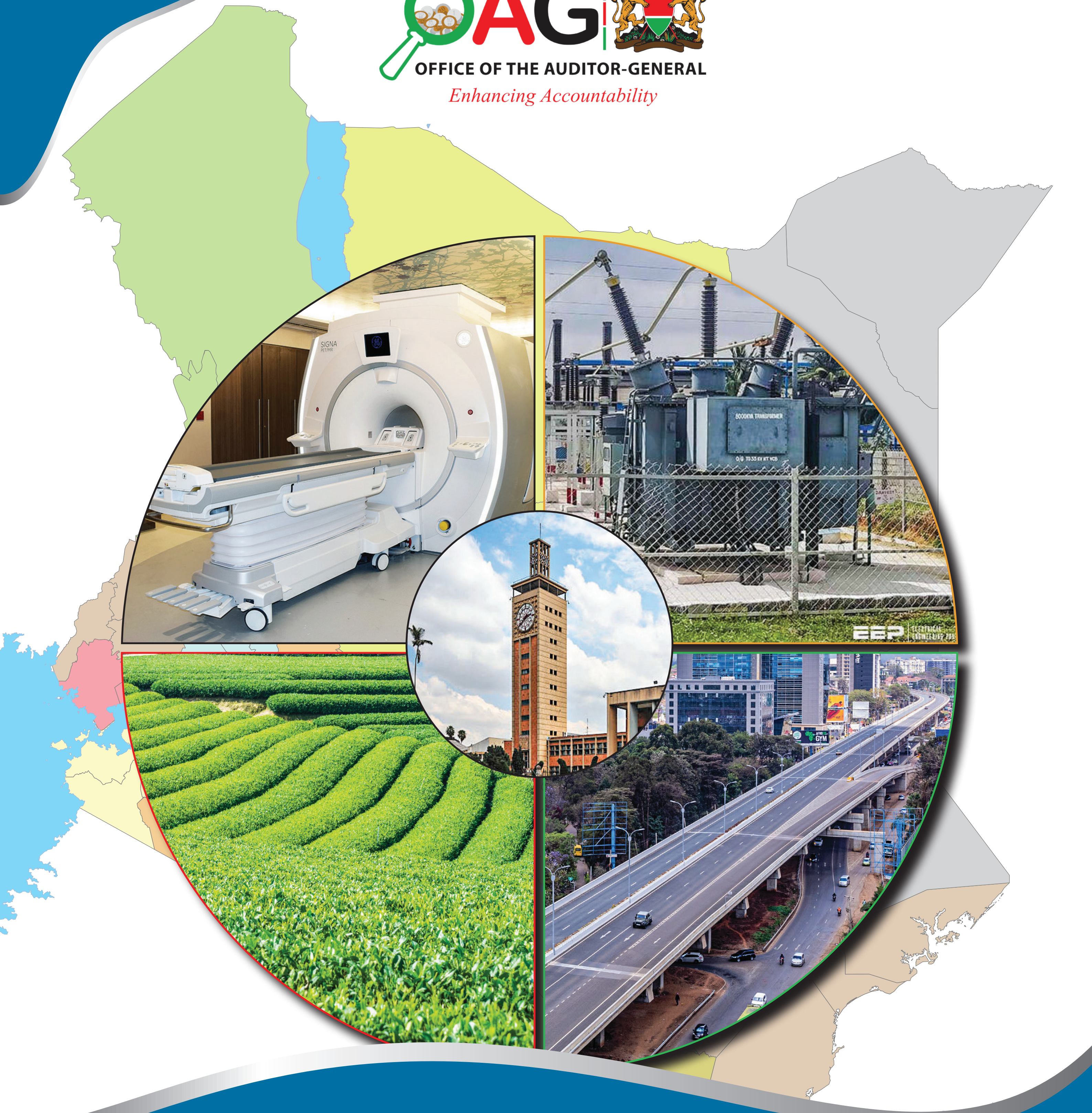
OFFICE OF THE AUDITOR-GENERAL

Enhancing Accountability



AUDITOR-GENERAL'S REPORT
ON NATIONAL GOVERNMENT MINISTRIES, DEPARTMENTS AND AGENCIES

2023/2024

VISION

Making a difference in the lives and livelihoods of the Kenyan people

MISSION

Audit services that impact on effective and sustainable service delivery

OUR CORE VALUES

Integrity • Credibility • Relevance • Accountability • Independence

REPORT

OF

THE AUDITOR-GENERAL

ON

THE NATIONAL GOVERNMENT

MINISTRIES, DEPARTMENTS AND AGENCIES

FOR

THE YEAR 2023/2024

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Foreword

This report, popularly referred to as the Blue Book, is a compilation of the audit reports of Ministries, Departments and Agencies including their respective Donor Funded Projects for the year ended 30 June, 2024.

The Auditor-General is mandated by the Constitution of Kenya, under Article 229, to audit and report on the use of public resources by all entities funded from public funds. These entities include the National Government, County Governments, the Judiciary, Parliament, Statutory Bodies/State Corporations, Commissions, Independent Office, Public Debt, Political Parties funded from public funds, other government agencies and any other entity funded from public funds. In addition, Article 229(6) requires the Auditor-General to confirm whether or not public resources have been applied lawfully and in an effective way. The mandate of the Auditor-General is further expounded by the Public Audit Act, 2015.

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 timelines for audit and reporting to three (3) months by giving entities leeway up to the end of September to prepare and submit financial statements for audit. This reduces the duration for audit and reporting from six (6) months as mandated by the Constitution to three (3) months. This has been adversely affecting the audit scope and quality in reporting, which affects the efficiency and effectiveness of oversight by Parliament and the County Assemblies.

Further, as previously reported, the mechanism for follow up on implementation of audit recommendations is ineffective and as such most audit queries recur in subsequent years due to lack of decisive action. Section 204(1)(g) of the Public Finance Management Act, 2012 provides that the Cabinet Secretary for matters relating to finance may apply sanctions to a national government entity that fails to address issues raised by the Auditor-General, to the satisfaction of the Auditor-General.

However, despite numerous reports indicating lack of accountability and documents to support the legality and effectiveness in the use of public resources, failure to apply the requisite sanctions and consequences has resulted to some Accounting Officers not adequately accounting for the management and use of public resources with impunity. Lack of action and sanctions has also led to fiscal indiscipline including misallocations, wastage of resources, lack of value for money in implementation of projects and loss of public funds, thereby impacting negatively on development programmes. This in turn threatens economic growth and sustainability of quality service delivery to citizens. There are instances where some Accounting Officers are in breach of Section 62 of the Public Audit Act, 2015 by failing to adequately prepare for audit which is exhibited by inaccuracies in financial statements presented for audit, lack of requisite supporting documents, several revisions of financial statements and, in some cases, lack of cooperation with the auditors during the audit process.

The Office of the Auditor-General has been continuously improving on the effectiveness and quality of the audit process to ensure that the results of audit and the recommendations thereof are credible, relevant, reliable and value adding. This is geared towards influencing improved decision making and positive impact on the lives and livelihoods of citizens and other stakeholders. Provision of quality and effective audit services and confirmation of the lawfulness and effectiveness in programme implementation requires comprehensive scrutiny and evaluation of supporting documents. Most critical is the physical confirmation of the existence and utilization of projects or programmes implemented throughout the country. To achieve this requires an independent and well-resourced audit Office with guaranteed adequate funding to enable efficient, effective and timely execution of oversight as well as retention of optimal staffing levels to ensure continuous, quality and sustainable audit operations.

The Office continues to seek financial independence and support from Parliament and the Executive through The National Treasury for enhancement of resources to enable us build technical capacity, expand our presence in the counties, widen the scope and comprehensiveness of audit and motivate staff. We continue to devolve our services closer to the people through establishment of Regional Offices and construction of office premises to accommodate our staff in order to address the audit needs at the devolved level. We have established fifteen (15) Regional Offices and constructed office premises in Garissa, Kakamega, Eldoret and Embu. Plans for construction of a Regional Office in Mombasa and our Headquarters in Nairobi, which are currently at the design stage, have been delayed by lack of adequate funding. However, the Office will continue to appeal to Parliament and The National Treasury for adequate funds to enable us perform our functions and achieve our mandate in enhancing accountability across government, both at the national and county levels, and in all other entities funded from public funds.

The audit scope has been expanding over the years due to the expansion of Government programs to ensure sustainable development and delivery of continuous and quality services to the citizens. This has led to growth in the national budget and establishment of additional entities that I am required to audit and report on. In addition to Ministries, Departments and Agencies (MDAs), State Owned Enterprises and County Governments entities, all the over nine thousand (9,000) Public Secondary Schools were from 30 June, 2021 required to prepare and submit financial statements to the Auditor-General for audit and quite a number have complied. I am also required to audit and report on financial statements for all the three hundred and seventy-six (376) Level 4 hospitals and eighteen (18) Level 5 hospitals separately. Further, in the current financial year, I am required to audit a total of thirty-five (35) Teachers' Training Colleges, two hundred and thirty (230) Technical and Vocational Education and Training (TVET) Institutions funded by the Exchequer and Community Vocational Training Institutions estimated to be over one thousand and two hundred (1,200). In addition, implementation of new projects and establishment of new funds requires timely oversight.

During the period under review, the Office made great strides in enhancing delivery of audit services to the people of Kenya. The Office has entered into partnerships with other Supreme Audit Institutions (SAIs) regionally and globally and with local oversight institutions such as the Ethics and Anti-Corruption Commission (EACC), the State Corporations Advisory Committee (SCAC), the Salaries and Remuneration Commission (SRC), the Commission on Revenue Allocation (CRA) among other organizations, as we strive to increase the impact of audit through learning, knowledge sharing, innovation and collaboration.

Specific reports together with my opinion for each entity are contained in the respective MDA's audited financial statements for the year ended 30 June, 2024, which I have already submitted to Parliament and to each Accounting Officer. A summary highlighting key cross-cutting audit findings will be submitted separately.

I thank the entire staff of the Office of the Auditor-General for their commitment, passion and professionalism in carrying out their duties despite the challenges posed by lack of adequate funds and tight timelines. Special appreciation goes to the Team that compiled this Consolidated Audit Report.

I also appreciate my clients or auditees for the cooperation they accorded my staff during the audit.

FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

24 January, 2025

Introduction

Constitutional Mandate of the Auditor-General

The Office of the Auditor-General (OAG) is an Independent Office established by Article 229 of the Constitution of Kenya. The Office is charged with the primary oversight role of ensuring accountability in the use of public resources within the three arms of government (the Legislature, the Judiciary and the Executive) as well as the Constitutional Commissions and Independent Offices. The mandate of the Auditor-General is further expounded by the Public Audit Act, 2015.

The Constitution requires the Auditor-General to audit and submit the audit reports of the public entities to Parliament and the relevant County Assemblies by 31 December, every year. In carrying out the mandate, the Auditor-General, is also required, under Article 229 (6) to assess and confirm whether the public entities have utilised the public resources entrusted to them lawfully and in an effective way.

Further, the objects and authority of the Auditor-General, as outlined in Article 249 of the Constitution, are: to protect the sovereignty of the people; to secure the observance by all State Organs of democratic values and principles; and, to promote constitutionalism. The Auditor-General has also been given powers by the Constitution, under Article 252, to conduct investigations, conciliations, mediations and negotiations and to issue summons to witnesses for the purpose of investigations.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of the financial statements in accordance with the International Public Sector Accounting Standards (IPSAS), as prescribed by the Public Sector Accounting Standards Board (PSASB), and for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

Management is also responsible for maintaining an effective internal control environment necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error, and for the assessment of the effectiveness of internal control, risk management and governance.

Further, Management is required to ensure that the activities, financial transactions and information reflected in the financial statements, are in compliance with the law and other relevant or applicable authorities, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the financial reporting process, reviewing the effectiveness of how each Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibility

My responsibility is to conduct an audit of the financial statements in accordance with the International Standards of Supreme Audit Institutions (ISSAIs), and to issue an auditor's report. The audit report includes my opinion as provided by Section 48 of the Public Audit Act, 2015, and the report is submitted to Parliament in compliance with Article 229(7) of the Constitution.

In addition, Article 229(6) of the Constitution requires me to express a conclusion on whether or not, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the law and other authorities that govern them, and that public resources are applied in an effective way. I also consider the entities' control environment in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems, in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015.

Further, I am required to submit the audit report in accordance with Article 229(7) of the Constitution.

Detailed description of my responsibilities for the audit is located at the Office of the Auditor-General's website at: https://www.oagkenya.go.ke/auditor-generals-responsibilities-for-audit/. This description forms part of my auditor's report.

I am independent in accordance with Article 249(2) of the Constitution of Kenya and ISSAI 130 on the 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 public entities in the Republic of Kenya.

Reporting Structure

The structure of my report addresses the reporting requirements of Article 229 (4) of the Constitution of Kenya, which requires that I audit and report on preparation and fair presentation of financial statements in accordance with the International Public Sector Accounting Standards, as prescribed by the Public Sector Accounting Standards Board. Further, Article 229(6) of the Constitution requires that an audit report shall confirm whether or not public resources have been applied lawfully and in an effective way. In addition, Section 7(1) (a) of the Public Audit Act, 2015 requires that I provide assurance on the effectiveness of internal controls, risk management and overall governance.

Further, I am expected to read the other information provided by Management and report whether the other information is materially inconsistent with the financial statements.

In order to address these requirements, my audit reports contain the following:

i. **Report on Financial Statements**, in which I give an audit opinion on whether the financial statements present fairly, in all material respects the financial position and performance of the entity.

ii. **Report on Lawfulness and Effectiveness in Use of Public Resources**, in which I give a conclusion on whether or not public resources have been applied lawfully and in an effective way.

iii. **Report on Effectiveness of Internal Controls, Risk Management and Governance**, in which I give a conclusion on whether internal controls, risk management and overall governance were effective.

iv. **Report on Other Legal and Regulatory Requirements** is included where applicable, especially for the entities that are registered under the Companies Act, 2015 and any other enabling legislation or authorities that require such disclosure.

Audit Opinions

I have expressed different types of audit opinions based on the following criteria:

i. **Unmodified Opinion**

The books of accounts and underlying records agree with the financial statements and no material misstatements were found. The financial statements present fairly, in all material respects, the operations of the entity. The financial statements with Unmodified Opinion are listed in **Appendix A**.

ii. **Qualified Opinion**

Financial transactions were recorded and are to a large extent in agreement with the underlying records, except for cases where I noted material misstatements or omissions in the financial statements. The issues though material, are not widespread or persistent. The financial statements with Qualified Opinion are listed in **Appendix B**.

iii. **Adverse Opinion**

The financial statements exhibit significant misstatements with the underlying accounting records. There exists significant disagreement(s) between the financial statements and the underlying books of accounts and/or standards. These discrepancies are widespread, persistent and require considerable interventions by the management to rectify. The financial statements with Adverse Opinion are listed in **Appendix C**.

iv. **Disclaimer of Opinion**

The financial statements exhibit serious and significant misstatements that may arise from inadequate information, limitation of scope, inadequacy or lack of proper records such that I was not able to form an opinion on the financial operations. The financial statements with Disclaimer of Opinion are listed in **Appendix D**.

The key findings noted during the audit of the financial statements for the year ended 30 June, 2024 are highlighted in the ensuing pages.

THE NATIONAL TREASURY - VOTE 1071

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1. Unsupported Prior Year Adjustments

The statement of financial assets and financial liabilities reflects a balance of Kshs.328,646,234 in respect of prior year adjustments which, as disclosed in Note 17 to the financial statements, includes a balance of Kshs.328,614,430 in respect of receivables from project accounts. However, the adjustment to write-off the receivables from the projects was not supported with project cash books, bank reconciliation statements and certificates of balance of the respective projects' balances.

In the circumstances, the accuracy and completeness of the balance of Kshs.328,646,234 in respect of prior year adjustments could not be confirmed.

2. Un-Updated Fixed Assets Register

Annex 4 to the financial statements on summary of fixed assets register reflects a closing balance of Kshs.82,814,047,266 which includes fixed assets additions for the year of Kshs.7,486,743,542. However, the fixed assets register provided did not indicate details of the costs or net book values of the assets held by The National Treasury.

In the circumstances, the accuracy and completeness of the balances reflected in the summary of fixed assets register could not be confirmed.

Emphasis of Matter

3. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.131,991,158,156 and Kshs.102,792,945,538 respectively, resulting in under-funding of Kshs.29,198,212,618 or 22% of the budget. Similarly, The National Treasury spent Kshs.102,902,640,792 against actual receipts of Kshs.102,792,945,538 resulting to a deficit of Kshs.109,695,253.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

4. Pending Accounts Payable

Note 21.2 to the financial statements reflects pending accounts payable balance of Kshs.22,645,349,902 comprising of historical bills incurred before 01 July, 2023 and additional bills relating to the year under review of Kshs.18,076,600,134 and Kshs.4,568,749,767, respectively.

Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

5. Long Outstanding Deposits

The statement of financial assets and financial liabilities reflects a balance of Kshs.3,120,104,949 in respect of accounts payables – deposits which, as disclosed in Note 15 to the financial statements includes an amount of Kshs.134,867,516 relating to general deposits. Review of the aging analysis for the general deposits revealed retentions from contractors of Kshs.61,007,909, out of which Kshs.23,478,212 had been held for a period of more than five (5) years. This was contrary to Regulation 106 of the Public Finance Management (National Government) Regulations, 2015 which states, inter alia, that any deposit which has remained unclaimed for five (5) years may, with the approval of the Cabinet Secretary, be paid into Consolidated Fund.

The general deposits balance of Kshs.134,867,516 further includes other deposits amounting to Kshs.73,859,607, out of which balances totalling Kshs.73,522,053 had been outstanding for over one year with some dating back to 2013.

In the circumstances, Management was in breach of the law.

My opinion is not modified in respect of these matters.

Other Matter

6. Unresolved Prior Year Matters

6.1 Loans to Kenya Airways Limited

As previously reported, in the FY 2022-2023 The National Treasury transferred an amount of Kshs.10,000,000,000 to Kenya Airways as on lent loan. This was in addition to other loan disbursements to the Company totalling Kshs.31,270,000,000 remitted between 2019/2020 and 2021/2022 resulting to total loan amount of Kshs.41,270,000,000. However, review of documents and correspondences between The National Treasury and the entity revealed that the loans were disbursed before the loan agreements were signed.

