iv. The banquet/conference invoice charges dated 16th January, 2019 reflected an amount of Kshs.195,550 but state department paid Ksh.207,570 resulting to an over payment of Kshs.12,020.
v. There was no attendance list to support expenditure for participants on 16th January, 2019.

5096) From the foregoing, it has not been possible to confirm the propriety of the expenditure of Kshs.918,370 incurred during the conference.

5097) **Submission by the Accounting Officer**

i) The half board accommodation charge was for six EALA members who due to their nature of work had to be provided with residential option within the facility.

ii) There was an extra charge of Kshs.10, 000 each day for hall hire.

The need for the hall hire became necessary when it was realized that the breakaway rooms provided were not spacious enough to hold plenary sessions and did not have the requisite facilities for projecting the produced reports.

iii) **& (iv)** The Local Purchase Order (LPO) No.215, and invoice numbers 6006 and 6005 amounts to Kshs.918, 370 on which the payment was based which covered the conference charges, dinner and half board.

iv) No attendance list attached to support the expenditure for dates 15th and 16th January 2019.

5098) **Committee Observations and Findings**

(i) The Committee observed that the State Department while seeking for quotation from service providers did not specify their requirements to avoid extra charges on hiring of hall and accommodation;
(ii) The Committee further observed that the State Department paid Ksh.207,570 on banquet/conference while the invoice charges dated 16th January, 2019 reflected an amount of Kshs.195,550.
(iii) The Committee observed that the explanation given by the Accounting Officer with regards to Unsupported Payments on Conference Facilities was not satisfactory; And
(iv) The matter remained unresolved.

5099) **Committee Recommendation**

Within three (3) months of tabling and adoption of this report, the Cabinet Secretary for the National Treasury & Planning should issue a written reprimand to the Accounting Officer who submitted unsupported expenditures. The failure by the Accounting Officer to fully support payments casts doubt on the authenticity of the expenditure reported as incurred.;

1594. Long Outstanding Imprests

5100) Included in the accounts receivable balance of Kshs.454,188 is Kshs.406,778 which relates to long outstanding imprests held by officers who were transferred to other government entities. No explanation was provided as to why the long outstanding imprests have not been recovered from the officers from their current stations and remitted to the State Department. As such, the Department is in violation of the provisions of Section 93 of the Public Finance Management Regulations of 2016.

Submission by the Accounting Officer

5101) The Accounting Officer submitted that an amount of Kshs.231,942 has been fully recovered and remitted to the State Department during the financial year 2019/2020; leaving a balance of Kshs.174,836 still not recovered.

5102) The Department has continually made a follow up with the State Department of Labour with the latest done via a letter dated 27th January, 2021 and still awaits action from the State Department of Labour regarding remittance of the amounts recovered.

5103) **Committee Observations and Findings**

(i) The Committee observed that a balance of Kshs.174,836 is yet to be recovered;

(ii) The Committee further observed that the Accounting Officer failed to ensure that imprest valued at Kshs.406,778 was surrendered within seven (7) working days after returning to duty station as per Section 93 (5) of the Public Finance Management (National Government) Regulations, 2015;

(iii) In addition, the Committee observed that during the time of the audit, the Accounting Officer failed to recover the full amount from the salary of the defaulting officers with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015; and

(iv) The matter remained unresolved.

5104) **Committee Recommendation**

The Cabinet Secretary for the National Treasury & Planning should, within three (3) months of tabling and adoption of this report, issue a written reprimand to the Accounting Officer who failed to ensure that outstanding imprest due were surrendered in time. This was in contravention of the provisions of the PFM Act 2012 and Regulation 93 of the PFM (National Government) Regulations 2015.

1595. Budget Control and Performance

5105) A view of the summary statement of appropriation-recurrent and development combined showed that the Department realized actual receipts from proceeds from domestic and foreign grants amounting to Kshs.7,541,418 against a budget of Kshs.16,250,000 resulting to under-collection of Kshs.8,708582 or 54% of the expected receipts of Kshs.16,250,000. This shortfall as attributed to austerity measures imposed on soft projects in favour of infrastructure projects. This therefore, implies that the State Department may not have achieved all the planned activities.

Submission by the Accounting Officer

5106) The Accounting Officer submitted that it was true that there was under collection in the proceeds from Domestic and Foreign Grants which led to under absorption in the use of goods and services; and acquisition of assets under the Development vote. This was occasioned by the following:

1. Trade Mark East Africa supports multiple projects in Kenya including the KPA Mombasa Port Infrastructure upgrade, One Stop Border Posts and Integrated Customs Management System (ICMS)) under the Kenya Revenue Authority.

2. TMEA resolved administratively to prioritize financing of the Infrastructure projects and imposed austerity measures on the soft projects that agencies such as our State Department implements; thus leading to the under absorption.

5107) **Committee Observations**

(i) There was a under collection of domestic and foreign grants which did not meet the expected revenue budget of the Department;
(ii) The shortfall was attributed to austerity measures imposed on soft projects in favour of infrastructure projects; and
(iii) The Committee marked the matters as resolved.

5108) **Committee Recommendation**

That the department in future budgeting, should factor only those projects that the donor has confirmed in their commitment to fund and also the projects in which the department has met or will meet the donor conditions.

1596. Pending Bills

5109) Note 5 to the financial statements reflects pending bills amounting to Kshs.25,414,982 as at 30th June, 2019. A review of the records for the pending bills revealed that out of the total pending bills of Kshs.25,414,982, bills amounting to Kshs.15,735,919 were due to incomplete documentation, bills amounting to Kshs.2,945,654 related to returned cheques, pending bills of Kshs.1,364,863.95 related to incomplete payee details while the balance of Ksh.5,368,545.00 related to insufficient funds. No satisfactory reasons were provided for accumulating the pending bills during the year and committing the State Department's funds beyond the available resources. Failure to settle bills during the year in which they relate to adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

5110) The Accounting Officer admitted that the State Department had a pending bills totaling to Kshs.25, 414,982 for 2018/2019 financial year. Out of these;

i. Kshs.11, 064,741 are historical pending bills which were not part of the 2018/2019 budget.
ii. Kshs. 1,364,864 relates to Salary deductions that were not paid due to internet banking challenges resulting from lack of bank details for the payees in the IFMIS platform.
iii. Kshs.5, 368,545 were pending staff payables that arose due to un-avoidable duties carried out mostly by senior management towards closure of the financial year.
iv. Kshs.5, 524,696 was due to suppliers that never responded to quotations in time and the air tickets issued towards the closure of financial year.
v. Kshs.792, 136 were payments made but later returned as R/D cheques due to invalid bank accounts provided by the suppliers.
vi. Other bills had incomplete documentation from the suppliers thus could not continue with the payment process.

5111) The Accounting Officer submitted that the bills have been fully cleared leaving a balance of Ksh.4,453,133 which are undergoing verification by a committee formed by the Accounting Officer.

5112) **Committee Observations and Findings**

(i) The Committee observed that the Office of the Auditor General was not in a position to verify the cleared pending bills due to late submission of response by the State Department;
(ii) The matter remained unresolved.

5113) **Committee Recommendation**

The Committee recommends that the Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills exist, they should form a first charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5114) **Conclusion**

1597. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1598. Lack of Audit Committee

5115) During the year under review, the State Department operated without an Audit Committee hence, its activities were not appraised, contrary to the Public Finance Management Act 174(1).

Submission by the Accounting Officer

5116) The Accounting Officer admitted that it was true that the State Department did not have an Audit Committee in place for the year under review.

5117) The audit committee is now in place and fully constituted with a Chair and Committee members vide appointment letters dated 15th July, 2020, Ref. SDRNCD/ADM/1/3 VOL.1(9, 10, 11, 12 &13)

5118) **Committee Observation and Finding**

(i) The Department did not have an independent Audit Committee as required by Section 73 (5) of the Public Finance Management Act 2012;

(ii) The Accounting Officer had since established an Audit Committee in place in line with the provisions of Section 73 (5) of the Public Finance Management Act 2012; and

(iii) **The Committee marked the matter as resolved.**

52. STATE DEPARTMENT FOR REGIONAL AND NORTHERN CORRIDOR DEVELOPMENT

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1222

Dr. Belio R. Kipsang, CBS, the Principal Secretary and Accounting Officer the State Department for Regional and Northern Corridor Development (Vote 1222) appeared before the Committee 10th February, 2022, to adduce evidence on the audited financial statement for the State Department for Regional and Northern Corridor Development (Vote 1222) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. Nicholus Kamau -Chief Finance Officer
2. Mr. Julius K. Kirima -Director Industrial
3. Ms. Rose Baraza -Head of Accounting Unit
4. Mr. George Njoroge -Personal Assistant- PS
5. Mr Stephen Odua -Director Industrial
6. Ms Ruth Wanyonyi -Deputy Head of Accounts
7. Mr Obiero Makari -Head of Supply Chain Management

And submitted as follows:

Basis for Qualified Opinion

1599. Irregular Advance Payment for Kimwarer Multipurpose Dam Development Project

5119) The statement of receipts and payments as at 30 June, 2019, reflects proceeds from foreign borrowing of Kshs.3,666,495,236 out of which Kshs.3,485,500,628 was paid to international joint venture firm on 27th September, 2018. The payment, which was effected in the books of the State Department on 2 November, 2018 through journal entries, was an advance for designing, building, and transfer of the proposed Kimwarer Multipurpose Dam Development Project. Available information indicates that this matter is under investigations by the relevant authorities.

Submission by the Accounting Officer

5120) The Accounting Officer submitted that this matter that was under investigations by the relevant authorities is currently before court and relevant documents have been forwarded to the investigative authorities.

5121) **Committee Observations and Findings**

The Committee observed that the matter was before the court and all the relevant documents had been forwarded to the investigative authorities. The matter was active in Court therefore, stayed under *sub judice rule*.

1600. Unconfirmed Payments for Sigor Wei Wei Integrated Development Project

5122) The statement of receipts and payments reflect receipts from foreign borrowing amounting to Kshs.3,666,495,236 out of which Kshs.180,994,608 was payment in respect of Sigor Wei Wei Integrated Development Project comprising Kshs.173,085,366 paid to the contractor and Kshs.7,909,242 paid to a supervision consultant firm. The State Department effected the payments of Kshs.180,994,608 in its books on diverse dates during the financial year by processing journal entries. However, there was no evidence from the financier that the payment was indeed made and to whom (details of the relevant bank accounts), to authenticate the receipts from borrowing and the resultant payments. Further, minutes of an adhoc inspection and acceptance committee held on 20 February, 2019 indicate that the works were 97% complete but the performance bond was to expire on 28 February, 2019. There was no evidence availed to show that the performance bond was renewed to cover the time extension including defects liability period. In addition, Interim Certificate No. 7 dated 22 August, 2018 for Kshs.67,383,983 does not reflect deduction of retention money of Kshs.3,369,199 in respect of payments to contractors and consultants for the Sigor Wei Wei Integrated Development Project Phase III. In the circumstances, it has not been possible to confirm the propriety of the expenditure of Kshs.180,994,608 for the project.

Submission by the Accounting Officer

5123) The Accounting Officer submitted that the contract for Sigor Wei Wei Intergrated Development project is between Kerio Valley Development Authority Joint Venture Alma Cis. Before payment is done, the works are certified by KVDA project Manager, the project-consulting engineer and the contractor on the interim payment certificate. The contractor confirms previous payment certificates received on subsequent interim payment certificates by endorsing his signature on the certificate.

5124) It was true that the performance bond was due to expire on 20th February, 2019 however the performance bond was renewed effective March, 2019. A copy of the same has been availed to the audit team for verification. It was also true that under Interim Certificate No. 7 dated 22 August, 2018 for Kshs.67,383,983 retention money of Kshs.3,369,199 in respect of payments to contractors and consultants for the Sigor Wei Wei Integrated Development Project Phase III was not recovered, however the institution has recovered the same under certificate No. 11. Copy was availed for perusal by the Committee.

5125) **Committee Observations and Findings**

5126) The Committee observed that the Accounting Officer failed to ensure that the performance bond was valid and the retention money is recovered before payment to cater for defects during defect liability period.

5127) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Accounting Officer to write a reprimand letter to the officers involved if negligence can be ascertained on their and recover the loss if any from the individual officers that might have arisen due to their cause.

1601. Unreconciled Grants and Transfers to Other Government Entities

5128) The statement of receipts and payments and Note 5 to the financial statements, reflects transfers to eight (8) other Government entities amounting to Kshs.8,138,743,577. However, confirmation from the respective agencies revealed variances as follows:

SAGA	Amount disbursed by the State Department Kshs.	Amount received by the SAGA Kshs.	Difference
Ewaso Ngiro North Development Authority	338,129,280	339,535,887	(1,406,607)
Kerio Valley Development Authority-Direct Payment	3,666,495,236	Nil	3,666,495,236

5129) In the circumstances, the accuracy and completeness of the grants and transfer to other Government entities balance of Kshs.8,138,743,577 for the year ended 30 June, 2019, could not be confirmed.

Submission by the Accounting Officer

5130) The Accounting Officer submitted as follows:

i)Grants to ENNDA

5131) The negative variance of Ksh.1,406,607.00 was caused by the difference in accounting principles used by the two entities. The state Department uses Cash Accounting whereas the SAGA uses accrual basis of accounting. Ewaso Ngiro North Development Authority (ENNDA) received disbursements relating to financial year 2017/2018, a disbursement dated 6th July, 2018 from the State Department for Planning amounting of Kshs.13,156,607.00 that was reflected by the entity in the financial year 2018/2019 while the funds related to the financial year 2017/2018. A disbursement dated 15th July, 2019 amounting to Kshs.11,750,000 was budgeted for financial year 2018/2019 but was received past 30th June, 2019.

5132) This explains the discrepancies amounting to Kshs.(1,406,607) i.e. (Kshs.11,750,000.00- Kshs.13,156,607) between the Financial Statements of the State Department for Regional and Northern Corridor Development and the Ewaso Ngiro North Development Authority.

ENNDA Reconciliation

State Department transferred amount	Kshs.338,129,280.00
LESS	
Amount transferred past 30.06.2019	
by State Department for Regional development.	
(Transferred on15.07.2019)	KShs. 11,750,000.00
	Kshs 326,379,280.00
ADD	
Amount transferred by State department of planning	
On 06.07.2018 being funding for financial year	
2017/2018	Kshs. 13,156,607.00
	Kshs. 339,535,887.00

Therefore 11,750,000 – 13,156,607 = (1,406,607.00)

The figure Kshs.338,129,280 was confirmed by the Authority vide the appended certified true copy of inter entity transfers confirmation letter.

ii) Grants and transfer of funds to KVDA

5133) It is true that the statement of receipts and payments for the year ended 30th June, 2019 reflected transfers to eight other government entities amounting to Kshs.8,138,743,577. Out of this amount Kshs.4,671,815,790 was funded by exchequer and Kshs.3,666,495,236 was funded through foreign borrowing and therefore did not constitute transfer to any SAGAs as they were direct payments made by The National Treasury out of the proceeds from foreign borrowing for Kimwarer Multipurpose dam and Sigor Wei Wei Integrated Development Projects both under KVDA.

5134) **Committee Observations and Findings**

The Committee observed that the Accounting Officer failed to ensure proper reconciliations are done between the amounts received by the other government entities and the amounts the state departments actually transfer.

5135) **Committee Recommendations**

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1602. Pending Bills

5136) Annex -1. Analysis of other pending payables reflects pending bills totaling Kshs.2,446,331,092. Included in the amount are bills totaling Kshs.2,438,725,299 which had no supporting documents. In the absence of supporting documents, it was not possible to confirm the authenticity of the pending bills amounting to Kshs.2,438,725,299 and whether the bills are a proper charge to public funds. Further, failure to settle bills during the year in which they relate to adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

5137) The Accounting Officer submitted that the pending bills are historical in nature having been incurred in the financial years 2010/2011 and 2011/2012 when the State Department was in the then Ministry of Regional Development.

5138) Following the establishment of the State Department for Regional and Northern Corridor Development via the Executive Order No 1 of June 2018, the pending bills were handed over to the State Department in the FY 2018/2019. The supporting documents for the above bills have been availed to the audit team for verification. Pending bills as reflected in the financial report amounted to Kshs.2,446,331,092 and comprised of three items as follows:

a) Pending bills pertaining to Kimira Oluch smallholder Improvement Project amounts to Kshs.867,449,206.00. There is communication between the State Department and the Attorney General on the way forward concerning the pending bills.

b) Pending bills pertaining to consultancy services on the 5 multipurpose dams amounts to Kshs.1,571,890,983.00. These bills were verified by the Ministerial verification committee and the Treasury's Multi Agency team and found eligible for payment. The State Department has requested The National Treasury for budgetary support to clear the pending bills.

c) Pending bills for headquarters of Kshs.7,276,943.00. The pending bills were paid during the financial year 2019/2020. Payment vouchers were availed to the Committee.

5139) **The Committee observed and found that:**

5140) The committee observed that pending bills amounting to 2,438,725,299 were still outstanding as at the close of the financial despite the fact that they had been outstanding for long.

5141) **The Committee recommended that:**

1) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.**
2) **Within three months of tabling and adoption of this report, the Cabinet secretary National Treasury should allocate enough funds to settle the pending bills if they are verified for eligibility.**

Other Matter

1603. Budget Control and Performance

5142) The State Department received Exchequer receipts totaling Kshs.8,338,311,026 against an approved budget of Kshs.13,323,183,067 resulting to a shortfall of Kshs.4,984,872,041 or approximately 37% of the approved budget. Similarly, from the approved budget of Kshs.13,323,183,067, actual expenditure amounted to Kshs.8,331,075,291 resulting to an under expenditure of Kshs.4,992,107,776 or 37% of the approved budget. The under expenditure mainly occurred under compensation of employees, use of goods and services, transfers to other government entities and acquisition of assets. The shortfall in revenue by Kshs.4,984,872,041 and the under expenditure of Kshs.4,992,107,776 implies that the Department did not achieve all the planned goals and objectives.

Submission by the Accounting Officer

5143) The Accounting Officer submitted as follows:

Expenditure

5144) It was true that there was under expenditure of Kshs.4,992,107,776 or 37% this was occasioned by: -

i. Compensation of employees of Kshs.4,646,846 or 37%: The State Department was established in the financial year 2018/2019 and the employees were compensated under the State Department for East African Community which had an established Human Resource unit. The shortfall of Kshs.4,646,846.00 was occasioned by the above fact and lack of substantive office bearers whose compensation was projected in the budget for the State Department.
ii. Use of goods and services of Kshs.9,109,840 or 9%: The shortfall was occasioned by historical pending bills that were earmarked for payment amounting to Kshs.6,990,903.00 and which could not be paid as at the closure of the financial year due to lack of exchequer funding.

iii. Transfers to other Government entities of Kshs.4,331,046,393 or 35%: The under expenditure was due to non-release of exchequer for various development projects under some SAGAS.

iv. Acquisition of assets of Kshs.647,304,697 or 87%: Under expenditure was occasioned by non-release of exchequer in respect of Lake Basin Mall under Lake Basin Development Authority.

Submission by the Accounting Officer

5145) The Accounting Officer submitted as follows:

Receipts

5146) It was true that there was shortfall in revenue of Kshs.4,984,872,041 or 37%. This was occasioned by:-

i. Exchequer releases. This was due to non-release of exchequer by the National Treasury.

ii. Proceeds from foreign borrowing Kshs.3,479,005,393 or 49%: These amounts were budgeted for Kimwarer Multipurpose dams and Sigor Wei Wei Intergrated Development project phase III. Please note that all payment vouchers for the Wei Wei project for the whole budgeted amounts were received and forwarded to National Treasury for payment. However, only one payment voucher in respect of Kimwarer multipurpose dam of KShs.3,485,500,628.04 received from KVDA and forwarded to National Treasury was paid occasioning the shortfall.

iii. Proceeds from sale of assets Kshs.7,000,000 or 100%: These are A.I.A amounts budgeted for by Semi-Autonomous Government Agencies. The said amounts are usually collected and reported directly to the National Treasury by the specific SAGAS.

iv. Other receipts Kshs.426,291,000 or 100%: These are receipts budgeted for by Semi-Autonomous Government Agencies. The SAGAs are self-reporting entities.

5147) **Committee Observations and Findings**

(i) The Committee observed that there was a shift in staffing whose compensation was accounted in the other departments.

(ii) The Committee further observed that there was deficiency in the budget and thus receipts were lower than budgeted and the expenditure was under recovered.

5148) **Committee Recommendations**

The Cabinet secretary National Treasury should ensure that the Budgets set are realistic and achievable.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1604. Irregular Procurement of Goods and Services

1604.1 Purchase without Local Purchase Orders and Local Service Orders

5149) Note 4 to the financial statements reflects an expenditure of Kshs.91,680,972 under use of goods and services. Included in this figure is Kshs.1,268,733 relating to procurement of air tickets and repair and servicing of motor vehicles and other assets done without local purchase orders and local service orders. The procurement process was then regularized by raising the local purchase orders and local service orders long after the goods or services were acquired and the related event had taken place in violation of Section 104(1) of the Public Finance Management Regulations, 2015.

Submission by the Accounting Officer

5150) The Accounting Officer submitted that with regard to procurement of air ticketing, the Ministry has entered into framework agreements with various service providers. Funds are usually committed in the IFMIS platform through requisition before the service is rendered, and the full Purchase Order processing may sometimes be incomplete when the officers travel especially when the service providers have been engaged through call off orders. This is in line with section 114 (3) (a) of the PPADA 2015 which provides for engagement of service providers on call off basis where they are engaged based on existing framework agreements. Attached please find a copy of the approved professional opinion occasioning the engagement of the air ticketing agents on a frame work basis.

5151) **Committee Observations and Findings**

The Committee observed that the procurement of air ticketing, was done through call off orders since the Ministry had entered into framework agreements with various service providers. However, there was no provision in Public Procurement and Asset Disposal Act 2015 that is in conflict with Regulation 104(1) of the Public Finance Management Regulations, 2015 and thus the Accounting Officer breached the law.

5152) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Cabinet Secretary, National Treasury reprimands the officers involved in the procurement and payment processes in the state department.**
2) **Within three months of tabling and adoption of this report, the Accounting officer should provide evidence of travel and service delivery to the Auditor-General for review.**

1604.2 Payment without Invoices

5153) Payments relating to repair and maintenance of motor vehicle and other assets amounting to Kshs.1,197,425 were made without Invoice, pre/post mechanical inspection and job card for work done. The missing documents were raised much later after the services had been completed in order to regularize the process and in breach of Section 104(1) of the Public Finance Management Regulations, 2015.

Submission by the Accounting Officer

5154) The Accounting Officer submitted that when these vehicles develop mechanical problems, they are taken to the authorized dealer, M/s Toyota Kenya for diagnosis and serviced on the basis of their inspection report. After inspection, the dealer issues a proforma / quotation, which forms the basis for the commitment of funds in the IFMIS platform. These funds are confirmed available within the printed and approved estimates prior to the servicing. After the service has been done, M/s Toyota issues the Department with an invoice on the same.

5155) **Committee Observations and Findings**

The Committee observed that services are offered based on the proforma / quotation, which forms the basis for the commitment of funds in the IFMIS platform where After the service has been done, M/s Toyota issues the Department with an invoice on the same.

5156) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Accounting officer should provide the service level agreement between the stated department and the Service provider to the Auditor-General and National assembly for review.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1605. Lack of an Audit Committee

5157) During the year under review, the State Department operated without an Audit Committee, contrary to Section 73(5) of the Public Finance Management Act, 2012 which requires every National Government entity to establish an Audit Committee to provide oversight over management activities, ensuring the integrity of the Department's financial information, enhancing systems of controls, monitoring and review of the internal audit process and ensuring that risk management systems are in place.

Submission by the Accounting Officer

5158) The Accounting Officer submitted that the Ministerial Audit Committee has since been appointed by the Cabinet Secretary with effect from 1st August, 2020. Copies of appointment letters were availed for perusal.

5159) **Committee Observations and Findings**

The Committee further observed that the Accounting Officer was in breach of Regulation 174 (1) of the Public Finance Management (National Government) Regulations, 2015. Further, the Accounting officer was in breach of Section 73(5) of the Public Finance Management Act, 2012 which requires every National Government entity to establish an

Audit Committee to provide oversight over management activities. However, the ministerial audit Committee is now in place and working.

5160) **Committee recommendations**

The Committee reprimands the Accounting Officer for the delay in setting up Audit Committee and breach of Regulation 174 (1) of the Public Finance Management (National Government) Regulations, 2015 and Section 73(5) of the Public Finance Management Act, 2012.

DONOR FUNDED PROJECT KIMIRA OLUCH SMALLHOLDER FARM IMPROVEMENT PROJECT (ADF LOAN NO. 2100150012296)

REPORT ON THE FINANCIAL STATEMENTS

5161) **Unqualified Opinion**

1606. The Committee observed that the project got Unqualified Opinion Paragraph 1606 and did not have material issues and thus satisfactory.

Other Matter

1607. Budget Control and Performance

5162) The statement of comparative budget and actual amounts for the year ended 30 June, 2019 reflects actual expenditure of Kshs.509,468,516 against a budget of Kshs.687,000,000 resulting in an under-expenditure of Kshs.177,531,484 or 26% of the total budget. The under-expenditure mainly occurred under purchase of goods and services and is attributed to delayed release of funds by The National Treasury.

Submission by the Accounting Officer

5163) The Accounting Officer submitted that it was true that the statement of comparative budget and actual amounts for the year ended 30 June, 2019 reflect an under expenditure of 26% this was due to non-release of exchequer disbursements from the National Treasury.

5164) **Committee observations and findings**

The Committee observed that the under expenditure resulted from insufficient budgetary allocations.

5165) **Committee Recommendations**

The Cabinet secretary National Treasury should ensure that the Budgets set are realistic and achievable.

1608. Pending Bills

5166) Note 9.1 to the financial statements reflects pending accounts payable of Kshs.854,691,847 as at 30 June, 2019. The pending bills were brought forward from previous financial years. Failure to pay bills in the year they relate to not only distorts the subsequent year's budgeted programs and activities, but also, pending payments have the potential risk of additional costs in interest on delayed payments, penalties and claims on idle capacity.

Submission by the Accounting Officer

5167) The Accounting Officer submitted that it was true that Note 9.1 to the financial statements reflects pending accounts payable of Kshs.854,691,847 as at 30 June, 2019. This was part of the historical pending bills in the project. The State Department has referred these bills to the Attorney General for advice.

5168) **The Committee observed and found that:**
The committee observed that pending bills are historical thus eligibility is doubtful. The State Department had referred these bills to the Attorney General for advice.

5169) **The Committee recommended that**:

1) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.**
2) **Within three months of tabling and adoption of this report, the Cabinet secretary National Treasury should allocate enough funds to settle the pending bills if they are verified for eligibility.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5170) **Conclusion**

1609. The Committee observed that Paragraph 1609 on lawfulness and effectiveness in use of public resources did not have material issues and thus satisfactory.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5171) **Conclusion**

1610. The Committee observed that Paragraph 1610 on effectiveness of internal controls, risk management and governance in use of public resources did not have material issues and thus satisfactory.

53. STATE LAW OFFICE AND DEPARTMENT OF JUSTICE

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1252

Mr. Kennedy Ogeto, the Solicitor General and the Accounting Officer for State Law Office & Department of Justice (Vote 1252), appeared before the Committee on 13th September, 2021 to adduce evidence on the audited financial statement for the State Law Office & Department of Justice (Vote 1252) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Ms. Florence Amoit - Secretary Administration
2. Mr. Walter J. Osetu - Senior Chief Finance Officer
3. Mr. Elijah Kabiru - Deputy Accountant General
4. Ms. Concepta Wasilwa - Chief State Counsel
5. Ms. Mary Mutaru - Chief State Counsel
6. Mr. Kenneth Mutuma - Business Registration Services
7. Mr. Erastus K. Mbalu - Business Registration Services
8. Ms. Hannah Sarah Ranji - Principal State Counsel
9. Mr. Bernard M. Sabwani - Accountant
10. Ms. Lucy Mugo - Public Trustee – OAG
11. Mr. Augustine Mburu - Public Trustee - OAG

And submitted as follows:

Basis for Qualified Opinion

1611. Inaccuracies in the Financial Statements

1611.1 Receipts - Other Revenues

5172) The statement of receipts and payments reflect other revenue receipts of Kshs.435,502,000 which as disclosed in Note 2 to the financial statements represents receipts collected as Appropriations-In-Aid (A-I-A) during the year. However, the supporting documents availed for audit shows that a total of Kshs.533,535,788 was collected as A-I-A from three (3) institutions as detailed below:

Institution	Financial Statement Balance Kshs.	A-I-A Collection Confirmed by Institution Kshs.	Variance Kshs.
Council of Legal Education	160,102,000	175,498,400	(15,396,400)
Kenya Copyright Board	3,000,000	3,228,943	(228,943)
Kenya School of Law	272,400,000	354,808,445	(82,408,445)
Total	**435,502,000**	**533,535,788**	**(98,033,788)**

5173) The resultant difference of Kshs.98,033,788 has not been reconciled or explained.

Submission by the Accounting Officer

5174) The Accounting Officer submitted that it was true the AIA collections confirmed by the three Institutions and the one reported in the financial statement had variances. The returns on AIA collections by different SAGAs shows higher collections which were made towards end of the fourth quarter, mostly in June 2019. The supplementary budget had already been done by June, 2019 and it was not possible to capture the excess AIA collections using the approved budget. These resulted in capturing AIA collection to the maximum of the approved estimates. The balances were to be carried forward to FY2019/2020 budget projections and the SAGAs to explain the excess to the auditor.

5175) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Inaccuracies in the Financial Statements, Receipts - Other Revenues was an improper accounting of AIA either under IPSAS cash or accrual basis.

(ii) The Committee also observed that there was no evidence that the Accounting Officer has reported and accounted for the AIA appropriately in the subsequent year and disciplinary action taken against the Accountant at the Kenya School of Law.

5176) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should prepare and submit the records for the AIA to the Auditor- General for audit review.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Also, ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1611.2 Discrepancies between Balances in the Financial Statements and the Integrated Financial Management Information System (IFMIS)

5177) The following discrepancies were noted between balances in the financial statements and balances generated by IFMIS: -

Item Description	Financial Statements Balance (Kshs)	IFMIS Balance (Kshs)	Variance (Kshs)
Recurrent Account	144,210	3,214,441,458	(3,214,297,248)
Development Account	5,736,008	76,000,000	(70,263,992)
Deposit Account	822,541,728	414,050	822,127,678
Adjustment on bank Balances	155,196,834	-	155,196,834
Total	**983,618,780**	**3,290,855,508**	**(2,307,236,728)**

5178) The resultant difference of Kshs.2,307,236,728 has not been reconciled or explained.

5179) In the circumstances, the accuracy of the financial statements for the year ended 30 June 2019 could not be confirmed.

Submission by the Accounting Officer

5180) The Accounting Officer submitted that it was true that discrepancies were noted between balances in the financial statements and balances generated by IFMIS. This is because the office at the time used manual bank reconciliations and not IFMIS auto-reconciliation. Currently we are using both manual and auto-reconciliations which have greatly reduced the variances. (Annex 1). The IFMIS bank auto-reconciliation has been enhanced by ensuring that all missing electronic bank statements which made auto-reconciliation impossible by the time the financial reports were concluded are now loaded in the system and bank auto-reconciliation properly done.

5181) **Committee Observations and Findings**

(i) The Committee observed that, the explanation given by the Accounting Officer that the bank auto-reconciliation has been enhanced and had reconciled the queried accounts. However, reconciliations were not provided to auditors for review;

(ii) The Committee also observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

5182) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should prepare and submit the reconciliations to the Auditor- General for audit review;**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012; and**
4) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1612. Unreconciled Cash and Bank Balances

5183) The statement of assets and liabilities reflects bank balance of Kshs.828,421,946 which as disclosed under note 8A to the financial statements is made up of bank balances of Kshs.144,210 in the recurrent account, Kshs.5,736,008 in the development account and Kshs.822,541,728 in the deposits accounts. However, no explanation was provided for failure to clear long outstanding reconciling items under both the recurrent and deposits accounts as indicated below.

Description	Recurrent Account Kshs	Deposits Account Kshs
Payments in cashbook not in bank	2,368,832	989,454
Payments in bank not in cashbook	2,039,086	0
Total	**4,407,918**	**989,454**

5184) Under the circumstances, the accuracy of the bank balance of Kshs.828,421,946 as at 30 June 2019 could not be confirmed.

Submission by the Accounting Officer

5185) The Accounting Officer submitted that it was true that the deposit bank reconciliation statement reflected payments in cashbook not in bank statement amounting to Kes.989,454.10. Out of the said amount, Kes.728,600 were payments made during the last days of the financial year which were cleared through the bank on 1st July 2019. They comprised of Kes.150,000 payable to Eastern and Southern African Management Institute and Kes.578,600 payable to Clare Florence Akinyi Omolo as per the attached extract of the bank statement. The other amount was unpresented cheques of Kshs.260,854.10 that were reversed in the cashbook on 28th June 2019 because they related to earlier years' reconciling items having been reflected in earlier years' bank statements.

5186) The recurrent bank reconciliation statement reflected Kshs.369,070,010.05 as payments recorded in the cash book and not reflected in the bank statement. These payments were made on 28th June 2019 and cleared in the following month of July 2019 as indicated in the attached bank statements. Kshs.2,368,832 relates to previous years' posted transactions differences reversed in the subsequent cash book, and unposted transactions paid in July 2019. There were minor corrections due to casting errors. These actions have been captured in the subsequent bank reconciliations and cash book.

5187) It was also true that the bank reconciliation statement for the recurrent account reflected payments in the bank statement and not in the cashbook amounting to Kes.2,039,086. The office has rectified the anomaly and cleared the items through bank reconciliation and posted missing transactions in the subsequent years' cash book.

5188) **Committee Observations and Findings**

(i) The Committee observed that, the explanation given by the Accounting Officer that the cashbook balances have been reconciled. However, the documents have not been presented for verification by the Auditor General.
(ii) The Committee also observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

5189) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should submit the prepared reconciliations for balances to the Auditor- General for audit review;**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012; and**
4) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1613. Use of Goods and Services

5190) The statement of receipts and payments reflects an expenditure of Kshs.870,125,594 under use of goods and services which as disclosed at note 4 to the financial statements includes an amount Kshs.103,490,681 incurred on rentals of produced assets. However, no reconciliation between the two amounts payable and actual payments for the leased premises was availed for audit verification. Further, included in the total expenditure of Kshs.870,125,594 under use of goods and services is an amount totalling to Kshs.84,273,146 incurred in regional offices. The expenditure of Kshs.84,273,146 though captured in the ledger was however, not supported by detailed expenditure returns from the regional offices.

5191) In addition, lease agreements for offices rented in Malindi, Meru, NSSF Mombasa, Cooperative House Nairobi and Embu were not fully executed and registered with the Ministry of Public Works in line with Section 47 of the registered land Act Cap 300.

5192) In the circumstances, the accuracy of use of goods and services expenditure of Kshs.870,125,594 for the year ended 30 June 2019 could not be confirmed.

Submission by the Accounting Officer

5193) The Accounting Officer submitted that it was true that the use of goods included Kes.103,490,691 incurred on rentals of produced assets. The reconciliation was done and an IFMIS generated analysis provided. On the issue of payment of Kshs.84,273,146 incurred in the regional offices, the detailed expenditure returns from the regional offices were availed for audit verification. on summary of the returns received and verified by the auditor.

5194) It was also true that State Law office and department of justice was housed by different landlords in different Towns as at the end of the financial year under review. Most regional offices lease agreements were valid and the current status of the leases stated by the auditor is as per the table below:

S/No.	Building/ Landlord	Town	Auditors Findings on Lease Status	Management Response
1.	Ali Bin Ali	Malindi	No Lease Agreement	Lease Agreement existed and was to expire on 30/06/2021.
2.	Miriga Mieru	Meru	Expired Lease	Lease agreement was not renewed at the time because the Office was seeking alternative accommodation in Meru town and relocated, and a lease executed to expire on 15/10/2025.
3.	NSSF	Mombasa	No Lease Agreement	The lease agreement was prepared in year 2017, signed by Solicitor General but the Landlord did not sign citing some contentious issues. The issues are now resolved, and new lease executed.
4.	Cooperative Bank	Nairobi	Expired Lease	Lease agreement existed and was to expire on 31/12/2019. The renewal has been executed.

5.	Diocese of Embu	Embu	Expired Lease	Lease Agreement exists and expires on 30/06/2023.

5195) All copies of the Lease Agreements executed were provided for perusal by the Committee.

5196) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Use of Goods and Services which ought to have been presented to the Auditor-General at the time of audit was not presented.

(ii) The current status of the Leases is not yet verified by the Auditor-General.

5197) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should submit the new lease agreement to the Auditor- General for audit review.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012; and**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1614. Transfers to Other Government Entities

5198) Note 5 to the financial statements indicates that a total of Kshs.2,409,719,913 was transferred to eleven (11) entities during the year under review. However, confirmations from the beneficiary institutions as at 30 June 2019 reflected variances totalling Kshs.571,992,962 from five (5) institutions as detailed below.

	Institution	**Amount Transferred (Kshs)**	**Amount Confirmed by Recipient (Kshs)**	**Variance (Kshs)**
1	Council of Legal Education	370,566,800	210,464,800	160,102,000
2	Kenya School of Law	562,298,200	289,898,200	272,400,000
3	Kenya Copyright Board	124,580,000	121,580,000	3,000,000
4	National Centre for International Arbitration	113,415,500	113,415,400	100
5	Business Registration Service	312,914,993	176,424,131	136,490,862

	Total	1,483,775,493	911,782,531	571,992,962

5199) In the circumstances, the accuracy of transfers to other Government entities of Kshs.2,409,719,913 for the year ended 30 June 2019 could not be confirmed.

Submission by the Accounting Officer

5200) The Accounting Officer submitted that it was true that the Office reported an amount of Kes.2,409,719,913 as transfer to other Government Units.

5201) The difference between the amounts confirmed by SAGAs and the reported transfers emanate from the A-I-A collected by the SAGAs and expensed by the SAGAs. For purposes of financial reporting, the whole budget of receipts collected by the SAGAs and exchequer releases should form the total budget expensed by the SAGAs. The SAGAs listed in the query are those that collected the AIA amounts as additional funding to the grants remitted by the Office. The confirmed transfers were the actual grants receipts from the Office.

5202) The differences of Kes.160,102,000.00 and Kes.332,400,000.00 for Council of Legal Education and Kenya School of Law respectively represent the amount of AIA collected and applied for expenditure by the institutions as allowed by their respective legal frameworks.

5203) However, the difference of Kes.136,490,802.00 for the Business Registration Services was due to the amount withheld at SLO&DoJ Headquarters to pay salaries for the Business Registration staff (Kes.120,058,400.00) and other administrative services rendered to the SAGA, (Kes.15,997,392.00) and also provide for the operations and maintenance costs for the Registration of Societies and Coat of Arms (Kes.23,699,840.00) budgeted under one line item (Grants to SAGAs). In the budget estimates of FY2019/2020, this challenge was addressed and the Business Registration Services is now able to get its government grant in full. The vote for the Societies and Coat of Arms was provided for, and the administration of payroll was fully handed over to the SAGA.

5204) **Committee Observations and Findings**

The Committee observed that the explanation and documents provided by the Accounting Officer with regard to the SAGAs inaccuracies in the Financial Statements, Receipts - Other Revenues was satisfactory.

(i) The matter was marked as resolved.

5205) **Committee Recommendations**

1) **The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officers must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

Other matters

1615. Budgetary Control and Performance

5206) During the year under review, the State Law Office and Department of Justice had actual receipts totalling to Kshs.4,381,239,570 against estimated receipts of Kshs.4,749,027,303 resulting in a shortfall of Kshs.367,787,733. Further, actual expenditure for the year amounted to Kshs.4,370,952,568 against a budget of Kshs.4,749,027,303 resulting in an under expenditure of Kshs.378,074,735 or 8%.

5207) The under expenditure occurred in all expense components. The management has attributed the under expenditure to non-release of all exchequer allocations by the National Treasury which impacted negatively on service delivery to the citizens of Kenya.

Submission by the Accounting Officer

5208) The Accounting Officer submitted that it was true that the State Law Office and Department of Justice had actual receipts totalling to Kshs.4,381,239,570 against estimated receipts of Kshs.4,749,027,303 resulting in a shortfall of Kshs.367,787,733 equivalent to 8% of the total budget. The cause of the shortfall was due to several reasons:

(i) One reason being non-release of exchequer and under-utilization of some budget items.
(ii) Compensation of Employees was lower than expected by 1% due to the unsuccessful recruitment of new state counsels expected at the time of budgeting. The under expenditure of 24% in use of goods and services is because of challenges occasioned by e-procurement and disruption of IFMIS in procurement process and time limitation on year end supplementary budget.
(iii) Transfer to Other Government Units under absorption of 4% was due to lack of approved regulations in Victims Compensation Fund and non-operationalization of regional County Anti-Corruption Civilian Oversight Committees (CACCOCs) in the Anti-Corruption Steering Committee.

5209) **Committee Observations and Findings**
The Committee observed that the under-absorption was occasioned by the non-release of exchequer and under-utilization of some budget itemstime period.

5210) **Committee Recommendations**

1) **The National Treasury should ensure that the revenue target for Kenya Revenue Authority (KRA) and the Appropriations In Aid (AIA) factored by the Accounting Officers in annual budgets are realistic and achievable.**
2) **The Accounting Officers must at all times adhere to their annual work plans, procurement plans and cash disbursement schedule to increase their level of exchequer requests from the National Treasury.**

1616. Pending Bills

5211) As disclosed at note 14.1, 14.2 and 14.3, the State Law Office and Department of Justice reported pending bills of Kshs.44,394,205 as at 30 June 2019, which were not settled during the year but were instead carried forward to 2019/2020 financial year. Had the bills been paid and the expenditure charged to the respective accounts in 2018/2019, the statement of receipts and payments for the year would have reflected a deficit of Kshs.34,107,203 instead of the reflected surplus of Kshs.10,287,002 for the year ended 30 June 2019.

Submission by the Accounting Officer

5212) The Accounting Officer submitted that it was true that the State Law Office and Department of Justice reported pending bills of Kshs.44,394,205 as at 30 June 2019, which were not settled during the year but were instead carried forward to 2019/2020 financial year. The pending bills were caused by lack of proper documentation, budget-cuts after commitment through procurement module and provision of improper supplier details by the time of payment.

5213) The office appointed a pending bills committee which verified all the pending bills for FY 2018/2019. The validated pending bills have since been paid (Annex6). The pending bills are committed against available budget and exchequer is issued against processed payment. The unutilized budget amounted to Kshs.378,074,735 which is more than the pending bills of Kshs.44,394,205. The surplus of Kshs.10,287,002 emanates from the difference of the total exchequer and AIA receipts versus the total expenditure. This is made up of the bank balances, outstanding imprest, and district suspense already committed under the budget less the account payable.

5214) **The Committee observed and found that:**
The Committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

5215) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1617. Accounts Receivable – Outstanding Imprests

5216) Note 9 to the financial statements reflects accounts receivable-outstanding imprest balance of Kshs.4,406,717 which include Government imprests of Kshs.4,231,029 which ought to have been surrendered or accounted for on or before 30 June 2019. This is contrary to Section 93 (5) of the Public Finance Management (National Government) Regulations, 2015 which requires a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to the duty station. Section 93 (6) further provides that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.

5217) Consequently, it has not been possible to confirm the recoverability of the Government imprest balance of Kshs.4,231,029 as at 30 June 2019.

Submission by the Accounting Officer

5218) The Accounting Officer submitted that it was true an amount of Kshs.4,231,029 was reported as outstanding imprests at closure of financial year 2018/2019. The balance was due to lack of documentation before closure of financial year. The documents to clear the said amount were subsequently prepared for surrender by the recipient of the imprest and have since been cleared from the manual imprest register. The imprest register was availed for audit verification.

5219) **Committee Observations and Findings**

(i) The committee observed that the explanation provided by the Accounting Officer was satisfactory.

(ii) The matter was marked as resolved.

5220) **Committee Recommendations**

1) **The holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.**
2) **In the event of the imprest holder failing to account for or surrender the imprest on the due date, the he/she shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.**

3) **In order to effectively and efficiently manage and control the issue of temporary imprests, no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary.**

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1618. Lack of an Audit Committee

5221) In 2018/2019 financial year, the State Law Office and Department of Justice did not have an independent audit committee as required by Section 73 (5) of the Public Finance Management Act 2012. In the absence of a functioning audit committee, monitoring and review of the effectiveness of the internal audit process, review of internal controls, risk management systems of the Office could not be undertaken.

Submission by the Accounting Officer

5222) The Accounting Officer submitted that during Financial Year 2018/2019, the Office of the Attorney General and Department of Justice conducted interviews for Audit Committee members. They were later vetted and appointed. However, it was realized that it missed constitutional requirements and the exercise was to be repeated following The National Treasury advice.The exercise was concluded, and the names of the appointees forwarded to National Intelligence Service for vetting in the subsequent year. The Audit Committee is now in place.

5223) During the Financial Year 2018/2019, the audit work that was supposed to be done by the said Committee was undertaken by a committee appointed by Solicitor General and chaired by Deputy Solicitor General. Documents relating to the constitution of the said Audit Committee were provided for perusal by the Committee.

5224) **Committee Observations and Findings**

The Committee observed that an Audit Committee was in place as per the explanation and documents given by the Accounting Officer. However, the Accounting officer did not provide the necessary documents like minutes to support the submission.

5225) **Committee Recommendations**

(i) **Within three months of tabling and adoption of this report, the Accounting Officer should prepare and submit the records of minutes to support audit committee deliberations to the Auditor- General for audit review.**

(ii) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Also, ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

(iii) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1619. Lack of an Approved Enterprise-Wide Risk Management Process and IT Strategic Committee

5226) During the year under review and as previously reported, the State Law Office and Department of Justice did not have an approved well-documented enterprise wide risk management process and policies in place to effectively guide the enterprises risk management processes. This is contrary to Section 165 of Public Finance Management (National Government) regulations 2015.

5227) Further, Treasury circular No. 03/2009; Ref: MOF/IAG/033(75) requires that government entities/agencies should among other things develop and establish Risk Management Policy and Framework (IRMPF) to guide its strategic and operational activities. However, the Office did not have an IT strategic committee, an IT strategic plan that supports business requirements and ensures that IT spending remains within the approved IT strategic plan, formally approved IT security policy to ensure data confidentiality, integrity and availability, documented and tested emergency procedures, copies of the IT continuity plan and disaster recovery plan kept off-site.

Submission by the Accounting Officer

5228) The Accounting Officer submitted that it was true that at the time of the audit, the State Law Office, and Department of Justice (SLO&DOJ) did not have an enterprise-wide risk assessment framework. Currently SLO & DOJ is in the process of attaining the ISO 27001, an international standard for information security management system (ISMS) which caters for enterprise-wide risk assessment framework. Currently we have carried out a risk assessment. The Risk Assessment Table was provided for perusal. The ISO 27001 Standard will form a framework for an enterprise-wide risk management process in the entire SLO & DOJ. The Standard will provide for policies, procedures and other controls involving people, processes and technology.

5229) The IT Strategic Committee was appointed to conform with ISO 27001 Standard. The IT Strategic Committee is in place. The current approved ICT Policy was provided for perusal.

5230) **Committee Observations and Findings**

5231) The Committee observed that implementation of ISO 27001 was on going whereby Enterprise-Wide Risk Management Process and IT Strategic will form part of it. However, the Enterprise-Wide Risk Management Committee was not in place as per the explanation and documents given by the Accounting Officer.

5232) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Accounting Officer should submit the records for the enterprise-wide risk assessment committee like minutes to the Auditor- General for audit review.

STATE LAW OFFICE AND DEPARTMENT OF JUSTICE - OFFICIAL RECEIVER

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1620. Unsupported Receivables

5233) The statement of assets and liabilities reflects receivables balance of Kshs.127,726,843 as at 30 June, 2019 which includes a balance of Kshs.41,082,583 due from Deposit Protection Board whose analysis was not availed for audit verification.

5234) In the circumstances, the accuracy, validity and completeness of the receivables balance of Kshs.127,726,843 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

5235) The Accounting Officer submitted that the receivables for the year ended 30th June 2019 was Kshs.127,726,847, comprising of Consolidated Bank Shares totalling to Kshs.86,644,260 and Deposit Protection Board Deposits totalling to Kshs.41,082,583. This was disclosed in the note 8 of the financial statement, which was attached after verification by the Auditors.

5236) It was regrettable that the deposit analysis was not availed for verification at the time of audit, however a copy of confirmation of deposit balances from Kenya Deposit Insurance Corporation as at 30th June 2019, has also been attached and scrutinized by the auditors. Other Deposits from Consolidated bank shares amounting to Kshs.86,644,260 have also been availed for scrutiny.

5237) **Committee Observations and Findings**

The Committee observed that the explanation and documents given by the Accounting Officer with regard to the deposits which ought to have been submitted to the Auditor-General at the time of audit had not been submitted.

5238) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should submit the confirmation of deposit balances from Kenya Deposit Insurance Corporation to the Auditor- General for audit review.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012; and**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1621. Unconfirmed Short-term Deposits and Treasury Bills

5239) The statement of assets and liabilities reflects short term deposits and treasury bills balance of Kshs.339,686,292 as at 30 June, 2019, made up of short-term deposits totaling Kshs.185,273,300 and treasury bills amounting to Kshs.154,412,992. The short-term deposits balance of Kshs.185,273,300 was held in seventeen (17) bank accounts as disclosed in Note 7(a) to the financial statements while the treasury bills balance of Kshs.154,412,992 was in two (2) accounts as disclosed in Note 7(b) to the financial statements. Management did not however, avail bank confirmation certificates for the seventeen (17) short term deposits accounts and the two (2) treasury bills accounts.

5240) In the circumstances, the accuracy and validity of short-term deposits and treasury bills balance of Kshs.339,686,292 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

5241) The Accounting Officer submitted that it was true that BRS management did not provide auditors with bank confirmation certificates for the fixed deposits held by the National Bank of Kenya dated 2nd May 2019.This was due to internal bank reorganization on its IT support which resulted to them not being able to print for us the bank confirmation certificates. However, BRS management provided to the auditor's the bank statements showing the date of investment which is 3rd May 2019 and the date of maturity of its investments being 3rd August 2019.

5242) The instruction letter and Bank statements are hereby attached. The Statement for Securities from Central Bank of Kenya in support of Treasury bills balances was attached for perusal by the Committee.

5243) **Committee Observations and Findings**

The Committee observed that the explanation and documents submitted by the Accounting Officer with regard to the deposits which ought to have been submitted to the Auditor-General at the time of audit had not been submitted.

5244) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should submit the confirmation of deposit balances to the Auditor- General for audit review.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012; and**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1622. Unsupported Other Revenues

5245) Included in other revenues balance of Kshs.72,102,161 are other receipts not classified elsewhere totaling Kshs.58,532,994 out of which only Kshs.53,658,278 has been supported leaving a balance of Kshs.4,874,716 as unsupported.

5246) In the circumstances, the accuracy, validity and completeness of other revenues balance of Kshs.72,102,161 could not be confirmed.

Submission by the Accounting Officer

5247) The Accounting Officer submitted that other revenues for the year ended 30th June 2019 of Kshs.72,102,161 included interest received of Kshs.13, 502, 024, dividends of Kshs.67, 143 and other receipts not classified elsewhere of Kshs.58,532,994.

5248) It was regrettable that some schedules were misplaced at the time of audit. All schedules of other receipts have now been provided and verified by the auditor on the balance of Kshs.4, 874,715.

5249) **Committee Observations and Findings**

The Committee observed that, that the Accounting Officer failed to prepare and keep proper accounting records in accordance with Section 68 (2) (b) of the PFM Act, 2012; And

5250) **Committee Recommendations**

The Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5251) **Conclusion**

1623. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5252) **Conclusion**

1624. There were no material issues relating to effectiveness of internal controls, risk management and governance.

THE REVENUE STATEMENT – STATE LAW OFFICE AND DEPARTMENT OF JUSTICE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1625. Discrepancy Between Integrated Financial Management Information System and Revenue Statements Balances

5253) The balances reflected in the revenue statements prepared and presented for audit differed with the balances reflected in IFMIS as shown below:

Components / Activity	**Revenue p Statements Kshs.**	**Revenue per IFMIS Kshs.**	**Variance Kshs.**
Registration of Coat of Arms	10,000	10,000	-
Registration of Marriages	132,52,438	50,680,050	81,872,388
Registration of Societies	7,604,100	6,408,850	1,195,250
Registration of Newspapers a Periodicals	75,200	46,400	28,800
Public Trustee Fees	81,869,141	-	81,869,140

5254) The discrepancies were neither explained nor reconciled. Further, no satisfactory explanation was provided on why collected public trustee fees were not recorded through the IFMIS platform.

5255) Consequently, it has not been possible to confirm the accuracy and completeness of the revenue statements.

Submission by the Accounting Officer

5256) The Accounting Officer submitted that it was true that part of the revenue indicated in Revenue statement were not captured in IFMIS at the time of audit. The revenue amounts were manually analysed for purposes of reporting in the schedules prepared using bank statements obtained from Central Bank of Kenya by the National Treasury and sent to SLO&DoJ. The delay to capture the whole revenue in IFMIS was due to lengthy reconciliation of manual documents vide the CBK statements. At the time of the audit the variance had not been captured but now they are fully reconciled and captured.

5257) **Committee Observations and Findings**

The Committee observed that the Accounting Officer failed to reconcile the Discrepancies between Balances in the Financial Statements and the Integrated Financial Management Information System (IFMIS).

5258) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should submit the reconciliations prepared to the Auditor- General for audit review.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **Accounting Officers must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1626. Unsupported Regional Revenues

5259) As disclosed in Note 1 to revenue statements, the statement of revenues and transfers reflects total receipts of Kshs.240,741,319 under fees on use of goods and services which includes an amount of Kshs.132,552,438 being fees for registration of marriages. However, only receipts of Kshs.57,450,000 collected from the Nairobi region were supported, while supporting documents for the balances of Kshs.75,102,438 collected at the regional offices were not provided.

5260) In the circumstance, it was not possible to confirm the completeness and accuracy of the reported registration of marriages fees of Kshs.132,552,438.

Submission by the Accounting Officer

5261) The Accounting Officer submitted that it was true that the revenue statement showed revenue collected during the financial year amounting to Kshs.132,552,438 in respect to Registration of Marriages. Out of total revenue collected, Kshs.75,102,438 was collected from Marriages conducted in regional offices and District County Commissioners (DCCs) office across the country and was not fully supported. He submitted that the Kshs.75,102,438 is now supported by a revenue summary schedule from each regional office, bank deposit slips and bank statement that were availed for audit review. We then introduced updating of the revenue ledger accounts by using new templates that have been designed for purposes of reconciling daily regional revenue collections.

5262) **Committee Observations and Findings**

The Committee observed that the Accounting Officer failed to reconcile the Discrepancies between Balances it records and provide supporting documents for its transactions.

5263) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should reconcile the balances and submit to the prepared to the Auditor- General for audit review.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **Accounting Officers must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1627. Bank Reconciliations Statements in Machakos – Public Trustee Account

5264) Audit review of bank reconciliation statements for the Public Trustee account in Machakos, reflected a receipt of Kshs.2,281,141 in the bank that had not been recorded in the cash book and which include long outstanding balances amounting to Kshs.1,027,533 that dated back to 4 November 2014. No satisfactory explanation was provided for the delayed reconciliations.

Submission by the Accounting Officer

5265) The Accounting Officer submitted that it was true that the bank reconciliation statement for the month of June 2019 showed a total of KShs.2,281,141.98 as outstanding balances which were not cleared as observed during audit. This was due to delay in getting adequate information available for posting in the cashbook.

5266) However, Public Trustee wrote to the institutions' that transmitted the monies to Public Trustee bank account in Machakos requesting for details of whom the payments related to in order to trace the beneficiaries and proceed with the administration process. The outstanding amount has since been cleared from the reconciliation statement.

5267) **Committee Observations and Findings**

The Committee observed that the Accounting Officer failed to reconcile the discrepancies between the cashbook and the bank statements.

5268) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should submit the reconciliations prepared to the Auditor- General for audit review.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **Accounting Officers must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1628. Low Revenue Collected from Court of Arms

5269) The Coat of Arms section has a mandate to generate revenue by registering coat of arms and sale of vellum. Revenue from registration of coat of arms during the financial year 2018/2019 was Kshs.10,000.00 from a single transaction relating to registration of coat of arms by Kirinyaga County. No revenue was however generated on sale of vellum. The poor performance in revenue generation was attributed to lack of applications and a dormant secretariat.

Submission by the Accounting Officer

5270) The Accounting Officer submitted that it was true that the mandate of the Coat of Arms is to receive and consider applications for the registration of grant of Arms. It is also true that only Kshs.10,000 was collected by the Coat of Arms Section in the FY 2018/2019. The college met once to deliberate on the registration and grant of Arms for Kirinyaga County which met the requirements stipulated in law. The College normally meets when the secretariat has proposed an agenda for discussion in connection with any application. The College also met in two other instances to deliberate on the review of the College of Arms Act.

5271) The tenure of the last College members expired in April 2019 thus making the Secretariat seem dormant. The process of appointing new College members was initiated and gazettement done. This has resulted in rejuvenation of the section and an increase of revenue collected. There is a new program to create awareness to citizens on the need to register Arms and Coat of Arms. This makes the Coat of Arms Section very active and since the revenue has continued to grow.

5272) **Committee Observations and Findings**

The Committee observed that the tenure of the last College members expired in April 2019 thus making the Secretariat seem dormant and, the process of appointing new College members was initiated and gazettement done thus the low revenue.