Further, records available indicated that the loans issued had accrued interest and penalties totalling Kshs.1,778,075,609 that remained outstanding as at 31 December, 2022 bringing the total accumulated loan to Kshs.43,048,075,609.

In addition, records at The National Treasury indicated that, the Government paid an amount of Kshs.12,326,894,172 being foreign loan repayment of Kshs.10,635,604,751 and finance costs of Kshs.1,691,289,421 out of which Kshs.7,812,582,663 was made under Article 223 of the Constitution of Kenya 2010. The amount was in respect to guaranteed debt to the Company with a foreign bank which was defaulted. As a result, the total outstanding amount due from Kenya Airways as at 30 June, 2023 stood at Kshs.55,374,969,781.

However, there was no evidence that The National Treasury had entered into any formal agreement with Kenya Airways on how the guaranteed loan repayments amounting to Kshs.12,326,894,172 would be recovered and whether the Airline had provided any security to the Government as a fall back.

In the circumstances, the recoverability of the loans to Kenya Airways Limited amounting to Kshs.55,374,969,781 could not be confirmed.

6.2 Unapproved Expenditure on Purchase of Shares

As previously reported, The National Treasury incurred an expenditure of Kshs.6,196,584,631 in respect of acquisition of sixty percent (60%) shareholding of Telkom Kenya. The expenditure was incurred under Article 223 of the Constitution. Although, The National Treasury submitted the expenditure for approval by The National Assembly as part of the supplementary budget as required by Section 44 (1) of the Public Finance Management Act, 2012, which states that the National Government shall submit to Parliament for approval a supplementary budget in support of money spent under Article 223 of the Constitution, the expenditure was not approved by The National Assembly.

In the circumstances, the validity of the expenditure amounting to Kshs.6,196,584,631 could not be confirmed.

7. Status on Implementation of the National Assembly Recommendations

The National Assembly adopted and made recommendations on the report of the Auditor-General on the financial statements for the National Government Ministries, Departments and Agencies for the year ended 30 June, 2021 on the 20 February, 2024. However, as at the time of the audit in December, 2024, Management had not provided a status report on the implementation of the recommendations as required by Section 53(1) of the Public Audit Act, 2015.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

8. Incomplete Contracts Under the Closed Financial Sector Support Project

Review of records with respect to the Financial Sector Support Project (FSSP) under The National Treasury revealed that the project was closed on 30 June, 2023 and all ongoing contracts transferred to the beneficiary institutions. Review of the status reports for the transferred consultancies revealed that various milestones had not been achieved to date as listed below:

Activity	Contract Amount (Kshs.)	Remarks
Hire of Public Relations Agency to prepare and conduct publicity events for the Kenya Deposit Insurance Corporation (KDIC).	27,899,160	Kshs.8,369,748 for milestone 1 and 2 paid under the project before handing over to KDIC. KDIC paid Kshs.5,579,832 for milestone 3 while milestone 4 and 5 were never achieved nor paid for despite having been contracted. Value for money on the contract may not be obtained.
Consultancy contract for Sacco's Societies Regulatory Authority to review IT system, make recommendations for Risk Based Supervision system, upgrade of Enterprise Resource Planning.	30,010,474	The contract had four milestones out of which the final two milestones were not attained yet Kshs.18,006,284 had been paid for milestone 1 and 2.

In the circumstances, value for money for the expenditure incurred in the two (2) consultancies may not be obtained.

9. Irregular Secondment of Staff

Review of human resources records and personal files of staff on secondment to and from The National Treasury revealed that an officer on secondment from the Kenya Trade Network Agency (KENTRADE) had exceeded the two-term limit (two years each) for secondment with records indicating that his secondment was indefinite. In addition, an officer who was seconded to the Public Finance Management Reform (PFMR) Secretariat had previously served the maximum two-term limit at the programme. Further, an officer whose secondment to the National Government Constituency Development Fund (NGCDF) lapsed on 31 December, 2021 had not resumed duties at The National Treasury.

This was contrary to Regulation 37(4) of the Public Service Commission Regulations, 2020 which states, *inter alia*, that secondment shall be for a period not exceeding three (3) years and may be renewed once for a further period not exceeding three (3) years after which upon expiry of the secondment period the officer on secondment may opt to transfer service, resign or retire.

In the circumstances, Management was in breach of the law.

10. Non-Compliance with One-Third of Basic Salary Rule

During the year under review, one hundred and eighty-four (184) employees earned a net salary less than one-third (⅓) of their basic salary. As a result, deductions amounting to Kshs.13,868,479 during the year were not effected but were deferred thus risking pecuniary embarrassment by staff. This was contrary to Section 19(3) of Employment Act, 2007 which states, *inter alia,* that the total amount of all deductions that may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds (⅔) of such wages.

In the circumstances, Management was in breach of the law.

11. Non-adherence to the Constitution on Disbursement of Funds to the Equalisation Fund

The statement of receipts and payments reflects transfers to other Government units amount of Kshs.59,498,944,563. Included in the amount is Kshs.1,030,000,000 transferred to the Equalization Fund during the year against a budgetary provision of Kshs.10,077,400,000.

Review of records at the Fund indicate that only an amount of Kshs.13,430,000,000 out of the expected total entitlement of Kshs.59,954,788,050 from the years 2011/2012 to 2023/2024 had been transferred to the Equalisation Fund Account as tabulated below:

Financial Year	Approved Audited Revenues (Kshs.)	Amount of Equalisation Fund Entitlement (Kshs.)	Amount Transferred to the Fund (Kshs.)
2011/2012	468,151,970,000	2,340,759,850	-
2012/2013	529,300,000,000	2,646,500,000	-
2013/2014	529,300,000,000	2,646,500,000	-
2014/2015	776,900,000,000	3,884,500,000	6,400,000,000
2015/2016	776,900,000,000	3,884,500,000	-
2016/2017	776,900,000,000	3,884,500,000	6,000,000,000
2017/2018	776,900,000,000	3,884,500,000	-
2018/2019	776,900,000,000	3,884,500,000	-
2019/2020	776,900,000,000	3,884,500,000	-
2020/2021	1,357,698,000,000	6,788,490,000	-
2021/2022	1,357,698,000,000	6,788,490,000	-
2022/2023	1,413,694,840,000	7,068,474,200	-
2023/2024	1,673,715,000,000	8,368,574,000	1,030,000,000
Total	**11,990,957,810,000**	**59,954,788,050**	**13,430,000,000**

The National Treasury had not remitted the outstanding balance of Kshs.46,524,788,050 to the Fund as at 30 June, 2024. This was contrary to Article 204 of the Constitution of Kenya, 2010 which requires that one half per cent of all the revenue collected by the National Government each year calculated on the basis of the most recent audited accounts of revenue received, as approved by The National Assembly shall be paid into the Equalization Fund**.**

In the circumstances, Management was in breach of the law and the objectives of the Fund may not be realized.

12. Wasteful/Avoidable Expenditure on Court Award

The statement of receipts and payments reflects transfers to other Government units of Kshs.59,498,944,563 as disclosed in Note 8 to the financial statements. The amount includes expenditure on other capital grants and transfers of Kshs.12,356,399,840 which further includes an amount of Kshs.882,400,262 in respect of a part payment of the decretal sum of Kshs.4,099,636,848 awarded to a firm by the High Court.

Review of records revealed that The National Treasury entered into a contract for the construction of a National Disaster Recovery Center with a Contractor for a contract sum of Kshs.782,799,814 in 2009 for a period of ninety-six (96) weeks. The scope of the contract was increased and implemented in three phases with Phase I having the contract sum of Kshs.899,560,075 while Phase II had a contract sum of Kshs.205,317,854. The two phases were completed and paid. A dispute on the award of Phase III arose over a claim of Kshs.193,540,606 in respect of retention and compensation for idle resources and expenses.

During arbitration, the contractor was awarded a decretal sum of Kshs.4,099,636,848 in respect of loss of profits and other associated costs. As at 30 June, 2024, the outstanding amount had risen to Kshs.5,548,245,288 due to accrued interest. Although the arbitration decision was adopted by the High Court and the Attorney-General indicated that the possibilities of success in case of an appeal were slim and advised Management to negotiate with the contractor, no evidence of negotiations having taken place was provided. The expenditure would have been avoided had Management managed the contract in accordance with the applicable laws and regulations. Further, the project remains unutilized despite the significant expenditure.

In the circumstances, the value for money from the payment of Kshs.1,987,278,191 could not be confirmed and full payment of the amount will adversely affect the budgetary allocation for the Ministry and is not in public interest.

13. Irregular Reallocation of Funds

The statement of receipts and payments reflects an amount of Kshs.1,200,000,000 in respect of other payments which, as disclosed in Note 14 to the financial statements, related to civil contingency reserves. Review of records revealed that the expenditure was charged under the Civil Contingencies Fund but was however, disbursed directly as Authority to Incur Expenditure to various entities for the mitigation of floods. However, no explanation was provided on why the funds were not transferred to the Contingencies Fund as budgeted. This irregular reallocation was contrary to Section 43(1)(a) of the Public Finance Management Act, 2012 which requires that an Accounting Officer may reallocate funds from the authorised use but may not reallocate funds where the funds are appropriated for transfer to another Government entity or person.

In the circumstances, Management was in breach of the law.

14. Funding of a Partially Owned Government Entity

The National Treasury, through the Ministry of Mining, Blue Economy and Maritime Affairs, funded the Kenya National Shipping Line Limited's budget at Kshs.68,000,000, Kshs.65,000,000 and Kshs.118,000,000 for the financial years 2021/2022, 2022/2023 and 2023/2024, respectively. However, the Company is partially owned by a private party and carries out commercial activities that allow it to collect its own revenue. It is not clear why the Company continues to receive significant budgetary allocations from The National Treasury despite generating its own revenue through commercial activities.

In the circumstances, value for money spent on the Company could not be obtained.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

15. Weaknesses in Processing of Work Injury Benefits

The statement of receipts and payments reflects expenditure on use of goods and services of Kshs.23,008,328,402 which, as disclosed in Note 7 to the financial statements includes insurance costs of Kshs.2,148,068,372, out of which an amount of Kshs.148,068,372 was paid as compensation for various injuries and death of public servants. Review of the sampled expenditure amounting to Kshs.35,003,429 and claim files revealed various weakness ranging from late reporting of injuries against provisions of the law and missing supporting documents at the time of lodging the claims.

In the circumstances, the effectiveness of controls on compensations and management of the Work Injury Benefits could not be confirmed.

NATIONAL EXCHEQUER ACCOUNT – THE NATIONAL TREASURY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

17. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.4,263,948,445,993 and Kshs.3,796,076,495,036 respectively, resulting to an under-collection of Kshs.467,871,950,957 or 11% of the budget.

The under-collection of revenue affected the planned activities of the National and County Governments and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

18. Late Exchequer Releases

The statement of assets and liabilities reflects a balance of Kshs.1,165,472,645 in respect of cash and cash equivalents, as disclosed in Note 13.6 to the financial statements. However, the bank reconciliation statement for the month of June 2024 reflects balances totalling Kshs.49,451,307,369 being payments in cash book not yet recorded in the bank statement (uncleared items), representing amounts disbursed to Ministries, Departments and Agencies, and Public Debt after the end of the financial year. This was contrary to Article 260 of the Constitution which states that financial year means the period of twelve months ending on the thirtieth day of June or other day prescribed by National legislation. Further, Regulation 97(4) of the Public Finance Management (National Government) Regulations, 2015 states that an actual cash transaction taking place after the 30 June, shall not be treated as pertaining to the previous financial year.

In addition, even though the financial statements were prepared in accordance with Cash Basis of accounting method under the International Public Sector Accounting Standards, the transactions were recorded as if they related to the year ended 30 June, 2024 contrary to IPSAS cash accounting. Management explained that the late Exchequer releases were occasioned by late receipts of revenues.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

CONSOLIDATED FUND SERVICES – PUBLIC DEBT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

20. Variance in Opening Balance of Outstanding Debt Stock and Prior Year Audited Balances

The summary statement of public debt reflects an opening balance of Kshs.10,247,830,737,434 which differs from Kshs.10,264,939,001,661 reflected in the prior year (2022/2023) audited financial statements resulting to a variance of Kshs.17,108,264,227. Included in the variance is Kshs.3,374,331,071 which was as a result of updating the disbursement records during post compilation of financial year 2022/2023 debt stock and rounding of exchange rates. However, the unreconciled balance of Kshs.13,733,993,155 was explained by Management as relating to uncleared items awaiting transfer of Pay Master General (PMG) and bank advances from commercial banks. Management provided a listing of commercial banks with outstanding loan balance of Kshs.13,733,993,155 owed by Government entities. However, the details of the entities, loan amounts and funded project were not provided for audit.

In the circumstances, the accuracy and completeness of the opening balances of outstanding public debt of Kshs.10,247,830,737,434 could not be confirmed.

21. Variance in Loan Balances between Commonwealth Secretariat - Meridian System and Summary Statement of Public Debt

The Summary Statement of Public Debt for financial year 2023/2024 reflects total public and public guaranteed debt of Kshs.10,581,988,152,631. However, review of the Central Bank of Kenya statement reflects loans paid totalling Kshs.55,662,127,850 which differs with corresponding amounts in the Commonwealth Secretariat Meridian System (CS-Meridian) totalling Kshs.59,144,914,351 resulting to a variance of Kshs.3,482,786,501. Management provided documents to explain a variance of Kshs.3,274,562,358 which was due to timing differences in exchange rates. However, supporting documents to explain the outstanding variance of Kshs.208,224,143 were not provided.

In the circumstances, the accuracy and completeness of the total public and public guaranteed debt stock balance of Kshs.10,581,988,152,631 could not be confirmed.

Emphasis of Matter

22. Costly Domestic Debt

The summary statement of public debt (debt stock) reflects total public and public guaranteed debt of Kshs.10,581,988,152,631 which comprises of Kshs.5,410,284,433,886 or 51% as domestic debt and Kshs.5,071,538,693,977 or 48% foreign debt. Further, the statement of receipts and payments reflects finance costs of Kshs.762,439,703,464 which, as disclosed in Note 4 to the financial statements, comprises of Kshs.218,594,652,088 and Kshs.533,689,367,412 in respect of interest payments on foreign borrowings and interest on domestic borrowings, respectively. However, interest on internal debt was 70% while interest on external debt was 30% of the total finance costs respectively. The cost of domestic debt is therefore more than two times the cost of external borrowings even though it forms 51% of the total debt. Although, Management explained that the costs are attributed to factors such as lack of liquidity leading to investors demanding higher yields, high inflation among other factors, there has been overreliance on domestic debt in the current and previous years.

In the circumstances, there is need to enhance fiscal consolidation through growth in revenues and controlled expenditures to reduce over reliance on expensive internal debt.

23. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,782,390,912,349 and Kshs.1,598,596,060,461 respectively, resulting to an under-funding of Kshs.183,794,851,888 or 10% of the budget.

In the circumstances, the under-funding may have affected the planned activities for development and impacted negatively on service delivery to the public.

Other Matter

24. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

25. Outstanding Central Bank of Kenya Overdraft

As disclosed in Note 6.B to the financial statements, the Central Bank of Kenya - Government Overdraft Account was overdrawn by an amount of Kshs.61,020,669,177 as at 30 June, 2024. However, the overdraft facility had not been paid as at 30 June, 2024 contrary to Regulation 83(3) of the Public Finance Management (National Government) Regulations, 2015 which states that National Government overdraft at the Central Bank of Kenya shall be retired by the end of the financial year.

In the circumstances, Management was in breach of the law.

26. Deviation from Approved 2023 Medium-Term Debt Strategy

The Medium-Term Debt Strategy for the fiscal year 2023/2024 reflects optimum strategy of net external financing to net domestic financing of 50:50 ratio. However, the actual borrowing outturn reflects net domestic financing to net external financing of amounts Kshs.222.7 billion and Kshs.595.6 billion respectively, representing a ratio of 27:73 thus, deviating from the approved debt strategy ratio of 50:50. Further, review of summary statement of public debt for the financial year ended 30 June, 2024, established that out of fourteen(14) loans signed during the year under review, thirteen(13) loans were sourced from commercial sources thus contradicting the strategy of maximizing concessional borrowing stated in 2023 Medium-Term Debt Strategy. However, there was no approval for the deviation, contrary to the Select Committee on Public Debt and Privatization Report on the 2023 Medium-Term Debt

Management Strategy that recommended that any deviation from the approved borrowing strategy required an approval from the National Assembly.

In the circumstances, Management was in breach of the recommendations provided by the Public Debt and Privatization Committee.

27. Unsupported Restructuring of Arror, Kimwarer and Itare Dams Loan Projects

The summary statement of public debt (debt stock) reflects total public and public guaranteed debt of Kshs.10,581,988,152,631 which includes an outstanding loan amount of Kshs.31,475,529,355 (EUR.226,661,329). Review of Commonwealth Secretariat - Meridian System revealed that three (3) project loans in respect of Arror, Kimwarer, and Itare Dam projects, had been restructured from Kshs.62,055,659,519 to Kshs.31,475,529,447 to reflect outstanding balance amounts of EUR 226,661,329, equivalent to Kshs.31,475,529,447 (CBK indicative exchange rate on 28 June, 2024: 1 EUR=Kshs.138.8659) as indicated below;

Project	Disbursed Amounts before Cancellation EUR	Principal Paid EUR	Outstanding Balance before Restructuring EUR	Amounts Restructured Less Insurance EUR	Accrued Amounts EUR	Outstanding Balance after Restructuring Inclusive of Accruing Amounts EUR
Arror	91,852,267		91,852,267	46,161,476	11,353,271	57,514,746
Kimwarer	71,878,751	-	71,878,751	35,283,633	8,843,885	44,127,518
Itare	146,068,840	4,516,233	141,552,608	113,855,308	11,163,757	125,019,065
Total	**309,799,858**	**4,516,233**	**305,283,626**	**195,300,417**	**31,360,912**	**226,661,329**

However, documents to support the restructuring such as the restructure agreements and current status of the projects were not provided for audit.

In the circumstances, the authenticity of the outstanding loan balance after restructuring and value for money for the projects of Kshs.31,475,529,447 (EUR.226,661,329) could not be confirmed.

28. Inadequate Monitoring and Evaluation on the Utilization of Borrowed Funds

Review of project disbursement files revealed lack of documentation on project coordination by the Public Debt Management Office. This was contrary to Regulation 194(1)(s) of the Public Finance Management (National Government) Regulations, 2015 that requires the Public Debt Management Office to coordinate, review and monitor the utilization of external resources including joint programming, joint work plans, joint visits, joint implementation, and monitoring and evaluation.

In the circumstances, Management was in breach of the law.

29. Payment of Avoidable Commitment Fees on Undrawn Balances

The statement of receipts and payments reflects finance costs of Kshs.762,439,703,464 which, as disclosed in Note 4 to the financial statements, includes an amount of Kshs.218,594,652,088 relating to interest payments on foreign borrowing. However, the latter amount includes commitment fees on undrawn amounts paid during the period under review totalling Kshs.1,583,002,698. Had the implementing agencies put in place proper mechanism to enable absorption of the committed credit within the agreed timeframes, payment of commitment fees would have been minimized or avoided.

Section 68(1)b of the Public Finance Management Act, 2012 requires that an Accounting Officer for a National Government entity to be accountable to the National Assembly by ensuring that the resources of the respective entity for which he or she is the Accounting Officer are used in a way that is effective, efficient, economical and transparent. Further, Regulation 194(1)(s) of the Public Finance Management (National Government) Regulations, 2015 requires the Public Debt Management Office (PDMO) to coordinate, review and monitor the utilization of external resources including joint programming, joint work plans, joint visits, joint implementation, and monitoring and evaluation.

Audit verification of five (5) sampled projects revealed that stakeholder Agencies and The National Treasury do not have adequate monitoring mechanisms on absorption of the committed credit within the agreed timeframes to minimize payment of avoidable finance costs. The sampled projects are summarized below:

29.1 Delay in Completion of Sewage Works and Sewage Connections in Kisumu

Lake Victoria South Water Works Development Agency (LVSWWDA), through the Government of Kenya, contracted loans from Agence Francaise De Development – AFD amounting to EUR20,000,000 and European Investment Bank (EIB) amounting to EUR35,000,000 for the implementation of Lake Victoria Water and Sanitation Program. Consequently, an engineering company was on 08 March, 2022 engaged for sewage works and sewer connections at a contract sum of Kshs.515,708,000 and Kshs.229,165,000 respectively. The project was to be implemented over a period of five years from 2021 to 2025 to benefit an additional 350,000 people in Kisumu city with clean water and safe sanitation. The payments to the project implementation are detailed below;

No.	Description	Tender Amount (Kshs.)	Paid as at November 2023 (Kshs.)	Payment Percentage
Bill No. 3	Sewage Works	515,708,000	201,481,279	39%
Bill No. 6	Sewer Connections	229,165,000	33,206,000	14%

As at the time of audit verification in October 2024, the construction of sewer line manholes in Manyatta Line 3 joining Manyatta Line 1 and 2 had been completed. However, the Line 3 had not been interconnected to the main line and to the households. In addition, the construction of sewer line Migosi Line 3 had been partly done as there was a delay in moving of KPLC power line. Even though the project was to be implemented over a five-year period up to 2025, the project is unlikely to meet its completion deadline of 2025. This occasioned the project incurring total commitment fees of Kshs.10,776,758. Further, supporting documents on project monitoring by The National Treasury were not provided.

29.2 Delay in Implementation of Kisii Cancer Treatment Center Loan Project

The project titled "Cancer Treatment Centre in Kisii Hospital Project" was commissioned as part of a multilateral loan between the Government of Kenya, The Saudi Fund for Development, and The Arab Bank for Economic Development in Africa for loan facility of Saudi Riyals 37,500,000 and USD 10,000,000 respectively. The terminal date of disbursement was 31 March, 2021 as per the agreement with Saudi Fund for Development. However, the Government of Kenya negotiated the terms of the loan, and an extension of the terminal date was set to 31 December, 2025. Disbursement records indicate that drawdowns were made on various dates as follows; USD 30,141.31 on 12 April, 2021, USD 27,193.48 on 12 May, 2022 and USD 720 on 16 November, 2022.

Further, in the financial year under review, two (2) payments of Kshs.283,032,102 were made to the contractor as indicated below;

Date	Payee	Pv No.	Cert. No.	Ministry	Donor	Amount In USD	Amount Disbursed (Kshs.)
2/24/2024	Contractor	43	Advance	State Dept. Medical Services	Badea	923,710.50	141,516,051
2/24/2024	Contractor	42	Advance	State Dept. Medical Services	Saudi Fund	923,710.50	141,516,051
	Total					**1,847,421.00**	**283,032,102**

Despite the project drawdowns totalling Kshs.283,032,102 from both BADEA and Saudi Fund in 24 February, 2024, audit inspection revealed that Civil Works of the project began in August, 2024 and that only mobilization and excavation had been done as at the time of audit inspection in October, 2024. Although the project has commenced, it has taken eight years since the loan agreement was signed. No supporting documents were provided for the undue delay of commencement of the project and there were no reports on project monitoring by the implementing Agency and The National Treasury.

29.3 Kenol - Sagana - Marua Road Project

The Republic of Kenya and the African Development Bank (ADB) signed a financing agreement for financing of the project for an amount of EUR.178,020,000 and the bank acted as an administrator of Africa Growing Together Fund (AGTF) for the financing of the project for an amount of EUR.31,150,000 on 09 January, 2020 for the Kenol - Sagana - Marua Highway Improvement Project.

Review of the original contract signed between the Kenya National Highway Authority (KeNHA) and a contractor on 05 August, 2020 revealed that the contract period for the construction Lot 1 – Dualling of Kenol – Sagana A2 Road (48 KMs) was 36 months plus an additional 12 months defect notification period. This implied that the contract was to end on 05 August, 2024. As at the time of audit in October 2024, Lot 1 of the project was

98% complete with pending works on the virtual weighbridge and the footbridges. However, it was noted that the Project was already in the defects notification period.

Additionally, review of the original contract signed between the Kenya National Highways Authority and a contractor on 30 July, 2020 revealed that the contract period for the construction of Lot 2 – Dualling of Sagana – Marua A2 Road (36 Kms) was 36 months with an additional 12 months defect notification period. The revised date of completion was extended to 10 December, 2024. As at the time of audit in October 2024, Lot 2 of the project was 87% complete with pending works at Karatina town.

Management explained that the delay in project implementation was due to delay in addressing project challenges such as land acquisition. As a result of the delay, the loan attracted commitment fees of Kshs.49,334,427. Additionally, supporting documents were not provided on project monitoring by The National Treasury and implementing agencies. As a result, the audit could not establish whether project monitoring was undertaken. Further, continued delays in payments resulted in avoidable interest payments of Kshs.24,992,420 for which no value for money was obtained.

29.4 Mombasa - Mariakani Highway (Lot 1) Project

The Republic of Kenya and the African Development Fund signed a financing agreement for UA80,000,000 on 22 May, 2015 for the construction of Lot 1 of Mombasa - Mariakani project (Mombasa- Kwa Jomvu). Section 3.01. of the financing agreement requires that subject to Section 3.05, the Borrower shall repay the principal of the Loan over a period of thirty-five (35) years, after a five (5) year grace period commencing from the date of the Agreement, at the rate of two point eight five seven two per cent (2.8572%) per annum. Section 3.03. further requires the Borrower to pay a commitment charge at the rate of one half of one per cent (0.50%) per annum on the undisbursed portion of the loan, which shall begin to accrue one hundred twenty (120) days after the date of signature of this Agreement.

Review of the original contract signed between the Kenya National Highways Authority and a Contractor on 23 September, 2016 revealed that the contract period for the construction of the Mombasa- Kwa Jomvu was 30 months plus an additional twelve (12) months defect notification period implying that the contract was to end on 03 August, 2020. However, as at the time of the audit in October, 2024, the contract had extended up to December, 2024 and the project status was at 94% completion, with a section of one kilometer yet to be given right of way due to an ongoing court case on land acquisition. Therefore, there is a risk of not meeting the extended date of completion.

Additionally, due to delay in project implementation the loan had attracted commitment fees of Kshs.12,472,266 on undisbursed amounts during the year ended 30 June, 2024. Further, supporting documents on project monitoring were not provided by both The National Treasury and the Implementing Agency.

29.5 Delay in Implementation of Bagamoyo Horohoro Phase 1 Project

The Republic of Kenya and the African Development Bank signed a financing agreement for EUR108,000,000 on 10 June, 2020 to assist in financing the Bagamoyo - Horohoro-

Lunga - Malindi Road Project: Phase I (Mombasa-Mtwapa-Kilifi Section). Section 2.03 of the financing agreement states that the Borrower (Government of Kenya) shall pay a commitment charge computed at a rate equal to zero point twenty-five per cent (0.25%) per annum on the undisbursed loan balance, which shall begin to accrue sixty (60) days after the date of the loan agreement. The commitment charge was to be payable on each payment date including during the grace period of eight (8) years.

Review of the documents revealed that the Kenya National Highways Authority signed a contract for the construction of Lot 1 of Phase One of the project with a Contractor on 18 March, 2022 with a completion date of 01 November, 2025. However, as at the time of audit in October 2024, the project status was at 25%. The contractor is likely to request for extension of the contract period as a substantial amount of work was yet to be done and there were also challenges on acquisition of land which were yet to be solved. Additionally, Lot 2 of the project was signed between KeNHA and another Contractor on 05 November, 2021 with a completion date of 05 December, 2024. As at the time of audit in October 2024, the project completion status was at 62%. The contractor will likely request for extension of the period in order to complete the remaining works since it is unlikely that the project will be completed by December, 2024.

Further, as a result of delay in project implementation, the loan signed for the project attracted commitment fees totalling Kshs.35,013,463 on undrawn loan balance. Additionally, supporting documents on project monitoring were not provided by The National Treasury and implementing agencies. As a result, the audit could not establish whether project monitoring was undertaken.

In the circumstances, the delays in Projects implementation contributed to payment of avoidable commitment fees and no value for money was realized from the expenditure.

Further, The National Treasury, being the overall supervisor of Government Ministries, Departments and Implementing Agencies requires to monitor programmes and projects and ensure they are ready for execution before committing the Government to the loans. There is also a need to enhance coordination and monitoring of implementation of programmes and projects financed through debt to ensure timely execution and finalization.

30. Abandoned and Stalled Works for Construction of Rehabilitation and Expansion of Kwale Water Supply and Operation Improvement Works

Review of a contract signed between Ministry of Water and Sanitation (Coastal Region Water Security and Climate Resilience) and a contractor dated 18 October, 2018 indicated the scope of works included the Rehabilitation and Expansion of Kwale Water Supply and Operation Improvement Works. The audit noted that the project delayed and was revised to be completed within a period of 35 months. The works commenced on 29 October, 2020 with an expected completion date of 04 September, 2023. The contractor was issued with a notice of termination for non-completion by the intended completion date of 22 November, 2023 and the contract was later terminated effective 31 May, 2024.

As at 30 June, 2024, the contractor had been paid an amount of Kshs.256,738,123. Audit inspection in October, 2023 at the Marere and Madabara water treatment plant revealed that the works were at 77% completion. Further the inspection revealed poor workmanship in form of paint works defects, chipped floor-steps, missing doorknobs, uninstalled water-pipes and structural defects. In addition, the laboratory, filter media and under-drain and generator and water pumping rooms were incomplete.

In the circumstances, delay in projects implementation may result to loss of funds and not meet the project objective of increasing water supply and sanitation to residents of Mombasa and Kwale Counties, thereby denying the citizens critical services.

31. Lack of Completion Rate Analysis on Debt Funded Projects

Review of project disbursement files revealed that there was no evidence for completion rate analysis being done. As a result, there were no recommendations made to the Cabinet Secretary to take certain measures for project loans that are not being absorbed due to action or inaction of the implementing entities of debt-funded projects. This was contrary to Paragraph 45 of Public Debt and Borrowing Policy, 2020, that indicates that to enhance absorption of funds by the implementing entities of debt funded projects, The National Treasury is required to conduct completion rate analysis from time to time and recommend to the Cabinet Secretary to take certain measures for project loans that are not being absorbed due to action or inaction of the implementing entities of debt-funded projects.

In the circumstances, Management was in breach of the Policy.

32. Lack of Support Documents on Public Participation

Review of sampled loan project files revealed that there was no evidence supporting public participation during the project identification and design to planning through public forums to enhance leadership, ownership, social accountability and sustainability of the projects.This was contrary to Regulation 205(d) of the Public Finance Management Regulations, 2015, which requires the Accounting Officer of a National Government entity to be responsible for ensuring that during the project identification and design, the intended beneficiaries are involved through the public participatory approach to planning through public forums to enhance leadership, ownership, social accountability and sustainability of the project.

In the circumstances, Management was in breach of the law.

33. Variation of Contract Price Beyond 25% Threshold

33.1 Kenol - Sagana - Marua Road Project

Review of documents revealed that Kenya National Highways Authority signed a contract for LOT 1 (Kenol-Sagana) project with a contractor on 05 August, 2020, at an original contract sum of Kshs.8,496,537,823. However, the contract sum was revised upwards to Kshs.11,327,485,686 which 33.32% increase. Further, Kenya National Highways Authority signed another contract for LOT 2 (Sagana-Marua) with another contractor on

30 July, 2020, at an original contract sum of Kshs.6,115,038,571. Later, the contract sum was revised upwards to Kshs.9,146,922,301 which is 49.58% increase. This resulted into a cumulative variation for the two projects amounting Kshs.5,862,831,592, which is 40.13% net of the original total contract sum of Kshs.14,611,576,394. This was contrary to Section 139(4) of the Public Procurement and Asset Disposal Act, 2015 which states that the cumulative value of all contract variations should not result in an increment of the total contract price by more than twenty-five per cent (25%) of the original contract price and in cases where variations result in an increment of the contract price by more than twenty-five percent (25%), such variations require to be tendered for separately.

In the circumstances, Management was in breach of the law.

33.2 Mombasa - Mariakani Highway (Lot 1) Project

The Kenya National Highways Authority signed a contract with a Contractor on 23 September, 2016. The original contract sum was Kshs.6,016,868,259. Review of documents revealed that the contract sum was revised upwards to Kshs.8,538,736,334 in the second addendum issued on 29 October, 2020 and further to Kshs.11,406,306,700 in the fourth addendum issued on 19 June, 2024.This resulted into a cumulative variation of Kshs.5,389,438,441 which is 89.6% of the original contract sum. This was contrary to Section 139(4) of the Public Procurement and Asset Disposal Act, 2015 which states that the cumulative value of all contract variations should not result in an increment of the total contract price by more than twenty-five per cent of the original contract price and in cases where variations result in an increment of the contract price by more than twenty-five percent, such variations require to be tendered for separately.

In the circumstances, Management was in breach of the law.

34. Failure to Compensate Project Affected Persons

Review of project correspondences revealed that affected persons had not been compensated despite the project being 87% complete due to delays in provision of Government counterpart funds. This was Contrary to Section 4.06. of the financing agreement signed between the Republic of Kenya and the Africa Development Conditions Precedent to Disbursements for Works Involving Resettlement which requires that before commencement of the works, the borrower (Government of Kenya) should submit satisfactory evidence that all Project Affected Persons in respect of civil works in a given section have been compensated and/or resettled in accordance with the Environmental and Social Management Plan (ESMP), the Resettlement Action Plan (RAP) and the Bank's Safeguards Policies.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

35. Failure to Perform Internal Audit on Management of Public Debt

Discussions with The National Treasury Internal Audit Directorate staff and review of internal audit reports at The National Treasury revealed that the Public Debt Management Office (PDMO) and management of public debt in particular were not audited by the Internal Audit Directorate. Although the Internal Auditors indicated that they have a three-year strategy on internal audits which include audit of the PDMO for 2024/2025 period, no work plans, or documents operationalizing the strategy were provided to support the assertion. Further audit inquiry indicated that the Internal Audit performed an audit on PDMO during the previous strategic cycle specifically in 2020/2021. However, the internal audit report was not provided to support this response. The audit could also not establish the criteria used to identify the areas to be audited as there was no internal audit risk management policy as at the time of audit. This was contrary to Regulation 160(1)(b) of the Public Finance Management (National Government) Regulations, 2015 which states that internal auditors have a duty to give reasonable assurance through the Audit Committee on the state of risk management, control and governance within the organization. Further, Regulation 162(2)(b)(c) of the Public Finance Management (National Government) Regulations, 2015 requires an Accounting Officer to ensure that the organizational structure of the internal audit unit facilitates the internal auditor with sufficient authority to promote independence and to ensure broad audit coverage, adequate consideration of internal audit reports; and appropriate action to be taken on internal audit recommendations.

In the circumstances, The National Treasury did not benefit from the oversight role and advice from the Internal Audit Function on effective management of public debt and hence, the effectiveness of Internal Audit was not fully realized.

36. Inadequate Change Management Procedures in the Commonwealth Secretariat - Meridian System

During the audit, it was noted that there were no documented change management procedures in place to act as control tools. Documented procedures should clearly outline roles and responsibilities, as well as communication channels to key operational areas and systems in the event of a change. It was noted that there were no documented procedures for updating changes in the Commonwealth Secretariat -Meridian System. Additionally, a change register which is required for tracking of changes, verifying approvals, and ensuring there are defined timelines for approved changes was not provided. This was contrary to Regulation 110(1) of the Public Finance Management (National Government) Regulations, 2015 that requires the Accounting Officer for a National government entity to institute appropriate access controls needed to minimize breaches of information confidentiality, data integrity and loss of business continuity.

In the circumstances, the Commonwealth Secretariat -Meridian may be susceptible to undisclosed and unauthorized changes.

37. Inadequate Control on Vendor Access to Live Commonwealth Secretariat - Meridian System

The Public Debt Management Office (PDMO) uses the Commonwealth Secretariat - Meridian System to record disbursements and payments made in regard to respective loans. The Commonwealth Secretariat - Meridian System was developed by Commonwealth Secretariat. Review of the users` access list revealed that there were five (5) users from Commonwealth Secretariat who had active rights to the system. This exposes the system to cyber threats and data breaches. This was contrary to Regulation 110(1) of the Public Finance Management (National Government) Regulations, 2015 that requires the Accounting Officer for a National Government entity to institute appropriate access controls needed to minimize breaches of information, confidentiality, data integrity and loss of business continuity.

In the circumstances, the Commonwealth Secretariat -Meridian System may be susceptible to unauthorized access.