5273) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should submit gazette notice and records in respect of appointment of new College members to the Auditor- General for audit review.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1629. None Maintenance of Unclaimed Estate Account

5274) The Public Trustee does not operate or maintain Unclaimed Estate Account as required under Section 12(5) of the Public Trustee (Amendment Act, 2018 which provides for the transfer and credit of funds in the Unclaimed Estate Account of any funds that remain the possession of the Public Trustee of which it is unable to dispose by distribution in accordance with the law or by reason of the un-traceability of the person entitled to give a discharge or for any other cause. In addition, audit review of the estate legers revealed unclaimed estate balances amounting to Kshs.847,983 which were outstanding for a period of over ten (10) years.

Submission by the Accounting Officer

5275) The Accounting Officer submitted that it was true that upon finalization of administration and after distribution account is drawn, beneficiaries collect their entitlements at different period and sometimes some call after effluxion of several years. At the point of payment of such residue, interest is calculated and paid together with the residue then an addendum of the distribution account is drawn to reflect the interest accrued.

5276) Where there are protracted disputes among the beneficiaries in an estate, funds remain unpaid until such disputes are settled amicably or through the court process.

5277) The audit recommendations have been acted upon where the unclaimed property register was opened. Public Trustee in following the recommendations, uses other contacts to reach out to beneficiaries by writing to deputy county commissioners to assist in using their grass root network and public barazas to inform citizens to visit the Public Trustee offices to follow up the unclaimed assets. The Public Trustee also participated in radio shows to reach out to the public to inform them on the mandate of Public Trustee as well as the need for members of the public to visit the Public Trustee offices to follow up on unclaimed assets.

5278) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents given by the Accounting Officer in that at the point of payment of the residue, interest is calculated and paid together with the residue then an addendum of the distribution account is drawn to reflect the interest accrued.

(ii) The Committee also observed that there are protracted disputes among the beneficiaries in an estate, funds remain unpaid until such disputes are settled amicably or through the court process but no documents were provided in support of these cases.

5279) **Committee Recommendations**

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1630. Inadequate Book-Keeping in Eldoret Marriages Station

5280) The cash book for the station had not been updated for fifteen (15) months and the monthly bank reconciliation statements were not being prepared as required under Regulation 50 of the Public Finance Management (National Government) Regulations, 2015. Further, the Counterfoil Receipt Book Register for keeping track of movement of accountable documents such as receipts books was not maintained. In addition, the clerical and accounting functions were both being performed by one Clerical Officer. In the circumstances, the assets (cash) at the Station had not been properly safeguarded.

Submission by the Accounting Officer

5281) The Accounting Officer submitted that it was true that the cashbook for the station had not been updated and bank reconciliation statements could not be prepared at the time of audit. The counterfoil receipt book register was also not fully maintained. This was occasioned by inadequate accounting staff to deal with enormous revenue management activities. We have however updated all the books of accounts and put in place plans to update it regularly on a monthly basis. This will be with the help of additional staff now handling revenue management activities and thereby safeguarding the assets (cash).

5282) **Committee Observations and Findings**

The Committee observed that the department had updated all the books of accounts and put in place plans to update it regularly on a monthly basis as explained by the Accounting Officer.

5283) **Committee Recommendations**

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1631. Lack of an Investment Board and Policy

5284) The Public Trustee Department operated without the Public Trustee Investment Board in contravention of Section 5€ of Public Trustee (Amendment) Act, 2018. The functions of the Board include review and oversight of matters pertaining to the investment of Estate and Trust funds, formulation, review and oversight of the implementation of the Public Trustee Investment Policy and advising the Attorney-General on the management of the investment portfolio. In addition, the Trustee did not have an investment policy as a guide for investing funds which are not immediately needed by the beneficiaries.

Submission by the Accounting Officer

5285) The Accounting Officer submitted that it was true that the Office of the Public Trustee did not have a Public Trustee Investment Board. The provisions that require Public Trustee to establish Public Trustee Investment Board are contained in Section 5(e) of the Public Trustee Act (Rev. 2018). The office is at an advanced stage of drafting the Public Trustee Amendment Rules to operationalize the Public Trustee Amendment Act (Rev. 2018) that require the establishment of Public Trustee Investment Board.

5286) The office of Public Trustee has been undertaking the investments by complying with the Treasury Circular of March 2018 on investments and Public Trustee rules.

5287) **Committee Observations and Findings**

5288) The Committee observed that a Board and the Policy were in place as per the explanation and documents given by the Accounting Officer. However, the Accounting officer did not provide the documents like minutes to support the submission.

5289) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should prepare and submit the records to support deliberations of the committee to the Auditor- General for audit review.**
2) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

PUBLIC TRUSTEE OF KENYA

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1632. Deposits

5290) The statement of financial position reflects a balance of Kshs.122,400,000 under deposits which includes an amount of Kshs.72,000,000 held in Imperial Bank Limited. However, information available indicates that Imperial Bank Limited was placed under receivership by the Central Bank of Kenya on 13 October, 2015 and the Kenya Deposit Insurance Corporation (KDIC) appointed the receivers. Consequently, recoverability of the balance of Kshs.72,000,000 held at Imperial Bank remains doubtful.

5291) Further, included in the deposits balance of Kshs.122,400,000 is a balance of Kshs.12,400,000 held at the Housing Finance Corporation of Kenya (HFCK) as at 30 June, 2019 which is at variance with Kshs.13,609,169 confirmed by the bank as at the same date. The resultant variance of Kshs.1,209,169 has not been explained.

5292) Under the circumstances, the accuracy and completeness of deposits balance of Kshs.122,400,000 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

5293) The Accounting Officer submitted that it was true that the financial statements reflected a balance of Kes.122,400,000 under deposits and Kes.72,000,000 is held under Imperial Bank Limited. We are aware that the bank is under receivership and Public Trustee wrote to Kenya Commercial Bank advising on the Principal Secretary National Treasury's directive to pay the funds in an existing Bank account. The details of the Bank Account were forwarded to KCB. Notable progress on recovery of the deposits has been made after several follow up meeting with KDIC and KCB. Both KCB and KDIC have assured Public Trustee that a tranch of 4.072million and 10.346million will be deposited in the bank account provided.

5294) It was also true that deposits balance of Kshs.122,400,000 includes a balance of Kshs.12,400,000 held at HFCK as at 30 June 2019 which is at variance with Kshs.13,609,169 confirmed by the bank as at the same date. The resultant variance of

Kshs.1,209,169 is the interest element accruing to the deposits and has been accounted for as interest receivable in the FY2018/2019 financial statements.

5295) **Committee Observations and Findings**

The Committee observed that, the explanation given by the Accounting Officer that the records have been reconciled. However, the documents have not been presented for verification by the Auditor General.

5296) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should submit the prepared reconciliations for balances to the Auditor- General for audit review;**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012; and**
4) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1633. Investments

5297) As disclosed in Note 14 to the financial statements, the statement of financial position reflects a balance of Kshs.232,160,000 under investments, which includes a balance of Kshs.144,098,000 described as deposits in financial institutions under the management of the Kenya Deposit Insurance Corporation (KDIC) and the Official Receiver. However, as reported in the previous year, no explanation was provided for failure to seek refund of these dormant deposits. In addition, the dormant deposits of Kshs.144,098,000 includes investments totaling to Kshs.29,694,000 held in two (2) institutions as detailed below.

Institution	**Investment Balance (Kshs.)**	**Managing Institution**
Central Finance Ltd	22,750,000	Kenya Deposit Insurance Corporation (KDIC)
Allied Credit Ltd	6,944,000	Kenya Deposit Insurance Corporation (KDIC)
Total	**29,694,000**	

5298) However, through letters dated 8 April, 2019, the Kenya Deposit Insurance Corporation notified the Public Trustee that the amounts are not payable as the two (2) institutions were wound up and stand dissolved.

5299) Under the circumstances, the accuracy and completeness of investments balance of Kshs.232,160,000 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

5300) The Accounting Officer submitted that it was true that deposits of Kshs.144,097,188 include investments totalling to Kshs.29,693,938 held in some two (2) institutions as detailed below:

Institution	Investment Balance Kshs	Managing Institution
Central Finance Ltd	22,750,356	Kenya Deposit Insurance Corporation (KDIC)
Allied Credit Ltd	6,943,582	Kenya Deposit Insurance Corporation (KDIC)
Total	29,693,938	

5301) However, through a letter dated 8 April 2019, the Kenya Deposit Insurance Corporation notified the Public Trustee that the amounts are not payable as the institutions were wound up and stand dissolved (Annex 21). Until this was officially disclosed Public Trustee believed that the claims were due, owing and recoverable therefore included the amount in the financial statements. The Public Trustee will make a provision for the amount in the financial statements and seek authority from Kenya National Audit Office and the National Treasury for write off.

5302) Public Trustee has made good progress in identifying and tracing manual archived financial records dating back to the 1990s to facilitate the preparation of a comprehensive report on deposits/investments in Central Finance Limited and Allied Credit limited. This will assist the Auditors and The National Treasury in making an informed decision on write off.

5303) **Committee Observations and Findings**

5304) The Committee observed that the investments totalling to Kshs.29,693,938 held in the two (2) institutions already dissolved are irrecoverable.

5305) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should submit the comprehensive report on the status of deposits/investments in Central Finance Limited and Allied Credit Limited to the Auditor- General for audit review; and**
2) **Within three months of tabling and adoption of this report, the Auditor-General should carry out a Forensic Audit on the Public Trustees investments to ascertain their existence, viability and value.**

1634. Cash and Cash Equivalents

5306) The statement of financial position reflects a balance of Kshs.3,951,492,000 under cash and cash equivalents as at 30 June, 2019. However, bank reconciliation statements for the various public trustee administration bank accounts reflects outstanding reconciling items whose clearance status as at the time of the audit in March, 2020 was not disclosed as tabulated below;

Account	Payments in Cashbook not in Bank (Unpresented Cheques) (Kshs.)	Receipts in Bank Statement not in Cashbook (Kshs.)	Payments in Bank Statement not in Cashbook (Kshs.)	Receipts in Cashbook not in Bank Statement (Kshs.)
Administration Account- Nairobi	-	11,529,930	-	-
Nakuru	6,587,373	1,835,427	31,849	-
Nyeri	5,051,673	2,887,323	36,791	-
Machakos	3,892,136	2,281,141	15,220	-
Malindi	4,324,342	158,533	15,100	17,500
Mombasa	3,817,211	-	-	-
Eldoret	4,094,739	16,043,601	3,986	598,680
Kakamega	20,197,776	31,511,450	-	2,013,441
Kisii	10,234,000	2,155,152	2,886,966	-
Kisumu	10,061,495	1,989,282	-	-
Garissa	404,971	-	210	22,080
Meru	2,049,799	4,993,776	81,408	1,354,311
Embu	13,227,649	2,717,446	5,468,250	-
Total	**83,943,164**	**78,103,061**	**8,539,780**	**4,006,012**

5307) In addition, the investments account reconciliation statement reflects receipts in cash book not in bank statement totalling to Kshs.332,064 whose clearance status as at the time of audit in March, 2020 was not availed for audit verification.

5308) In the circumstances, the validity and accuracy of the cash and cash equivalents balance of Kshs.3,951,492,000 could not be confirmed.

Submission by the Accounting Officer

5309) The Accounting Officer submitted that it was true that various regional offices had bank reconciliations with outstanding reconciling items which need to be investigated and verified and reversals in cash book done for stale cheques. Appropriate action has been taken based on the recommendations from the Auditors. The following specific actions have been taken.

1. For payments in cashbook not in bank statements, the dates when the cheques were cleared have been provided, and the stale cheques have been reversed.

2. For receipts in Bank statements and not in cashbook, the dates when the amount were received in the cashbook are provided. In circumstances where money has been received without the details of beneficiaries, the office has written correspondence requesting the details to pave way for administration of estates.
3. Payments in bank statements and not in cashbook have since been posted in the cashbook.
4. Receipts in cashbook and not in bank statements have since been banked. Documents have been availed for audit review and verification.

5310) It was also true that the investment account reconciliation statement reflects receipts in cashbook not in bank statement totalling to Kshs.332,064. This amount represents casting error of interest received on current account for the month of June 2019. The amount has since been corrected and adjustments in the revised financial statements done.

5311) **Committee Observations and Findings**

(i) The Committee observed that, the explanation given by the Accounting Officer that actions have been taken to correct the anomalies and balances have been reconciled.
(ii) The Committee further observed that for receipts in cashbook and not in bank statements, the amount of Kshs.4,006,012 have since been banked.
(iii)In addition, the Committee observed that Payments in bank statements of Kshs. 8,539,780 that were not in cashbook have since been posted in the cashbook.

5312) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Accounting Officer should submit the prepared reconciliations for balances to the Auditor- General for audit review.

1635. Treasury Bills

5313) The statement of financial position reflects a balance of Kshs.5,712,450,000 under Treasury Bills as at 30 June, 2019. However, bank confirmation certificates in support of the balances held were not availed for audit verification casting doubt on the accuracy and validity of the Treasury Bills balance of Kshs.5,712,450,000.

Submission by the Accounting Officer

5314) The Accounting Officer submitted that it was true that the bank confirmation certificates were not availed for audit. Public trustee wrote to Central Bank through a letter dated 28th June 2019, requesting for certificate of balance for purposes of audit. Follow up letter dated January 2020 and 8th March, 2020 was also done regarding the same subject matter. However Central Bank did not furnish Public Trustee with confirmation certificate as requested but instead provided statement of balances.

5315) **Committee Observations and Findings**

(i) The Committee observed that, the explanation given by the Accounting Officer that the bank confirmation certificates in support of the balances held were not provided at the time of audit due to unjustifiable reasons.
(ii) The Committee further observed that Central Bank did not furnish Public Trustee with confirmation certificate as requested but instead provided statement of balances.

5316) **Committee Recommendations**

1) **Within three months of tabling and adoption of this report, the Accounting Officer should submit the confirmation certificate and the reconciliations for the balances to the Auditor- General for audit review; The Auditor General should report the status to the Committee/National Assembly.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012; and**
4) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5317) **Conclusion**

1636. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON INTERNAL CONTROLS EFFECTIVENESS, RISK MANAGEMENT AND GOVERNANCE

5318) **Conclusion**

1637. There were no material issues relating to effectiveness of internal controls, risk management and governance.

54. THE JUDICIARY

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1261

Ms. Anne Amadi, the Accounting Officer for the Judiciary (Vote 1261) appeared before the committee on 7th June, 2021 to adduce evidence on the Audited Financial Statements for the Judiciary (Vote 1261) for the Financial Year 2018/2019. She was accompanied by the following officers:

1. Ms. Nancy Kanyago - Project Coordinator - JPIP
2. Mr. Ken Ogutu - Snr. Legal Researcher
3. Mr. David Rapando - Deputy Director Finance
4. Mr. Wycliffe Wanga - Accounts Controller

And submitted as follows:

1638. Inaccurate Cash and Bank Balances

1638.1 Unsupported Third-Party Deposits

5319) The statement of assets and liabilities reflects a cash and cash equivalents balance of Kshs.7,437,549,982 which includes an amount of Kshs.6,785,776,575 being bank deposits held in various commercial banks on behalf of third parties. However, the cashbooks, bank certificates and bank reconciliation statements in support of the balances were not provided for audit verification.

Submission by the Accounting Officer

5320) The Accounting Officer submitted that at the time of audit, we had not received all the statements from the Court Stations due to severe shortage of accounting staff hence the delay. The Judiciary requires 370 accountants but only has 90 qualified accountants thus operating with staff capacity deficit of 280 accountants.

5321) However, the Judiciary maintains cashbooks and bank reconciliations for all its bank accounts. It also accesses online bank statements periodically and receives bank certificates at the close of the Financial Year. Attached was a listing of all court station balances as confirmed by the Auditor. Copies of the cashbook extracts, bank certificates and bank reconciliations statements were also availed.

5322) **Committee Observations and Findings**

(i) The auditor was not provided with bank certificates and bank reconciliation statements in support of Kshs.6,785,776,575 being balances of deposits held in various commercial banks on behalf of third parties.

(ii) There is staff capacity deficit of 280 accountants in the Judiciary which occasioned the delay in submission of reports

(iii)The explanation given by the Accounting Officer with regard to the unsupported third party deposits was satisfactory; and

(iv)The Committee therefore marked the matter as resolved.

1638.2 Unreconciled Receipts and Payments

5323) Audit inspections carried out in the months of August and September, 2019 in various courts revealed unreconciled differences between receipts and payments reflected in bank statements with those reflected in the Judiciary Integrated Financial Management Information System (JIFMIS) as shown below:

Submission by the Accounting Officer

5324) The Accounting Officer submitted that the unreconciled receipts in Nakuru, Kericho and Kilifi, were deposits in the bank whose banking slips had not been presented for receipting by litigants; these were subsequently receipted. The difference in Kisumu Law Courts is attributed to cheque collection from Lebef Group Limited received on 30 June 2019 but cleared in the bank in July 2019. The Judiciary has since implemented CTS and JFMIS e-receipting which will ensure real time recording of transactions thus minimizing the reconciling items.

5325) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the unreconciled receipts and payments was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1638.2.1 Unreconciled Receipts

Court Station	**Receipts as per Bank Statement (Kshs.)**	**Collections as per JIFMIS** (Kshs.)	**Difference (Kshs.)**
Nakuru	95,244,989	91,179,607	4,065,382
Kisumu	16,719,792	17,359,513	(639,721)
Kericho	20,881,062	13,317,621	7,563,441
Kilifi	9,787,701	9,457,642	330,239

Submission by the Accounting Officer

5326) The Accounting Officer submitted that the unreconciled receipts in Nakuru, Kericho and Kilifi, were deposits in the bank whose banking slips had not been presented for receipting by litigants; these were subsequently receipted. The difference in Kisumu Law

Courts is attributed to cheque collection from Lebef Group Limited received on 30 June 2019 but cleared in the bank in July 2019.

5327) The Judiciary has since implemented CTS and JFMIS e-receipting which will ensure real time recording of transactions thus minimizing the reconciling items.

5328) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the unreconciled receipts was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1638.2.2 Unreconciled Refunds and Forfeitures

Court Station	**Payments as per Bank Statement** (Kshs.)	**Payments as per JIFMIS (Kshs.)**	**Difference (Kshs.)**
Nakuru	72,674,990	110,494,729	(37,819,739)
Kisumu	13,252,524	14,634,981	(1,382,457)
Kericho	8,860,214	8,437,470	422,744
Kilifi	6,984,287	6,263,129	721,158

5329) Although Management explained that a team had been constituted to ascertain the origin of the differences, the reconciliation of the two (2) sets of records had not been provided as at the time the audit report was finalized.

Submission by the Accounting Officer

5330) The Accounting Officer submitted that it was correct that there were differences which were noted in the two sets of records;

- For Nakuru and Kisumu, the difference is attributable to EFT transfers prepared between 26-28th June 2019 that cleared in July 2019.
- For Kericho and Kilifi, the payments in bank were more due to payments for late June 2018 (FY2017/2018) that cleared in July 2018 in FY 2018/2019 hence the difference between bank statement and JFMIS payments.

5331) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the unreconciled refunds and forfeitures was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1638.2.3 Long Outstanding Items in Bank Reconciliation Statements

5332) A review of the bank reconciliation statements for the recurrent, development and deposit bank accounts revealed long outstanding payments in bank statements not yet recorded in cashbooks and receipts in cashbook not yet recorded in bank statements amounting to Kshs.80,696,941 and Kshs.1,126,582 respectively. The bank reconciliation statements also reflected payments in cashbook not yet recorded in bank statements (unpresented cheques) of Kshs.331,847,914 some of which had been outstanding since 30 June, 2017 and are therefore stale. Although Management has indicated that the unpresented cheques have since been cleared, the supporting bank statements and cash book have not been availed for audit review.

5333) In view of the foregoing, the existence, completeness and accuracy of the reported cash and cash equivalents balance of Kshs.7,437,549,982 could not be ascertained.

Submission by the Accounting Officer

5334) The Accounting Officer submitted that the Kshs.80,696,941 in bank statements not recorded in the cashbook included KShs.70,573,336 that related to computer fraud that happened in September 2013. The case was concluded in December 2020 and KShs.15,219,869.19 recovered from banks that disbursed the funds to firms involved. We are awaiting further recoveries from the involved banks.

5335) The balance of Kshs.10,123,605 related to salary payments for June 2019 but cleared in the cashbook in July 2019. Kshs.1,126,582 in cashbook not yet in bank statement constitutes unspent imprests which were returned using bankers cheques. These were banked and cleared in July 2019. Kshs.331,847,914 in cashbook and not in bank statement related to June 2019 payments which could not be released due to lack of exchequer issue but were subsequently released in July 2019. Copies of bank reconciliation statements showing status as at March 2021 were attached for perusal by the Committee.

Committee Observations and Findings

5336) The committee observed that:

(i) The recoverability of an amount of Kshs. 55,353,439.81 related to computer fraud that happened in September 2013 is doubtful.

(ii) The cash book was overdrawn by Kshs.331,847,914 which is in breach of of Regulations 82 (7) of PFM Regulations 2015 with regard to risk of overdrawing the bank account.

5337) **Committee recommendations**

1) **Within three (3) months after the tabling and adoption of this report the Accounting Officer must recover Kshs, 55,353,439.81 in full from those involved in the loss of the funds.**
2) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1639. Unsupported Expenditure on Use of Goods and Services

5338) Note 4 to the financial statement reflects Kshs.3,557,016,786 relating to use of goods and services for the year ended 30 June, 2019. Included in this amount is Kshs.9,742,625 and Kshs.1,551,200 on domestic travel and subsistence expenses and hospitality supplies and services respectively, whose supporting documents were not provided for audit.

5339) In the circumstances, the accuracy of the reported balances and the validity of the payments totalling Kshs.11,293,825 could not be confirmed.

Submission by the Accounting Officer

5340) The Accounting Officer submitted that these were payments for conference facilities and travel expenses which were inadvertently not provided at the audit time. There was delay in the retrieval of the documents. However, attached are copies of documents in support of the expenditure of Kshs.9,742,625 and KShs.1,551,200.

5341) **Committee Observations and Findings**

(i) The committee observed that payments vouchers for conference facilities and travel expenses totaling Kshs. 11,293,825 were not provided for audit verification at the time of audit.

(ii) The Committee observed that the explanation given by the Accounting Officer with regard to the Unsupported Expenditure on Use of Goods and Services was satisfactory; and

(iii) The Committee therefore marked the matter as resolved.

1640. Unsupported Pending Bills

5342) Note 14 to the financial statements reflects pending bills totalling Kshs.858,437,695 comprising accounts payables and staff payables that were not settled during the financial year 2018/2019 but were instead carried forward to 2019/2020. Failure to settle bills in the year to which they relate distorts the financial statements for the year and also affects the budgetary provisions for the subsequent year. Further, pending bills amounting to Kshs.59,715,223 were not supported with delivery notes, invoices, contracts and local service or purchase orders as required.

5343) Consequently, the accuracy and validity of the reported pending bills figure of Kshs.858,437,695 could not be confirmed.

Submission by the Accounting Officer

5344) The Accounting Officer submitted that it was true that the financial statements reflected pending bills totaling Kshs.858,437,695 carried forward to Financial Year 2019/20. The documents had been provided to the auditor for review at the time of audit. However due to the large volume of vouchers at the audit room, some vouchers were returned having not been reviewed. It also took some time to file them back and retrieve them again. The majority of the pending bills were verified during audit and the supporting documents for the remaining pending bills amounting to Kshs.59,715,223 were attached for perusal by the Committee. The pending bills related to payments for fabricated courts and installation of networks.

5345) **Committee Observations and Findings**

(i) The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

(ii) The Committee observed that the explanation given by the Accounting Officer with regard to the Unsupported pending Bills was satisfactory; and

(iii)The Committee marked the matter as resolved.

1641. Accounts Payables - Deposits

5346) The statement of assets and liabilities reflects accounts payables – deposits amounting to Kshs.7,410,138,140. However, a listing of bank deposits in support of the accounts payable provided reflected a balance of Kshs.6,607,403,848 resulting into a difference of Kshs.802,734,292. Although Management explained that the difference related to historical figures and the issue was being resolved, evidence of the outcome of the process was not provided.

5347) In addition, during audit inspections carried out in the months of August and September, 2019, where a sample of eight (8) courts was considered, court documents verified revealed outstanding depositors balance of Kshs.1,159,644,537 while the supporting list provided at the Head Office reflected a balance of Kshs.1,300,196,977 resulting into an unexplained difference of Kshs.140,552,440 as shown:

Court Stations	**Outstanding Depositors Sampled Court Station (Kshs.)**	**Outstanding Depositors-Financial Statement Listing (Kshs.)**	**Difference (Kshs.)**
Kisumu	13,277,845	43,655,798	(30,377,953)
Makadara	360,075,249	455,498,009	(95,422,760)
Nakuru	259,079,521	262,538,262	(3,458,741)
Kericho	29,391,351	38,434,212	(9,042,861)
Taita Taveta	2,250,125	(2,250,125)	
Total	**661,823,966**	**802,376,406**	**(140,552,440)**

5348) Similarly, documents verified at the sampled courts revealed cashbook deposit balances of Kshs.1,079,910,223 while the supporting list availed for audit reflected total deposits of Kshs.1,204,301,231 for the same courts resulting to an unexplained difference of Kshs.124,391,008:

Court Stations	Deposit Cash Balance - Sampled Court Station (Kshs.)	Deposit Cash Book Balance- Financial Statement Listing (Kshs.)	Difference (Kshs.)
Kibera	202,366,673	203,396,529	(1,029,856)
Mombasa	255,257,921	366,134,463	(110,876,542)
Kilifi	18,934,336	18,837,788	96,548
Kisumu	43,376,914	44,993,276	(1,616,362)
Makadara	308,739,394	267,018,386	41,721,008
Nakuru	222,844,596	279,919,337	(57,074,741)
Kericho	28,390,389	21,747,677	6,642,712
Taita Taveta	2,253,775	(2,253,775)	
Total	**1,079,910,223**	**1,204,301,231**	**(124,391,008)**

5349) Further, confirmed cashbook deposit balance of Kshs.1,079,910,223 for the sampled courts was less than the confirmed deposits owed of Kshs.1,159,644,537 by Kshs.79,734,314 casting doubt on the ability of the Judiciary to fulfill its obligations as they fall due.

Court Station	Outstanding Depositors (Kshs.)	Deposit Cash Book Balance (Kshs.)	Difference (Kshs.)
Kibera	252,982,899	202,366,673	50,616,226
Mombasa	224,867,587	255,257,921	(30,390,334)
Kilifi	19,970,085	18,934,336	1,035,749
Kisumu	13,277,845	43,376,914	(30,099,069)
Makadara	360,075,249	308,739,394	51,335,855
Nakuru	259,079,521	222,844,596	36,234,925
Kericho	29,391,351	28,390,389	1,000,962
Taita Taveta			
Total	**1,159,644,537**	**1,079,910,223**	**79,734,314**

5350) In view of the foregoing, the accuracy, completeness and validity of the reported accounts payable - deposits balance of Kshs.7,410,138,140 could not be confirmed.

Submission by the Accounting Officer

5351) The Accounting Officer submitted that upon de-linking the Judiciary from District Treasuries/Sub County Treasuries, there has been a continuous review of the delinking process and transfer of financial records to the Judiciary from National government Sub county treasuries. The Judiciary and National Treasury are undertaking a joint reconciliation of these accounts to ascertain the actual funds not transferred to the Judiciary. The process commenced in 2019 and to date thirty-six (36) court stations have been finalised and arising from this exercise a total KShs.272 million had not been transferred to the Judiciary and the accounting officer wrote to the National Treasury requesting for the same. Attached is the letter to the PS, National Treasury. Reconciliation for 40 court stations is ongoing and expected to be finalised in June 2021 while the remaining 30 courts will be undertaken in phase III of the reconciliation in FY 2021/2022. The total deposit balance for the eight sampled court stations amounted to KShs.1,300,196,977. Listing for the stations as at 30 June 2019 which was verified to the court records were attached for perusal by the Committee.

5352) Further the station bank certificates attached marked Annex 1641.3) for the sampled courts, shows total bank balance of Kshs. 1,204,301,231 which confirms availability of funds to meet obligations when they fall due.

5353) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to prepare complete and accurate financial statements as required in Section 6 (2) (b) of the PFM Act, 2012. An offense of this nature attracts reprimand;

(ii) The Committee also observed that the reconciliations by the National Treasury for 40 court stations was ongoing and expected to be finalised in June 2021 while the remaining 30 courts will be undertaken in phase III of the reconciliation in FY 2021/2022were still ongoing; and

(iii) The matter therefore remains unresolved.

5354) **Committee recommendations**

Within three (3) months upon adoption of this report, the Accounting Officer should ensure that the records are reconciled and analyzed with necessary supporting documents and submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010.

1642. Delayed Completion of Thirty-Nine (39) Courts

5355) As previously reported, the balance of Kshs.25,368,939,031 being the historical cost of the assets of the Judiciary as shown under Annex I to the financial statements, includes Kshs.3,491,859,987 relating to construction of thirty-nine (39) law courts spread across the country. Construction works for some of the law courts were awarded in the financial year 2013 but had taken long to complete therefore, attracting interest on the contract sum. A case in point was a local contractor for the Embu Law Courts who was demanding Kshs.4,859,432 interest on delayed payments.

5356) Further, details of completion certificates issued for works done and total amount paid for each of the projects valued at Kshs.1,587,836,186 were not provided for audit review. In the absence of completion certificates and payment details, it has not been possible to confirm that the works paid for were certified as per the provisions of the signed contract agreements and that citizens got value for money on the expenditure already incurred.

Submission by the Accounting Officer

5357) The Accounting Officer submitted that it was true that the project status report reflected a gross amount of Kshs.1,587,836,186 certified as work done cumulatively over the years. However, in the year under review, only KShs.424,640,460 were certified but had not been paid due to budget cuts. These unpaid certificates were disclosed in the Financial Statements as pending bills.

5358) The inadequate budget allocation for the development vote and periodic revisions of the budget during the year exposed the Judiciary to financial risk in project management. The interest and penalties that arise on the delayed payments is a risk that is beyond our control due to budget cuts.

5359) The following 11 GoK projects have since been completed; JSC Offices, Hamisi, Embu Phase I, Nkubu, Port Victoria, Eldoret, Mombasa Court of Appeal, Kitale, Siaya, Iten Law Courts and Competition Tribunal offices. Copies of completion certificates for the eleven projects were attached for perusal by the Committee and the status of the remaining projects was also indicated.

5360) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to provide details of completion certificates issued for works done and total amount paid for each of the projects valued at Kshs. 1.58billion, thereby committing an offence of financial misconduct as defined in Section 197 (1) (k) of the PFM Act, 2012;

(ii) The Committee also observed that the Accounting Officer did not show appropriate and detailed steps taken to address and resolve the PAC recommendations and House resolutions on stalled projects in the Judiciary arising from the adopted reports for the FY 2016/2017. Section 68 (2) (l) duly mandates the Accounting Officer to timely and judiciously resolve outstanding audit issues;

(iii) The Committee further observed that the Contractor at Molo Law Courts had utilized an amount of water worth Kshs.3.2 million from the Judiciary water supply and claimed the same as part of his material for the works done at the Courts;

(iv) The Committee observed that much as Hamisi, Embu Phase I, Nkubu, Port Victoria, Eldoret, Mombasa Court of Appeal, Kitale, Siaya, Iten Law Courts and Competition Tribunal offices had been completed, there was poor workmanship exhibited at Kitale, Siaya, Iten Nkubu and Hamisi Law Courts;

(v) The matter therefore remained unresolved.

5361) **Committee recommendations**

1) **The Accounting Officer must ensure that the construction of the office complex is undertaken following the right standards and any poor workmanship corrected to avoid possible occupational safety hazards; and overpaid certificate at Molo Law courts of kshs.3.2 million recovered from the contractor.**
2) **The Ministry of Public Works should inspect the 11 GoK building projects and table their report to Parliament within a period of three (3) months of the adoption of this report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1643. Management of the Tribunals

5362) Documents availed for audit on operations of the nineteen (19) tribunals transferred to the Judiciary revealed that some of the staff within the tribunals were still under their respective Ministries resulting in different reporting structures. In addition, the office spaces and courtrooms were inadequate for some tribunals while others were not easily accessible to the public leading to few cases being registered at the tribunals. Further, there are over sixty (60) tribunals in the country but only nineteen (19) have been recognized in the financial statements of the Judiciary. It was not clear why the remaining tribunals were not transferred in compliance with Article 169(1) of the Constitution of Kenya that defines subordinate courts under the Judiciary to include local tribunals as may be established by an Act of Parliament.

5363) Under the circumstances, the judicial authority over the tribunals may not have been exercised in compliance with Article 159(1) of the Constitution of Kenya.

Submission by the Accounting Officer

5364) The Accounting Officer submitted that it was true that in accordance with Article 169(1) (d), of the Constitution, tribunals are listed as one of the subordinate courts. However, the transitional provisions in the constitution are not clear how or when the tribunals shall transit into the Judiciary. Most tribunals still operate under different Acts of Parliament.

5365) The Judiciary submitted a draft Tribunal Transitional Bill 2019 to the Attorney General for review and tabling in the National Assembly. A copy of the Draft Bill was attached. The bill seeks to provide for a governance framework of tribunals in order to harmonize the operations of tribunals. Further the High Court ruling in petition No. 197 of 2018 copy which was attached for perusal by the Committee, affirmed that issues relating to appointment and removal of members of any Tribunal shall be undertaken by the Judicial service Commission.

5366) **Committee Observations and Findings**

(i) The Committee observed that the Tribunals were in operation with the enabling statutes and thus rendering unconstitutional functions;
(ii) The Committee also observed that a draft Tribunal Transitional Bill 2019 had been submitted to the Attorney General for review before submission to the National Assembly for debate and enactment into law; and
(iii) The matter therefore remained unresolved.

5367) **Committee recommendations**

The Accounting Officer should ensure enactment of Tribunal Transitional Bill 2019 that seeks to provide for a governance framework for tribunals in order to harmonize the operations of tribunals.

1644. Irregular Acting Appointments

5368) Audit review of the human resources records revealed that staff had been appointed in an acting capacity to various positions within the Judiciary for a period of between sixteen (16) and forty (40) months contrary to Section B 20 (iii) and (iv) of the Judiciary Human Resource Policies and Procedures Manual that requires acting appointments to be held for a maximum of twelve (12) months which can only be extended by a final acting period of six (6) months. The Manual further states that the position must be filled or officer reverts to his or her position after acting for a maximum of eighteen months. It was further observed that officers serving in an acting capacity were again appointed to act in higher positions.

5369) In consequence, the Judiciary was in breach of its Human Resource Policies and Procedures.

Submission by the Accounting Officer

5370) The Accounting Officer submitted that the JSC advertised for positions of Directors, Heads of Units and Registrars in the month of February 2019. The interviews were conducted and the following appointments were made; Director Audit and Risk Management and Director Planning and Organisation Performance. This left two positions whose recruitment process were inconclusive. The position of Director ICT was re-advertised and the process is ongoing.

5371) **Committee Observations and Findings**

(i) The Committee observed that staff had been appointed in an acting capacity to various positions within the Judiciary for a period of between sixteen (16) and forty (40) months contrary to Section B 20 (iii) and (iv) of the Judiciary Human Resource Policies and Procedures Manual that requires acting appointments to be held for a maximum of twelve (12) months which could only be extended by a final acting period of six (6) months;
(ii) The Committee also observed that the Procedures Manual further provided that any acting position must be filled or officer reverts to his or her position after acting for a maximum of eighteen months;
(iii) The Committee further observed that officers serving in an acting capacity were again appointed to act in higher positions without being confirmed in the junior positions first;
(iv) In addition, the Committee observed that Judiciary as an apex of Justice, had failed miserably, infringed on individual rights of employees and acted against international labour laws standards; and
(v) The matter therefore remained unresolved.

5372) **Committee recommendations**

The Accounting Officer should uphold the Judiciary Human Resource Policies and Procedures Manual to forestall court actions by employees and mitigate potential financial losses arising from court awards.

1645. Unapproved Reallocations

5373) Examination of the payment vouchers revealed that expenditure of Kshs.76,265,569 was misallocated or charged to wrong accounts as shown below:

Vote	**Correct Account**	**Incorrect Account Charged**		**Amount** (Kshs.)
2210300	Domestic Travel	Tribunal		35,451,785
2210400	Foreign Travel	Tribunal		11,689,777
2210800	Hospitality	Tribunal		6,125,505
2210700	Training	Tribunal		13,514,308
	Routine maintenance of vehicles and other transport equipment	Fuel, oil and lubricants		9,484,194
				76,265,569

5374) Approval from The National Treasury for the reallocations as required under Section 43 (2) (b) of the Public Finance Management Act, 2012 was not provided.

5375) Consequently, the propriety of the reallocations could not be confirmed.

Submission by the Accounting Officer

5376) The Accounting Officer submitted that during transition of Tribunals to Judiciary from various Ministries, their budgets was classified as Transfers to Semi-Autonomous Government Agencies. Therefore, all items for the activities of the tribunals were to be charged under one-line item. In the FY 2019/2020 the budget has since been itemized and the expenditure is being charged to each tribunal's budget.

5377) Consequently, there was no basis for reallocation since the expenditure relating to the tribunals' activities was charged on the correct line item.

5378) **Committee Observations and Findings**

(i) The Committee observed that all activities of the tribunals were budgeted under one-line item and that the explanation given by the Accounting Officer with regard to the unapproved re -allocations was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5379) **Conclusion**

1646. There were no material issues relating to effectiveness of internal controls, risk management and governance.

1647. Transactions Recurring in Bank Reconciliations

5380) The statement of revenues and transfers reflects a total of Kshs.1,601,586,282 revenue collected during the year under review. However, examination of the June, 2019 bank reconciliation statements for various court stations revealed reconciling items which, as previously reported, have been recurring for more than three (3) months, with some dating back to the year 2013. This is contrary to Section 11.5 (d) of the Judiciary Finance Policy and Procedures Manual which requires variances and outstanding items to be followed up within thirty (30) days and not to recur on the bank reconciliations for a period longer than three (3) months.

Court Station	Receipts in the Cashbook not Recorded in the Bank Statement (Kshs.)	Payments in the Bank Statement not Recorded in the Cash Book (Kshs.)	Receipts in the Bank Statement not in the Cash Book (Kshs.)	Payments in the Cashbook not in the Bank Statement (Kshs.)
Employment and Labour Relations Court - March, 2019	72,389	-	3,981,415	5,544,147

Milimani Commercial Courts - August, 2018	74,895	13,548	1,897,403	-
Shanzu Law Courts - July, 2018	-	-	-	37,514,264
Kisumu Law Courts	197,590	-	-	0
Naivasha Law Courts	-	-	1,086,683	152,000

5381) Under the circumstances, the accuracy and completeness of the reported revenue of Kshs.2,601,586,282 could not be confirmed.

Submission by the Accounting Officer

5382) The Accounting Officer submitted that it was true that the Judiciary Finance Manual states that pending reconciling items should be cleared within three months. However, due to inadequate staff at the stations, items remained un-cleared in the reconciliations. The Judiciary has since automated the revenue collection system (JFMIS) and the reconciling items are matched and none remain pending. The reconciling items subsequently cleared. Attached are cashbook and bank statement extracts showing absence of reconciling items

5383) **Committee Observations and Findings**

(i) The Committee observed that Judiciary has automated the revenue collection system (JFMIS) that ensure the reconciling items are matched and none remain pending.

(ii) The explanation given by the Accounting Officer with regard to the transactions recurring in Bank Reconciliations was satisfactory; and

(iii)The Committee therefore marked the matter as resolved.

1648. Revenue Management at the Courts

5384) The statement of revenues and transfers reflects a total of Kshs.1,601,586,282 revenue collected during the year under review. However, an audit inspection of revenue records maintained at various Courts revealed the following matters:

1648.1 Kwale Law Courts

5385) Kwale Law Courts did not use the Standard F030 Forms designated for executing bank reconciliations. In addition, there was no evidence that bank reconciliation statements were reviewed, examined or submitted to the Regional Assistant Director Finance (RADF). For the examined bank reconciliation statements, the cash books and bank balances used in the preparation of bank reconciliations were not accurate. Further, a review of revenue recorded in the cash book compared to revenue recorded in the collection control sheets revealed an unexplained variance totalling Kshs.193,834. Detailed examination of cash books revealed that in the month of November, 2018, the cash book reflected a balance carried forward of Kshs.663,088. However, the opening balance brought forward in December, 2018 was Kshs.404,894 resulting to unaccounted for revenue of Kshs.258,194.

Submission by the Accounting Officer

5386) The Accounting Officer submitted that it was true that there was improper book keeping at Kwale Law Courts. The staff involved failed to maintain proper books of account as required pursuant to the Judiciary Finance Policy and Procedures Manual. This led to disciplinary action being taken against the staff per letter which was attached.

5387) The ongoing automation of the revenue collection system is geared towards elimination of similar errors of omission

5388) **Committee Observations and Findings**

(i) The Committee observed that there was a cash book under cast at Kwale Law Court for on the month of November, 2018, the cash book reflected a balance carried forward of Kshs.663,088 and the opening balance brought forward in December, 2018 was Kshs.404,894 resulting to unaccounted for revenue of Kshs.258,194.

(ii) The Committee also observed that the Receiver of Revenue has put in place automation of the revenue collection system geared towards elimination of similar errors of omission.

(iii)The Committee therefore marked the matter as resolved.

1648.2 Makadara Law Courts

5389) Examination of records at the Makadara Law Courts revealed that the total amount of revenue transferred to the Judiciary main collection account was Kshs.99,151,143. However, the amount declared as revenue at the court station was Kshs.99,463,164 resulting in an unexplained difference of Kshs.312,021.

Submission by the Accounting Officer

5390) The Accounting Officer submitted that it was The difference of KShs.312,021 declared at the station, above the headquarter amount, was attributed to timing difference. The schedule at the HQs was based on actual funds received and Miscellaneous Receipts (MR) for equivalent funds issued while station figure were based on CCSs. The variance therefore, is explained in the table below:

Description	Amount (Kshs)
Amount for June 2018 (Surrendered in July 2018) but reported as in FY18/19 using CCS No. 897681 **Annex 1648.2.1**	119,825.00
Amounts for June 2019 that reflected in July 2019 banking being variance between CCS balance and sweeping (5,704,013 – 5,620,535) **Annex 1648.2.2**	83,478.00
CCS number 897707 on fines copy which was missing **Annex 1648.2.3**	52,000.00
Bank charges for the financial year.	3,183.00
July 2019 MR included in June 2019 CCS '0288236 **Annex 1648.2.4**	53,535.00
Total Variance	**312,021.00**

5391) **Committee Observations and Findings**

(i) The Committee observed that the difference of KShs.312,021 declared at the station, above the headquarter amount, was attributed to timing difference.

(ii) The explanation given by the Accounting Officer with regard to Makadara Law Courts was satisfactory; and

(iii) **The Committee therefore marked the matter as resolved.**

1648.3 Kisii Law Courts

5392) Revenue collected and recorded in the cash book differed with the revenue returns at the Head Office by Kshs.809,394. The variance was not explained or reconciled. In addition, the opening deposit cash book balance as at 01 July, 2018 was Kshs.29,852,273, while the opening bank balance on the same date was Kshs.15,839,407 resulting into an unreconciled variance of Kshs.14,012,865 which was not resolved within the three (3) months resolution period stipulated under Section 11.5 of the Judiciary Finance Policy and Procedures Manual.

Submission by the Accounting Officer

5393) The Accounting Officer submitted that it was The difference of Kshs. 809,394 is attributed to erroneous entry in the station cashbook where receipts were posted twice in March and December 2019 as analysed in the table below:

Serial	Amount (KShs)
8946651 – 700	19,020.00
8946701 – 750	33,370.00
8946751 – 800	19,239.00

Serial	Amount (KShs)
8946801 – 850	109,495.00
8946851 – 900	24,355.00
8946901 – 950	83,750.00
8946951 – 7000	81,910.00
8967501 -550	6,740.00
8967551 – 600	31,600.00
8967601 – 650	10,710.00
8967651 – 700	27,621.00
8967701 – 750	35,725.00
8967751 – 800	17,695.00
8967801 – 850	13,100.00
8967851 – 900	26,206.00
8967901 – 950	35,180.00
8967951 – 8000	77,535.00
8993001 – 050	29,655.00
8993051 – 100	14,888.00
8993101 – 150	45,970.00
8993151 – 200	17,275.00
8993201 – 250	18,350.00
8993251 – 253	2,255.00
Total	**781,644.00**

5394) These errors were corrected within the year by crossing out the cashbook as shown in the cashbook extract which was attached and did not form part of December balance. The balance of KShs.27,750 were un-receipted fees deposited in the bank account.

5395) Further the Deposit cash book has an unreconciled balance of Kshs.14,012,865 which relates to funds yet to be transferred from the national government sub-county treasury. The Judiciary and the National Treasury have carried out a joint reconciliation in various courts stations and a report submitted to the NT for reimbursement of the funds. Attached is the correspondence with the PS the National Treasury on the matter.

5396) **Committee Observations and Findings**

(i) The Committee observed that the difference of Kshs. 809,394 is attributed to erroneous entry in the station cashbook where receipts were posted twice in March and December 2019

(ii) The Committee also observed that the explanation given by the Accounting Officer with regard to Kisii Law Courts was satisfactory; and

(iii) **The Committee therefore marked the matter as resolved.**

1648.4 Kilifi Law Courts

5397) Analysis of the deposit's records revealed that, during the de-linking from the District Treasury in November, 2015, the previous Kenya Commercial Bank (KCB) deposit account No.1107279305 had a credit balance of Kshs.19,700 which was not transferred to the new KCB Account No. 117329686. In addition, at the time of de-linking, the outstanding deposits amounted to Kshs.14,274,402. However, the District Accountant transferred Kshs.12,943,163 to the new KCB Deposit Account leaving a balance of Kshs.1,331,238. The District Treasury has been holding these funds without any explanation for the past five (5) years.

5398) Further, fines collected during the month of June, 2019 amounting to Kshs.444,571 and fees totalling Kshs.469,563 though surrendered to the Head Office and deposited in KCB collection account had not been posted in the cash book. In addition, the cash books had not been reviewed and examined as required by the Judiciary Finance Policy and Procedures Manual. Also, there were deposits amounting to Kshs.511,134 which had been outstanding for a period of over ten (10) years in the books of Kilifi Law Courts without any explanations.

Submission by the Accounting Officer

5399) The Accounting Officer submitted that it was true that at the time of the audit, the Kshs.19,700 was still held in the old KCB deposit account No.1107279305. However, on 20 November 2020 the Judiciary instructed KCB to close all old accounts and the balances be transferred to the new KCB deposit accounts per attached letter.

5400) Further at the time of de-linking the District Accountant only transferred Kshs.12,943,163 of deposit funds leaving a balance of Kshs.1,331,238 which is yet to be transferred to the new account. The Judiciary and the National Treasury have carried out a joint reconciliation in various courts and a report submitted to the National Treasury for reimbursement of the funds not yet transferred. Attached is the letter to PS National Treasury.

5401) To date thirty-six (36) court stations have been finalised and arising from this exercise a total KShs.272 million had not been transferred to the Judiciary and the accounting officer wrote to the National Treasury requesting for the same. Reconciliation for 40 court stations is ongoing and expected to be finalised in June 2021 while the remaining 30 courts will be undertaken in the first quarter of FY 2021/2022.

5402) In maintaining the books of accounts, there were delays in updating the cashbook but subsequently all entries were updated. The cashbooks have been automated thereby minimizing such occurrences. Attached is an extract of the automated cash book for Kilifi Law Courts for the month of April 2021.

5403) The deposit amount totaling Kshs.511,134 which have remained outstanding for over ten years relate to cases that have not been concluded and/or parties have not claimed their monies.

5404) **Committee Observations and Findings**

(i) The Committee observed that at the time of de-linking the Judiciary from the District Treasuries, the District Accountant only transferred Kshs.12,943,163 of deposit funds leaving a balance of Kshs.1,331,238 which is yet to be transferred.

(ii) The committee also observed that reconciliations are on going at the courts stations out of which thirty-six (36) court stations have been finalized and arising from the exercise a total KShs.272 million should be transferred to the Judiciary, Reconciliation for 70 court stations is ongoing and expected to be finalized during Financial Year 2021/2022.

(iii) The Committee further observed that explanation given by the Accounting Officer with regard to Kilifi Law Courts was satisfactory; and

(iv) **The Committee therefore marked the matter as resolved.**

1648.5 Mombasa Law Courts

5405) Cheques totalling to Kshs.38,136,310 had become stale since they had not been presented for payment for more than six (6) months. In addition, there were deposits amounting to Kshs.70,791,917 which were outstanding for a period of over ten (10) years in the books of Mombasa Law Courts without any explanations.

Submission by the Accounting Officer

5406) The Accounting Officer submitted that Cheque payments amounting to Kshs.38,136,310 related to depositors' claims paid but not collected/banked thus becoming stale. The transactions have been reversed and the files are being appraised for purposes of surrendering unclaimed amounts to the Unclaimed Financial Assets Authority (UFAA).

5407) A total of 7,583 files in 77 Court stations amounting to KShs 72,894,664.65 have been identified for appraisal per Annex 1648.5. The deposits amount totaling Kshs.70,791,917 in Mombasa law Courts remain outstanding for over ten years relate to court cases that have not been concluded and/or parties have not claimed their deposits.

5408) **Committee Observations and Findings**

(i) The Committee observed that Cheque payments amounting to Kshs.38,136,310 related to depositors' claims in Mombasa law Court was stale while unclaimed deposits totaling Kshs.70,791,917 have remained outstanding for over ten years

(ii) The Committee also observed that the explanation given by the Accounting Officer with regard to Mombasa Law Courts was satisfactory.

5409) **Committee recommendations**

5410) **The committee recommends that:**

1) **The unclaimed deposit amounts totaling Kshs,70,791,917 should be lapsed to Judiciary Headquarters and the station should request for payment when the beneficiary/beneficiaries are identified.**
2) **Cheque payments amounting to Kshs.38,136,310 should be surrendered to the Unclaimed Financial Assets Authority (UFAA).**

1648.6 Nakuru Law Courts

5411) Examination of the Collection Receipt Book Register (CRB) established poor record keeping for the collection receipt books at the Nakuru Law Courts. For example, it was not possible to establish the source of sixty (60) collection receipt books used and how they were surrendered to Nakuru Law Courts.

Submission by the Accounting Officer

5412) The Accounting Officer submitted that All the Receipt books were issued from the Judiciary headquarters and recorded at both at the HQ CRB and court station CRB. Out of the sixty (60) books issued to the station twenty-five (25) books have since been surrendered and cleared from the HQ CRBs. The remaining thirty-five (35) books are still in use at Nakuru Law courts. Attached is a copy of HQ CRB indicating the source of books issued to Nakuru Law Courts and the date cleared. The Judiciary is in the process of operationalizing e-receipting of revenue hence, manual receipt books will no longer be used to collect revenue.

5413) **Committee Observations and Findings**

(i) The Committee observed that sixty (60) Receipt books were issued from Judiciary Headquarters to Nakuru Law Courts out of which twenty five (25) books have been surrendered and thirty five (35) are still in use at Nakuru Law courts.

(ii) The Committee also observed that the explanation given by the Accounting Officer with regard to Nakuru Law Courts was satisfactory; and

(iii) **The Committee therefore marked the matter as resolved.**

1648.7 Kericho Law Courts

5414) Regulation 90 of the Public Finance Management (National Government) Regulations, 2015 provides that Accounting Officers shall ensure bank accounts reconciliations are completed for each bank account held by that Accounting Officer, every month and submit a bank reconciliation statement not later than the 10th of the subsequent month to The National Treasury with a copy to the Auditor-General. However, bank reconciliation statements for the deposit and revenue cash books for Kericho Law Courts were not provided for audit verification.

Submission by the Accounting Officer

5415) The Accounting Officer submitted that it was true due to acute staff shortage in the cadres of accounting thus makes it difficult to effectively prepare bank reconciliations for the over 400 bank accounts held for revenue, deposits and expenditure. To address the capacity challenge, the Judiciary has requested the JSC to urgently recruit sufficient number of accounting staff in order to enhance staff capacity at court stations to carry out the statutory requirements. The Judiciary prepare bank reconciliations albeit late for submission to the Accounting Officer. Attached are copies of bank reconciliations statements for the three (3) bank accounts for Kericho law courts.

5416) **Committee Observations and Findings**

(i) The Committee observed that bank accounts reconciliations in Kericho law court were not completed for each bank account held by the station, every month and submit a bank reconciliation statement not later than the 10th of the subsequent month to The National Treasury with a copy to the Auditor-General as the law requires.

(ii) The Committee also observed that the bank reconciliations statements for the three (3) bank accounts for Kericho law courts were prepared and the explanation given by the Accounting Officer with regard to Kericho Law Courts was satisfactory; and

(iii)The Committee therefore marked the matter as resolved.

1648.8 Milimani Law Courts

5417) A review of CRBs and cash book at the Milimani Law Courts revealed that there were fifty-six (56) long outstanding un-surrendered counter receipt books. Out of these, seventeen (17) were used for receipting deposits, forfeitures, utilization and court fines while thirty-nine (39) were used for receipting fees. In addition, some of the cashiers were holding more than one (1) receipt book simultaneously. Although the receipted amounts were banked, these were yet to be posted in the cash book.

5418) In view of the foregoing matters relating to collection and accounting for revenue, the accuracy and completeness of the reported revenue of Kshs.2,601,586,282 could not be confirmed.

Submission by the Accounting Officer

5419) The Accounting Officer submitted that it was true that at the time of audit fifty-six (56) books had not been surrendered. These receipt book had been issued to various tribunals for receipting of deposits and revenue. Due to challenges during the transitioning of tribunals into Judiciary, majority of the books were not completed and cleared in the financial year that they were issued. The books have since been completed and cleared as per attached copy of CRB.

5420) The delayed clearing of CRB will no longer arise as the judiciary is now implementing e-receipting were attached for perusal by the Committee.

5421) **Committee Observations and Findings**

(i) The Committee observed that majority of the CRB books were not completed and cleared in the financial year that they were issued due to challenges during the transitioning of tribunals into Judiciary.

(ii) The Committee also observed that the explanation given by the Accounting Officer with regard to Milimani Law Courts was satisfactory; and

(iii) **The Committee therefore marked the matter as resolved.**

1649. Unresolved Prior Year Matters

5422) Various prior years' audit issues remained unresolved as at 30 June, 2019. Management has not provided reasons for the delay in resolving the prior years' audit issues or disclosed them under the progress on follow up of auditor's recommendations section of the financial statements as per the reporting template prescribed by the Public Sector Accounting Standards Board (PSASB).

<u>This matter was considered by the Committee in the report of 2017/2018</u>.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5423) **Conclusion**

1650. There were no material issues relating to lawfulness and effectiveness in use of public resources.

1651. Irregular Long Acting Appointments

5424) An Examination of the human resources records established that there were ten (10) staff of the Judiciary who are on acting appointments as provided for in the organizational structure. However, some of the positions had been held for over three (3) years contrary to Section B20(iii) and (iv) of the Judiciary Human Resources Policies and Procedures Manual. The manual stipulates that persons on acting appointment be limited to twelve (12) months at any given time for vacant positions after which, a decision must be made to either confirm the employee, extend the acting for a further six (6) months or revert the person to the former post. No explanation has been provided for this anomaly.

Submission by the Accounting Officer

5425) The Accounting Officer submitted that the JSC advertised for positions of Directors, Heads of Units and Registrars in the month of February 2019. The interviews were conducted and the following appointments were made; Director Audit and Risk Management and Director Planning and Organisation Performance. This left two positions whose recruitment process were inconclusive. The position of Director ICT was re-advertised and the process is ongoing.

5426) **Committee Observations and Findings**

(i) The Committee observed that this matter was related to paragraph 1644 and would be treated in the same manner; and

(ii) The matter remained unresolved.

1652. Fire Safety Measures or Disaster Management Plan

5427) Audit review established that the Shanzu Law Courts does not have fire safety measures and a disaster management plan in place to cater for any eventual hazards and therefore safe custody of files cannot be guaranteed. Further, the Criminal and Traffic Offenses Files Registers at the court had some of the pages in the files plucked and missing. This may hinder prompt settlement of cases with missing entries.

Submission by the Accounting Officer

5428) The Accounting Officer submitted that it was true that at the time of audit there was no fire safety measures and a disaster management plan in place at Shanzu Law Courts. However, a business continuity and disaster recovery plan is now being implemented that includes Case Tracking System (CTS), Court Recording and Transcription System (CRTS) and e-filing among others in the whole Judiciary.

5429) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Fire Safety Measures or Disaster Management Plan at Shanzu Law Courts was satisfactory ; and

(ii) The Committee marked the matter as resolved.

DONOR FUNDED PROJECT

JUDICIAL PERFORMANCE IMPROVEMENT PROJECT - IDA CREDIT NO.5181 - KE

1653. Differences Between the Ledger and the Financial Statements Figures

5430) As disclosed under Note 8.5 to the financial statements, the statement of receipts and payments reflects purchase of goods and services totalling to Kshs.572,240,357. Included in the figure is training expenditure amounting to Kshs.121,951,942. However, a computation of the training expenses from the ledger reflects a balance of Kshs.129,129,874 resulting to an unexplained difference of Kshs.7,177,932.

5431) Further, the statement of receipts and payments reflects total payments amounting to Kshs.2,121,192,079 which differs with the IFMIS ledger figure of Kshs.2,265,892,252.35 resulting to an unexplained difference of Kshs.144,700,173.35.