RECEIVER OF REVENUE - RECURRENT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

38. Unreconciled Arrears of Revenue Balance

As previously reported, the statement of arrears of revenue reflects arrears of tax receipts of Kshs.2,333,928,549,203 (2023 – Kshs.999,599,467,329) as disclosed in Table 4 of the revenue statements. This balance includes arrears totalling Kshs.2,116,679,160,651 referred as either being under validation, uncollectable, under reconciliation, under resolution or awaiting updating for taxpayers' ledgers as detailed below:

Category	Amount (Kshs.)
Custom Uncollectable Debts	906,156,082
Migrated Legacy System Debts	765,311,932,975
Public Sector Debts	231,557,388,316
Debt Under Tax Appeal Processes (Objections, ADR, Court, TAT)	391,802,208,620
Debts under Validation Process	138,616,534,831
Debts under Resolved Disputes not updated in Taxpayers' Ledgers	588,484,939,827
Total	**2,116,679,160,651**

In the circumstances, the completeness, accuracy and recoverability of the tax revenue arrears of Kshs.2,333,928,549,203 could not be confirmed.

Emphasis of Matter

39. Long Outstanding Arrears of Revenue

As reported previously, the statement of arrears of revenue reflects non-tax revenue arrears from Government Investment and Public Enterprises (GIPE) of Kshs.405,107,175,693 (2023 – Kshs.267,937,400,728). As disclosed in Note 14 to the financial statements, this balance comprises of Kshs.288,137,961,705 and Kshs.116,969,213,987 in respect of loan redemption and loan interest out of which Kshs.74,246,798,729 and Kshs.49,220,785,255 respectively have been outstanding for more than three years.

In addition, as disclosed in GIPE schedule of arrears of revenue, the non-tax revenue arrears include principal loan arrears of Kshs.281,010,546,915 receivable from State Corporations and private companies that are operational as analyzed below:

S/No.	Description	Total Arrears (Kshs.)
1	National Water Conservation	2,102,111,719
2	Athi Water Services Board	8,566,789,951
3	Tanathi Water Services Board	1,651,233,916
4	Coast Water Services Board	5,832,216,144
5	National Irrigation Board	282,121,695
6	Lake Victoria North Water Service Board	1,737,534,827
7	Lake Victoria South Water Service Board	1,832,924,887
8	Tana Water Service Board	1,264,887,170
9	Central Rift Valley Water Services Board	322,043,253
10	Water Resources Management Authority	90,651,999
11	Lake Basin Development Authority	470,588,235
12	Agricultural Finance Corporation	280,800,707
13	Moi University	231,250,000
14	Agro-Chemical and Food Co. Ltd	2,941,884,000
15	Co-operative Bank of Kenya	72,915,185
16	Catering Levy Trustee/Utalii College	122,000,000
17	Kenya Meat Commission	338,000,000
18	Kenya Electricity Transmission Co. Ltd.	2,388,758,809
19	Kenya Power and Lighting Co. Limited	17,915,934,826
20	Kenyatta University	5,387,249,005
21	Kenya Railways Corporation	229,280,762,306
	Total	**281,010,546,915**

Although Management provided various reasons for the non-receipt of the revenues and explained measures in place to improve the outstanding debt arrears position, it is not clear why some unrecovered long outstanding balances continue to be retained in the revenue statements.

40. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final tax target and actual collections on comparable basis of Kshs.2,251,879,776,706 and Kshs.2,161,080,036,244 respectively resulting to an under-collection of Kshs.90,799,740,462 or 4% of the budget. Similarly, the statement reflects a final non-tax targets and actual collections of Kshs.189,841,925,209 and Kshs.85,484,973,824 respectively resulting to an over-collection of Kshs.104,356,951,385 or 55% of the budget.

The resultant total tax collection of Kshs.2,246,565,010,067 was an improvement from the previous year's collection of Kshs.2,043,286,570,723 by Kshs.203,278,439,344 representing a 10% increase.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

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

Conclusion

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

RECEIVER OF REVENUE STATEMENTS – DEVELOPMENT

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

44. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts and actual on comparable basis amounts of Kshs.869,460,576,794 and

Kshs.705,712,682,688 respectively, resulting to an under-collection of Kshs.163,747,894,106 or 19% of the budget.

The under-performance may have affected the planned activities and impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

45. 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

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

GOVERNMENT INVESTMENTS AND PUBLIC ENTERPRISES - REVENUE STATEMENTS

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

47. Unconfirmed Outstanding Loan Balance

Note 6 to the revenue statements on outstanding loan balances discloses a principal loan balance of Kshs.1,197,129,278,867 from fifty-four (54) institutions as further analyzed in Appendix 7 to the revenue statements. However, four (4) institutions with outstanding balances amounting to Kshs.13,157,482,377 did not confirm their loan balances as at 30 June, 2024.

Further, twelve (12) institutions reported loan balances that differed from those in the revenue statements.

In the circumstances, the existence, completeness and accuracy of the reported outstanding loans balance of Kshs.1,197,129,278,867 could not be confirmed.

Emphasis of Matter

48. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final revenue budget and actual on a comparable basis of Kshs.145,280,584,337 and Kshs.56,916,850,391 respectively resulting in a receipts shortfall of Kshs.88,363,733,946 or 61% of the budget.

The under-funding affected implementation of the planned activities and may have impacted negatively on service delivery to the public.

49. Significant Increase in Arrears of Revenue

The statement of arrears of revenue reflects a balance of Kshs.405,107,175,692 in respect of balance of arrears as at 30 June, 2024 representing an increase of Kshs.137,169,774,964 or 51% from the opening balance of Kshs.267,937,400,728. The substantial growth in arrears raises concerns about the entity's ability to collect outstanding revenues. Given the current fiscal constraints, the growing revenue arrears could aggravate financial pressures and hinder the Government's ability to deliver essential services.

My opinion is not modified in respect of these matters.

Other Matter

50. Dormant Loans

As previously reported, the summary schedule of outstanding loans reflects total loans outstanding of Kshs.1,197,129,278,867 from fifty-four (54) institutions. Included in the balance are loans due from seventeen (17) institutions amounting to Kshs.35,558,227,061 which had no movement during the year and have remained unpaid over a significant period.

Although Management indicated that it has continued demanding for the outstanding loan amounts through demand letters, it had not disclosed measures put in place to ensure that all loans are being repaid and in case of default, the sanctions imposed on the defaulters.

51. Loans Due from Defunct Entities

The summary schedule of outstanding loans reflects total loans outstanding of Kshs.1,197,129,278,867 from fifty-four (54) institutions. Review of the list revealed a total loan balance of Kshs.7,719,572,460 due from Mombasa Pipeline Board, Local Government Loans Authorities and Nairobi City Council that were defunct as at the time of the audit.

In the circumstances, the recoverability of the loans from the defunct entities is therefore doubtful.

52. Dormant Investments

The summary schedule of investments by the Cabinet Secretary, The National Treasury in various companies reflects total investments of Kshs.111,739,944,412 which, as disclosed in Appendix 8 to the revenue statements, includes five (5) companies where the Government holds 5,727,503 shares valued at Kshs.114,550,000. The shares were either non-performing, struck off the Company's Register or dissolved.

Although Management indicated that it will continue to seek audience with the existing companies to establish the Government position and seek approval for dormant investments to be written off, it did not disclose measures put in place to ensure that the dormant investments report returns.

Other Information

53. Failure to Disclose Non-Financial Information of the Entity

Review of the annual report revealed that the non-financial information reported did not relate specifically to the Government Investment and Public Enterprises (GIPE) but to The National Treasury.

In the circumstances, users of the revenue statements lack crucial information of the entity to link to the revenue statements.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

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

Conclusion

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

EAST AFRICA TOURIST VISA FEE COLLECTION ACCOUNT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

56. There were no material issues noted during the audit of the revenue statements of the East Africa Tourist Visa Fee Collection Account.

Emphasis of Matter

57. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis amounts of Kshs.250,277,808 and Kshs.152,637,312 respectively, resulting to under-collection of Kshs.97,640,496 or 39% of the budget.

The under-collection affected implementation of the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

58. Failure to Conduct Annual Audit by the Joint Verification Committee

Article 9 (9.4) of the Memorandum of Understanding on the establishment of the East Africa Tourist Visa and its revenue sharing modalities indicate that the process of sharing the East Africa Tourists Visa revenues shall be done through mutual trust and respect and a joint verification committee from the parties shall be put in place to carry out annual audit. However, no evidence was provided to confirm compliance with this requirement.

In the circumstances, the three-party states were in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

E-CITIZEN REVENUE ACCOUNTABILITY STATEMENT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

59. Non-Compliance with the Public Sector Accounting Standards Reporting Template

Review of revenue statements submitted for audit revealed that key entity information, management discussion analysis and statement of receiver of revenue responsibilities had The National Treasury information though had not been customized to Government Digital Payments Unit as required by the reporting template. Further, several issues were raised in the Audit Reports for previous years. However, Management did not provide reasons for delay in resolving the prior year's audit issues.

In the circumstances, the revenue statements did not comply with the Public Sector Accounting Standards Board reporting template.

60. Inaccuracies in the Revenue Statement

60.1 Variances in Receivers of Revenue Receipts Records

The statement of revenue collections and transfers reflects an amount of Kshs.44,816,470,118 in respect of receivers of revenue receipts as disclosed in Note 1 to the revenue statements. Review of the E-Citizen revenue accountability platform and the revenue statements revealed variances between balances reflected in the revenue statements, e-portal system and the ledger as detailed below;

Variances Between Receiver of Revenue Receipts and Supporting Ledger Balances

Client Name	Revenue Statement Balance (Kshs.)	Ledger Balance (Kshs.)	Variance (Kshs.)
Business Registration Services	1,177,641,046	1,175,751,496	1,889,550
Ministry of Lands and Physical Planning Revenue Collection	7,239,045,526	7,099,712,543	139,332,983
Ministry of Mining	29,148,021	31,950,303	2,802,282
Registrar of Motor Vehicles	3,640,267,851	3,632,440,612	7,827,239
Civil Registration Department	34,211,130	36,002,763	1,791,633
Department of Immigration	10,632,707,895	10,634,305,708	1,597,813
National Registration Bureau	89,954,000	88,162,000	1,792,000
Kenya Revenue Authority (KRA)	20,728,292,881	20,599,416,615	128,876,266

Variances Between Receiver of Revenue Receipts and E-portal System Receipts

Client Name	Revenue Statements Balances (Kshs.)	E-portal System Receipts (Kshs.)	Variance (Kshs.)
Business Registration Services	1,177,641,046	1,179,981,046	2,340,000
Ministry of Lands and Physical Planning Revenue Collection	7,239,045,526	7,237,907,791	1,137,735
Ministry of Mining	29,148,021	31,948,103	2,800,082
Registrar of Motor Vehicles	3,640,267,851	3,634,892,832	5,375,019
Civil Registration Department	34,211,130	36,002,763	1,791,633
Department of Immigration	10,632,707,895	10,598,302,945	34,404,950

Client Name	Revenue Statements Balances (Kshs.)	E-portal System Receipts (Kshs.)	Variance (Kshs.)
National Registration Bureau	89,954,000	88,162,000	1,792,000
Kenya Revenue Authority (KRA)	20,728,292,881	20,599,416,615	128,876,266
Betting Control and Licensing Board	137,052,568	137,051,768	800

60.2 Variances in Revenue from Semi-Autonomous Government Agencies

The statement of revenue collections and transfers reflects an amount of Kshs.42,095,281,804 in respect of revenue from semi-autonomous Government Agencies as disclosed in Note 3 to the revenue statements. Review of the E-Citizen revenue accountability platform and the revenue statements revealed variances in revenue from Semi-Autonomous Government Agencies and Ledger amounts.

60.3 Variances in Respect to USD Collections

The statement of revenue collections and transfers reflect an amount of Kshs.12,136,658,201 in respect of collections in United States Dollars (USD) as disclosed in Note 5 to the revenue statements. However, the balances differ from respective ledger balances. Further, review of supporting schedules submitted for audit revealed collections in USD that were not tied to any particular merchant, bank and bank account as tabulated below:

Transaction ID	Service	Total Collections in USD	Total Collections in (Kshs.) Equivalent
370524	Authentication of Certificate USD-Countrywide	101	12,995
370530	Application for docking Facility USD	151	19,427
370531	Access to Jetty USD	91	11,708
369065	Application for docking Facility USD	351	45,159
366516	Volunteer USD	91	11,708
364237	Authentication of Certificate USD-Countrywide	101	12,995
361187	Authentication of Certificate USD-Countrywide	101	12,995
360653	Authentication of Certificate USD-Countrywide	202	25,989
360144	Volunteer USD	91	11,708
Total		**1,280**	**164,683**

60.4 Variances in Balances Reflected in Revenue Statements and Confirmation from Institutions

Comparison of balances reflected in the revenue statements and confirmations obtained from various institutions onboarded on E-Citizen platform revealed some unexplained variances. Further, one institution Kenya Civil Aviation Authority indicated lack of visibility of the payment system therefore not able to confirm the balances.

60.5 Unreconciled Closing Balance and Account Payables

The statement of revenue collection and transfers reflect balance brought forward of Kshs.441,891,975. However, Note 6 to the revenue statement reflect a balance of Kshs.464,752,775 resulting in unreconciled variance of Kshs.22,860,800. The statement further reflects funds available for transfer of Kshs.101,287,339,296 and total transfers of Kshs.96,204,416,782, leaving an unremitted balance of Kshs.5,082,922,514.

In the circumstances, the completeness and accuracy of balances reflected in the revenue statements could not be confirmed.

61. Unsupported Cash and Cash Equivalents Balance

The statement of financial position reflects bank balance of Kshs.7,111,818,221 as disclosed in Note 13 to the revenue statement. The balance includes bank balance of Kshs.7,101,673,055 held in twelve (12) Kenya shillings denominated accounts and nine (9) United States dollar denominated accounts but were all not supported with cash books, and bank reconciliation statements. This was contrary to Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015 which states 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.

In the circumstances, the completeness and accuracy of the bank balances of Kshs.7,101,673,055 could not be confirmed.

62. Unsupported Prior Year Balances

As previously reported, the statement of financial position reflects prior year balances of Kshs.145,824,907 relating to revenue received that but had not been transferred to the respective collecting agencies. However, details of the bank accounts where the prior year balances were and reasons for the delay of more than two (2) in transfer of funds to the respective agencies were not provided. The statement further reflects comparative prior year balance of Kshs.145,824,907 while the prior year audited statement reflects a balance of Kshs.146,426,357 resulting in unreconciled variance of Kshs.601,450. In addition, the composition of the amount as to whom the balances were owed to was not provided for audit.

In the circumstances, the completeness and accuracy of the prior year balances of Kshs.145,824,907 could not be confirmed.

63. Partial, Incomplete and Duplicated Payments

The statement of financial position reflects partial, incomplete and duplicated payments of Kshs.1,872,536,118. However, it was not clear why the balance had been classified as partial, incomplete and duplicated and what efforts Management was taking to clear the amount from its records.

In the circumstances, the completeness and accuracy of partial, incomplete and duplicated payments of Kshs.1,872,536,118 could not be confirmed.

64. Unsupported Commission (Convenience Fees)

The statement of revenue collections and transfers reflects revenue from commission (convenience fees) of Kshs.591,988,503 and total transfers in Kenya shillings and United States dominated amounts of Kshs.857,210,458 as disclosed in Notes 4, 10 and 12 to the revenue statement. The funds were meant to cater for system maintenance by the vendor. However, the basis for the rate of commission levied to the users of the platform was not supported by a consultancy agreement with the vendor. It was therefore not possible to establish the terms of the consultancy and responsibilities of each party in the management of the system platform.

Other Matter

65. Special Audit on E-Citizen Government Digital Platform

The Office is currently undertaking a special audit on E-Citizen Government Digital Platform. The special audit is informed by the current strategic importance of E-Citizen in the financial architecture of Government. The special audit is expected to provide highlights on the credibility and reliability of the E-Citizen system including assurance on whether data processed through the system was accurate and complete. Further, the special audit is to interrogate both IT and physical security, governance arrangements and the adequacy of the controls in place. As at the time of the audit, the special audit on E-Citizen Government Digital Platform had not been concluded.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

66. Non-Compliance with the Law on Data Protection

There was no evidence provided for audit review to confirm whether the Unit was registered as data controller or data processor with the Data Commissioner and data protection impact assessment had been carried out. Further, there was no written contract between the Unit and the data processor. In addition, there was no data protection framework in place outlining Government Digital Payments (GDP's) personal data handling practices. In the circumstances, the audit could not confirm GDP controls with respect to safeguarding personal data.

In the circumstances, Management was in breach of the law.