5432) Consequently, the accuracy, completeness and presentation of the financial statements as at 30 June, 2019 cannot be confirmed.

Submission by the Accounting Officer

5433) The Accounting Officer submitted that the difference of Kshs.7,177,932 were travel expenses related to training, however, they were not classified as training in the JPIP report but put under travel cost (Air tickets). A listing of the payments vouchers classified under the travel expense was attached for perusal by the Committee.

5434) It was correct that the IFMIS balances in the ledger for FY2018/2019 were KShs 2,265,892,252.35 while the Financial Statements had KShs 2,121,192,079 as payments and receipts. The difference of Kshs.144,700,173.35 related to Court Users Committee (CUC) expenses surrendered during the year but related to FY2017/2018 activities as indicated in the schedule provided for perusal.

5435) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to avail supporting documents to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. This was a breach of the law.
(ii) The Committee also observed that the Accounting Officer failed to prepare and keep proper accounting records contrary to the provisions of Section 68 (2) (b) of the PFM Act, 2012.
(iii) The Committee further observed that the Accounting Officer failed to provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.
(iv) The Committee observed that the documents were belated provided for audit verification; and

5436) **Committee recommendations**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1654. Double Posted Expenditure

5437) As disclosed under Note 8.6 to the financial statements, the statement of receipts and payments reflects acquisition of non-financial assets totaling to Kshs.1,548,951,723. Included in the figure is an amount of Kshs.97,604,938 in respect of purchase of furniture and general equipment. Examination of the schedule of expenditure revealed that one (1) payment voucher has been recorded twice amounting to Kshs.649,569.

5438) Further, as disclosed in Note 8.5 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.22,661,852 under printing, advertising and information supplies and services whose schedule of expenditure also includes a bill of Kshs.530,200 that has been posted twice thereby overstating the expenditure under printing, advertising and information supplies and services by the same margin.

5439) In addition, during the year under review, the Project received a total of Kshs.7,373,149 from the development account of the Judiciary for payments of salaries under consultancy services. The amount was not recorded as a receipt in the statement of receipts and payments but the expenditure was recognized as expenditure under consultancy. However, upon refund of the borrowed amount, the expenditure was recorded under other operating payments, despite the fact that it had already been reflected under consultancy thereby occasioning the transaction to be recorded twice thereby overstating the consultancy services by a similar margin.

5440) In view of the double postings, the completeness and accuracy of the overall total payments amounting to Kshs.2,121,192,079 as reflected in the statement of receipts and payments for the year ended 30 June, 2019 cannot be confirmed.

Submission by the Accounting Officer

5441) The Accounting Officer submitted that the amounts of Kshs.649,568.95 related to payment for furniture procured from furniture elegance limited and Kshs.530,200 related to payment to Nation Media for advertisement services. The payments were returned unpaid due to changes in the bank details of the payees. Annexed is copy of bank statements indicating the return of the funds which were receipted back on 9th May 2019 and subsequently paid on the same day thus no effect on the financial statements. A bank statement extract showing when the money was received and paid was attached for perusal by the Committee.

5442) The Kshs.7,373,149 were funds transferred from Judiciary GoK development account on 7th March 2019 to JPIP account to meet payment of project management unit staff salaries thus recorded as consultancy services in the books. Upon receipt of JPIP exchequer the funds were transferred back to GoK development account on 10th April 2019 and recorded as operating expense in the books hence there was no overstating of the consultancy services figure.

5443) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to avail supporting documents to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(ii) The Committee also observed that the Accounting Officer failed to prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.

(iii) The Committee observed that the documents were belated provided for audit verification; and

(iv) The Committee marked the matter as resolved.

1655. Unsupported Prior Year Adjustments

5444) As disclosed under Note 8.10 to the financial statements, the statement of financial assets and liabilities as at 30 June, 2019 reflects an amount of Kshs.85,576,025 as prior year adjustment. Management has explained that the amount relates to cash issued to the Project's staff who undertook various activities during the previous financial years but which was accounted for during the current year. However, no details of the activities or the persons who were issued with the imprests was provided for audit.

5445) In the circumstances, the legality, accuracy, completeness and presentation of prior year adjustment totaling to Kshs.85,576,025 as at 30 June, 2019 cannot be confirmed.

Submission by the Accounting Officer

5446) The Accounting Officer submitted that the amount of Kshs.85,576,025 relates to AIEs and imprests issued to court stations for CUC activities that included minor works and alterations and procurement of assets. Attached is the listing of AIEs and imprests issued totaling Kshs.85,576,025. The funds were not surrendered in the same FY 2018/19 as implementation for most of the works took long. These have since been surrendered and cleared. In the audited financial report for FY 2019/2020 the balance cleared; see attached financial statements extract.

5447) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Unsupported Prior Year Adjustments was satisfactory; and

(ii) The Committee marked the matter as resolved.

1656. Long Outstanding and Irregular Issuance of Imprests

5448) As disclosed under Note 8.8 to the financial statements, the statement of financial assets reflects imprest and advances balance amounting to Kshs.48,304,199 which ought to have been surrendered on or before 30 June, 2019 with some dating back to October, 2018. A review of imprest records revealed that a total of Kshs.497,000 was paid in respect of Service Week for the Environment and Land Court (ELC) that was held between 20 to 31 March, 2017 and 15 to 26 May, 2017 as indicated in the letter from the Office of the Registrar of Environment and Land Court of Kenya dated 12 September, 2017. It was however, not clear why the letter authorizing the event was signed six (6) months after the event had actually taken place.

5449) Further, the payment of Kshs.497,000 was issued to other participants other than the imprest holders contrary to Section 93(2)(3) of the Public Finance Management Regulations, 2015 that requires every person to be issued with their personal imprests to cater for travelling accommodation and incidental expenses. The officers issued with the imprests signed for it on 22 February, 2018, one (1) year after the event was held, while the actual payment voucher was processed on 5 March, 2019, two (2) years after the ELC service week was scheduled.

5450) In view of the above inconsistencies, the validity and value for money of the expenditure totalling Kshs.497,000 could not be ascertained as a proper charge to public funds.

Submission by the Accounting Officer

5451) The Accounting Officer submitted that the Registrar Environment and Land Court requested funding for service week activities from the project vide a concept note dated 16th February 2017. Upon confirmation of funds the activity was then approved by the accounting officer vide memo dated 13th April 2017.

5452) Among the payments that had been included in the request for funding were meal allowances to paid to staff who will assisting retrieving and cleaning case files for the exercise. The Judiciary Human Resource Policies and Procedure Manual H18.5 requires that for one to be paid meal allowance, one has to received prior approval of the activity by the Chief Registrar and payment shall be done later upon submission of a report of the exercise.

5453) The letter from the office of the Registrar Environment and Land Court of Kenya dated 12 September 2017 was therefore seeking for payment of meal allowance to staff having completed the activity. Its therefore not request for authorization of the activity. The Accounting officer approved the request for payment of meal allowance to staff in December 2017 and imprest issued in January 2018 vide warrant no. 3138177 which was then surrendered on 5th March 2019. The imprest was therefore issued in compliance with Section 93(2)(3) of the Public Finance Management Regulations, 2015 as it was issued to a specific imprest holder who applied it to pay meal allowances to staff who participated in the exercise.

5454) **Committee Observations and Findings**

(i) The Committee observed that the Accounting Officer failed to ensure the management of imprest transactions under the project is as per the provisions of Regulations 91-94 of the PFM (National Government) Regulations 2015;

(ii) The Committee however, observed that the explanation given by the Accounting Officer with regard to the Long Outstanding and Irregular Issuance of Imprests was satisfactory; and

(iii)The Committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5455) **Conclusion**

1657. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1658. Delayed Implementation of Projects

5456) As previously reported, there has been delay in projects implementation affecting almost all the projects. Physical verification of sampled projects during the month of September, 2019 reflects the following;

1658.1 Kwale Law Courts

5457) The construction of Kwale Law Courts contract No. JPIP/NCB/WORKS/38/20152016 was awarded on 28 October, 2016 at a contract sum of Kshs.389,998,592 with completion date of 19 November, 2018. The contract was further extended to 19 April, 2020. At the time of inspection in September, 2019, a total of Kshs.161,116,960 or 41% of the total cost of the contract had been paid but there was minimal work at the project site with only twenty (20) workers on site compared to the recommended one hundred (100) workers as reflected in the site minutes dated 14 August, 2019. Further, works that ought to have been completed like the borehole were still 50% done. Electrical works, roofing and substructure works were not complete. In addition, the wall to the fourth floor as at the end of October was not complete as per the site minutes of 14 August, 2019.

5458) In view of the slow progress of the project, it is unlikely that the contractor may finish the project within the stipulated contract period of 19 April, 2020 and project deadline date of 31 October, 2020.

Submission by the Accounting Officer

5459) The Accounting Officer submitted that it was true that the contractor has been slow in implementation of the project and the project manager had issued several warnings for failure to complete the project on time pursuant to invocation of Clause 57 of the General Conditions of Contract. The contractor is currently on site and project completion status is at 95% per attached copy of certified certificate of works. The project completion date has been extended to 15th June 2021.The progress of works indicates that the Project is likely to be completed before the new extended period.

The Committee discussed and made recommendations on this matter in its Report of 2017/2018

1658.2 Kibera Law Courts

5460) The construction of Kibera Law Courts contract No. JPIP/NCB/WORKS/01/20152016 was awarded on 15 January, 2016 at a contract sum of Kshs.137,649,134 with a completion date of 15 January, 2017. Information available indicates that there was a contract extension to 30 December, 2019. Cumulative paid certificates amounted to Kshs.101,922,532 being 74% of the cost of the project. Physical verification of the project reflects that there was minimal work at the site with only twenty (20) workers on site, despite complaints done as per the site minutes dated 6 August, 2019. The certificate of works done and paid indicated that works were almost complete in some sections of the building which was contrary to the site verification as detailed below:

i. Police cells that were to be demolished and refurbished including walling and roofing were yet to be done. Further, three other cells for hardcore criminals, juveniles and children courts were not completed.
ii. Magistrate Chambers 8, 9, and 10 were incomplete. Roofing and building of the wall of the library and multipurpose hall were also incomplete. The wooden Kadhis Court which was to be demolished and be rebuilt was yet to be constructed. Works had not started for three stair cases to Courts 5, 6, 7 or 8 and the public stair case that was to be demolished and reconstructed.
iii. The external works which included magistrate and public parking space was not done despite Kshs.2,571,070 payment for external works. In the circumstances, it was not possible to ascertain why payments were made for uncertified and works that had not started.

iv. Physical verification on lift installation reflects that the lift was yet to be installed and only the shaft had been installed. A total of Kshs.4,326,240 has been paid for the lift installation which was 60% of the total cost. No explanation has been provided for the anomaly.

5461) In view of the slow progress at the construction and the quantity of outstanding works, it is likely that the contractor may not finish the project within the extended contract period of 31 December, 2019.

Submission by the Accounting Officer

5462) The Accounting Officer submitted that the observations by the auditor on the slow progress of implementation are correct. Pursuant to the provisions of the General Conditions of Contract, Clause 57, the contract has been terminated. The project manager has recommended the encashment of the performance bond of Kshs. 13.7M and together with the retained amount totaling Kshs. 11.6M be used for payment of all outstanding works.A copy of the termination letter and project manager letter recommending bond encashment was attached for perusal by the Committee.

5463) Further, Clause 58 of the Conditions of Contract will be applied to recover any amounts not covered by the above actions.

<u>The Committee discussed and made recommendations on this matter in its Report of 2017/2018</u>

1659. Low Absorption of Project Funds

5464) According to the financing agreement for Credit No.5181 between the Republic of Kenya and the International Development Association (IDA), the closing date for withdrawal of the Project funds as per the financing agreement was 31 December, 2018 which but was later extended to 30 October, 2020. However, as at the time of the audit, only Kshs.7,336,387,623 or about 70% out of the total available funds under the Project of Kshs.10.5 billion had been withdrawn to finance activities.

5465) Further, a review of the payments records showed that cumulatively a total of Kshs.7,230,389,747 had been paid comprising of Kshs.3,157,191,596 and Kshs.4,073,198,152 on purchase of goods and services and construction costs respectively. The fund balance of Kshs.3,269,610,253 may not be adequate to finance the remainder of the project activities.

5466) In addition, it has not been clarified why the Management has not utilized the available Project funds to implement the outstanding Project activities and settle the pending claims. Further, considering that it has taken about seven (7) years to utilize approximately 70% of the funds available under the Project, it is unlikely that the remaining balance will be utilized within the remainder of the extended Project period which is less than two (2) years.

5467) As a result, the Project objectives and goals may not be achieved as planned owing to the low Project funds absorption.

Submission by the Accounting Officer

5468) The Accounting Officer submitted that at the time of the audit, only 70% of the funds had been drawn by the project leaving a balance of Kshs.3,269,610,253. This balance is adequate to finance the remainder of the project activities as per the attached workplan.

5469) To improve utilization of the remaining balance, the Judiciary and the development partner have agreed on completing the already existing contracts. The Judiciary and the project management unit has adopted close supervision of the contractors, frequent inspections of progress and timely payment of certified works which has led to an improved progress and increased absorption of funds to 90%.

5470) Further to ensure that projects are completed within the project term, the following actions have been taken:

1. The non-performing contractors have been terminated, works repackaged and retendered.
2. The World Bank has granted extension of the Project to 31st July 2021 where it is expected that the 11 ongoing projects that are approaching completion (Mombasa, Wajir, Olkalou, Kangema Phase 2, Kapenguria, Makueni, Maralal, Kwale, Kibera, Voi and Mukurweini) will have been completed.

   Out of the 30 construction works, 19 have been completed namely (Kitui, Kangema, Makindu, Nakuru, Kakamega, Nanyuki, Kajiado, Siaya, Garissa, Muhoroni (Tamu), Engineer, Kigumo, Vihiga, Nyamira, Oyugis, Chuka, Isiolo, Molo and Nyando). Attached are the completion certificates for the 19 completed works.
3. Under the project, no new projects are to be undertaken as we draw close to the end of the project term

5471) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the Low Absorption of Project Funds was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1660. Lack of a Fixed Assets Register

5472) As was reported in the previous year, the statement of receipts and payments for the year ended 30 June, 2018 reflected a cumulative expenditure on acquisition of non-financial assets of Kshs.1,710,120,609. It was however, noted that the Project did not maintain a fixed assets register making it difficult to verify the physical existence of assets or confirm the value, location, ownership and security of the assets acquired under the project over the years. Also, the Project financial statement did not include a summary of the fixed assets register as is required under the reporting template issued by the Public Sector Accounting Standards Board.

5473) No explanation was given for failure to maintain a fixed asset register.

Submission by the Accounting Officer

5474) The Accounting Officer submitted that the assets acquired under the project are owned by the Judiciary and therefore, are registered in the Judiciary's Fixed Assets Register. The project thus only maintains a listing of the assets that are acquired in any given Financial Year.

5475) The Judiciary's Fixed Asset Register contains JPIP funded assets and it was included in the Judiciary's Financial Statements for the FY 2018/19 in line with PSASB. However, the JPIP project maintains a schedule of all the assets procured. For the year 2018/2019 the cumulative cost of building and structures were KShs.2,260,340,181.

5476) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to the availability of the fixed asset register was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

55. ETHICS AND ANTI-CORRUPTION COMMISSION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1271

Mr. Twalib Mbarak, the Chief Executive Officer and the Accounting Officer Ethics & Anti-Corruption Commission (Vote 1271) appeared before the Committee 27th September, 2021 to adduce evidence on the audited financial statement for the Ethics & Anti-Corruption Commission (Vote 1271) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. Jackson Mue - Director Finance Services
2. Mr. Julius Munaya - Deputy Director Finance Services
3. Mr. Joel Mukua - Director Procurement
4. Mr. Echoni Mugo - Senior Accountant

And submitted as follows:

5477) **Unqualified Opinion**

1661. There were no material issues noted during the audit of the financial statements of the Commission.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1662. Valuation of Property, Plant and Equipment

5478) The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued therein.

1663. Lack of Title Deed

5479) As disclosed under Note 14 to the financial statements, included in property, plant and equipment is Kshs.1,543,382,916 being additions to land and building following the compulsory acquisition of the Integrity Centre Building. As previously reported, the National Land Commission was indicated to have transferred and vested the property in the Principal Secretary-National Treasury, to hold it in trust for the Ethics and Anti-Corruption Commission. During the audit, we could not ascertain whether the ownership documents were actually remitted to The National Treasury and a copy of the title deed has not been availed for audit review to signify the completion of the acquisition process. In absence of the title deed, it has not been possible to ascertain the ownership of the EACC land or whether the documents were transferred to The National Treasury.

5480) Further, available information indicates that the National Land Commission has not availed copies of the development plans (architectural, structural, electrical, mechanical and civil works drawings) to the Commission in respect of the property by the time of concluding the audit. According to the Ethics and Anti-Corruption Commission, this has hampered effective planning for the maintenance of essential electro-mechanical services and possible refurbishment and redevelopment of the Integrity Centre Building.

Submission by the Accounting Officer

5481) The Ethics and Anti-Corruption Commission (EACC) has since received a copy of the Title Deed from the National Land Commission (NLC) vide their letter Ref. NLC/GEN.VOL II/7 dated 11th December 2019.

5482) Further, the Commission received copies of the development plans on 11th December 2019 from NLC. It was noted the Plans were copies and therefore the Commission vide a letter Ref. EACC.1/1/1 (126) dated 16th March 2020 requested NLC to provide copies of the complete and approved development plans. NLC is expected to submit the drawings that meet the standard required by the Ministry of Transport, Infrastructure, Public Works, Housing and Urban Development.

5483) **Committee Observations and Findings**

(i) The Committee noted the copy of the Title Deed produced by the Accounting Officer; and
(ii) The Committee further observed that the Accounting Officer has not been able to obtain the original copies of the approved development plans from the National Land Commission.

5484) **Committee Recommendation**

The Committee resolved the matter in its Report of the financial year 2017/2018.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5485) **Conclusion**

1664. There were no material issues relating to effectiveness of internal controls, risk management and governance.

ETHICS AND ANTI-CORRUPTION COMMISSION - STAFF HOUSE MORTGAGE AND CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

5486) **Unqualified Opinion**

1665. There were no material issues noted during the audit of the financial statements of the Scheme.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5487) **Conclusion**

1666. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5488) **Conclusion**

1667. There were no material issues relating to effectiveness of internal controls, risk management and governance.

56. NATIONAL INTELLIGENCE SERVICE

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1281

5489) **Unqualified Opinion**

1668. There were no material issues noted during the audit of the financial statements of the Service.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5490) **Conclusion**

1669. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5491) **Conclusion**

1670. There were no material issues relating to effectiveness of internal controls, risk management and governance.

INTELLIGENCE SERVICE DEVELOPMENT FUND

REPORT ON THE FINANCIAL STATEMENTS

5492) **Unqualified Opinion**

1671. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5493) **Conclusion**

1672. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5494) **Conclusion**

1673. There were no material issues relating to effectiveness of internal controls, risk management and governance.

57. OFFICE OF DIRECTOR OF PUBLIC PROSECUTIONS

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1291

Mr. Noordin Haji, the Director of Public Prosecution and the Accounting Officer, Office of the Director of Public Prosecution (Vote 1291), appeared before the Committee on 6th October, 2021 to adduce evidence on the audited financial statement for the Office of the Director of Public Prosecution (Vote 1291) for the Financial Year 2018/2019. He was accompanied by the following officers:

1.	Ms. Lilian Obuo	- Chief of Staff
2.	Mr. Kennedy Ndwiga	- Deputy Chief Finance Officer
3.	Mr. Dorcas Oduor	- Secretary Public Prosecution
4.	Mr. Zuwena Zainab	- Senior Principal Accountant

And submitted as follows:-

5495) **Unqualified Opinion**

1674. There were no material issues noted during the audit of the financial statements of the Office.

1675. Budget Control and Performance

5496) The Office received exchequer receipts totalling Kshs.2, 222,421,558 against an approved budget of Kshs.2,966,776.00 resulting in a shortfall of Kshs.744,354,442 or 25%. Similarly, the Office incurred a total actual expenditure of Kshs,2,220,497.090 against the approved budget of Kshs.2,966,776,000 resulting to an under expenditure of KShs746,278,910 or 25%. The budget underfunding may have negatively affected the ability of the Office to effectively discharge its mandate.

Submission by the Accounting Officer

5497) The Accounting Officer submitted that the main reason for under expenditure in the year was lack of exchequer issuance by The National Treasury. The ODPP final exchequer request for the year amounted to Kshs.417,418,403 as per the enclosed exchequer requisition letter.

5498) Consequently, the ODPP was unable to settle several bills classified as either use of goods and services, transfer to other Government units or acquisition of assets. This resulted in the under expenditure above as observed by the Auditor. Another reason of under expenditure was on Compensation of Employees, a recruitment exercise that was not concluded by the end of the Year 2018/19 as planned.

5499) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to Budget Control and Performance was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

1676. Pending Bills

5500) Note 14 to the financial statements reflects pending bills totalling to Kshs.279,888,313. The bills were not paid during the year but were instead carried forward to the 2019/2020 financial year. Failure to settle bills in the year to which they relate adversely affects the subsequent year's provisions since the bills form the first charge to that year's budget provisions.

Submission by the Accounting Officer

5501) The pending bills was as a result of not receiving exchequer as requested from the National Treasury. The requisition was availed for perusal by the Committee. The pending bill of KShs.279,888,313.00 was fully paid in the Financial Year 2019/2020.

5502) **Committee Observations and Findings**

(i) The Committee observed that the explanation and documents, including list of payees, presented to the Committee by the Accounting Officer with regard to Pending Bills were satisfactory;

(ii) The Committee further noted that pending bills were fully settled in the financial year 2019/2020; and

(iii)The Committee therefore marked the matter as resolved.

5503) **Committee Recommendation**

Accounting Officer should at all times ensure that pending bills in any financial year are avoided at all cost. However, where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5504) **Conclusion**

1677. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1678. IT Service Continuity and IT Governance

5505) The Office did not have a Disaster Recovery Plan. It was also noted that the IT Steering Committee did not hold any meeting during the Financial Year 2018/2019. In the absence of a Disaster Recovery Plan and an active IT Steering Committee, the adequacy of the IT governance and ability of the Office to resume operations effectively after an emergency or disaster could not be confirmed.

Submission by the Accounting Officer

5506) Currently, all the digital assets at the ODPP are backed up at the ODPP Data Center situated at the ODPP Headquarters. Further, the Office is in the process of developing a Disaster Recovery Plan. This will involve coming up with a disaster recovery policy and establishing a physical offsite Disaster Recovery Data Center at the Prosecution Training Institute (PTI). The Office will also ensure that the IT Steering Committee is activated to ensure safety of the assets. In consultation with the ICT Authority, the Office will endevour to ensure that the recommended IT Governance documents are reviewed and presented to the Management for approval and implementation.

5507) The Disaster Recovery Plan has been captured in the Work Plan and budgeted for in the Financial Year 2021/2022.

5508) **Committee observations and findings**

(i) The Committee observed that the process of establishing disaster recovery plan was ongoing; and

(ii) The matter remained unresolved.

5509) **Committee Recommendation**

Within six (6) months upon tabling and adoption of this report, the Accounting Officer should ensure that the Office of the Director of Public Prosecution has a Disaster Recovery Plan in place and report to the National Assembly on the same.

58. OFFICE OF THE REGISTRAR OF POLITICAL PARTIES

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1311

Ms. Ann Nderitu, the Accounting Officer for the Office of the Registrar of Political Parties (Vote 1311) appeared before the Committee on 1st September, 2021 to adduce evidence on the Audited Financial Statements for the Office of the Registrar of Political Parties (Vote 1311) for the Financial Year 2018/2019. She was accompanied by the following officers:

1. CPA Florance Birya - Assistant Registrar
2. Mr. John Macharia - Assistant Accountant General
3. Mr. Joshua Kimulu - Chief Finance Officer
4. Mr. Bon Makolwel - Senior Legal Officer

And submitted as follows

5510) **Unqualified Opinion**

1679. There were no material issues noted during the audit of the financial statements of the Office.

Other Matter

1680. Pending Bills

5511) Note 12.1 to the financial statements reflects pending bills of Kshs.27,731,307 as at 30th June, 2019 out of which bills amounting to Kshs.4,968,825 relate to previous financial years. Failure to settle bills in the year to which they relate distorts the financial statements for the year and also affects the budgetary provisions for the subsequent year.

5512) Further, Annex 1 to the financial statements – analysis of pending accounts payable – did not include details on the dates the bills were contracted contrary to the requirements of the reporting template issued by the Public Sector Accounting Standards Board."

Submission by the Accounting Officer

5513) The Office had pending bills amounting to Kshs.27,731,307 which arose as a result of lack of exchequer. The pending bills were cleared as the first charge during the FY2019/20 in line with Treasury Circulars on clearance of pending bills. The lack of exchequer led to pending bills and their clearance during the FY2019/20 affected the implementation of planned activities. The clearance of the pending bills was communicated to the National Treasury through letter Ref. No. RPP/ORG/18 Vol. VII (2) dated 8th January 2020.

5514) **Committee Observations and Findings**

(i) The Committee observed that the pending bills were cleared as the first charge during the FY2019/20 in line with Treasury Circulars on clearance of pending bills; and

(ii) The Committee therefore marked the matter as resolved.

5515) **Committee Recommendation**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5516) **Conclusion**

1681. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1682. Inadequate Staffing

5517) The approved staff establishment provides for 209 members of staff for the office of the Registrar of Political Parties, However, only 66 members of staff were in post as at the time of audit resulting into a shortfall of 143 staff members across the various staff cadres. Further, the Registrar was on an acting capacity and the three (3) positions of Deputy Registrars provided for under section 33 (2) of Political Parties Act, 2011had not been filled.

5518) The staff shortages especially in key senior management positions may have negatively affected the ability of the Office to effectively deliver on its mandate."

Submission by the Accounting Officer

5519) The Accounting Officer submitted that it was true that during the year under review, the Registrar was in an acting capacity and the three (3) Assistant Registrars were not in place as stipulated in part IV section 33 (2) of the Political Parties Act, 2011 and the office was understaffed.

Current Status of recruitment of the Registrar and the three (3) Assistant Registrars

5520) The recruitment was completed and the President appointed the Registrar and two (2) Assistant Registrars vide Gazette Notice No. 183 while the appointment of one (1) Assistant Registrar is pending.

Current Status of Staffing at the ORPP

5521) The current approved organizational structure and staffing levels for the Office of the Registrar of Political Parties is 235 staff members. The office wrote letter Ref. No. RPP/ADM/1 VOL. III/ (11) dated 15th January, 2020 to the National Treasury requesting for authority to fill some identified critical vacant posts. The National Treasury through letter Ref. No. RES 1311/19/01/A/ (22) dated 3rd February 2020 and the Head of Public Service letter Ref. No. OP/CAB.4/24A dated 2nd March 2020 approved the office to fill the identified posts. The recruitment process was finalized in May 2021 and the officers have since been appointed and reported for duty.

5522) However, even after the recruitment of the additional staff members, the office is still grossly understaffed and the ORPP presence at the County level is minimal and the office projects to open 5 county offices every year for the next 5 years as per the current strategic plan.

5523) **Committee Observations and Findings**

(i) The Committee observed that the staffing establishment for the Office was 235 yet it had been operating with only 85 employees;

(ii) The Committee further observed that the Office wrote letter Ref. No. RPP/ADM/1 VOL. III/ (11) dated 15th January, 2020 to the National Treasury requesting for authority to fill some identified critical vacant posts;

(iii) The Committee also established that the National Treasury through letter Ref. No. RES 1311/19/01/A/ (22) dated 3rd February 2020 and the Head of Public Service letter Ref. No. OP/CAB.4/24A dated 2nd March 2020 had been issued approving the Office to fill the identified vacancies; and

(iv) The Committee therefore marked the matter as unresolved.

PARAGRAPHS 1683 TO 1685 ON POLITICAL PARTIES FUND WERE EXAMINED BY THE SPECIAL FUNDS ACCOUNTS COMMITTEE

59. WITNESS PROTECTION AGENCY

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1321

5524) **Unqualified Opinion**

1686. There were no material issues noted during the audit of the financial statements of the Agency.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5525) **Conclusion**

1687. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5526) **Conclusion**

1688. There were no material issues relating to effectiveness of internal controls, risk management and governance.

60. KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2011

5527) **Unqualified Opinion**

1689. There were no material issues noted during the audit of the financial statements of the Commission.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

5528) **Conclusion**

1690. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5529) **Conclusion**

1691. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS MORTGAGE AND CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

5530) **Unqualified Opinion**

1692. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5531) **Conclusion**

1693. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5532) **Conclusion**

1694. There were no material issues relating to effectiveness of internal controls, risk management and governance.

61. THE NATIONAL LAND COMMISSION

REPORT ON THE FINANCIAL REPORT FOR VOTE 2021

Ms. Kabale Arero Tache, the Accounting Officer for the National Land Commission (Vote 2021) appeared before the Committee on 20th May 2021 to adduce evidence on the Audited Financial Statements for the National Land Commission (Vote 2021) for the Financial Year 2018/2019. She was accompanied by the following officers:

1. Mr. Benard Cherutich - Ag. Director Finance & Accounting
2. CPA Daniel Mwakio - Principal Finance Officer

And submitted as follows:

Basis for Qualified Opinion

1695. Inaccuracies in the Financial Statements

1695.1 Discrepancies Between Financial Statements and IFMIS Figures

5533) The following discrepancies were noted between figures in the financial statements and figures in the Integrated Financial Management Information System (IFMIS) statements:-

Item Description	Balance as per IFMIS Statements (Kshs.)	Balance in the Financial Statements (Kshs.)	Difference (Kshs.)
Provisions	(6,846,521,646)	-	(6,846,521,646)
Opening Balance Reserves	5,622,553,360	-	5,622,553,360
Total	**(1,223,968,286)**		**(1,223,968,286)**

5534) Management has not provided an explanation for the variances. In the circumstances, the accuracy of the financial statements for the year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

5535) The Accounting Officer admitted that there were discrepancies in the Financial Statements but the same have since been reconciled and did not recur in the Financial Year 2019/2020.

5536) **Committee Observations and Findings**

(i) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
(ii) The Journals and reconciliations have since been provided and were reviewed together with 2019-2020 financial statements.

5537) **Committee Recommendation**

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1696. Accounts Receivable

5538) Note 11 to the financial statements reflects accounts receivable balance of Kshs.11,086,956 which includes Government imprests of Kshs.1,267,000 that have been outstanding for more than one (1) year. This is contrary to Section 93 (5) of the Public Finance Management (National Government) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station. Section 93(6) further provides that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.

5539) Consequently, it has not been possible to confirm the validity and recoverability of the Government imprest balance of Kshs.1,267,000.

Submission by the Accounting Officer

5540) The Accounting Officer submitted that these outstanding imprests have since been surrendered/recovered in full and confirmation by the Auditors were done in the subsequent year 2019/2020. The updated imprest register has been submitted to the Auditor for review.

5541) **Committee Observations and Findings**

(i) The outstanding imprest has since been surrendered in full and
(ii) The Committee marked the matter as resolved.

1697. Other Expenses - Payments on Behalf of Other Government Entities

5542) Included in other expenses balance of Ksh.22,150,772,986 reflected in the statement of receipts and payments and as further disclosed under Note 8 to the Financial Statements financial statements, are payments on behalf of other Government entities amounting to Ksh.12,423,333,959 out of which compensations amounting to Ksh.215,622,898 were paid without harmonized valuations from both the Commission and the Ministry of Lands and Physical Planning.

5543) The payments were made contrary to the directives communicated by the Principal Secretary, Ministry of Lands and Physical Planning vide a letter dated 1 August, 2018 which was a follow up to a meeting held on 31 July, 2018 and chaired by the Head of the Public Service. The letter provided that:

i. Any affected property whose value variance between The National Land Commission and the Ministry of Lands and Physical Planning figure was below 20% should be paid out.
ii. Variance between 21% - 49% to be revalued by a joint team from both the National Land Commission - NLC and the Ministry of Lands and Physical Planning - MOLPP with a view to harmonize the values.
iii. Any variance of 50% and above should be re-inspected by the joint team with a view to carrying out a revaluation.

5544) In the circumstances, the propriety of the payments totalling to Ksh.215,622,898 included in other expenses could not be confirmed.

Submission by the Accounting Officer

5545) The Accounting Officer submitted that harmonization process was recommended and all valuations were done jointly by NLC and MOLPP.

5546) **Committee Observations and Findings**

The valuation reports that were produced as evidence by the Accounting Officer were not signed and not authenticated and, therefore, not admissible.

5547) **Committee Recommendation**

1. **The land compensation amounting to Ksh.215,622,898 which was paid out without harmonized valuations from both the Commission and the Ministry of Lands and Physical Planning contrary to set guidelines was irregular and improper.**

2. **For lack of proper explanation from the National Land Commission, the Committee treats the amount of Ksh.215,622,898 as a loss to Kenyan taxpayers.**

3. **The Committee holds the Accounting Officer at the material time, Mr. Tom Aziz Chavangi, the then Chairman of the National Land Commission, Prof.**

Muhammad Swazuri and the then Director of Valuation and Taxation, Ms. Salome Munubi, directly liable for the loss of Ksh.215,622,898.

4. **Accordingly, the Committee recommends that Mr. Tom Aziz Chavangi, Prof. Muhammad Swazuri and Ms. Salome Munubi be barred permanently from holding public office in the Republic of Kenya.**

1698. Acquisition of Assets

5548) As disclosed under Note 7 to the financial statements, included in the acquisition of assets figure of Kshs.63,908,120 is an amount of Kshs.18,000,000 described as domestic public non-financial enterprises. Available information indicates that these were funds transferred to the Commission Staff Mortgage and Car Loan Fund managed by the National Bank of Kenya. However, the Commission did not prepare separate financial statements for the Fund for the year under review which is contrary to Section 24(10)(a) of the Public Finance Management Act, 2012 which requires the Accounting Officer to prepare separate financial statements for each fund in the form specified by the Public Sector Accounting Standards Board. In addition, the staff car and mortgage loan fund regulations and the contract between the National Bank of Kenya and the Commission were not availed for audit review.

5549) In the circumstances, the propriety of domestic public non-financial enterprise expenditure of Kshs.18,000,000 included under acquisition of assets could not be confirmed for the year ended 30 June, 2019.

Submission by the Accounting Officer

5550) The Accounting Officer submitted that the financial statement have been adjusted to reflect the correct position. Separate financial statements were prepared for Staff Car Loan and Staff Mortgage during the financial 2019/2020.

5551) **Committee Observations and Findings**

(i) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

(ii) The Commission did not prepare separate financial statements for the Fund for the year under review which is contrary to Section 24(10)(a) of the Public Finance Management Act, 2012 which requires the Accounting Officer to prepare separate financial statements for each fund in the form specified by the Public Sector Accounting Standards Board;

(iii) The staff car and mortgage loan fund regulations and the contract between the National Bank of Kenya and the Commission were not availed for audit review.

5552) **Committee Recommendation**

1) **The Accounting Officer National Land Commission must at all times ensure that he/she prepares separate financial statements for the Commission Staff Mortgage and Car Loan Fund for the year under review pursuant to Section 24(10) (a) of the Public Finance Management Act, 2012 which requires the Accounting Officer to prepare separate financial statements for each fund in the form specified by the Public Sector Accounting Standards Board.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1699. Accounts Payables-Deposits

5553) The statement of assets and liabilities reflects accounts payable – deposits balance of Kshs.13,511,623,477. However, the supporting schedule provided reflects accounts payable amounting to Kshs.12,693,925,376 resulting into an unexplained difference of Kshs.817,698,101. In addition, the reported accounts payable balance excludes staff welfare deductions that had accumulated to Kshs.3,671,000 as at 30 June, 2019. Further, a review of the accounts payable- deposits schedule provided for audit indicated long outstanding balances totaling Kshs.864,726,930 that are yet to be paid to the beneficiaries.

5554) No plausible reason has been provided for the delay in settlement of the liabilities. In the circumstances, the accuracy and completeness of the reported accounts payables-deposits balance of Kshs.13,511,623,477 could not be confirmed.

Submission by the Accounting Officer

a) The financial statement figure and the supporting documents have been reconciled and they are in agreement.
b) The Commission revised the payables by Kshs.3,671,000 and therefore absorbing the welfare deductions.
c) As regard to long outstanding payables of Kshs.864,726,930 the Management agrees with the audit observation and findings. However, the Commission has been having challenges in paying all the Persons Affected by Projects (PAPS) due to protracted court cases, succession cases/issues, lack of proper documentation and family disputes fighting over compensation among other salient issues.

5555) Kirigiti-Ngewa Road, Homa Bay-Mbita Road, Sotik-Ndanai-Gorgor Road, Bachuma Gate, Eldoret-Webuye Road, Kisumu-Nyamasaria Road, Nakuru Interchange, Turbi-Moyale Road, Nairobi Southern Bypass, Thika Road and Yatta Dam projects were inherited from Ministry of Lands and Physical Planning as they were undertaken prior to inception of NLC. The funds with unresolved cases such as family disputes, court cases, family disputes, pending succession and objections which may hinder payment were remitted in NLC account. There is a Joint Team Working Group that has been formed to unlock these payments which has been having series of meetings since October, 2019. The team has the following members: -

1. Representatives from National Land Commission;
2. Representatives from acquiring bodies such as KeNHA, KeRRA, KURA among others;
3. Representatives from Ministry of Land and Physical Planning; and
4. Representatives from Presidential Delivery Unit.

Committee Observations and Findings

5556) The Committee observed and found that:

(i) The unexplained difference of Kshs.817,698,101 has since been adjusted in the Financial Statement for Year 2019/2020;
(ii) The Bank account for staff welfare has been opened and the amount of Kshs.817,698,101 transferred that account;
(iii) The long outstanding cases totaling Kshs.864,726,930 are yet to be paid to the beneficiaries;
(iv) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012.

5557) **Committee Recommendation**

1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1700. Pending Bills

5558) The Commission reported pending bills totaling to Kshs.848,023,800 as at 30 June, 2019 which as disclosed at Annex 1 of the financial statements includes legal fees payable totalling Kshs.273,326,211. However, included in this amount of Kshs.273,326,211 was Kshs.242,600,000 payable to a lawyer but supporting documents on how the legal services were procured and invoices for the payable amount of Kshs.242,600,000 were not availed for audit verification.

5559) In the circumstances, the validity of pending legal fees totalling to Kshs.242,600,000 included in the pending bills balance of Kshs.848,023,800 as at 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

5560) The Accounting Officer admitted that the Commission reported pending bills totalling to Ksh.848,023,800 which included legal fee and staff gratuity of Ksh.273,326,211 and Ksh.519,000,000 respectively. The supporting documents are available for audit review.

Committee Observations and Findings

5561) The Committee observed and found that:

(i) The submitted documents had not been verified by the Office of the Auditor General;
(ii) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
(iii) The Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015.

5562) **Committee Recommendation**

1) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

1701. Summary of Fixed Assets Register

5563) As disclosed at Annex 3 of the financial statements, the summary of fixed assets register for the year ended 30 June, 2019 reflects additions during the year of Kshs.63,908,120. The additions however, exclude the cost of two (2) motor vehicles totalling to Kshs.11,377,034 financed under other expenses – administrative costs as disclosed under Note 8 to the financial statements.

5564) In the circumstances, the accuracy and completeness of the summary of fixed assets register for the year ended 30 June, 2019 could not be confirmed.

Submission by the Accounting Officer

5565) The Accounting Officer submitted that the additional vehicles (GKB 934 S and GKB 872 S) purchased during the period under review were erroneously omitted from summary of fixed assets register but captured in all other Commission records – list of Fixed Assets. The Summary of Fixed Assets has since been updated accordingly.

5566) **Committee Observations and Findings**

5567) **The Committee observed and found that:**

(i) The financial statements, the summary of fixed assets register for the year ended 30 June, 2019 reflects additions during the year of Kshs.63,908,120 which excluded the cost of two (2) motor vehicles totalling to Kshs.11,377,034 financed under other expenses – administrative.

(ii) The summary of fixed assets register for the year ended 30 June, 2019 was not accurate and complete.

5568) **Committee Recommendation**

1) **The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1702. Terms of Service for Directors

5569) During the Commission's plenary on 8 May, 2018, it was resolved that Directors' contracts be renewed for a period of five (5) years or upon attainment of retirement age of sixty (60) years whichever came earlier and all other staff be put on permanent and pensionable terms. However, as reflected under Minute No.5 of the Special Commission meeting held on 13 December, 2018, the Chairman of the Commission issued instructions to the Chief Executive Officer to convert terms for all staff on contract to permanent and pensionable with effect from 9 May, 2018.

5570) Consequently, the Directors' terms of service were converted to permanent and pensionable which is against the resolutions of the Commission's meeting held on 8 May, 2018.

Submission by the Accounting Officer

5571) The Directors of the Commission are all serving on contract and not permanent and pensionable terms. This is affirmed by the following;

i. Memo from the CEO to the Directors dated 4th December, 2018
ii. A follow-up memo on the same to the Directors by the Vice Chairperson dated 27th December, 2018
iii. The Court ruling on the same dated 24th May, 2019
iv. Sample copies of the current contracts for the Directors

Committee Observations and Findings

5572) The Committee observed and found that:

(i) The Commission resolved on 8 May, 2018 to renew the contracts period for Directors' for a period of five (5) years or upon attainment of retirement age of sixty (60) years whichever came earlier while all other staff are on permanent and pensionable terms.

(ii) Following the Special Commission meeting held on 13 December, 2018, the Chairman of the Commission issued instructions to the Chief Executive Officer to convert terms for all staff on contract to permanent and pensionable with effect from 9 May, 2018.

5573) **Committee Recommendation**

1) **The Accounting Officer should at all times ensure that he/she abides by the plenary resolutions of the Commission with regard to administration and management of staff.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5574) **Conclusion**

1703. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECT

SUPPORT TO THE ATTAINMENT OF VISION 2030 THROUGH DEVOLVED LAND REFORMS IN COMMUNITY LANDS OF KENYA PROJECT NO. GCP/KEN/085/EC (LETTER OF AGREEMENT 2018/001)

REPORT ON THE FINANCIAL STATEMENTS

5575) **Unqualified Opinion**

1704. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1705. Budget Control and Performance

5576) The statement of comparison of budget and actual amounts reflects an approved budget of Kshs.10,033,000 and actual receipts of Kshs.8,026,400 resulting to an under-funding of Kshs.2,006,600 or 20% of the budgeted amount. However, no payments have been recorded indicating that no activities took place during the year. Whereas the underfunding may affect the planned activities and projects which may have an adverse impact on service delivery for the public, failure to undertake any activity may have adversely affected the achievement of the planned activities which may have impacted negatively on service delivery. The funds, if not required could have been used by other entities instead of lying idle.

5577) No satisfactory explanations have been given why the management failed to render services as planned.

Submission by the Accounting Officer

5578) No submissions.

5579) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

5580) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1706. Compliance with the International Public Sector Accounting Standards Board

5581) A review of the financial statements presented for audit revealed that the management did not prepare the statement of comparison of budget and actual amounts in accordance with the template issued by the Public Sector Accounting Board of Kenya. Contrary to IPSAS 24, the statement of receipt and payments did not reflect, on the same basis, the same itemized balances and details. The operations may not have been aligned with the budget. Further the statement did not indicate the movement from the original budget, the adjustments to the final approved budget and no Notes for material deviations were included in the statements as required.

5582) The Management therefore is in breach of the law and failed to adhere to the standard documents as proscribed by the Board.

Submission by the Accounting Officer

5583) No submissions.

5584) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

5585) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

REPORT ON INTERNAL CONTROLS EFFECIVENESS, RISK MANAGEMENT AND GOVERNANCE

5586) **Conclusion**

1707. There were no material issues relating to effectiveness of internal controls, risk management and governance.

62. INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2031

Mr. Marjan Hussein, the Accounting Officer for the Independent Electoral and Boundaries Commission appeared before the Committee on 6th September, 2021 to adduce evidence on the Audited Financial Statements for the Independent Electoral and Boundaries Commission (2031) for the Financial Year 2018/2019. He was accompanied by the following officers:

1.	Mr. Obadiah Keitany	-	Ag. Chief Executive Officer/ Director Finance
2.	Ms. Fatuma Jama	-	Ag Finance Manager
3.	Mr. Patric Nyakira	-	Financial Accountant
4.	Mr. Michael Goa	-	DLPA
5.	Mr. Harley Mutisya	-	Director Supply Chain Management

And submitted as follows

Basis for Qualified Opinion

1708. Property, Plant and Equipment

5587) The statement of financial position reflects a balance of Kshs.3,163,667,000 for property, plant and equipment, which as disclosed under Note 17 to the financial statements includes a balance of Kshs.116,424,000 for buildings. However, the value of forty-one (41) constituency office block buildings has not been included in the amount disclosed in the financial statements. In addition, as disclosed under Note 17, the Commission is yet to obtain ownership documents for several parcels of land allocated to it by the National and County Governments, and whose values have similarly not been disclosed in the financial statements.

5588) Further, during the year under review, the Commission did not maintain a comprehensive register of land and buildings indicating registration number of each parcel of land or building and the terms under which it was held with reference to; conveyance, address, area, date of acquisition, disposal or major change in use, capital expenditure, lease hold terms, maintenance contracts and other pertinent management details as required under Regulation 143(2) of Public Finance Management (National Government) Regulations, 2015. In the circumstances, it has not been possible to ascertain the accuracy and completeness of the balance of Kshs.3,163,667,000 for property, plant and equipment included in the financial statements as at 30 June, 2019.

Submission by the Accounting Officer

Valuation of land and buildings

5589) The Commission acknowledges that the value of some of its buildings had not been included in the financial statements. This state of affairs is attributed to the fact that some of the parcels of land and buildings inherited from the defunct Electoral Commission of Kenya had no ownership and registration documents at the time of their handover to the Commission. Further, their value could not be ascertained due to lack of official hand over documents from the defunct Electoral Commission of Kenya.

5590) The Commission has initiated the following processes to ascertain the value of the lands and buildings; -

1. Initiated the process of valuing all the office blocks and warehouses in the county offices and constituencies in collaboration with the State Department for Public Works.
2. Initiated the process of title deeds acquisition for all parcel of lands allocated to it irrespective of whether the land is developed or not.
3. The Commission is collaborating with respective government agencies to obtain land allotment letters where the Commission has been allocated land. The processes above have been delayed by advent of the covid-19 pandemic.
4. The Commission has set aside funds to facilitate the registration of ownership documents**.**
5. Additional budget will be sought from the National Treasury to complete the registration process and to comprehensively undertake the valuation of all land and buildings. This will culminate in the development of a detailed register of Land and buildings as envisaged in section 143(2) of the regulations.

ii Register and ownership of Land and Buildings

5591) The Commission maintains an inventory of its parcels of land and buildings across the county consisting of 51 office blocks, 1 warehouse and 8 fabricated steel containers used as constituency offices. The Commission has also been allocated 81 parcels of lands out of which 60 have been developed for either office blocks or warehouses and 21 undeveloped. The lands and buildings are located in the National Government establishments and facilities.

5592) The Commission has also commenced the registration of these parcels of land and has so far obtained several allotment letters. Correspondences, allotment letters and titles demonstrating efforts by the Commission and ownership so far obtained are available for audit review.

iii Preparation of Assets and Liabilities Registers in the Public Sector

5593) In February 2020, The National Government, through the National Treasury Circular No. 5/2020 dated 25th February 2020, initiated the process of developing a comprehensive National Register of Assets and Liabilities in the Public Sector. The Commission will work closely with the National Government to ensure that all the Commission's Assets and Liabilities are incorporated in the National Register.

- National Treasury Circular No. 5/2020 dated 25th February, 2020 on the Preparation of Fixed Assets and Liabilities Registers in the Public Sector
- National Treasury Circular No.23 Of 2020 on the Preparation of Assets and Liabilities Registers in the Public Sector dated 14th October,2020.

5594) **Committee Observations and Findings**

(i) The Committee observed that the commission had commenced the registration and valuation process and obtained several allotment letters;

(ii) The Committee observed that the commission is working closely with the National Government to ensure that all the Commission's Assets and Liabilities are incorporated in the National Register.

5595) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Accounting Officer should give a comprehensive report on the status of the registration process and provide the updated Asset Register to the Auditor-General for audit review.

1709. Inventories

5596) The Commission held significant quantities of strategic and non-strategic election materials in various stores and warehouses located at its county and constituency offices across the country. However, the value of these inventories was not determined and disclosed in the financial statements. Consequently, the Commission did not bring to account a significant value of inventories that should have been reflected in the statement of financial position as at 30 June, 2019. Emphasis of Matter

Submission by the Accounting Officer

5597) Accuracy and completeness of inventory has been hampered by manual record keeping. The Commission has since developed an inventory management system that will enable proper recognition and disclosure of inventories in the financial statements.

5598) The Commission has also embarked on an elaborate disposal process that will culminate in the determination of the value of the inventory in the Commission warehouses. To this end the Accounting Officer has:

a) Appointed the Disposal Committee on 9th October 2019 as required by law to verify and process all disposal recommendations in liaison with the head of procurement function as prescribed.

b) The Disposal Committee collected and collated the information and developed disposal plans (F.O. 58) from all the stores and warehouses at both the Head office and the 47 counties.

c) The Disposal Committee engaged relevant experts from the relevant ministries to undertake the valuation to determine the real market prices and set the reserve prices.

d) The Disposal Committee developed a consolidated disposal recommendation approved by the accounting officer.

e) However, the disposal process was interrupted from March to October 2020 due to Covid-19 and the subsequent lockdown by the government. It was therefore impossible to undertake any disposal.

f) The Commission has since restarted the process and procured an auctioneer to dispose of obsolete, excess and scrap items. The process is expected to be completed in 4 months' time.

5599) **Committee Observations and Findings**

(i) The Committee observed that the commission was in breach of Section 161 of the Public Procurement and Asset Disposal Act 2015 but had initiated the process of developing an inventory system ;
(ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
(iii)The matter remains unresolved.

5600) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Accounting Officer should complete the inventory management system and invite the Auditor General to review the updated inventory management system.

1710. Contingent Liability

5601) I wish to draw attention to Note 27 to the financial statements under which the Commission has disclosed that it was a defendant or co-defendant in various election petition litigations and claims. According to the Commission, the outcome of 684 of these litigations and claims were yet to be determined as of 30 June, 2019. The Commission, consequently, did not factor in possible future obligations relating to legal fees on the pending court cases and claims in the financial statements for the year ended 30 June, 2019.

Submission by the Accounting Officer

5602) The Commission did not factor in the possible future obligations relating to legal fees on pending court cases due to the nature of the potential costs. It would not be possible to have a realistic estimate of the probable cost since the costs are determined upon conclusion of the cases. In addition, the decision of a lower court may be appealed to the higher courts resulting to additional costs. The Commission is of the view that the costs are reasonably ascertained when judgements are made.

5603) **Committee Observations and Findings**

(i) The Committee observed that the Commission did not factor in the possible future obligations relating to legal fees on pending court cases due to the nature of the potential costs.
(ii) The Committee was satisfied with the explanation.

5604) **Committee Recommendations**

The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.

1711. Account Payables

5605) The statement of financial position reflects a balance of Kshs.4,334,280,000 against pending bills as at 30 June, 2019 (2018 - Kshs.4,429,917,000). The Commission has explained that accumulation of the pending bills was due to failure by The National Treasury to release funds from the Exchequer for payments of the same. However, failure to settle bills during the year to which they relate distorts the financial statements for the year, and adversely affects the provisions for the subsequent year to which they have to be charged.

Submission by the Accounting Officer

5606) The Commission confirms having outstanding pending bills amounting to Kshs 4,334,280,000. These pending bills relate to the 2017 General and Fresh Presidential Elections. Further, the Commission confirms that inability to settle the pending bills has continued to adversely affect its operations as the budgetary provisions for subsequent periods are used to settle the pending bills as first charge.

5607) The pending bills were accrued due to lack of exchequer for payments, which had been planned for and processed up to the Internet Banking level. The Commission was consequently forced to reverse the payments from the Internet Banking payment system. Other pending bills were attributed to election petitions which were not anticipated and which are beyond the control of the Commission.

5608) The Commission has however made several efforts to secure the budgetary provision and the exchequer to facilitate settlement of the said bills in addition to settling them as first charge. The efforts include: -

1. Presented several times to Parliament (JLAC) on the need for allocation of additional funds to settle the pending bills
2. Secured several meetings with National Treasury to resolve pending bills issues
3. Carried out Internal validation of the pending bills to ascertain their eligibility
4. Payment of the bills as first charge
5. Made several requests to the National Treasury for additional funding.
6. Written to the office of the Attorney General for advisory on some pending bills
7. Appeared before the Multi-Agency Committee on Pending bills chaired by the National Treasury to secure funding for the bills.

8. Continuous engagement with relevant stakeholders including the National Treasury to facilitate funding.

5609) **The Committee observed and found that:**

(i) The Committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills, the contingency measures put in place to address the problem including petitioning the National Treasury for further funding.

(ii) The Committee further observed that the huge pending bills might hinder the effectiveness of service delivery by the commission or attract unnecessary legal costs.

5610) **The Committee recommended that:**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

1712. Uncollected Revenue

5611) Disclosed in Note 26 to the financial statements are contingent assets amounting to Kshs.59,854,000 (taxed costs) and Kshs.205,060,000 (capped costs), being court awarded costs relating to 2017 general election petitions. No satisfactory explanation has been provided for failure to collect promptly the taxed costs and for the delay in taxation of the capped costs.

Submission by the Accounting Officer

5612) The Commission has put in place mechanisms to recover costs awarded in its favor from the various petitioners. This includes: -

a) Filing bills of costs against persons adjudged by the Court to be liable to pay costs. This has however been hampered by the fact that taxation of costs in court takes long. Recovery of costs is dependent on successful securing of certificates from taxing officers in Court followed by appropriate execution proceedings.
b) the Commission contracted and expressly gave instructions to the law firms during engagement to file and collect the taxed amounts to recover costs awarded to the Commission by the courts and remit the same to the Commission.
c) The Commission has on several occasions reminded the law firms acting on behalf of the Commission of their obligation to recover and remit the costs awarded to the Commission as per the instruction letters issued to them.
d) The Commission and the advocates have adopted the following additional measures to recover the costs:- -

   Issuance of demand letters in respect of ascertained costs
   - Filing Bill of Costs where the amount of costs ordered is not ascertained.
   - Taxation and execution to recover the costs
e) The law firms have been updating the Commission on progress made in recovery of the costs.

f) Most of the law firms have made progress including tracing of the assets of the judgment debtors for purposes of execution, filing of the respective bills of costs and some have been taxed already and the actual process of recovering the costs has commenced while others have fixed dates at the court registry for assessment of the bills of costs.

g) In some matters, the courts have issued Notice to Show Cause to judgment debtors to pay the costs or be committed to civil jail. However, the recovery process has been hampered by:

  i. Lethargy in pursuing costs resulting from non -payment of pending bills since recovering costs needs funding and is expensive and without adequate payment of pending fees the firms are unable to pursue the same.

  ii. Some petitions were filed by indigent litigants acting as surrogates for politicians out to cushion themselves against award of costs. Recovery of costs thus becomes a challenging endeavor.

  iii. Where the Commission has been awarded costs, and the same has not been taxed, it cannot therefore, indicate the exact amounts awarded. It can only indicate that an order for costs has been made in its favor.

  iv. The process of execution is lengthy, and the Commission must obtain necessary documents from the court which include Certificate of Costs, Warrants of Attachment, Warrants of Arrests among others to enable it to execute lawfully. Obtaining this document requires time and funds and more often, the judgment debtors are afforded an opportunity in court to be heard, hence delaying the process.

  v. The whereabouts of some of the parties (judgment debtors) to whom the Commission is to recover the costs from is unknown hence difficult to serve them with the necessary documents. This requires tracing by way of investigations which in itself requires additional funding thereby making the process costly.

5613) The Commission will however do a report as required by Regulation 64(2) of the PFM Regulations, 2015, when it will become clear that all the efforts and mechanisms being put in place are not yielding the desired results.

5614) **The Committee observed and found that:**

(i) The Committee observed that the Accounting Officer gave the underlying reasons for failure in collecting the revenue and the contingency measures put in place to recover the awarded costs.

(ii) The Committee further noted the delays in recovering the awarded costs which might hinder the effectiveness and efficiency of the service delivery by the commission or lead to loss of revenue.

5615) **The Committee recommended that:**

Within three months of tabling and adoption of this report, the Accounting Officer should initiate the recovery of the revenue due and outstanding on the awarded costs and submit the report to the Auditor-General for audit review.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5616) **Conclusion**

1713. There were no material issues relating to effectiveness of internal controls, risk management and governance.

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION STAFF MORTGAGE AND CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

5617) **Unqualified Opinion**

1714. There were no material issues noted during the audit of the financial statements of the Scheme.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5618) **Conclusion**

1715. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5619) **Conclusion**

1716. There were no material issues relating to effectiveness of internal controls, risk management and governance.

63. PARLIAMENTARY SERVICE COMMISSION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2041

Mr. Jeremiah M. Nyengenye, the Chief Executive Officer and the Accounting Officer for Parliamentary Service (Vote 2041), appeared before the Committee on 4th October, 2021 to adduce evidence on the Audited Financial Statements for the National Assembly (Vote 2041) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. Peter Ngugi - Ag. Chief Accountant
2. Mr. Daniel Ngumbao - Deputy Director Finance
3. Mr. Anthony Ndubi - Ag. Principal Accountant
4. Mr. Anthony Njoroge - Director Litigation and Conveyance

And submitted as follows

Basis for Qualified Opinion

1717. Lack of Land Ownership Documents

5620) The Commission did not provide for audit review, ownership documents for the following properties owned and controlled by the Commission.