67. Non-Compliance with In Year Reporting of Revenue Collection

During the period Management did not prepare quarterly reports on receipts and disbursements as required by Regulation 65 (1) and (2) of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting Officer or receiver of revenue or collector of revenue shall prepare quarterly report not later than the 15 days after the end of quarter. The quarterly report shall be submitted to The National Treasury with a copy to the Auditor General.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

68. E-Citizen Government Digital Payments Platform Weaknesses

Review of the Government Digital Payments Platform revealed the following weaknesses;

i. As previously reported, review of operations of the payment platform revealed that the Unit did not have full control of the system and thereby rely significantly on the vendor for some critical functions. The vendor had significant control of the system which makes it difficult for the Unit to perform critical system configurations and changes to support growth including on-boarding of new government services.

ii. The consultancy agreement between the vendor and The National Treasury was not provided for audit. Although Management had indicated that the consultancy agreement for services offered by the system vendor was between the vendor and the State Department for Immigration and Citizen Services, the convenience fees for operation and maintenance of the system was collected and accounted for by The National Treasury. It was therefore not possible to establish the terms of the consultancy and the responsibilities of each party in the management of the payments system.

iii. As previously reported, the Unit did not have an approved IT Policy for governance and management of its ICT resources. Further, there was no ICT Steering Committee in place to assist in the development of ICT Policy Framework to enable the Unit realize long-term ICT strategic goals. In addition, the system lacks an approved Business Continuity Plan and a secondary back up site. Lack of an approved IT Policy may result in an unclear direction regarding maintenance of information security across the Unit and safeguarding the Unit's ICT assets.

iv. The payment system had not been implemented in an alternative site to allow continuity in case of a disaster or quick resumption in the event of disruption.

v. Lack of a risk management policy to identify potential events or vulnerabilities that may affect the system operations and overall success.

vi. Lack of Policies and Procedure Manuals to guide key internal processes of the system and provide controls for the management. Further, the system lacked the capability to provide ad hoc and customized reports for the GDP Unit to monitor key aspects of operations.

vii. Lack of separation of roles in the payment system which was responsible for revenue collection, settlement and reconciliation of funds.

viii. Review of the operability of the E-citizen support hotlines and correspondence email address listed on the E-citizen portal confirmed that they were managed by the vendor as Management did not have a dedicated service desk with clear service level agreement for responding to issues. Further, the Unit did not provide customer support for specific Ministries, Counties, Departments and Agencies (MCDA) services and instead used whatsapp messaging to support the system and escalate issues with developers which may not be sustainable when all the MCDA services are be onboarded on the platform.

ix. In addition, the activities of the support services by the vendor and the GDP Unit were not documented and this approach made it difficult to track any Service Level Agreements (SLAs for issues) handled and also build a knowledge base for problem management procedures.

x. Review of funds collection data revealed that there was no separate production and testing environment for the Pesaflow payment system which was critical in safeguarding government information assets.

xi. Management lacked signed service level agreements with the payment service providers for payment channels. Further, Safaricom PLC agreement for providing for co-location and support services to e-citizen platform lapsed in 30 June 2023.

xii. Discussion with one (1) of the MCDAs whose services were onboarded on the payment platform revealed instances where the payment system failed to charge commission from users of MCDA services. The cost of the transactions were netted off against MCDA settlement. Management did not provide incidence reports for audit review to assess the workflow around managing such system incidents among other possible incidents.

In the circumstances, the effectiveness and security of the payment platform to offer services to the public could not be confirmed.

STATEMENT OF OUTSTANDING OBLIGATIONS GUARANTEED BY THE GOVERNMENT OF KENYA

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

69. Failure to Provide Trial Balance

The National Treasury did not provide the ledger and the trial balance for the year under review. Lack of a ledger and a trial balance does not give a clear guide for the recording, analysis and final reporting of financial activities that may or may not have happened during the year. This was contrary to Section 68(2)(b) of the Public Finance Management Act, 2012 which requires the entity to ensure that they keep financial and accounting records that comply with this Act.

In the circumstances, the accuracy and completeness of balances in the financial statements could not be confirmed.

70. Undisclosed Balances

The statement of obligations guaranteed by the Government of Kenya does not include guaranteed debts/undischarged guarantee from three (3) entities totalling Kshs.100,165,024,768 which is reflected in the summary statement of Public Debt (Debt Stock) for the year ended 30 June, 2024 as indicated below;

Entity	Lender	FY2023-2024 Guaranteed Debt (Kshs.)	FY 2022-2023 Guaranteed Debt (Kshs.)
Kenya Airways	Exim Bank of USA	29,139,206,543	88,223,867,803
Kenya Ports Authority	Government of Japan	43,134,816,734	79,490,515,426
Kenya Electricity Generating Company PLC	Government of Federal Republic of Germany-GTZ	27,891,001,491	2,514,574,228
Total		**100,165,024,768**	**170,228,957,457**

In addition, review of records on the unreported balances revealed a reduction from Kshs.170,228,957,457 to Kshs.100,165,024,768 resulting to an unreconciled variance of Kshs.70,063,932,689.

In the circumstances, the accuracy and completeness of the balances in the financial statements could not be confirmed.

71. Unsupported Balances

The statement of financial position reflects accounts receivables balance of Kshs.152,317,825 as disclosed in Note 9 to the financial statements. The balance relates to capital and interest owed by the Cereals and Sugar Finance Corporation. The Cabinet gave approval for the winding up of the Corporation on 13 September, 2007 and a task force was constituted. However, loan agreement document, loan approval memos, the stakeholders/public participation to validate the loan advance, the budget statement, debtor’s ledger, debtor aging analysis, demand notices from The National Treasury to the Corporation and responses from the Corporation to confirm the existence of the loan and circularization of the loan to support the balances in the statement of the Cereals and Sugar Finance Corporation were not provided for audit.

In the circumstances, the accuracy, completeness and existence of the outstanding balance of Kshs.152,317,825 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

72. 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 my audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

73. 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 my audit conclusion.

CONSOLIDATED FUND SERVICES - SALARIES, ALLOWANCES AND MISCELLANEOUS SERVICES

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

74. There were no material issues noted during the audit of the financial statements of the Fund.

Emphasis of Matter

75. Repayment of Principal and Interest Cost in Respect of Domestic and Foreign Borrowing by Kenya Airways Limited

The statement of receipts and payments reflects repayment of finance costs including loan interest amounting to Kshs.3,114,190,834 and principal on domestic and foreign borrowing of Kshs.14,321,371,774 both totalling Kshs.17,435,562,608 as disclosed in Notes 3 and 4 to the financial statements, respectively. The payments were in respect of a guaranteed Kenya Airways Limited loan with a foreign Bank which the carrier had defaulted in repayments. Consequently, the Government of Kenya through The National Treasury commenced repayment of the loan with effect from October, 2022.

Further, information available indicates that The National Treasury had not entered into any formal agreement with Kenya Airways Limited on repayment of the defaulted amounts and the Airline had not provided any security to the Government of Kenya in respect of the repayment of the defaulted amounts.

76. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final expenditure budget and actual payments on comparable basis of Kshs.21,522,602,986 and

Kshs.21,331,063,035 respectively, resulting in a net under-absorption of Kshs.191,539,951. The under-absorption was realized mainly under compensation of employees with an under absorption of 19% and miscellaneous services with an under absorption of 5%.

The under-expenditure implies that some of the budgeted programs and activities may not have been executed during the year.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

77. 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

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

CONSOLIDATED FUND SERVICES – PENSION AND GRATUITIES

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

79. Long Outstanding Bank Reconciliation Items

The statement of assets and liabilities reflects a balance of Kshs.1,404,944,844 in respect of cash and cash equivalents as disclosed in Note 9 to the financial statements. However, the June, 2024 bank reconciliation statement reflects an amount of Kshs.15,640,107 in respect to payments in bank not in cash book, out of which Kshs.14,891,205 had been outstanding since 2008. Although Management attributed this to fraudulent payments that were paid through the CFS Pension and Gratuities bank account, and that after investigations and court proceedings, the accused were acquitted, it was not clear why it had taken unduly long to clear the items from the bank reconciliation statement.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.1,404,944,844 could not be confirmed.

80. Long Outstanding Payables

As previously reported, the statement of assets and liabilities reflects an amount of Kshs.7,109,779,106 in respect of accounts payables - deposits and retentions which, as disclosed in Note 10 to the financial statements, relates to returned pensions (recredited cheques) balance (FY 2022/2023 – Kshs.6,715,563,752). The balance has been increasing over the years mainly due to the demise of the pensioners or lack of claims by dependents. However, Management did not provide an analysis to determine what is payable and what needs to be receipted back. Further, the Department did not have the funds in the bank account to pay the returned pensions if they were to be claimed by the beneficiaries. Some of the payables have been outstanding for more than ten years as shown in the aging analysis below:

Category	**Amount (Kshs.)**
Below 1 year	418,364,502
Between 1-3 years	1,939,143,921
Between 4-5 years	1,060,450,154
Between 6-10 years	1,880,305,558
Above 10 years	1,811,514,971
Total	**7,109,779,106**

In the circumstances, the accuracy and completeness of accounts payables - deposits and retentions balance of Kshs.7,109,779,106 could not be confirmed.

Emphasis of Matter

81. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.187,563,778,297 and Kshs.148,948,574,989 respectively, resulting in an underfunding of Kshs.38,615,203,308 or 21% of the budget. Further, The National Treasury issued to the Department Exchequer release notices amounting to Kshs.174,978,234,728 against the actual amounts received of Kshs.148,948,574,989, resulting to unfunded Exchequers amounting to Kshs.26,029,659,739.

The underfunding affected the planned activities and may have impacted negatively on service delivery to the public through the delayed pension payment.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

82. Delay in Processing of Pension Payments

The statement of comparison of budget and actual amounts reflects payments to pensioners of Kshs.118,552,668,481 against the budgeted amount of Kshs.154,508,946,903. It was observed that, during the year under review, payment of pensions took an average waiting time of 195 days as compared to The National Treasury's Service Charter that provides that retirement benefits shall be paid within 90 days upon the claim being received.

In the circumstances, the delay in payment of pensions represents a failure to meet established service standards and negatively impacts pensioners who rely on timely payments.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

83. Incomplete Pension Records

The statement of receipts and payments reflects an amount of Kshs.118,552,668,481 in respect of payment of pensions which, as disclosed in Note 7 to the financial statements, includes amounts of Kshs.61,667,825,279 and Kshs.8,403,837,502 in respect of civil pension and military pensions, respectively. However, as previously reported, the payroll provided for audit review had some missing pensioners' details such as ID numbers while some pensioner employee numbers had been recorded as "DUMMY"**.**

In the circumstances, the credibility and integrity of the pensioners' data used for processing pension payments could not be confirmed.

84. Inadequate Staffing

Review of the approved staff establishment for the Department revealed that the Department had an authorized establishment of three hundred and eighty-one (381) personnel against the in-post of one hundred and eighty-one (181) personnel leading to a shortage of two hundred (200) staff. The Department continues to experience a shortage of technical staff across several cadres. This key Department continued to suffer personnel shortage despite the public outcry on delays in processing of pensioners' payroll. Further, Management did not provide a clear plan to correct the shortage.

In the circumstances, the evident staff shortage within the Department may contribute to the significant delays in processing pension claims.

REVENUE STATEMENTS OF THE PENSIONS DEPARTMENT

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

86. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects approved estimates and actual receipts of Kshs.345,262,250 and Kshs.303,116,080 respectively, resulting in under-collection of Kshs.42,146,170 or 12% of the budget.

The under-collection affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

87. 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

88. Failure to Identify Non-Remittance Risk

The statement of receipts and disbursements reflects an amount of Kshs.303,116,080 in respect of receipts which includes an amount of Kshs.87,215,388 in respect of 31% contribution remitted by parastatals and other Semi-Autonomous Government Agencies on behalf of civil servants on secondment from Ministries and Departments. However, review of the processes revealed that there is a potential risk associated with unremitted contributions because the Department does not have a system of identifying officers on secondment and therefore does not follow up on payments of contributions from the organizations where they have been seconded. Management did not provide any mitigation strategies against the risk.

In the circumstances, there is a risk of loss of public funds where officers who have been on secondment receive their full pension before recovery of the 31% contribution.

DONOR FUNDED PROJECTS

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

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

90. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.443,360,000 and Kshs.9,757,144 respectively resulting to an under-funding of Kshs.433,602,856 or 98% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.443,360,000 and Kshs.230,365,280 respectively resulting to an under-expenditure of Kshs.212,994,720 or 48% of the budget.

The under-funding and under-expenditure affected the planned activities and impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

91. Use of Expired Access to Government Procurement Opportunities (AGPO) Certificate

During the year under review, the Project procured four (4) different types of mechanical bulk fillers at different prices totalling Kshs.2,900,000. However, the winning bidder had submitted an expired AGPO certificate. This was contrary to Section 80(2) of the Public Procurement and Asset Disposal Act, 2015 which requires evaluation and comparison to be done using the procedures and criteria set out in the tender documents.

In the circumstances, Management was in breach of the law.

92. Irregularities in Contract for Consultancy to Provide Transaction Advisory Services for the Development, Operation and Maintenance of Nairobi-Nakuru-Mau Summit Highway Project

The statement of receipts and payments reflects an amount of Kshs.71,171,892 in respect of acquisition of non-financial assets which, as disclosed in Note 7 to the financial statements, includes Kshs.51,173,762 in respect of research, project preparation, design and supervision studies for consultancy to provide transaction advisory services for the development, operation and maintenance of Nairobi-Nakuru-Mau Summit Highway.

The contract was entered into between The National Treasury and a Consultant in Joint Venture with another firm on 25 February, 2015 at a contract sum of USD2,823,379 or Kshs.79,189,428 expiring on 24 August, 2016. However, review of the contract documents shows that as at 30 June, 2024, the contract had been extended by a total of ninety-four (94) months equivalent to seven (7) years and ten (10 months and four out of the seven addendums entered into were signed when the previous addendums had already lapsed meaning that the contract was irregular as a lapsed contract could not be extended as envisaged in Section 139(2)(a) of the Public Procurement and Asset Disposal Act, 2015.

Although Management has provided Transaction Advisor (TA) Close Out Report for the consultancy dated January, 2024, review of Letter Ref: KeNHA/10/NNM/VOL 11/0558 dated 26 April, 2024 from Kenya National Highways Authority (KeNHA) revealed that the TA submitted the Close Out Report before conducting lessons learnt workshops as per the contract.

Further, although the objective of the Consultancy was provision of Advisory Services for a Private Public Partnership (PPP) tender to be awarded through competitive bidding as a concession agreement to a project company for the development, operation and maintenance of the Nairobi-Nakuru-Mau Summit Highway, the status of the envisaged development of the Highway was not provided for audit review.

In the circumstances, Management was in breach of the law and value for money for the Kshs.51,173,762 incurred on the consultancy could not be confirmed.

93. Irregularities in Hiring of New Staff

The statement of financial performance reflects compensation of employees amount of Kshs.96,913,120 as disclosed in Note 3 to the financial statements. During the year under review, the Project recruited seventeen (17) new members of staff. However, no evidence was provided to confirm that the Management obtained concurrence from the Bank as required by Part A.3(a) of Section 1, Schedule 2 of the amended Financing Agreement which requires the recipient to maintain the PPP Directorate with an institutional framework, composition, functions, facilities and other resources in accordance with the relevant laws of the recipient and as satisfactory to the Bank.

In the circumstances, Management was in breach of the Financing Agreement.

94. Expenditure without Workplan

The statement of receipts and payments reflects total payments amounting to Kshs.230,365,280. However, although the project had an approved budget of Kshs.443,360,000 and actual expenditure of Kshs.230,365,280, Management provided a work plan approved by the Public Private Partnerships (PPP) Committee for activities totalling to Kshs.94,359,384. This contrary to Part A.2(b)(ii) of Section 1, Schedule 2 of the amended Financing Agreement which provides that the PPP Committee shall provide overall policy direction, strategic guidance and general oversight of the project, including the review and approval of the Annual Work Plans and Budgets.

In the circumstances, Management was in breach of the Financing Agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

95. Weaknesses in the Management of Imprest for Daily Subsistence Allowance

The statement of receipts and payments reflects expenditure on purchase of goods and services amounting to Kshs.62,102,068 which includes Kshs.1,400,138 and Kshs.55,475,928 in respect of foreign travel and subsistence allowance and training respectively, totalling to Kshs.56,876,066 as disclosed in Note 4 to the financial statements. Review of the expenditure indicates that three (3) staff were paid daily subsistence allowance amounting to Kshs.10,227,800 during the year. The cumulative number of days paid to each of the staff meant that the staff were in the field for most part of the year.

Although Management indicated that the three officers were not the sole recipients of the allowances and that their names were used solely for imprest accounting purposes, this system is susceptible to abuse as the secondary recipients may not be liable for imprest issued to them through other officers. Further, there is no assurance that the imprest will be paid to the intended staff by the officers receiving the imprest on their behalf.

In the circumstances, the effectiveness of management control over imprest for daily subsistence allowance could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

96. As required by International Development Agency (IDA), I report based on my audit, that: I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, In my opinion, adequate accounting records have been kept by the Project and the Project financial statements are in agreement with the accounting records and returns.

PUBLIC FINANCIAL MANAGEMENT REFORMS PROGRAM (CREDIT NOS. DANIDA/FY06, SIDA 51110081, IDA GESDeK-6133-KE, GESDeK-7438-KE, AFD/CKE 1130 AND PASEDE CRIS NO:041-658)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

98. Pending Bills

As previously reported, the financial statements reflect, under Annex 4b on analysis of pending staff bills, a balance of Kshs.31,829,055 due to staff. Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year.

In the circumstances, the Program will distort future budgets when making the payments.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

99. 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

100. Failure to Fill Vacant Positions

As previously reported, review of the staff establishment revealed that the Program had in place twenty-five (25) members of staff against the authorized establishment of forty-eight (48), resulting in a deficit of twenty-three (23) employees. The staff shortage, if not addressed, could adversely affect the operations of the Program and service delivery to the public.

In the circumstances, the Program may not achieve its goals due to inadequate human capacity and capabilities.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

101. As required by DANIDA FY06, SIDA 51110081, IDA GESDEK-6133-KE, GESDEK-7438-KE, AFD/CKE 1130 and PASEDE CRIS NO:041-658 Agreements, I report based on my audit that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. In my opinion, Information given in the Management’s report is consistent with the financial statements.

STUDY AND CAPACITY BUILDING FUND PROJECT (GRANT NOS. CKE 6015 01K, CKE 1043 01F AND CKE 1047 01K)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

103. Unresolved Prior Year Audit Matters

In the audit report for the previous year, one issue was raised under Report on the Financial Statements and one issue on Report on Lawfulness and Effectiveness in Use of Public Resources. The issues remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

104. Under-Absorption of Project Funds

The Government of Kenya entered into three (3) financing agreements with Agence Française de Development (AFD) totalling to EUR 2,800,000 to finance in priority through grant, prospective development studies and project's feasibility studies as well as technical assistance supports to help preparing AFD's future intervention in both the concentration sectors defined in the Partnership Framework Agreement and Other Sectors like urban development.

Review of records indicated that as at 30 June, 2024, a total of EUR 1,925,116 had been drawn and utilized under the Project, representing 69% of the total project funding. The Project end date for grant No. CKE 1043.01.F was 30 June, 2023. However, details of the undrawn balance (if any) under the grant as at the time of its expiry were not provided for audit. It was also noted that the Project had no activities during the year under audit. With the Project closing on 31 December, 2024 and with 31% (approximately Kshs.111,169,444) of the total project funding undrawn, the funds may not be fully absorbed.