PROPERTY	L.R. NO.
1 Main Parliament Building	**209/54444 & 209/4991/13**
2 Centre for Parliamentary Studies and Training	**12836/9**
3 Juvenile Court House	**209/4316**
4 County Hall	**209/4335**
5 Protection House	**209/4314**

5621) Consequently, it was not possible to confirm the ownership of the assets held by the Commission and whether they are properly safeguarded.

Submission by the Accounting Officer

5622) The Parliamentary Service Commission is in control and/or possession of the above stated properties, as well as the Centre for Parliamentary Studies and Training – L.R 12836/9.

5623) The Legal ownership status of the above stated properties is as follows;

1. Main Parliament Buildings – L.R 209/4991/13 – Currently registered in the name of the Commissioner of Lands.
2. Parliament grounds – L.R 209/5444 – Currently registered in the name of the Commissioner of Lands.
3. Juvenile Court Building – L.R 209/4316 – Currently registered in the name of the Commissioner of lands

4. County Hall – L.R 209/4335
5. Protection House – L.R 209/4314 – Currently registered in the name of the Permanent Secretary, National Treasury of Kenya.
6. Centre for Parliamentary Studies and Training – L.R 12836/9 – Currently registered to the Parliamentary Service Commission however the title document is missing.

5624) Historically, government land/property was registered in the name of the Commissioner of Lands and individual title documents were not issued in respect of the same. When the government purchased land, as was the case with Protection House, the title was registered in the name of the Permanent Secretary in the National Treasury.

5625) The current legal and policy regime is for government agencies and constitutional commissions to acquire title documents for the land and buildings that they own. In this respect, the Commission has made the following efforts to secure the title documents to the aforementioned properties;

(A) Main Parliament Buildings, Parliament Grounds and Juvenile Court Building;

5626) By a letter reference DLC/ADM/1/2/SKW dated 31st December 2019 the Parliamentary Service Commission wrote to the Ag. Chief Executive Officer, National Land Commission requesting for the allocation and issuance of titles of the above stated properties in favour of the Parliamentary Service Commission.

5627) The Parliamentary Service Commission also sent a reminder letter reference DLC/ADM/1/2/MM dated 26th October, 2020. A further reminder letter reference no. DLC/ADM/1/2/ATN on the same subject was sent to the National Land Commission on 1st September, 2021. The Parliamentary Service Commission is yet to receive a response from the National Land Commission.

(B) Protection House

5628) By a letter reference DLC/CONT/1/117/MM dated 26th October 2020 the Parliamentary Service Commission wrote to the Principal Secretary, National Treasury, requesting for the release of the original title to Protection House for purposes of transferring the same in favour of the Commission. Transfer forms were annexed in the letter for execution by the National Treasury.

5629) A reminder letter reference no. DLC/ADM/1/2/ATN on the same subject was sent to the Principal Secretary, National Treasury on 1st September, 2021

No response has been received from the National Treasury.

(C) Centre for Parliamentary Studies and Training

5630) As indicated above, the property is registered in favour of the Parliamentary Service Commission, but the title document is missing and/or lost. The Commission wrote to the Chief Land Registrar on 31st December 2019 vide letter Ref:DLC/ADM/1/2/SKW requesting a replacement title and duly completed Form LRA-12 *Application for replacement certificate of Title/Lease on Loss/Destruction of a previous title*.

5631) A reminder letter reference no. DLC/ADM/1/2/ATN on the same subject was sent to the Chief Land Registrar, Ministry of Lands and Physical Planning on 1st September, 2021.

No response has been received from the Chief Land Registrar.

(D) County Hall

5632) As indicated above, the property is registered in favour of the Parliamentary Service Commission, but the title document is missing and/or lost. The Commission wrote to the Chief Land Registrar on 1st September, 2021 vide letter Ref no. DLC/ADM/1/2/ATN requesting an official search and replacement Title for the building.

No response has as yet been received from the Chief Land Registrar.

5633) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to Lack of Land Ownership Documents audit query was satisfactory; and
(ii) The Committee also observed that the Accounting Officer has made positive steps towards acquiring the requisite documents pertaining to the land parcels.

5634) **Committee Recommendation**

The Committee recommends that within six months of tabling and adoption of this report, the Accounting Officer submits a progress report to the Public Accounts Committee on the acquisition of the titles to the Parliament Buildings.

1718. Outstanding Imprests

5635) The statement of assets and liabilities reflects an account receivables balance of Kshs.12,314,993, which as disclosed in Note 10 to the financial statements, comprises outstanding imprests amounting to Kshs.10,955,076 and salary advances of Kshs.1,359,917. Imprests amounting to Kshs.5,973,958 were due for surrender on or before 30 June, 2019 but had not been accounted for or recovered from the imprest holders by December, 2019. Further, the outstanding imprests balance included long outstanding imprests amounting to Kshs.3,144,626 issued between 2005/2006 and 2017/2018 whose recoverability is doubtful.

5636) In addition, contrary to the provisions of Regulation 93 (5) and (6) of Public Finance Management (National Government) Regulations, 2015, no action has been taken to recover the full amounts of outstanding imprests from the salaries of defaulting staff members and officers.

Submission by the Accounting Officer

5637) The amount comprised of Kshs. 3,144,626.00 as balances rolling from previous financial periods occasioned by demise or exit from service by Members of Parliament and Staff. Actions have been taken to recover the said amount and currently only Kshs. 1,607,675.30 remains as outstanding. Court filling presently is in progress in our endeavour to recover the balance from the defaulters or from their estates in case of the deceased. Effectively, a total of Kshs.9,347,400.60 has been duly accounted for from the global figure of 10,955,075.90 by way of salary deductions, cash refunds or provision of supporting documents bringing the un-surrendered amount to Kshs.1,607,675.30 as illustrated above as per attached schedule.

5638) **Committee Observations and Findings**

(i) The Committee observed that the processes of recoveries is ongoing; and

(ii) The matter remained unresolved.

5639) **Committee Recommendation**

Within three months of the adoption of this report, the Accounting Officer must take action to recover the full amount from the salary of the defaulting officers with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.

1719. Unsupported County Offices Expenses

5640) The statement of receipts and payments reflects an expenditure of Kshs.4,790,859,872 in respect of use of goods and services, which as disclosed in Note 4 to the financial statements, includes other operating expenses of Kshs.1,078,164,465. Included in other operating expenses balance of Kshs.1,078,164,465, is an amount of Kshs.323,529,562 relating to expenditure on county services operations. The county services operations expenditure was mainly on procurement of office consumables, hire of transport, hire of meeting venues and meals. However, there were no work plans, calendar of activities or programmes to support the rationale for the expenditure.

5641) Further, no evidence was provided to show that cash books and bank reconciliation statements for the various bank accounts held by the sampled county offices were being maintained. This is contrary to Regulations 90 and 100 of the Public Finance Management (National Government) Regulations, 2015.

5642) In the absence of work plans, calendar of activities or programmes and payments that are supported by Electronic Tax Register (ETR) receipts, the validity and propriety of the expenditure of Kshs.323,529,562 could not be confirmed.

Submission by the Accounting officer

5643) The Senator's offices at the County level are managed under the Parliamentary Service Commission's Constituency Offices Regulations. Under the Regulations, the County Office Managers are the accounting officers of the County Office and responsible for preparing the cash books and bank reconciliations. The Commission has on various occasions undertaken the training of Managers of the County and Constituency Offices. However, appointment of these Managers and other Officers under them is a task usually undertaken by the respective Members of Parliament. While a majority of the Managers had complied with the requirement to maintain cashbooks in their respective Offices by the time of your audit process, it is possible that a few of the Managers may not have had the requisite skills and ability to carry out the task of maintaining the Cashbooks.

5644) The Commission did in the months of July and August 2019 undertake further training of Officers in all the County and Constituency Offices nationally in order to equip them will the necessary skills in running the offices efficiently and in line with the PFM, Act 2012. It is expected that going forward, issues such as the one raised on failure to maintain the cashbook and bank reconciliations will not be experienced in any of the said Offices.

5645) Further, the management of Parliamentary Service Commission and in particular the County Liaison Office have made it mandatory for all the County Offices to submit quarterly financial returns accompanied with their respective cash books and bank reconciliation statements. It is also noted that the County Managers have now been trained to ensure that as much a possible ETR receipts are obtained for all their expenditures, and that non-ETR receipts will only be permitted where it is absolutely impossible to obtain such ETR receipts.

5646) Further, the Parliamentary Service Commission has put measures in place for continual training targeted at the main officers who are assigned managerial responsibilities in the County Offices, coupled with close monitoring by the County Liaison Office. Further to the above interventions, the Accounting Officer wrote to all the County Office Managers on 1st March, 2021 through circular reference no. CIRC/CCCLO/11 reminding them of their obligations and instructing them to strictly adhere to the provisions of the Public Procurement and Asset Disposal Act of 2015 while procuring goods and services for their offices and to always use the list of registered suppliers for goods and services from any government recognized procuring entity (CDF, County Assembly or County Government) in their areas of jurisdictions.

5647) As a further extended measure to enforce compliance, the Accounting Officer wrote to all the Senators through circular reference no. CIRC/CLO/12 of 27th July, 2021, bringing to their attention the provisions of the Public Procurement Act 2015 and on the need to ensure that their County Offices managers strictly adhere to the Act, and to further ensure that the managers use the prequalified list of suppliers of goods and services from any recognized Government procuring entity (e.g. CDF, County / Sub-County Commissioner, County Government or County Assembly.

5648) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to Unsupported County Offices Expenses audit query was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

Other Matter

1720. Pending Account Payables (Bills)

5649) The Parliamentary Service Commission had pending account payables(bills) relating to construction of buildings, supply of goods and supply of services amounting to Kshs.1,041,561,624 and other pending payables due to third parties of Kshs.57,708,970 as disclosed in Notes 14.1 and 14.2 to the financial statements. These pending account payables (bills) all totalling Kshs.1,099,270,594 were not settled in 2018/2019 financial year but were instead carried forward to 2019/2020.

5650) The Commission has explained that non-payment of the pending bills was occasioned by failure of The National Treasury to release funds from the Exchequer for payments of the bills. However, failure to settle bills during the year in which they relate to adversely affects the provisions of the subsequent year to which they are charged.

Submission by the Accounting Officer

5651) The Commission reported pending bills of Kshs.1,041,561,624 as at 30th June, 2019. These bills were made up of Kshs.623,177,290.19 for development sub-vote whose exchequer requisition had been made to the National Treasury but had not been received by the end of the financial year and Kshs.418,384,332.81 for recurrent sub-vote. However, most of these pending bills have now been cleared within the current financial year, with the unpaid bills now standing at Kshs.4,107,003.50 comprising of bills that are not fully verified to meet the threshold for payment.

5652) It was the hope and expectation of the Parliamentary Service Commission that the National Treasury will be persuaded to be releasing Exchequer Issues on time in order to minimize pending bills in the future.

5653) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to pending bills query was satisfactory; and

(ii) **The Committee therefore marked the matter as resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1721. Construction of the Proposed Multi Storey Office Block

1721.1 Slow Progress of Works and Equipment Supplied by Sub-Contractors

5654) Included in the expenditure of Kshs. 774,622,977 relating to acquisition of assets as reflected in the statement of receipts and payments is an amount of Kshs. 551,522,647 being payments during the year for the construction of the multi storey office block. However, a verification visit to the site revealed slow progress of the interior fit-out and other sub-contracts works. As at January, 2020, the work 688 done under the interior fit-out sub-contract, was below 10% whereas 50% of the extended contract time had elapsed casting doubt as to whether the project would be completed by the revised completion date of 23 August, 2020. It was further observed that, the slow progress of the interior fit-out works had negatively affected progress of the data and voice sub-contractor who had already been paid Kshs.131,159,205 – representing 70% of the sub-contract sum. In the circumstances, the Commission is exposed to incurring penalties and compensation for the extension of the contract period.

Submission by the Accounting Officer

5655) The scope of the project includes interior fit –out works for which, a prime cost sum of KShs.400Million is provided in the Bills of Quantities (page 9/4-177). The procurement law requires that such works are tendered for competitively. The works were tendered twice unsuccessfully and the third tender has just been concluded and a sub-contract between the main contractor and the sub-contractor executed 23rd August 2019.

5656) The sub-contractor commenced the works in late 2019 with the laying of screeds to the floors and importation of aluminum framing, gypsum paneling boards and fiber infill materials. However, the sub-contractor wrote and informed the Project Manager that the outbreak of Covid 19 in China affected the delivery of the materials. Most of the materials were delivered in April 2020, and the works are about 60% complete.

5657) **Committee Observations and Findings**

The Committee observed that the matter was discussed and resolved during the examination of the State Department accounts for financial year 2017/18

1721.2 Payments Made in Foreign Currency (US Dollars)

5658) The Commission made payments totalling Kshs.466,968,119 (USD 4,585,637) in US dollars for certificates No. 22 to No. 34 in the financial year 2018/19. The payments in foreign currency were made without justification as to the materials provided in the bills of quantities for import and actually imported as permitted under Clause 25.2 of the contract document, which provided that payments in foreign currency would only relate to costs to the contractor of materials specifically imported (by express provisions in the contract bills of quantities or specifications). These payments were also contrary to the opinion of the Public Procurement Review Advisory Authority (PPRA) given on 16 November, 2017 advising against the blanket application of price adjustment at the rate of 80% USD and 20% Kenya shillings on the total contract price without justification as to the materials provided in the bills of quantities for import and actually imported.

5659) As at 30 June, 2019, additional cost as a result of exchange rate fluctuations for the payments made in US dollars amounted to Kshs.106,848,983. Evidence of recovery of the cost of exchange rate fluctuations amounting to Kshs.106,843,983 paid on certificates No. 18 to No. 34 in the financial years 2017/18 and 2018/19 was not provided for audit.

Submission by the Accounting Officer

5660) The contractor, in his tender indicated that he would require the contract sum to be paid in two portions, 80% in US dollars and 20% in Kenya Shillings. The contractor also indicated the exchange rate as that prevailing at the tender the date (I US Dollar at KShs.84.0125). After the first certificate was settled, the contractor complained that the payment was not done in accordance with the provisions of the contract. The interpretation of provision in the contract was referred to the Project Manager but the certificates continued to be settled in Kenya Shillings up to Certificate No 16. The Project Manager advised that certificates should be settled in two portions, 80% in US Dollars and 20% in Kenya Shillings.

5661) In June 2017, the contractor wrote to the Project Manager requesting the Parliamentary Service Commission to be declared to be in fundamental breach of the contract for not making payments in two portions of 80% in US dollars and 20% in Kenya shillings and threatened to terminate the contract. The Project Manager wrote to the Commission and advised that not paying as stipulated in the contract, the Commission was in fundamental breach of the contract and the contractor had a right to terminate the contract.

5662) The Commission sought the advice of the Public Procurement Regulatory Authority but the advisory from PPRA was communicated to the Commission in November 2017. Due to delays in implementation of the project and the threatened suspension of the project, the Commission agreed to settle the certificates as advised by the Project Manager on Condition that the PSC will recover any overpayments made to the contractor after the advisory by PPRA.

5663) The Project Manager prepared Certificate No 17 (foreign currency for certificates No 1 to 15) and Certificate No 39 (certificate No 16), for the amount the Project Manager and the Contractor perceived to have been underpaid and the certificates which followed were prepared and submitted in two portions 80% in US Dollars and 20% in Kenya Shillings. Following the advisory of the PPRA on the matter of payments, the Commission continued to pursue the payment in two portions and at the matter was concluded in a meeting of the Commission held with the Principal Secretary, State Department of Public Works on 13th February 2020. (See attached letter by the Principal Secretary Ref No PW/A/200/204/87 dated 18th February 2020).

5664) Following the above letter an amount of KShs.397,485,020.24 was recovered from the Contractor in Certificate No 48.

5665) **Committee Observations and Findings**

The Accounting Officer submitted that the matter was discussed during the examination of the State Department accounts for financial year 2017/18

1721.3 Variation of Contract

5666) Parliamentary Service Commission's tender committee in its meeting held on 2 October, 2018 approved a variation of the multi storey office block project contract sum of Kshs.5,893,646,850. However, the total variation of Kshs.1,514,514,206 representing a 27% variation to the adjusted contract sum of Kshs.5,577,752,849 (after excluding the cost of security system installations sub-contract which was discontinued to be pursued under a different project) was above the 25% limit allowed under Section 139 (4) of Public Procurement and Asset Disposal Act, 2015.

Submission by the Accounting Officer

5667) The management Tender Committee of the Commission approved the variation presented in the table below.

Table 1: **Summary of Variations Approved**

Item	Description	Amount (KShs)
1	Preliminaries	16,923,425.00
2	Reinforced concrete works – Tower	219,473,415.22
3	Sub-contracts	219,384,402.66
4	Security installations	(315,894,000)
5	Time Distribution	(15,300,000)
6	Provisional Sums (Interior fit out)	366,114,633.30
	Underpinning	(40,000.00)
7	Site instructions (works done)	45,986,855.85
8	Site instructions (works not done)	161,971,474.00
9	Impact of payment of part of contract in US Dollars	500,000,000.00
10	**Total Approved**	**1,198,620,206.03**

5668) At the time of approval of the variation, the PSC was stilling pursuing the payment of a portion the contract in US Dollars and a provision was made of KShs.500Million. This matter has been resolved and the final decision is that the contract will be paid in Kenya shillings. The variation amount is therefore reduced to KShs.698, 620,206.03. The percentage variation after adjustment to do away with the provision will therefore be 12.53%.

5669) The Project Manager submitted a Financial Appraisal for the project. The financial appraisal was submitted to the Management Tender Committee, which adjudicated on the matter and approved the appraisal. (The breakdown of the appraisal has already been submitted to your office). It was important to note that whenever prime costs and provisional sums are provided in a contract of this nature, the prime costs and provisional sums are usually tendered to facilitate price competition. Since the Interior fit-out works were provided for in the contract as a provisional sum, there was no variation within the meaning of the Public Procurement and Asset Disposal Act as the actual contracted sum for the interior fit-out was higher than the Kshs.400 million provisional sum.

5670) The Management Tender Committee gave approval for KShs.1,198Million but not KShs.1,275Million as indicated in the Audit letter. From the approval minutes of the Tender Committee there was an item amounting to KShs.77Million which was not approved by the Management Tender Committee. Using this amount and the reduced contract sum after subtracting the amount for the security system, the percentage variation becomes 21.5%.

5671) **Committee Observations and Findings**

The Accounting Officer submitted that the matter was discussed during the examination of the State Department accounts for financial year 2017/18

1721.4 Retention

5672) Clause 26.1 of the conditions of contract between the Commission and the contractor provides for retention from each payment due to the contractor of the 689 proportion stated in the appendix to the conditions of the contract until completion of the whole works. Section IV of the Appendix provides for retention of 10% of the certified value. However, evidence of retention against an amount of Kshs.353,484,284 paid to the contractor for certificates No.28 to No. 34 was not provided for audit review.

Submission by the Accounting Officer

5673) Under the contract, starting from the 1St Certificate 10% of each interim certificate is retained until the total amount retained reaches 5% of the contract sum, that is, the limit of retention of the project is 5% of the contract sum. At the time the Audit was undertaken, the PSC had retained KShs.294,628,883.99 as at certificate No. 17 which is approximately 5% of the project contract sum of KShs.5,893,646,849.67. The Consultant and the Project Manager have been requested to continue the retentions until the limit of retention to 5% of the revised contract sum is reached.

5674) The limit of retention for the contract is 5% of the contract and it has been observed that after the contract sum was revised following approval of Appraisal No 2, which varied the contract sum, the Project Manager and the Consultant did not factor in the retention. This has been brought to the attention of the Project Manager and the consultant. Since this matter was noted, no additional certificates have been processed. The retention will therefore be effected in the next certificates until the limit is reached.

5675) **Committee Observations and Findings**

The Accounting Officer submitted that the matter was discussed during the examination of the State Department accounts for financial year 2017/18

1721.5 Interest on Delayed Payments

5676) The interest on delayed payments increased to Kshs.50,744,562 from Kshs.37,190,901 reported in the financial year 2017/18. Interest on delayed payments constitutes nugatory expenditure.

Submission by the Accounting Officer

5677) The delays in payments have mainly been occasioned by the delays by the Treasury to release development funds after requisition. The major delays have been experienced at the commencement of the Financial Years where first payments are delayed up to October or November.

5678) **Committee Observations and Findings**

The Accounting Officer submitted that the matter was discussed during the examination of the State Department accounts for financial year 2017/18.

1722. Operating Bank Account without Approval

5679) The Commission opened and operated a bank account number 01141201980300 – Parliamentary Service Commission - Standing Imprest at Cooperative Bank of Kenya. However, approval from The National Treasury to operate the account as required under Section 28 (1) of Public Finance Management, 2012 was not provided for audit review.

Submission by the Accounting Officer

5680) It is true that the Parliamentary Service Commission opened and operated bank account no. 01141201980300 for Standing Imprest at the Co-operative Bank of Kenya, Parliament Road Branch. This account was however opened and operationalized a few years back when Parliament had only one approved Vote, and which was subsequently disaggregated into three distinct votes. Efforts to trace the authority issued by the National Treasury for the opening of the account have not yielded any fruits so far, but the Clerk Senate / Secretary, Parliamentary Service Commission recently wrote to the National Treasury requesting for Post Facto authority for the opening and operationalizing of the said bank account.

5681) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to Operating Bank Account without Approval audit query was satisfactory;

(ii) The Committee observed that the Accounting Officer is pursuing post facto authority for the opening and operationalization of the bank account; and

(iii) **The Committee therefore marked the matter as resolved.**

5682) **Committee Recommendation**

The Committee recommends that within three months of tabling and adoption of this report, the Accounting Officer to submit a status report to the Auditor General on the operationalization of the Bank Account.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5683) **Conclusion**

1723. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PARLIAMENTARY CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

5684) **Unqualified Opinion**

1724. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5685) **Conclusion**

1725. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5686) **Conclusion**

1726. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PARLIAMENTARY MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

5687) **Unqualified Opinion**

1727. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5688) **Conclusion**

1728. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5689) **Conclusion**

1729. There were no material issues relating to effectiveness of internal controls, risk management and governance.

64. NATIONAL ASSEMBLY

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2042

Mr. Michael Sialai, the Accounting Officer and the Clerk Kenya National Assembly (Vote 2042), appeared before the Committee on 4th October, 2021 to adduce evidence on the Audited Financial Statements for the National Assembly (Vote 2042) for the Financial Year 2018/2019. He was accompanied by the following officers:

1.	Ms. Serah Kioko	- Deputy Clerk
2.	Mr. Irungu Kigundu	- Director Finance
3.	Mr. Peter A. Meikoki	- DDPM
4.	Mr. Kennedy Malinda	- Chief Procurement Officer
5.	Mr. Anthony Njoroge	- Director Litigation and Conveyance

5690) **Unqualified Opinion**

1730. There were no material issues noted during the audit of the financial statements of the National Assembly.

Other Matter

1731. Pending Bills

5691) Note 10 to the financial statements indicate that the National Assembly had pending bills totalling Kshs.209,828,666 as at 30 June, 2019, which were not settled in 2018/2019 financial year. Out of this amount, bills totaling Kshs.121,494,384 were brought forward from the previous years. Management has explained that the bills were unpaid due to the Integrated Financial Management Information System (IFMIS) challenges, missing supporting documents and delayed Exchequer releases.

5692) Failure to settle bills during the year in which they relate, adversely affects the provisions of the subsequent year to which they are charged.

Submission by the Accounting Officer

5693) The amounts were pending bills for goods and services supplied and rendered, allowances to various Members of Parliament and Staff during the year but remained unpaid by closure of financial year.

5694) This was occasioned by: -

(i) Processing challenges caused by IFMIS connectivity towards the end of the financial year such that he could not complete all the payment processes to the end for remittance to Central Bank through Internet Banking.

(ii) The exchequer requisitions were done but received on the last day of June yet there were systems breakdowns.

(iii) The available cash balances at the closure of financial year were surrendered to Treasury which could have been utilized to retire the bills instead.

(iv) Parliament was experiencing some transitional issues during that year after the separation of the Vote into Votes 2041 and 2042 with some being shared services initially procured under the one vote but required to be paid under the separate votes.

(v) Bills for procurements of air tickets and hotel accommodation were submitted when the IFMIS System was already closed and commitments could not be reversed to clear them.

(vi) Late submission and receiving of invoices by Suppliers and Service Providers towards closure of Financial Year.

5695) However, the position has since changed with Kshs.106,303,382.70 of the total pending bills having been retired during the 2019/2020 and 2020/2021 financial years with balance of Kshs.43,835,509.30 yet to be settled due to lack of enough supporting documents or the amounts are disputed. Further an amount of Ksh.58,736,319.40 remains unpayable after thorough reconciliation and verification of procurement and accounting records. All efforts are being made to retire any pending bill that meets the threshold of payment.

5696) **Committee Observations and Findings**

(iii) The Committee observed that the explanation given by the Accounting Officer with regard to pending bills was satisfactory; And

(iv) The Committee marked the matter as resolved.

5697) **Committee Recommendation**

Accounting Officers must at all times ensure that pending bills are treated as a first charge in the subsequent financial year approved budget and prepare estimates of expenditure and revenues of the entity in conformity with the strategic plan pursuant to the provisions of section 68(2) (h) of the Public Finance Management Act, 2012;

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5698) **Conclusion**

1732. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5699) **Conclusion**

1733. There were no material issues relating to effectiveness of internal controls, risk management and governance.

65. JUDICIAL SERVICE COMMISSION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2051

Ms. Anne Amadi, the Accounting Officer for the Judiciary (Vote 2051) appeared before the committee on 7th June, 2021 to adduce evidence on the Audited Financial Statements for the Judiciary (Vote 1261) for the Financial Year 2018/2019. She was accompanied by the following officers:

1. Ms. Sharon Mwanyuli - Senior Resident Magistrate
2. Ms. Nancy Kanyago - Projects Manager
3. Mr. Wycliffe Wanga - Accounts Controller

And submitted as follows:

5700) **Unqualified Opinion**

1734. There were no material issues noted during the audit of the financial statements of the Commission.

Other Matter

1735. Unreconciled Outstanding Imprest

5701) The statement of assets and liabilities reflects outstanding imprest of Kshs.4,006,000 as at 30 June, 2019. However, the trial balance reflects a balance of Kshs.886,000 against outstanding imprests resulting in a variance of Kshs.3,120,000 which Management attributed to an unexplained error which is yet to be corrected. Under the circumstances, the accuracy of the outstanding imprest balance could not be confirmed.

Submission by the Accounting Officer

5702) No submissions.

5703) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

5704) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide all supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

1736. Budget Control and Performance

1736.1 Under Collection of Receipts

5705) The summary statement of appropriation - recurrent and development combined shows that the Commission budgeted to collect receipts amounting to Kshs.408,800,000. However, actual receipts amounted to Kshs.394,424,200 resulting in a shortfall of Kshs.14,375,800 or 4% of the budgeted amount, which was attributed to reduction of Exchequer issues by The National Treasury. Failure to receive Kshs.14,375,800 implies that the Commission did not undertake some of the planned activities during the year under review.

Submission by the Accounting Officer

5706) No submissions.

5707) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

5708) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide all supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

1736.2 Under Expenditure

5709) Similarly, the summary statement of appropriation - recurrent and development combined shows that the Commission had budgeted to spend Kshs.408,800,000. However, actual payments amounted to Kshs.380,896,781 resulting in under expenditure of Kshs.27,903,219 or 7%. The under expenditure mainly occurred under use of goods and services and acquisition of assets. The under absorption of Kshs.27,903,219 implies that the Commission planned activities were not realized impacting negatively on service delivery to the citizens of Kenya.

Submission by the Accounting Officer

5710) No submissions.

5711) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

5712) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide all supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

1737. Pending Bills

5713) Disclosed in the financial statements under Note 26 are pending bills amounting to Kshs.1,373,566 relating to supply of goods and services. Management has not provided reasons for non-payment of the bills. Had the pending bills been paid and the expenditure charged to the relevant items in the accounts, the statement of receipts and payments would have reported a surplus of Kshs.12,153,853 instead of the Kshs.13,527,419 now reported. Failure to settle bills in the year to which they relate adversely affects the following year's provision to which they form first charge..

Submission by the Accounting Officer

5714) No submissions.

5715) Committee Observations and Findings

The Committee observed that the Accounting Officer did not respond to this paragraph.

5716) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide all supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5717) **Conclusion**

1738. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1739. Lack of a Risk Management Policy

5718) The Commission does not have a risk management policy. Failure to develop a risk policy means that the Commission does not have a framework for management of risk and hence it is not possible to identify, assess and control risk. As a result, it is not possible to define the Commission's risk appetite and set the risk tolerance levels by identifying boundaries against unacceptable exposure to risk.

Submission by the Accounting Officer

5719) No submissions.

5720) **Committee Observations and Findings**

5721) The Committee observed that the Accounting Officer did not respond to this paragraph.

5722) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide all supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

1740. Lack of a Disaster Recovery Strategy

5723) The Commission lacks a disaster recovery strategy and backups stored in a secure off-site location. Data recovery strategy plan secures the Commission's ability to provide basic services. The plan is also designed to place the Commission in a sound and sustainable financial condition as quickly as possible to avoid the risk of loss of data which would otherwise adversely affect service delivery.

Submission by the Accounting Officer

5724) No submissions.

5725) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

5726) **Committee Recommendations**

1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide all supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

66. COMMISSION ON REVENUE ALLOCATION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2061

Dr. Moses Sichei, the Chief Executive Officer and the Secretary to Commission on Revenue Allocation (Vote 2061), appeared before the committee on 3rd January 2021 to adduce evidence on the Audited Financial Statements for the Commission on Revenue Allocation (Vote 2061)) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Dr. Jane Kiringai	- Chairperson, CRA
2. Mr. Peter Gachuba	- Commissioner, CRA
3. Ms. Angela Kariuki	- Director Corporate Services
4. Ms. Maureen Junge	- Finance Manager

And made submissions as follows:

5727) **Unqualified Opinion**

1741. There were no material issues noted during the audit of the financial statements of the Commission.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5728) **Conclusion**

1742. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1743. Risk Management

5729) In spite of the Commission having an Enterprise Risk Management Framework, the risk assessment had not been performed, neither had the corporate risk register been developed. In the circumstances, it could not be confirmed that the Commission had developed a system of risk management and internal control that builds robust business operations as required under Section 165 of Public Finance Management Regulations, 2015.

Submission by the Accountng Officer

5730) The Accounting Officer submitted that the has since developed a policy on the Enterprise Risk Management Framework and the risk assessment has been performed The Commission has also developed a corporate risk register to improve the internal controls built on robust business operations as required under Section 165 of Public Finance Management Regulations, 2015. Copies of the Risk management Policy and risk register were availed to the Committee.

5731) **Committee Observations and Findings**

(i) The Committee observed and found that the Commission had put in place all the necessary risk management measures to improve internal control systems for better and robusr business operations of the Commission; and

(ii) **The Committee therefore marked the matter as resolved.**

COMMISSION ON REVENUE ALLOCATION STAFF MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

5732) **Unqualified Opinion**

1744. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5733) **Conclusion**

1745. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5734) **Conclusion**

1746. There were no material issues relating to effectiveness of internal controls, risk management and governance.

67. PUBLIC SERVICE COMMISSION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2071

Mr. Simon K. Rotich, the Accounting Officer for the Public Service Commission (Vote 2071), appeared before the committee on 10th August 2021 to adduce evidence on the Audited Financial Statements for the Public Service Commission (Vote 2071) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. Remmy N. Mulati – Deputy Commission secretary
2. Mr. Simiyu Njalale – Assistant Director
3. Mr. Patrick K. Malakweu – Deputy Director, SCOM
4. Mr. Julius O. Muturi – Head of Accounting Unit
5. Mr. Rebecca J. Kiplagat – PSC Commission

And submitted as follows:

5735) **Unqualified Opinion**

1747. There were no material issues noted during the audit of the financial statements of the Commission.

1748. Pending Bills

5736) As disclosed under Notes. 17.1 to the financial statements, the Commission has pending bills totaling Kshs.13,958,800 as at 30 June, 20219, that were not settled during the year 2018/2019 but were instead carried forward to 2019/2020. Failure to settle bills during the year in which they relate to, adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

5737) The Accounting Officer submitted that at the close of financial year 2018/2019 on 30th June 2019 the Commission had pending bills totaling to Kshs.13,958,800. The pending bills arose from payments that had been processed up to the final stage in the IFMIS System, however, the National Treasury was not able to honor the exchequer requests to facilitate the payment.

5738) This led to cancellation of the bills from the IFMIS System and Internet Banking to facilitate fresh processing in the new financial year 2019/2020. The pending bills were settled in full in the subsequent financial year (2019/2020). Copies of Payment Vouchers in support of payment of pending bills were availed for perusal by the Committee. Also a Copy of letter to National Treasury confirming payment and full settlement of Pending bills were availed for perusal by the Committee.

5739) **Committee Observations and Findings**

The Committee marked the matter as resolved.

5740) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

1749. Budgetary Control and Performance

5741) The Public Service commission had a development vote budget of Kshs.60,799,433 under acquisition of assets. However, actual expenditure amounted to Kshs.47,353,962 resulting to an under-absorption of Kshs.13,445,471 or 22% of the voted amount. The budget under absorption is an indication that all planned activities were not undertaken during the year.

Submission by the Accounting Officer

5742) The Accounting Officer submitted that it was true the Commission had under absorption of 22 per cent in development vote. The under absorption resulted from lack of exchequer release for payment of processed payments for the refurbishment works. The payments had been processed and the absorption was at 99.4 percent.

5743) Public Service Commission had placed an exchequer request no.20712018-201900021957 which was not funded to facilitate payment. However, these payments were reversed in the system when National Treasury did not fund leading to under absorption of 22% that resulted to pending bills.

5744) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Budgetary Control and Performance was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

5745) **Committee Recommendations**

The Accounting Officer must at all times ensure that he/she prepares and initiates all pending payments to feed into the IFMIS system and payments processed and executed in the system on time.

1750. Non-Compliance with Public Procurement and Asset Disposal Act, 2015 – Insurance Costs

5746) The statement of receipts and payment reflects figure of Kshs.426,345,328 under use of goods and services. Included in this figure is Kshs.86,018,429 relating to insurance costs that includes Kshs.2,930,327 paid to an insurance Company in respect of group personal accident cover for the staff, covering the period from 1 October, 2018 to 30September, 2019. However, the insurance contract used in support of the payment had expired on 30 June, 2018. The contract was renewed on existing basis without subjecting the extension through the procurement process in line with Section 139(2) (a) of the Public Procurement and Asset Disposal Act, 2015 which requires the Accounting Officer to approve changes to a contract upon recommendation by the Evaluation Committee. Though Management provided a letter of extension, minutes of the Evaluation Committee were not provided for audit review.

Submission by the Accounting Officer

5747) The Commission renewed insurance cover for Ksh.2,930,327.40/= towards provision of Group Personal Accident /WIBA cover for the staff after the expiry covering the period from 1 October, 2017 to 30th September, 2018. The Commission regrets that it had only provided the letter of extension and had not provided the copy of the minutes of the evaluation Committee during the audit in line with Section 139(2) (a) of the Public Procurement and Asset Disposal Act, 2015 which requires the Accounting Officer to approve changes to a contract upon recommendation by the Evaluation Committee.

5748) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Insurance Cost was persuasive; and

(ii) **The Committee therefore marked the matter as resolved.**

5749) **Committee Recommendations**

The Accounting Officer must at all times ensure that he/she prepares and initiates all pending payments to service providers and any other payments to feed into the IFMIS system and have the payments processed and executed in the system on time.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5750) **Conclusion**

1751. There were no material issues relating to effectiveness of internal controls, risk management and governance.

68. SALARIES AND REMUNERATION COMMISSION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2081

5751) **Unqualified Opinion**

1752. There were no material issues noted during the audit of the financial statements of the Commission.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5752) **Conclusion**

1753. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5753) **Conclusion**

1754. There were no material issues relating to effectiveness of internal controls, risk management and governance

69. TEACHERS SERVICE COMMISSION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2091

Dr. Nancy Macharia, the Accounting Officer for the Teachers Service Commission (Vote 2091) appeared before the committee on 14th July 2021 to adduce evidence on the Audited Financial Statements for the Teachers Service Commission (Vote 2091) for the Financial Year 2018/2019. She was accompanied by the following officers:

1. Mr. Cheptumo Ayabei	- Director Finance and Accounts
2. Mr. Mr. Ibrahim Gedi Mumin	- Director Administrative Services
3. Mr. Allan Sitima	- Legal Officer
4. Mr. Lawrence Oimo Oganga	- Head of Procurement

Basis for Qualified Opinion

1755. Stores and Cash Losses

5754) The statement of assets and liabilities reflects an accounts receivables balance of Kshs.376,686,000 which includes stores and cash losses amounting to Kshs.10,487,516 and Kshs.2,928,398 respectively, which as previously reported occurred between the years 1988 and 2000. The matter was investigated and the Director of Public Prosecutions directed the suspect to be charged with the offence of stealing by person employed in the Public Service contrary to Section 280 of the Penal Code. A review of the matter during the year under review indicates that the Court's ruling on 12 March, 2019 determined that the accused had a case to answer. The next defense hearing date set for 12 June, 2019 was adjourned to 23 December, 2019 and later to 31 January, 2020. With the matter not having been finalized as at the date of this report and in absence of adequate provisions for the losses, it has not been possible to confirm the recoverability of Kshs.10,487,516 and Kshs.2,928,398 being the value of stores and cash losses respectively.

Submission by the Accounting Officer

5755) The Accounting Officer submitted as follows:

Loss of Stores Ksh. 10,487,516

5756) These were losses occasioned by theft of stores which the Commission followed up and the suspect was charged at the Kibera Law Courts vide O.B. NO.46/3/6/2013 with the offense of stealing by person employed in public service contrary to section 280 of the penal code. Though the Commission does not have control over the progress of the case, our legal officer is following up on the matter and has been able to ascertain from the court records that;

a) The Court heard all prosecution's witnesses and finalized proceedings on 14/2/2019;
b) The prosecution and defence rendered their respective submissions before Court on 4/3/2019; and

c) The Court's ruling on 12//3/2019 determined the Accused has a case to answer and set the defense hearing date for 12//6/2019;

Cash Losses Ksh. 2,928,398

5757) These were cash losses occurred in the period 1988-2000. The Commission has been following up the matter the Courts for several years culminating with the Investigating Officer's letter Ref: CID/IB/SEC/4/3/1/A/VOL.III/64 dated 5/9/2014 indicating the insurmountable challenges in charging the culprits. The Commission recommended and sought for the National Treasury's approval for write off the debt vide letter Ref: TSC/FIN/32/VOL.IX/34 dated 9/ 6/17, followed with a reminder Ref: TSC/FIN/60/VOL.IV/109 dated 30/ 1/18 before recognizing the write off in our books.

5758) The National Treasury vide their letter Ref: AG/3/149/Vol.1/ (47) dated 6th March, 2018 responded and advised on the procedure to be followed when writing off losses and the Commission vide letter Ref:TSC/FIN/60/VOL.V/5 dated 11th July, 2018 followed the outlined procedure and attached additional evidence as requested. The National Treasury vide letter Ref: AG/3/149/Vol.1/ (54) dated 13th February, 2019 gave further guidelines that the Commission needed to follow in order to conclude the matter and the Commission has followed these new guidelines, re-submitted the request vide letter Ref: TSC/FIN/60/VOL.V/20 dated 5th March, 2019 and is awaiting conclusion of this matter.

5759) The Commission introduced a policy which requires that teachers' monthly salary be paid through bank accounts and currently there are no cash losses since all teachers are paid by Electronic Funds Transfer through their respective bank accounts.

Refund of PAYE Ksh. 128,392,939

5760) The Commission, as per Regulation 148(6) of the PFM Act Regulations, 2015 for the National Government sought approval for the write off of the un-recoverable balance of Kshs.68,802,494.55 from the National Treasury vide letter Ref:TSC/FIN/32/VOL.IX/34 dated 9/6/17, followed with a reminder Ref: TSC/FIN/60/VOL.IV/109 dated 30/ 1/18.

5761) The National Treasury reviewed documents submitted by the Commission and vide letter Ref: AG/3/149/Vol.1/ (56) dated 19th March, 2019 approved the write off and concluded this matter after concurring that the threshold and procedure required by section 69(2) and Regulation 148(6) of the PFM Act (2012) had been met.

5762) **Committee Observations and Findings**

The Committee observed that the matter was discussed in the report of 2017/2018 was marked as resolved.

1756. Property, Plant and Equipment

5763) As reported in the previous years, the property, plant and equipment schedule balance of Kshs.4,190,401,146 under Part XIV - other important disclosures, includes Kshs.88,096 being the residual value of one (1) motor vehicle procured in 2004 at a cost of Kshs.2,085,869. The vehicle had earlier been taken and auctioned after auctioneers obtained a duplicate log book No.20063490279 from Kenya Revenue Authority.

5764) Although the Commission repossessed the vehicle, the case has been pending before a court of law. A review of the matter in 2018/19 financial year indicated that, the case was set for hearing on 3 October, 2019 but was adjourned to 20 February, 2020. Further updates on the case had not been presented for audit review as at the date of this report.

5765) In the circumstances, it has not been possible to confirm that the property, plant and equipment schedule balance of Kshs.4,190,401,146 as at 30 June, 2019 is fairly stated.

Submission by the Accounting Officer

5766) The Accounting Officer submitted that revaluation of the two (2) Motor Vehicles whose net book value was Ksh.226,194 by the Ministry of Public Works & Infrastructure is as follows:

(i) GK A 814X- Nissan pick/up whose log book which got lost has since been replaced by NTSA. The vehicle was revalued at Ksh. 445,000 on 19/3/2018.

(ii) This second vehicle registration KAR 246L- Nissan Urvan was repossessed from auctioneers. The original log book was submitted to KRA on 30/6/2011 to verify the rightful owner upon their request vide letter ref: KRA/RTD/TRANS-DUP/10027/0-11 dated 13/6/2011. The case is ready for hearing after parties exchanged all pleadings.

5767) However, crucial documents filed by the Plaintiff were missing from the Court file and consequently, on 24th September, 2014 the Court directed that the documents be replaced forthwith. The Commission (Defendant) prepared an application to dismiss the suit for want of prosecution which was heard on 22/11/2018 when the plaintiff objected on the ground that the failure for the matter to proceed was due to the file missing from the registry. The case was therefore not dismissed and has been scheduled for hearing on 3rd October, 2019.

5768) **Committee Observations and Findings**

The Committee observed that the matter was discussed during the Examination of the Accounts of the Commission for Financial Year 2017/18 and tissue was marked as resolved.

Other Matter

1757. Pending Bills

5769) Part XIV to the financial statements - other important disclosures reflects pending bills of Kshs.248,258,976 as at 30 June, 2019. Management has not provided reasons for non-payment of the bills. Had the accounts been settled and charged to the statement of receipts and payments for the year, it would have reflected a deficit of Kshs.217,927,976 instead of the reported surplus of Kshs.30,331,000. Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year.

Submission by the Accounting Officer

5770) The Accounting Officer submitted that it was true that the Commission had pending bills of Kshs.248,258,976 as at 30 June, 2019 arising from delayed exchequer releases. These bills have since been cleared in the year 2019/2020. The schedule of the bills is as below.

Pending Bills Schedule 2018/2019

	Balance b/f	**Additions for the period**	**Paid during the year**	**Balance c/f**
	FY 2017/2018			**FY 2018/2019**
Description	**(Kshs)**	**(Kshs)**	**(Kshs**	**(Kshs)**
Construction of buildings	**-**	**-**	**-**	**-**
Construction of civil works	**-**	**75,192,339**	**-**	**75,192,339**
Supply of goods	**110,331,516**	**137,107,511**	**110,331,516**	**137,107,511**
Supply of services	**37,712,837**	**35,959,126**	**37,712,837**	**35,959,126**
Total	**148,044,353**	**248,258,976**	**148,044,353**	**248,258,976**

5771) **The Committee observations and Findings**

The Committee observed and found that the pending bills formed the first charge of the financial year 2019/2020 and were therefore cleared.

5772) **Committee Recommendations**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

1758. Budget Under Absorption

5773) The Commission had a development budget of Kshs.40 million. However, only Kshs.16,639,000 or 42% was utilized for development activities. Management has however, explained that the under absorption of development funds was caused by cancellation of contracts for construction of County offices at Bomet and Kilifi. Further, although the overall recurrent budget, as reflected in the summary statement of appropriation - recurrent and development combined appears to have been 100% absorbed, the Commission underutilized the budget on use of goods and services and acquisition of assets by 22% and 59% respectively. The under absorption of the approved budget is an indication of activities not implemented by the Commission leading to non-provision of services to the citizens.

Submission by the Accounting Officer

5774) The Accounting Officer submitted that it was true the Commission had under absorption of 22 per cent in development vote. The under absorption of development funds was caused by cancellation of contracts for construction of County offices at Bomet and Kilifi. The Commission has taken measures to ensure payments are processed effected in good time ensure the absorption was at 100% percent.

5775) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Budgetary Control and Performance was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1759. Budget Over Expenditure

5776) The summary statement of appropriation - recurrent and development combined, reflects a final budget of Kshs.239,152,328,000 for compensation of employees against an actual expenditure of Kshs.239,773,469,000 resulting to an over-expenditure of Kshs.621,141,000 which Management attributed to payments made on behalf of State Department for Vocational Training not refunded. Similarly, the statement reflects a nil budget for Secondary Education Quality Improvement Project expenses against an actual expenditure of Kshs.9,790,000 thereby resulting to an over-expenditure of Kshs.9,790,000. No explanation was provided as to why the unbudgeted payments were made.

5777) In the circumstances, the Commission operated over and above the approved budget for the year contrary to the Appropriation Act, 2018, the Supplementary Appropriation Act, 2018 and Section 43 (b) of Public Finance Management Regulations, 2015 which provides that an Accounting Officer shall ensure that public funds entrusted to their care are applied for purposes for only which they were intended and appropriated by the National Assembly.

No submission was made with regard to Budget Over Expenditure.

5778) **Committee Recommendations**

The Accounting Officer must at all times ensure that he/she adheres to the budget and workplans developed by the Commission and that all Commission expenditure is in line with the planned and budgeted for items.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5779) **Conclusion**

1760. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECT

SECONDARY EDUCATION QUALITY IMPROVEMENT PROJECT (IDA CREDIT NO. 6138-KE)

REPORT ON THE FINANCIAL STATEMENTS

5780) **Unqualified Opinion**

1761. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1762. Budget Control and Performance

5781) The statement of comparative budget and actual amounts indicate that the Project received an amount of Kshs.142,282,520 or 99 % of the approved budget of Kshs.143,000,000. However, the Project utilized only Kshs.14,802,924 on purchase of goods and services resulting into under expenditure of Kshs.128,197,076 or 90% of the budget.

5782) Management has attributed the low absorption to initial lack of budgetary provision at the beginning of the year thus hindering carrying out the Project activities as per the annual workplans.

Submission by the Accounting Officer

5783) No submissions.

5784) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

5785) **Committee Recommendations**

1) **The Committee reprimands the Accounting Officer for failing to comply with the parliamentary committee's request to respond to Auditor-General's report and appear before the committee for deliberations contrary to The National Assembly standing order No. 191.**
2) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
3) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5786) **Conclusion**

1763. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5787) **Conclusion**

1764. There were no material issues relating to effectiveness of internal controls, risk management and governance.

70. NATIONAL POLICE SERVICE COMMISSION

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2101

Mr. Joseph V. Onyango, the Principal Secretary and Accounting Officer for National Police Service Commission (Vote 2101), appeared before the Committee on 27th September, 2021 to adduce evidence on the audited financial statement for the National Police Service Commission (Vote 2101) for the Financial Year 2018/2019. He was accompanied by the following officers:

1. Mr. J. M. Wambugu - Deputy Chief Executive Officer (Finance & Adm)
2. Mr. Kimani Gathoni - Manager Supply Chain Management
3. Ms. Mary Achola - Manager Internal Audit
4. Mr. Philip Kerio - Senior Accountant
5. Mr. E. Nyaga - Manager

And submitted as follows:

5788) **Unqualified Opinion**

1765. There were no material issues noted during the audit of the financial statements of the Commission.

Other Matter

1766. Pending Bills

5789) Note 10 to the financial statements reflect pending accounts payable of Kshs.8,621,436 as at 30 June, 2019. Management has explained that the bills were unpaid due to closure of the Integrated Financial Management Information System (IFMIS), missing supporting documents and inadequate budgetary provision.

Submission by the Accounting Officer

5790)

S/No	Year	Amount Reported as Pending
1	2018/2019	Kshs. 8,621,436/-

The current status of the Pending Bills is as follows:-

5791) The following payments have already been settled.

S/No	Supplier	Amount
1.	Motor Scope	Kshs. 701,800.00
2.	Motor Scope	Kshs. 887,504.00
3.	Samo Agencies	Kshs. 205,958.00
4.	Simba Corporation	Kshs. 136,972.70
5.	Total Kenya	Kshs. 284,512.00
6.	AAR – Outstanding Debt	Kshs. 206,706.00
7.	Madara Motor Services	Kshs. 342,780.00
8.	Mustard Group	Kshs. 32,400.00
9.	Koba Waters Ltd.	Kshs. 87,240.00
10.	Alpine Coolers Ltd.	Kshs. 85,385.00
11.	JKUAT Enterprise	Kshs. 738,347.8
TOTAL		**Kshs. 3,709,605.50**

Attached are Copies of the paid vouchers forwarded for verification.

5792) The following payment vouchers have not been paid for failure by the supplier to forward supporting documents.

S/No	Supplier	Amount
1.	Fine Tune Motors	Kshs. 324,220.00
2.	Fine Tune Motors	Kshs. 370,726.70
3.	Fine Tune Motors	Kshs. 122,711.75
4.	Fine Tune Motors	Kshs. 82,128.00
5.	Fine Tune Motors	Kshs. 134,038.00
6.	Fine Tune Motors	Kshs. 253,831.00
7.	Fine Tune Motors	Kshs. 92,238.00
8.	Fine Tune Motors	Kshs. 58,928.00
9.	Fine Tune Motors	Kshs. 59,508.00
10.	Fine Tune Motors	Kshs. 174,116.00
11.	Fine Tune Motors	Kshs. 109,156.00
12.	The Copy Cat	Kshs. 153,259.00
TOTAL		**Kshs. 1,934,850.45**

5793) The following payment voucher was inadvertently included in the list of pending bills while it was actually retention fees recovered from the contractor who was carrying out refurbishment works at the Counselling Centre.

S/No	Supplier	Amount
1.	Tecaiyo Africa Ltd.	Kshs. 874,883.60
TOTAL		**Kshs. 874,883.60**

Supporting documents have been attached for verification.

5794) The following payment voucher is undergoing investigation by the Criminal Investigation Department, hence it has remained unsettled.

S/No	Supplier	Amount
1.	Duke Masters Investment	**Kshs. 527,560.00**

5795) **Committee Observations and Findings**

(i) The Committee observed that the State Department settled Kshs.3,709,605.50 of the pending bills:

(ii) The Committee further observed that Kshs.1,934,850.45 remains due to lack of support documents; and

(iii)The matter therefore remains unresolved.

5796) **Committee Recommendation**

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5797) **Conclusion**

1767. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5798) **Conclusion**

1768. There were no material issues relating to effectiveness of internal controls, risk management and governance.

71. OFFICE OF THE CONTROLLER OF BUDGET

REPORT ON THE FINANCIAL STATEMENTS VOTE 2121

Dr. Margaret Nyakang'o, the Controller of Budget and the Accounting Officer for Office of the Controller of Budget (Vote 2121) appeared before the Committee on 3rd August 2021 to adduce evidence on the Audited Financial Statements for Office of the Controller of Budget (Vote 2121) for the Financial Year 2018/2019. She was accompanied by the following officers:

Basis for Qualified Opinion

1769. Non- Disclosure of Ford Foundation Grant

5799) Examination of records maintained by the Office of the Controller of Budget revealed that the Office received a grant of Kshs.10,085,000 from Ford Foundation being financial support for capacity building. As reflected in the deposit cash book, out of the received grant of Kshs.10,085,000, an amount of Kshs.5,712,290 had been spent as at 30 June, 2019. However, the grant received and the expenditure of Kshs.5,712,290 were not reported in the statement of receipts and payments for the year.

5800) In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submission by the Accounting Officer

5801) The Accounting Officer submitted that the matter was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued thereof.

1770. Misclassification of Mortgage Funds

5802) The statement of receipts and payments reflects an expenditure of Kshs.54,513,795 relating to acquisition of assets. However, the amount includes a balance of Kshs.50,000,000 received during the year to finance and operationalize the Office of the Controller of Budget mortgage scheme. The amount was expensed and classified as acquisition of assets and also wrongly included in the summary of fixed assets register under Annex 4 to the financial statements.

5803) In the circumstances, the accuracy of the statement of receipts and payments and Annex 4 to the financial statements could not be confirmed.

Submission by the Accounting Officer

5804) The Accounting Officer submitted that the matter was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued thereof.

5805) **Conclusion**

1771. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1772. Composition of the Audit Committee

5806) The membership of the audit committee of the Office of the Controller of Budget comprised five (5) heads of departments and was chaired by the director in charge of research and planning. The composition of the committee was, therefore, contrary to Section 74 of Public Finance Management Act, 2012, since all committee members are employees of the organization. The committee does not therefore have an independent member or a representative of The National Treasury as required. In view of the improper composition of the audit committee, it could not be confirmed that internal controls, risk management and governance were effective.

Submission by the Accounting Officer

5807) The Accounting Officer concurred with the observation of the OAG on the composition of the then Audit Committee which did not have an independent member or representative from the National Treasury. The Committee had been constituted since 2013 as part of good governance practices, prior to the National Treasury & Planning guidelines on constituting Audit committees for National Government entities (Gazette on 15th April, 2016).

5808) The OCOB had requested for funding during the FY 2018/19 to recruit members of the Audit Committee as per the guidelines. The allocation was finally granted in the subsequent FY 2019/20 hence delay in the recruitment process.

5809) The OCOB has now constituted an Audit Committee in accordance with the guidelines, solving the concern raised by OAG.

5810) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to Composition of the Audit Committee was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

5811) **Committee Recommendations**

Accounting Officers must at all times ensure that they have appropriate arrangements in place for conducting internal audit according to the guidelines of the Accounting Standards Board pursuant to the provisions of section 73(1)(a) of the Public Finance Management Act, 2012.

Other Committee Concerns

5812) The Committee raised concerns over approvals by the Controller of Budget for request made by the County Governments seeking authorisation to withdraw public funds without establishing whether the funds are used prudently. Members observed that some counties have poor Human Resource systems to an extent that payments are made through Mpeza and on cash basis.

5813) The Controller of Budget informed the Committee that the Office has since established due diligence process whereby, among many other things, no approval is made without the specific county uploading its budget in the IFIMIs.

72. COMMISSION ON ADMINISTRATIVE JUSTICE

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2131

5814) **Unqualified Opinion**

1773. There were no material issues noted during the audit of the financial statements of the Commission.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5815) **Conclusion**

1774. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5816) **Conclusion**

1775. There were no material issues relating to effectiveness of internal controls, risk management and governance.

73. NATIONAL GENDER & EQUALITY COMMISSION

REPORT ON THE FINANCIAL STATEMENTS – VOTE 2141

Ms. Betty Sungura Nyabuto, the Chief Executive Officer and Accounting Officer for National Gender & Equality Commission (Vote 2141), appeared before the Committee on 27th September, 2021 to adduce evidence on the audited financial statement for the for National Gender & Equality Commission (Vote 2141) for the Financial Year 2018/2019. She was accompanied by the following officers:

1. Dr. Joyce M. Mutinda - Chairperson to the Commission
2. Mr. Paul kuria - Director Programmes
3. Mr. MMathew Musau - Head of Procurement
4. Mr. Joseph Ndiku - ADFPA
5. Ms. Beatrice Cherono - Senior Accountant

And submitted as follows

5817) **Conclusion**

1776. There were no material issues noted during the audit of the financial statements of the Commission.

Other Matter

1777. Pending Bills

5818) As disclosed under Notes 13 to the financial statements, the Commission had pending bills totalling Kshs.2,882,138 as at 30 June, 2019 that were not settled during the year 2018/2019 but were instead carried forward to 2019/2020. Failure to settle bills during the year in which they relate to adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

5819) The Accounting Officer submitted that the pending bills of Kshs.2,882,138.00 were all settled in the FY 2019/2020 as per the advice given by the National Treasury. Inclusion of the bills in FY 2019/2020 did not adversely affect operations because there was scale down of activity being measures instituted to curb spread of Covid-19 which resulted in scale down of activities including staff working from home.

5820) The following supporting documents were availed to the Committee:

a) List of the pending bills indicating the payment references and dates of payment
b) Letter ref. NGEC/CS/TREASURY/003 VOL. II (9) of 6th December, 2019 appraising the National Treasury on settlement of pending bills

5821) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regards to Pending Bills was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

5822) **Committee Recommendation**

Accounting Officers should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5823) **Conclusion**

1778. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5824) **Conclusion**

1779. There were no material issues relating to effectiveness of internal controls, risk management and governance.

74. INDEPENDENT POLICING OVERSIGHT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2151

5825) **Unqualified Opinion**

1780. There were no material issues noted during the audit of the financial statements of the Authority.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5826) **Conclusion**

1781. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5827) **Conclusion**

1782. There were no material issues relating to effectiveness of internal controls, risk management and governance.

SIGNATURE:..DATE: 17/5/2022

HON. JAMES OPIYO WANDAYI, CBS, MP

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