In the circumstances, the Project's objectives may not be achieved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

TECHNICAL SUPPORT PROGRAMME (FINANCING AGREEMENTS NO. KE/FED/2009/021421, NO. KE/FED/023-733 AND NO. KE/FED/037-941)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

106. Inaccuracy in the Financial Statements

The statement of receipts and payments reflects other grants, transfers and payments of Kshs.22,823,152 as disclosed in Note 4 to the financial statements. Although Management submitted documents to support the transfer of Kshs.22,823,152 from the Project bank account to the donor, a verification exercise carried out by the European Union Delegation indicates that a total of Kshs.23,737,671 was refundable under the project. Further, evidence of the refund of Kshs.914,519 was not provided for audit.

In the circumstances, the completeness and accuracy of other grants, transfers and payments of Kshs.22,823,152 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

107. 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

108. 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

Unmodified Opinion

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

Other Matter

110. Unresolved Prior Year Matters

In the audit report of the previous year, one (1) issue was raised under the Report on Lawfulness and Effectiveness in the Use of Public Resources. Although Management had indicated that the issue had been partly resolved, no evidence was provided.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

111. Failure to Close the Project

According to Clause 10 of the financing agreement, the Project was to end on 31 October, 2010 but the closing date was later extended to 31 December, 2014. However, and as previously reported, the Project closure report was not submitted for audit. Although Management indicated that AFD issued a No Objection for the transfer of the Project's surplus funds to the Rural Kenya Finance Inclusion Facility (RK FINFA), also funded by AFD, the transfer process was not completed to enable the formal closure of the Project. No explanation was provided on why it has taken over nine (9) years to conclude the process of closing the dormant Project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

113. As required by Agence Francaise de Development (AFD), I report based on my audit, that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records and the Project's financial statements are in agreement with the accounting records and returns.

INFRASTRUCTURE FINANCE AND PUBLIC PRIVATE PARTNERSHIPS PROJECT - ADDITIONAL FINANCING (IDA CREDIT NO.6121-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

115. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.6,273,000,000 and Kshs.4,507,493,979 respectively, resulting to an under-funding of Kshs.1,765,506,021 or 28% of the budget. Similarly, the Project spent Kshs.5,324,193,434 against actual receipts of Kshs.4,507,493,979 resulting to an over-expenditure of Kshs.816,699,455 or 18% of actual receipts.

The underfunding may have affected the planned activities and impacted negatively on service delivery to the public. Further, reasons for the over-expenditure were not provided.

My opinion is not modified in respect of this matter.

Other Matter

116. Unresolved Prior Years Audit Matters

In the audit of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance which have remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

117. Partial Achievement of the Project Objectives

The Project duration was seven (7) years from 21 December, 2017 to 30 June, 2024 with a three months extension to end on 30 September, 2024. However, as at 30 June, 2024, the Project had not achieved all its objectives as enumerated below:

i. To Increase Private Investment in PPP Projects for the Provision of Public Goods to Kenyans

The first objective of the Project was to increase private investment in Public Private Partnerships (PPP) Projects for the provision of public goods to Kenyans through the Capacity Building of Public-Private Partnerships Directorate and Contracting Authorities, develop Program strategy/Policy documents, and hold conferences among others. Review of the physical progress of the IFPPP Project as at June, 2024 revealed the following unachieved objectives;

a) The annual report and financial statements on page (xix) indicate that a national infrastructure plan request for proposal was issued and closed in October, 2023. However, only one bid was received and the request for a proposal had to be re-issued. The process of evaluation was ongoing and had not been completed by the

Project end date of 30 September, 2024 indicating non-achievement of this objective.

b) The annual report and financial statements on page (xxi) indicate that the objective of enhancing the visibility of the Public Private Partnership Program through the annual Public Private Partnership forum or conference was not achieved since there were no conferences supported during the year under review and that the activity was put on hold pending further directions from Management. The Project had an unutilized balance of Kshs.11,425,051 as at 30 September, 2024 which was the project end date.

ii. Promote Program Monitoring and Learning Practices for Improved Delivery of PPP Services

Physical progress of the IFPPP Project as at June, 2024 on page (xx) of the annual report and financial statements indicates the third objective of the Project which included Monitoring of PPP Projects by the Directorate. Management explained that the Directorate participated in the field Project monitoring activities held during the year under review of road Projects in six (6) counties of Nyeri, Kirinyaga, Muranga, Embu, Tharaka Nithi, and Laikipia. However, documentary evidence that the Directorate participated in the field Project monitoring activities was not provided for review. Therefore, it was not possible to confirm whether the objective was achieved.

iii. To Increase and Sustain Resources for the PPP Program

Physical progress of the IFPPP Project as at June, 2024 in page (xxi) of the annual report and financial statements indicates that the fourth objective of the Project was to increase and sustain resources for the PPP Program through holding meetings and workshops with development partners which were not achieved since the Directorate did not hold meetings and workshops with the development partners during year under review.

iv. To Enhance the Visibility of the PPP Program

Physical progress of the IFPPP Project as at June, 2024 in pages (xxi and xxii) of the annual report and financial statements indicate that the fifth objective of the Project was to enhance the Visibility of the PPP Program through; annual PPP Forum/Conference, Project Investor Roadshows and market sounding events, communications audios/video products development, public awareness campaigns on PPPs media engagement and training forums to be held, high-level interviews and features in international media, exhibitions at strategic international PPP events and conferences post and digital/social media publications and consultancy on PPP marketing communications and stakeholder engagement. However, most of these activities were not implemented. Supporting documents in respect of the few activities indicated as having been implemented were not provided for audit. Therefore, it was not possible to confirm whether the objectives were achieved.

In the circumstances, value for money could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

119. As required by International Development Association (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project, and the Project's financial statements are in agreement with the accounting records and returns.

FINANCING LOCALLY-LED CLIMATE ACTION PROGRAM PROJECT (LOAN NO. BWZ-NO. 2016 65 108/2018 65 138)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

120. Unaccounted for Transfers to Other Government Entities

The statement of receipts and payments reflects transfers to other Government entities of Kshs.1,200,000,002 which includes transfers of Kshs.61,307,186, Kshs.76,466,005 and Kshs.90,654,481 to Uasin Gishu, Busia and Homa Bay Counties respectively all totalling Kshs.228,427,672 as disclosed in Note 9 to the financial statements. However, the three (3) Counties did not submit separate Financing Locally-Led Climate Action County Fund financial statements for audit.

In the circumstances, the accuracy of transfers to other Government entities of Kshs.228,427,672 could not be confirmed.

Emphasis of Matter

121. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final budget and actual on a comparable basis of Kshs.1,480,000,000 and Kshs.1,297,898,061 respectively resulting in an under-funding of Kshs.182,101,939 or 12% of the budget. Similarly, Management spent and amount of Kshs.1,277,161,953 out of actual receipts of Kshs.1,297,898,061 resulting to under-utilization of Kshs.20,736,108 of the receipts.

The underfunding affected the planned activities and may have impacted negatively on service delivery to the public.

122. Delayed Disbursement of Funds

The statement of receipts and payments reflects transfers to other Government entities of Kshs.1,200,000,002 as disclosed in Note 9 to the financial statements. However, according to the Project's design, the first disbursement was delayed by one (1) year. Similarly, the first and second disbursements to counties were done in April, 2024 and May, 2024 respectively, the fourth quarter in the second year of the Project's operationalization. Further, the Counties' workplans are reviewed and approved by the Project Implementation Team only after the disbursements were done.

In the circumstances, the delays in funds disbursement may have negatively affected the Project implementation.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

123. Irregular Advance Payment for Training

The statement of financial assets and liabilities reflects accounts receivables balance of Kshs.6,694,746 as disclosed in Note 16 to the financial statements which includes a balance of Kshs.6,260,746 relating to advance payment for training held between 12 August, 2024 to 6 September, 2024. Further, Management did not provide evidence of tender documents and contract agreement supporting advance payment as a requirement. This was contrary to Section 146 of the Public Procurement and Asset Disposal Act, 2025 which states that no works, goods or services contract shall be paid for before they are executed or delivered and accepted by the accounting officer of a procuring entity or an officer authorized by him or her in writing except where so specified in the tender documents and contract agreement. Such an advance payment shall not be paid before the contract is signed.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

125. As required by International Bank for Reconstruction and Development, I report based on my audit, that; I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit; Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records; and the Project's financial statements are in agreement with the accounting records and returns.

FINANCING LOCALLY-LED CLIMATE ACTION PROGRAM NO. P173065; CREDIT NO. IDA 6980-KE; GRANT AGREEMENT NO.TF0B6810-KE

REPORT ON THE FINANCIAL STATEMENTS

Basis of Qualified Opinion

126. Variances in the Cumulative Purchase of Goods and Services

The statement of receipts and payments reflects cumulative purchase of goods and services amount of Kshs.1,011,046,856. However, Note 6 to the financial statements reflects an amount of Kshs.999,168,431 for the same component resulting in an unexplained variance of Kshs.11,878,425.

In the circumstances, the accuracy and completeness of cumulative purchase of goods and services amount of Kshs.1,011,046,856 could not be confirmed.

127. Unaccounted for Transfers to Other Government Entities

The statement of receipts and payments reflects transfers to other Government entities of Kshs.6,638,500,020 which includes transfers of Kshs.1,677,103,679 to ten (10) Counties (Kilifi, Nakuru, Isiolo, Meru, Samburu, Uasin Gishu, Baringo, Laikipia, Narok and Homa Bay) as disclosed in Note 9 to the financial statements. However, the ten (10) Counties did not submit separate Financing Locally-Led Climate Action County Fund financial statements for audit.

In the circumstances, the accountability of transfers to other Government entities of Kshs.1,677,103,679 could not be confirmed.

128. Domestic Travel and Subsistence Allowance

128.1 Overstatement of the Expenditure

The statement of receipts and payments reflects purchase of goods and services of Kshs.586,741,387 which includes domestic travel and subsistence allowance of Kshs.421,351,240 as disclosed in Note 6 to the financial statements. Included in the amount is Kshs.94,478,959 for allowances paid after 30 June, 2024. However, the amount was expensed during the year under review. This was contrary to cash basis of accounting method under the International Public Sector Accounting Standards (IPSAS) in which the financial statements have been prepared.

128.2 Unsupported Expenditure

The financial statement and Note 6 to the financial statements reflects domestic travel and subsistence expenditure of Kshs.421,351,240. However, the general ledger provided for audit has a balance of Kshs.310,182,781 resulting in an unexplained variance of Kshs.111,168,459. In addition, the ledger had negative balances totalling Kshs.16,609,878 that was offset against the payments but had no corresponding balances to warrant the offset. No explanation was provided for these negatives.

In the circumstances, the accuracy and regularity of domestic travel and subsistence allowance could not be confirmed.

Emphasis of Matter

129. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final total receipts budget of Kshs.8,185,000,000 against actual receipts of Kshs.7,449,384,515 resulting in an under-funding of Kshs.735,615,485 or 9% of the budget. However, the Project spent an amount of Kshs.7,384,032,752 against actual receipts of Kshs.7,449,384,515 resulting in an under-utilization of Kshs.65,351,763 of the budget.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

130. Non-Compliance with Financial Reporting Requirements

The Government of Kenya through The National Treasury entered into a Financing Agreement with the International Development Agency (IDA) on 10 November, 2021. The National Treasury in turn entered in subsidiary Financing Agreements with forty-five (45) County Governments for implementation of Financing Locally Led Climate Action Program (FLLoCA) which included a condition that the County Governments adhere to the Program Operation Manual (POM). One of the conditions in POM was that the County Governments were required to prepare individual financial statements and submit them to the Auditor-General by 30 September of each year. The Office however, noted that by 30 September, 2024 twenty-one (21) counties with total disbursement of Kshs.3,007,330,722 had not submitted their financial statements to the Auditor-General and as at the time of the report, ten (10) County Governments had not submitted the financial statements with total disbursements of Kshs.1,677,103,679.

In the circumstances, there was a breach of POM by the Counties and the funds disbursed by these counties had not been accounted for in line with the terms of the subsidiary Financing Agreement.

131. Lack of Updated Staff Establishment and Remuneration Structure Conversion

The statement of financial performance reflects compensation to employees amount of Kshs.85,357,995 as disclosed in Note 5 to the financial statements. The existing staff establishment had an approved workforce of fourteen (14) officers. However, review of payroll and staff records revealed a workforce of seventeen (17) employees with an additional deployed staff of eight (8) and nineteen (19) interns all totalling forty-four (44). Further, the grading structure for the program was not approved and employees were being paid based on predetermined rates. This was contrary to Program Implementation Manual on how officers in the program were to be remunerated considering that the structure being used was not approved according to the existing PSC guidelines and regulations.

In the circumstances, Management was in breach of the Program Manual.

132. Non-Payment of Top Up for Deployed and Seconded Employees

The statement of financial performance reflects compensation to employees amount Kshs.85,357,995 as disclosed in Note 5 to the financial statements relating to Program contracted staff. Review of employees' records revealed that eight (8) officers were deployed and seconded to the FLLoCA Program without clear terms on duration of secondment. Further, the eight (8) seconded and deployed staff were entitled to a top up of their salary in line with the existing salary and grading structure of the Program. However, no top up of salary to the eight (8) deployed and seconded staff was paid during the year under review.

In the circumstances, the Program Management was in breach of regulations.

133. Irregularities in Human Capital

Review of payroll and human resource records revealed that two (2) employees without certificate of disability were in employment bove sixty (60) years of age at the time of audit in October, 2024. Further, another one (1) employee was attaining the age of sixty (60) years during October 2024 and there was no evidence of succession plans for the three (3) employees. In addition, the Program had nineteen (19) interns who outnumbered the seventeen (17) contracted Program staff and seven (7) interns had been in the Program beyond the stipulated timeline of not exceeding one year.

In the circumstances, Management was in breach of the law.

134. Un-Refunded AIEs

The statements of financial assets and liabilities reflects account receivables balance of Kshs.59,124,884 as disclosed in Note 16 to the financial statements. The amount comprised of Kshs.42,875,240 and Kshs.16,249,644 in respect of disbursement for CCD for Africa climate change and Council of Governor (COG) respectively. Review of documents revealed that the whole amount of Kshs.59,124,884 remained unutilized at the close of year under review. However, the amount had not been surrendered to the Program at close of audit exercise. This was contrary to AIEs Framework Note 7 that states that at the end of financial, any unspent balance should be returned to FLLoCA Program Bank Account on or before 15 June each year. No explanation was provided for failure to refund the amount.

In the circumstances, Management was in breach of the law.

135. Irregular Payment of Staff Gratuity

Annex 4(b) to the financial statements reflects analysis of pending staff bills amounting to Kshs.12,492,100 relating to staff gratuity. Out of this amount, Kshs.10,440,000 was paid in October 2024. This was contrary to the provisions of staff contracts which states that the gratuity for PMU officers is paid on agreed gross salary month rate and end of contract gratuity of 15% of basic monthly salary per year worked.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

136. Slow Implementation of the IPF Activities

The FLLoCA program through the Investment Project Financing (IPF) component endeavours to strengthen and foster a cooperative relationship between the National level Ministries, Departments and agencies (MDAs) and County Governments in planning and monitoring resilience investments, all while implementing them hand in hand with local communities. The Agency report provided by management revealed that sub-component 1, which focuses on capacity and coordination support, was allocated Kshs.782,602,560. However, by the end of the financial year, only Kshs.52,034,295 had been utilized by the National Level MDAs, leading to an under-absorption of Kshs.405,092,857. No explanation was provided for the failure to promptly implement the activities outlined in the annual work plan, which may jeopardize the achievement of the Program's objectives before the project closes.

In the circumstances, effectiveness in strengthening and fostering cooperative between the National level MDAs and County Governments in planning and monitoring resilience investments could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

137. As required by the International Development Association (IDA) and Credit Facility Agreement No. IDA 6980-KE dated 10 November, 2021, I report based on my audit that, I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records and the Project's financial statements are in agreement with the accounting records and returns.

PUBLIC DEBT MANAGEMENT SUPPORT PROJECT (PDMS) - ADB GRANT AGREEMENT NO.5500155013708

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

138. Inaccuracies in the Presentation and Disclosure of Financial Statements

Review of the financial statements revealed the following inaccuracies:

(i) The statement of financial assets and liabilities has not been signed by the head of Disbursement Unit (Project Accountant) as required by the reporting template.

(ii) Note 5 A to the financial statements reflects a prior year special deposit account opening balance of USD 650 and Nil withdrawals during the period. However, audited financial statements for the financial year 2022/2023 and special deposit account reconciliation reflects an opening balance of USD 107,650 and withdrawals of USD 107,000, leaving unreconciled variance of USD 107,000.

(iii) Note 13 (e) on Purpose and use of external assistance reflects comparative amounts paid to third parties of Kshs.34,107,126 instead of Kshs.11,937,500 reported in the previous year's audited financial statements.

(iv) Note15 reflects related parties balance of Kshs.56,141,508. However, the description provided indicates that the project did not have related party transactions.

(v) The header for the financial statements indicated in pages 13 to 27 is inconsistent with the project name.

139. Amount Withdrawn and not Claimed

The statement of special (designated) account reconciliation reflects amount withdrawn and not claimed of USD 31,518.40 equivalent to Kshs.4,006,934 as at 30 June, 2024. Details of this amount and reasons for failure to submit the expenditure returns have not been provided for audit review.

In the circumstances, the occurrence, completeness and regularity of the expenditure incurred from the withdrawals could not be ascertained.

Other Matter

140. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under Report on Lawfulness and Effectiveness in Use of Public Resources. The issues remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

141. Low Absorption of Project Funds

The Republic of Kenya entered into a tripartite agreement between the African Development Bank and African Development Fund in the year 2020, an agreement in which the Republic of Kenya was to receive a grant totalling to USD 1,120,000 with the Government of Kenya committing Kshs.30,000,000 to strengthen the capacity of the Public Debt Management Office (PDMO) in public debt management to ensure transparent, accountable and effective management of public debt and borrowing. The initial closing date for the project was 31 May, 2022, after which an extension was granted by the bank to 31 May, 2025. As at 30 June, 2024, the project had drawn a total of USD 634,734, representing an absorption rate of 57% of the total grant. Further, the statement of comparison of budget and actual amounts reflects final receipts and payments budget of Kshs.142,000,000. Although the project was able to spend all the receipts for the year totalling to Kshs.90,248,634 the absorption for the year was 64% of the budget.

With about 78% of the project duration having elapsed and absorption of the grant at 57%, the project objectives may not be achieved within the set project end date of 31 May, 2025.

142. Non-Compliance with the Law of Public Finance Management

The statement of receipts and payments reflects purchase of goods and services expenditure of Kshs.90,248,634 as further analysed in Note 3 to the financial statements. Included is an amount of Kshs.6,278,228 in relation to foreign travel and subsistence allowances. Review of expenditure records provided for audit indicated that the expenditure was in respect of claims by officers after they had completed their assignments. This was contrary to provisions of Regulation 93(3) of the Public Finance Management (National Government) Regulations, 2015 which states that that temporary imprests shall be issued mainly in respect of official journeys and are intended to provide officers with funds with which they can meet travelling, accommodation and incidental expenses.

In the circumstances, Management was in breach of the law.

143. Delay in Procurement of the Supply, Configuration, Integration and Implementation of Electronic Document Management System

Review of procurement documents for the supply, configuration, integration and implementation of an Electronic Document Management System revealed that the Project was granted No Objection by the Donor for the Terms of Reference for Expression of Interest (EOI) on 8 November, 2023 with an advertisement placed in the local dailies on 28 November, 2023. The budget for the tender in the year under review was Kshs.25,000,000 and according to the approved terms of reference, the implementation was to be carried out in two (2) phases with each phase having its own distinct deliverables. However, the Management procured the tender for phase one (1) only, with the tender evaluation committee recommending the tender be awarded to a local Company at a negotiated sum of Kshs.20,416,000 inclusive of all taxes and levies. However, the Bank declined to grant No Objection to the award due to the omission of phase 2 of the terms of reference. At the time of audit, the technical and financial evaluation of the tender was ongoing. The Management did not provide an explanation for non-compliance with the guidelines of the Terms of Reference.

In the circumstances, the non-compliance with the Terms of Reference guidelines may negatively impact on delivery of the project objectives.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

145. African Development Bank and African Development Fund requires that I report on the legal or regulatory requirements, or on performance information disclosed. These matters require expressing a separate opinion as to the Public Debt Management Support Project compliance with laws and regulations. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

GLOBAL FUND - TO REDUCE MALARIA INCIDENCE AND DEATHS BY AT LEAST 75 PERCENT OF THE 2016 LEVELS BY 2023, WORKING TOWARDS A MALARIA-FREE KENYA PROGRAM (GRANT AGREEMENT NO. KEN-M-TNT-2064)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

147. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.1,756,184,710 against the actual receipts of Kshs.846,296,257 resulting to an under-funding of Kshs.909,888,453 or 52% of the budget.

Further, the funding summary of the financial statements reflects total funding commitment of Kshs.5,698,815,887 during the project's phase but only Kshs.2,001,114,789 was received by the Project as at 30 June, 2024 leading to an undrawn balance of Kshs.3,697,701,098 or 65% of the total commitment.

The underfunding affected the planned activities and may have negatively impacted on effective service delivery to the public.

148. Pending Bills

Annex 4(a) to the financial statements discloses an amount of Kshs.88,733,658 with respect to pending bills outstanding as at 30 June, 2024. Although Management attributed the non-payment of the bills to delays in Exchequer releases, failure to settle the bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year. Further, pending bills could expose the Project to the risk of incurring unnecessary interests and penalties in case of litigations.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

149. Expired Contracts for Procurement of Goods

The statement of receipts and payments reflect amount of Kshs.781,737,910 in respect to purchase of goods and services as disclosed in Note 5 to the financial statements. The payments includes an amount of Kshs.560,521,410 in respect of specialized goods and materials. However, the audit noted the following unsatisfactory matters;

i. Clause 3.2 of contract agreement dated 18 January, 2023 stated that the procuring entity (KEMSA) was to issue the supplier with a Local Purchase Order of the stated quantity within thirty (30) days. However, a letter written by KEMSA dated 09 January, 2024, requesting extension of contract to facilitate pending delivery and payments revealed that the contract period had lapsed and that the contract valued at USD 321,860 (equivalent to Kshs.41,680,870 at exchange rate of 129.5) was not fulfilled.

ii. Clause 4 of contract agreement dated 28 January, 2023 stated that the delivery schedule was one (1) to sixteen (16) weeks from the effective date of contract signing. The contract was counterpart funded. However, there was no letter indicating extension of the contract even though as at 30 June, 2024, deliveries worth USD 14,800 (equivalent to Kshs.14,866,600 at exchange rate of 129.5) were still outstanding.

iii. Clause 3.1 of contract agreement dated 13 January, 2023 stipulates delivery to have been in one (1) to twelve (12) weeks from effective date of contract. However, there was no letter requesting extension of the contract even though as of 30 June, 2024, deliveries worth USD 21,603 (equivalent to Kshs.2,797,588 at exchange rate of 129.5) were still outstanding.

iv. Clause 10 of contract agreement dated 18 January, 2023 stipulates that the contract term was one (1) year ending 17 January, 2024. Further, Clause 3.3 states that the delivery of the goods shall be on call off basis. However, as at 30 June, 2024 there was no extension letter from KEMSA even though deliveries worth USD 538,980 (equivalent to Kshs.69,797,910 at exchange rate of 129.5) were still outstanding.

In the circumstances, the public did not get value for orders that were not fully serviced by the suppliers due to non-delivery.

150. Slow Absorption of Project Funds

The Project's three (3) year duration ended on 30 June, 2024 although the grant closure guidelines provide for an additional six (6) months closure period from the implementation period end date. However, the cumulative amount received as at 30 June, 2024 as per the funding summary in the financial statements amounts to Kshs.2,001,114,789 against a commitment amount of Kshs.5,698,815,887 representing an absorption rate of only 35% of the budget.

In the circumstances, the Project may not have achieved its objectives by the lapse of the Project's duration.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

151. Weaknesses in the Management of Imprest for Daily Subsistence Allowance

The statement of receipts and payments reflects purchase of goods and services of Kshs.781,737,910 which, as disclosed in Note 5 to the financial statements, includes Kshs.29,298,738 and Kshs.2,846,579 in respect of domestic travel and subsistence allowances and training respectively, all totalling to Kshs.32,145,317. Review of the supporting schedules and payment vouchers revealed that nine (9) staff were paid amounts totalling Kshs.27,443,520 as daily subsistence allowance.

Although Management indicated that the officers were not the sole recipients of the allowances and that their names were used solely for imprest accounting purposes, this system is susceptible to abuse as the secondary recipients may not be liable for imprest issued to them through other officers. Further, there was no assurance that the imprest would be paid to the intended staff by the officers receiving the imprest on their behalf.

In the circumstances, the effectiveness of management control over imprest for daily subsistence allowance could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

152. As required by Grant Agreement No. KEN-M-TNT-2064, I report based on my audit that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

GLOBAL FUND - TO CONTRIBUTE TO ACHIEVING VISION 2030 THROUGH UNIVERSAL ACCESS TO COMPREHENSIVE HIV PREVENTION, TREATMENT AND CARE PROGRAM – KEN-H-TNT, GA 2065

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

154. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final budget and actual receipts on comparable basis of Kshs.8,634,487,533 and Kshs.5,106,176,356 respectively resulting to an under-funding of Kshs.3,528,311,177 or 41% of the budget.

The underfunding affected the Program's planned activities and may have negatively impacted on effective service delivery to the public.

155. Pending Bills

Annex 4a to the financial statements discloses pending bills totalling Kshs.2,277,671,037 which Program Management attributed to challenges in exchequer releases. However, failure to settle the bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year. Further, pending bills could expose the Program to the risk of incurring unnecessary interests and penalties in case of litigations.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

156. Slow Absorption of Project Funds

The Project's three (3) year duration ended on 30 June, 2024 although the grant closure guidelines provide for an additional six (6) months closure period from the implementation period end date. However, the paragraph 2.7 of the financial statements on funding summary reflects total funding commitment of Kshs.22,828,697,931. As at 30 June, 2024, only Kshs.17,430,346,753 had been received by the Program, leading to an undrawn balance of Kshs.5,398,351,178 or 24% of the commitment representing an absorption rate of only 76% of the budget.

In the circumstances, the Program may not have achieved its objectives by the lapse of the Project's duration.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

157. Weaknesses in the Management of Imprest for Daily Subsistence Allowance

The statement of receipts and payments reflects purchase of goods and services of Kshs.4,987,669,911 as disclosed in Note 5 to the financial statements. The expenditure includes Kshs.47,390,849 and Kshs.26,346,442 in respect of domestic travel and subsistence allowances and training respectively, all totalling to Kshs.73,737,291. Review of the supporting schedules and payment vouchers revealed that nine (9) staff were paid amounts totalling to Kshs.45,569,069 as daily subsistence allowance.

Although Management indicated that the nine officers were not the sole recipients of the allowances and that their names were used solely for imprest accounting purposes, this system is susceptible to abuse as the secondary recipients may not be liable for imprest issued to them through other officers. Further, there is no assurance that the imprest will be paid to the intended staff by the officers receiving the imprest on their behalf.

In the circumstances, the effectiveness of management control over imprest for daily subsistence allowance could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

158. As required by the Global Fund, I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Program and the Program's financial statements are in agreement with the accounting records and returns.

AFFORDABLE HOUSING FINANCE PROJECT (IDA CREDIT NO.8958-KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

159. Unconfirmed Lending and Repayments

The International Bank for Reconstruction and Development (IBRD) entered into a loan agreement with the Republic of Kenya to lend an amount EUR 219,000,000 to finance expansion of access to affordable housing finance to targeted beneficiaries according to a Financing Agreement signed on 05 December, 2019 for the period up to 30 June, 2025. The project consisted of two parts namely; Support to Kenya Mortgage Refinance Company who are the principal lenders and technical assistance which was to be provided by The National Treasury and the Ministry of Land and Physical planning. Records provided for audit revealed that disbursements amounting to EUR 91,235,852.22 (Kshs.11,657,418,653) have been made to Kenya Mortgage Refinance Company (KMRC) as at 30 June, 2024 on lending to beneficiaries. However, the status of utilization of the Kshs.11,657,418,653 disbursed to KMRC on compliance with the terms of the loans disbursement to beneficiaries could not be established. This is because the financial statements of KMRC are not audited by Auditor-General or delegated auditor appointed in line with Section 23 of the Public Audit Act, 2015.

In the circumstances, the accuracy and appropriate utilization of Kshs.11,657,418,653 disbursed to KMRC for project implementation could not be confirmed.

160. Unsupported Expenditure on Air Travel

Annex 4a to the financial statements reflects pending accounts payables of Kshs.1,672,770 for a travel company relating to provision of return air tickets for officers travelling from Nairobi, Kenya to Kuala Lumpar, Malaysia for bench marking visit on risk sharing facility on affordable mortgages. However, the payment was not supported with the list of participants for the training, proof of attendance by participants training programme events, copies of passports, air tickets and reports of the benchmarking.

In the circumstances, the propriety and value of air travel expenditure of Kshs.1,672,770 could not be confirmed.

Emphasis of Matter

161. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final budget and actual on a comparable basis of Kshs.65,000,000 and Kshs.42,644,349 respectively resulting in an under-funding of Kshs.22,355,651 or 34% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON THE LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

162. Low Absorption of Funds

The International Bank for Reconstruction and Development(IBRD) entered into a loan agreement with the Republic of Kenya to lend an amount EUR 219,000,000, to finance expansion of access to affordable housing finance to targeted beneficiaries according to a Financing agreement signed on 5 December, 2019 for the period up to 30 June, 2025.The project consisted of two parts namely support to Kenya Mortgage Refinance company who are the principal lenders and technical assistance which was to be provided by The National Treasury and the Ministry of Land and Physical planning. Review of the subsidiary Loan agreement signed by Kenya Mortgage Refinance Company and subsequent drawdowns revealed that whereas the total loan was EUR 219,000,000 only EUR 91,235,852.22 had been drawn as at 30 June, 2024 thus leading to unutilized amount of EUR 127,764,147.78.

In the circumstances, the effectiveness and impact of loan granted by the International Bank for Reconstruction and Development could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

164. As required by International Bank for Reconstruction and Development, I report based on my audit, that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records; and the Project's financial statements are in agreement with the accounting records and returns.

NATIONAL TREASURY CAPACITY STRENGTHENING PROJECT (GRANT NO.5500155013902 ID NO.P-KE-KOO-011)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

165. Errors and Inaccuracies in the Annual Report and Financial Statements

The annual report and financial statements indicate total undrawn balance of USD 153,244 equivalent to Kshs.19,481,910 as disclosed in Paragraph 2.7 of the project information and overall performance on the funding summary which differed with the recomputed balance of USD 203,000 equivalent to Kshs.25,807,390 by an unexplained variance of Kshs.6,325,480.

Further, casting of the actual column of the budget performance against actual amounts under Paragraph 2.8 of the project information and overall performance was wrongly reflected as nil instead of Kshs.7,373,950.

In additional, the surplus/deficit column in the statement of comparison of budget and actual amounts was not completed for all columns except for actual on comparable basis column.

Similarly, the bank statement date for the corresponding amount of Kshs.7,373,950 was not indicated in the reconciliation of inter-entity transfers at annex 3 to the financial statements.

In the circumstances, the accuracy and completeness of the respective balances in the financial statements could not be confirmed.

Emphasis of Matter

166. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.20,680,000 and Kshs.7,373,950 respectively resulting in an underfunding of Kshs.13,306,050 or 64% of the budget. Similarly, the Project spent Kshs.9,197,166 against actual receipts of Kshs.7,373,950 resulting to an over expenditure of Kshs.1,823,216 or 20% of the actual receipts.

The underfunding impacted negatively on service delivery to the public as some planned programs may not have been implemented**.**

167. Slow Absorption of the Project Funds

The Letter of Agreement and the extension of disbursement deadline indicates that the Project started on 12 February, 2021 and the disbursement deadline is expected to be 31 May, 2025. The Project is expected to receive a total disbursement amounting to Kshs.62,890,000 with the African Development Bank and the Government of Kenya committing Kshs.32,890,000 and Kshs.30,000,000, respectively.

Review of the application of funds as at 30 June, 2024 indicated that the Project had utilized Kshs.21,663,276 representing 34.4% of the total expected project disbursement with the remaining disbursement of Kshs.41,226,724 expected to be absorbed in the remaining eleven (11) months of the Project's duration. Management explained that the low absorption of funds was caused by delay in procurement of a consultant to digitize and automate project records. In the circumstances, the Project may not be completed in time which may cause delay in delivery of services to the citizens and escalation of costs due to inflation.

My opinion is not modified with respect to these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

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

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

170. As required by African Development Bank, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND – PROVISION OF QUALITY CARE AND PREVENTION SERVICES FOR ALL PEOPLE IN KENYA WITH TB, LEPROSY AND LUNG DISEASES PROGRAM (GRANT AGREEMENT NO. KEN-T-TNT-2067)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

172. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final budget and actual receipts on a comparable basis of Kshs.1,044,468,247 and Kshs.687,649,352, respectively resulting in an underfunding of Kshs.356,818,895 or 34% of the budget. Further, the funding summary of the financial statements reflects total funding commitment of Kshs.6,461,146,487 during the project's phase but only Kshs.1,746,856,917 was received by the Program as at 30 June, 2024 leading to an undrawn balance of Kshs.4,714,289,570 or 73% of the commitment.

The under-funding and under-expenditure affected the implementation of the planned activities and may have impacted negatively on service delivery to the public.

173. Pending Bills

Annex 4a to the financial statements discloses pending bills totalling Kshs.66,881,542. Although Management has attributed the non-payment of the bills to challenges in exchequer releases, it should be noted that failure to settle the bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year. Further, pending bills could expose the Project to the risk of incurring unnecessary interests and penalties in case of litigations.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

174. Slow Absorption of Project Funds

The Project's three (3) year duration ended on 30 June, 2024 although the grant closure guidelines provide for an additional six (6) months closure period from the implementation period end date. However, the cumulative amount received as at 30 June, 2024 as per the funding summary in the financial statements is Kshs.1,746,856,917 against a commitment of Kshs.6,461,146,487 representing an absorption rate of only 27% of the budget.

In the circumstances, the Project may not have achieved its objectives by the lapse of the Project's duration.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

175. Weaknesses in the Management of Imprest for Daily Subsistence Allowance

The statement of receipts and payments reflects purchase of goods and services of Kshs.559,729,056 which, as disclosed in Note 5 to the financial statements, includes Kshs.12,703,600 and Kshs.978,000 in respect of domestic travel and subsistence allowances and training respectively, all totalling Kshs.13,681,600. Review of the supporting schedules and payment vouchers revealed that seven (7) staff were paid amounts totalling Kshs.11,809,900 as daily subsistence allowance. Management indicated that the nine (9) officers were not the sole recipients of the allowances and that their names were used solely for imprest accounting purposes. The system is susceptible to abuse as the secondary recipients may not be liable for imprest issued to them through other officers. Further and there is no assurance that the imprest will be paid to the intended staff by the officers receiving the imprest on their behalf.

In the circumstances, the effectiveness of management control over imprest for daily subsistence allowance could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

176. As required by Global Fund, I report based on my audit, that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

RURAL KENYA FINANCIAL INCLUSION FACILITY (RK FINFA) (IFAD LOAN NO.2000004121 AND LOAN NO. 2000004122)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

177. Incomplete Expenditure Records

The statement of receipts and payments reflects total payments of Kshs.450,807,369. However, review of the supporting ledger reports and expenditure schedules revealed that they lacked details of the payees making it difficult to validate the payment amounts in the financial statements and the accounting records. Management has indicated that they have engaged the system vendor intending to rectify the anomaly. However, as at the time of the audit, the accounting system had not been reconfigured to include payee details and details of the beneficiary to payments made by the project could not be confirmed.

In the circumstances, the accuracy and validity of the reported expenditure could not be confirmed.

Emphasis of Matter

178. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects the approved receipts budget of Kshs.743,170,000 and actual receipts of Kshs.616,281,521 resulting to a budget shortfall of Kshs.132,868,533 or 18% of the budget. Similarly, the statement reflects actual receipts of Kshs.616,281,521 compared to actual payments of Kshs.450,807,369 resulting to an underutilization of Kshs.165,474,152 or 27% of the actual receipts.

The underfunding and underutilization affected the implementation of the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

179. Irregular Payment of Salaries

The statement of receipts and payments reflects compensation of employees of Kshs.70,530,693 which includes staff emoluments of Kshs.69,624,203 as disclosed in Note 4 to the financial statements. The amount further includes Kshs.4,720,200 paid as salary top-up to an officer deployed from the State Department for Planning being the net difference between the salary as per the contract under the project and the amount paid at the State Department for Planning.

Review of records revealed that although the officer had been recruited competitively and offered a contract under the project, approval for the secondment to the project by the Ministry of Public Service, Gender and Affirmative Action as required by B.33(3) of the Public Service Commission's Human Resource Policies and Procedures Manual for the Public Service, 2016 was not provided.

In the circumstances, Management was in breach of the law.

180. Low-Value Procurement Beyond the Allowable Threshold

The statement of receipts and payments reflects purchase of goods and services of Kshs.77,306,676 out of which Kshs.7,347,957 relate to utilities, supplies and services. Review of the supporting schedules and payment records revealed that amounts totalling Kshs.1,665,247 relate to the purchase of consumables such as water refills, office stationery, newspapers, airtime, and purchase of fuel using the direct method of procurement through the office standing imprest. The procurement of the items exceeded the threshold of Kshs.50,000 for low-value cash purchases. This was contrary to Section 45(3)(b) of the Public Procurement and Asset Disposal Act, 2015 which states that all procurement processes shall be undertaken by a procuring entity as per the threshold matrix prescribed.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

SUPPORTING ACCESS TO FINANCE AND ENTERPRISE RECOVERY PROJECT (IDA CREDIT NO. 7018-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

183. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.2,000,000,000 and Kshs.1,974,697,567 respectively, resulting to an under-funding of Kshs.25,302,433 or 1% of the budget. Similarly, the Project spent an amount of Kshs.933,798,177 against actual receipts of Kshs.1,974,697,567, resulting to an under-utilization of Kshs.1,040,899,390 or 53% of actual receipts.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

184. Late Remittance of Statutory Deductions

The statement of receipts and payments reflects expenditure on compensation to employees amounting to Kshs.39,353,542 which relates to basic salaries of permanent employees as disclosed in Note 4 to the financial statements. Included in the amount are statutory deductions totalling Kshs.4,118,197 in respect to PAYE, National Health Insurance Fund and Affordable Housing Levy which were remitted after the ninth day following month of deduction contrary to Section 10(1) and (2) of the Income Tax Act Cap 470, Regulation 4(1) of the defunct National Health Insurance Fund (Contributions) Regulations, 2022 and Section 4(3) of the Affordable Housing Act, 2004. Although Management explained that the delays were occasioned by late renewal of Project Implementation Unit staff employment contracts, the delays could have been avoided by having them finalized in time before their expiry.

In the circumstances, Management was in breach of the law.

185. Unbudgeted Approved Gratuity Payable

Review of employees' contracts revealed that the terms of employment provided for gratuity of 30% of consolidated pay translating to an amount of Kshs.8,211,744. However, correspondence between the Project and the Donor revealed that the gratuity was considered ineligible expenditure. As a result, the Project Management requested the Principal Secretary to The National Treasury to settle the amount from The National Treasury budget allocation. The request was approved on 31 May, 2024. Although subsequent contracts have been drawn exclusive of gratuity, the liability totalling to Kshs.8,211,744 in respect of gratuity still remained unsettled. This was contrary to Regulation 120(3) of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting Officer of a government entity shall ensure that the personnel cost of all appointees, as well as promotion and salary increases, can be met within the budgetary allocation voted for the national government entity.

In the circumstances, Management was in breach of the law and risks loss of public funds through litigations and interests.

186. Failure to Settle Pending Accounts Payables

Note 14 to the financial statements reflects pending accounts payables balance of Kshs.5,820,991 in relation to supply of services. Although Management explained that delay in settling the payments was due to delay in submission of supporting documents by suppliers, no evidence was provided to confirm that these accounts payable had been paid as at the time of audit in October, 2024. This was contrary to Regulation 150(1) of the Public Procurement and Disposal Regulations, 2020 which requires the Project Management to make prompt payment within sixty days from the date of receipt of the invoice.

In the circumstances, Management was in breach of the law.

187. Non-Compliance with the Provisions of the Financing Agreement

Review of Project Coordination Committee (PCC) meeting minutes revealed that the committee met only once in the financial year under review and twice since the Project inception in May, 2022. This was contrary to schedule 2 Section I A 3(c) of the Project Financing Agreement which require PCC to hold meetings at least every six months to review project results, discuss any key issues arising and agree on key milestones over the following six months.

In the circumstances, Management was in breach of the provisions of the Project Financing Agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

189. As required by the International Development Association, I report based on my audit that I have obtained all information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

ADB AFRICA CLIMATE SUMMIT PROJECT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

190. Inaccuracies in the Financial Statements

Review of financial statements submitted for audit revealed the following anomalies;

i. The statement of receipts and payments reflects receipts of Kshs.4,917,765 which remained unspent as at the end of the year. However, the statement does not report any surplus for the year. Further, the statement of financial assets and liabilities does not reflect any cash and cash equivalents and surplus as at the end of the year.

ii. The project financial statements have been prepared for a whole year instead of the period from 15 November, 2023 when the grant agreement was signed to 30 June, 2024.

iii. Statement of cash flows does not reflect cash and cash equivalents balance as at the end of the year, therefore in complete.

iv. The statement of comparison of budget and actual amounts is incomplete.

v. Note 11 to the financial statements reflects cash and cash equivalents of Kshs.4,917,765 which is neither disclosed in the statement of financial assets and liabilities nor the statement of cash flows. Further, the Note reflects balances movement for the project account instead of special (designated) deposit account.

vi. The funding summary reflects undrawn balance in the funding summary is carried at an exchange rate of Kshs.150 to USD.1 Instead of the exchange rate as at 30 June, 2024 of Kshs.130.4669 to USD.1. The undrawn balance is therefore overstated by Kshs.9,034,059.

vii. A letter to Head of Climate Finance and Green Economy Unit from the Ag. Head of Disbursement Unit dated 22 May, 2024 indicates that the approved exchequer release was of USD.375,000 being equivalent to Kshs.4,917,765. This contradicts with the remittance approval of 21 May, 2024 which has USD 37,500.

viii. An unidentified person signed the financial statements on behalf of the project coordinator.

In the circumstances, the accuracy and completeness of balances reflected in the financial statements could not be confirmed.

191. Unconfirmed Project Funds

The special account reconciliation statement reflects withdrawals totalling USD 2,537,500 (Equivalent to Kshs.330,238,981) withdrawn to finance project activities during the year. However, only USD 37,500 (Equivalent to Kshs.4,917,765) was reflected in the project financial statements as proceeds from domestic and foreign grant leaving a balance of USD 2,500,000 (Equivalent to Kshs.325,321,216) not reported. The amount may have been utilized for expenditures other than activities provided for in the financing agreement.

In the circumstances, the eligibility of expenditure of USD.2,500,000 (Equivalent to Kshs.325,321,216) could not be confirmed.

192. Eligibility of Expenditure Incurred by the Project

The Republic of Kenya entered into a grant agreement amounting to USD 3,000,000 with the African Development Bank on 15 November, 2023. According to the agreement, the grant was to be used exclusively for meeting the cost of eligible activities of the African Climate Summit held between 4 and 8 September, 2023 and thereafter adaptation compacts as detailed in annex 4 to the financing agreement. The agreement further provided that the proceeds of the grant were to partially cover expenses on flight travel, hotel accommodation and conference for participants included in the total budget of the summit. Under the agreement, any financial resources of the grant that remain unexpended after all eligible commitments and liabilities had been satisfied, were to be reimbursed to the Bank.

It was however, noted that the financing agreement was signed after the summit had taken place, and USD 3,000,000 (Equivalent to Kshs.475,515,000) disbursed to the project's special account on 3 January, 2024.

In the circumstances, the eligibility of expenditure of USD 3,000,000 (Equivalent to Kshs.475,515,000) could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

193. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

195. As required by the African Development Bank, I report based on my audit, that I have obtained all information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements agree with the accounting records and returns.

TECHNICAL SUPPORT TO THE FRENCH DESK AT THE NATIONAL TREASURY (PROJECT GRANT NO. AFD CKE 1204 01E)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

196. 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

197. Lack of Evidence of Progress Reports

Review of Project implementation documents revealed that for the nine (9) months period the project had been in operation, there was no evidence of any activity having taken place as Management did not submit to the Agency, Technical and Financial Progress Reports. This was contrary to Section 7.1(a) of the grant agreement which requires submission of a Technical and Financial Progress Report in relation to the implementation of the Project within fifteen (15) calendar days from the end of each quarter.

In the circumstances, value for money on expenditure incurred for the nine (9) months could not be confirmed and Management was in breach of the Project Agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

199. As required by Agence Française De Développement, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

GREEN CLIMATE FUND READINESS PROJECT (GRANT NO. KEN-RS-004)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

201. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects actual receipts on a comparable basis Kshs.32,000,000. However, the Project spent a total amount of Kshs.9,666,124 against actual receipts of Kshs.32,000,000 resulting in an under-utilization of Kshs.9,666,124 or 30% of the receipts.

In the circumstances, the under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

202. 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

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

OTHER DONOR FUNDED PROJECTS 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

204. Unsupported Reallocation of Funds

The statement of comparison of comparison of budget and actual amount reflects payments final budget of 892,031,000. Review of the financing agreement indicated that the project was funded a total of Kshs.1,411,844,000 to implement ten (10) activities. Through a letter dated 23 February, 2023, the project manager sought consideration and concurrence from World Bank for reallocation of Kshs.210,637,185 from different activities to construction of rapid response units at Kakuma, Kainuk and Lodwar.

Further, the summary of overall project performance report on provision of enforcement equipment indicates reallocation of funds to construction of rapid response units at Kakuma, Kainuk and Lodwar activity of Kshs.34,833,421. However, the approvals/concurrence for reallocation of funds from the Bank and the revised activities funding were not provided for audit review.

In addition, the summary indicated that strategic objective on supporting the implementation of the regional cargo monitoring for goods under customs control as having been implemented under Horn of Africa Gateway Development Project. However, the activity was originally budgeted and funded under Eastern Africa Regional Transport and Trade Facilitation Project. Further, evidence supporting the request, approval and budget reallocation for the activity between the two Projects was not provided for audit review.

In the circumstances, the regularity of reallocated expenditures on various activities could not be confirmed

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

205. Low Absorption of Project Funds

The statement of comparison of budget and actual amounts reflects actual expenditure of Kshs.406,506,000 against final expenditure budget of Kshs.892,031,000 resulting in underutilization of Kshs.485,525,000 or 46% of the budget.

The low absorption of funds may have had significant impact on implementation of planned activities and planned project objectives may not be achieved.

206. Inadequacies in Construction of Buildings

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.346,352,000 which includes Kshs. 219,974,000 in respect of construction of buildings as disclosed in Note 8 to the financial statements. The later amount in turn includes Kshs.71,782,803 and Kshs.71,554,664 in respect to construction of rapid response units in Kakuma and Lodwar respectively.

Records provided indicated that the Project had a running contract for construction of rapid response units in Kakuma, Lodwar and Kainuk whose contract period which was to expire in December, 2023 was extended to December, 2024.

Review of project management and implementation records and physical verification carried out in the month of October 2024 on construction of rapid response units offices in Kakuma and Lodwar revealed the following unsatisfactory matters:

206.1 Unsupported Variations of Contract

The bills of quantities provided for concrete interlocking paving slabs for the foot paths, paved driveway and walkways at a cost of Kshs.587,760 and Kshs.562,960 but which were varied by Kshs.3,805,102 and Kshs.3,009,504 for the two projects respectively.

Further, the substructure bills of quantities provided for raft foundation at a provisional cost of Kshs.14,746,488 and Kshs.14,697,068 varied by an additional amount of Kshs.17,400,438 and Kshs.19,935,247 for the two contracts respectively. The project management indicated that the variations were occasioned by the site’s soil nature. However, the management did not explain why the items were originally omitted in the original bills of quantities whereas the engaged consultant had visited the site for investigation before design.

In addition, revised drawings for the raft beams for each contract indicated twelve (12No.) beam 5A with 14797mm length while the beam layout drawing only had two (2No.) of the 14797mm length beams. Calculation of ribbed bar high yield steel and reinforced concrete was done using the 12 no. raft beam quantities which may have resulted in inflated variation amount and over payment.

Moreover, review of the term of reference (TOR) in the contract between the University of Nairobi (project consultant) and the Authority revealed that the consultant was to carry out investigations to ascertain and identify the soil conditions and characteristic of the land parcels with drilling and recovery to minimum of 15m below ground level at not less than 8 locations and excavation of trial pits being a minimum requirement. The variation after excavation from strip level and discovery of unstable soil conditions is a pointer that the consultant did not undertake the TOR provision to enable the correct structural design for the foundation thus occasioning the variation.

206.2 Variations in Paid Materials on Site

Interim payment certificate (IPC) No. 04 dated April, 2024 for construction of rapid response units offices in Kakuma included materials on site amount of Kshs.9,336,844. However, the audit verification of the stock records at the construction site indicated a variance of Kshs.3,205,114 which was not explained.

206.3 Delay in Completion of Rapid Response Units Offices in Lodwar

Review of the project financing agreement revealed that the financing agreement was extended to 29 December, 2023. Further, a letter to the Cabinet Secretary to The National Treasury and Economic Planning dated 18 December, 2023 communicated extension of the project closing date to December 31, 2024.

Further, the Authority on 14 December, 2023 communicated to the contractor of the contract extension to 29 December, 2024, six months for completion of construction and six months defects liability period. However, the management did not provide evidence that the contractor requested an extension of the project implementation time with a justification as required by the contract agreement.

In addition, physical inspection of the project in the month of October 2024 indicated that the project was estimated at 70% completion, a fact confirmed by a project status report dated 30 September, 2024. This is a clear indication that the project had not reached practical completion and therefore there was a delay by the contractor. However, evidence of demand for payment of liquidated damages from the contractor as provided for under clause 8.7 of the contract was not provided for audit.

In the circumstances, value for money on expenditure on acquisition of non-financial assets of Kshs.346,352,000 could not be confirmed.

207. Irregularities in Training Expenditure

The statement of receipts and payments reflects purchase of goods and services of Kshs.60,153,000 out of which Kshs.40,893,000 is in respect of training as disclosed in

Note 6 to the financial statements. Review of training records revealed that senior management leadership and advance management programs were offered for eleven (11No.) staff at a cost of Kshs.11,901,603 by an institution engaged through direct procurement. Management indicated that the institution had exclusive rights for the course offered to the Authority's senior management. However, the management did not provide evidence that the same could not have been provided by the Authority's own Kenya School of Revenue Administration (KESRA), Kenya School of Government that offers Senior Management and Leadership courses to Government Entities or other private institutions. Further, the direct procurement was not reported to Public Procurement Regulatory Authority (PPRA) as required by PPRA circular No. 01/2021 of 22 April, 2021.

In the circumstance, the Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

209. As required by the International Development Association, I report based on my audit that I have obtained all information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. In my opinion, information given in the managements report is consistent with the financial statements.

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT (IDA CREDIT NO. 6768) – KENYA REVENUE AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

211. Inconsistent Report on Project Overview

Review of the Project records revealed that the Project activity on supporting the implementation of the regional cargo monitoring for goods under customs control was implemented under the Project but the activity was originally budgeted and funded under the Eastern Africa Regional Transport, Trade and Development Facilitation Project.

However, the strategic goal has not been disclosed in the Project financial statements. Further, evidence supporting the request, approval and budget reallocation for the activity between the two Projects was not provided for audit.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

212. Acquisition of Non-Financial Assets

The statement of receipts and payments reflects expenditure on acquisition of non-financial assets of Kshs.96,132,000 as disclosed in Note 8 to the financial statements. The amount includes a balance of Kshs.94,096,000 in respect of purchase of seven (7) motor vehicles. Review of Project records revealed that the project annual work plan included acquisition of seven (7) motor vehicles funded by counterpart funding (GOK) amount of Kshs.14,000,000 and donor funding of Kshs.86,000,000. However, the counterpart funding of Kshs.14,000,000 from GOK was not received and the Management utilized donor allocation designated for other Project activities towards the purchase of motor vehicle without approval from the Donor. Further, at the time of the audit, five (5) of the vehicles had been deployed to other activities not related to the Project.

In addition, the Project Management entered into an agreement for supply of four (4) motor vehicles at a cost of Kshs.47,341,380. The motor vehicles had not been delivered at the time of the audit. Information provided by Management indicated that the purchase costs had exceeded the approved values in the master list and Management had sought approval for the new values. However, Management did not explain why procurement had been initiated, processed and finalized for items whose costs exceeded the approved amounts leading to delays in delivery.

In the circumstances, Management was in breach of the law and value for money on cost of motor vehicles acquired could not be confirmed.

213. Irregular Purchase of Goods and Services

The statement of receipts and payments reflects expenditure on purchase of goods and services balance of Kshs.35,247,000 as disclosed in Note 6 to the financial statements. The amount includes expenditure on domestic travel and subsistence balance of Kshs.2,237,000, foreign travel and subsistence balance of Kshs.12,682,000 and other operating expenses balance of Kshs.2,463,000. Review of supporting documents revealed that officers with outstanding and un-accounted for imprests were issued with additional imprests before surrender of outstanding imprests for completed activities contrary to Regulation 93(4)(b) of the Public Finance Management (National Government) Regulations, 2015.

Further, the balance Includes foreign travel of Kshs.12,682,000 out of which Kshs.2,184,728 was paid as allowances to two (2) staff training on Rhetoric – The art of persuasion course at ESAMI Istanbul Turkey. However, audit review of no objection letter from the Bank dated 28 March 2028 indicated that the approved training was to be at Oxford Management Center which was changed without communication and approval of the Bank.

In the circumstances, Management was in breach of the law.

214. Unapproved Over Expenditure

Review of detailed project expenditure records revealed over expenditure of Kshs.55,126,000 relating to training and bank charges, land acquisition stakeholder engagement and purchase of vehicles. However, approval for over expenditure was not provided for audit.

In the circumstances, value for money on expenditure of Kshs.55,126,000 incurred above the approved budget could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

216. As required by International Development Association, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records; and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR ECONOMIC PLANNING – VOTE 1072

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

217. Inaccuracies in Additions of the Fixed Assets

Annex 2 of the financial statements reflects summary of fixed asset register amount of Kshs.1,490,942,390 which includes additions of fixed assets amount of Kshs.485,694,015. However, the statement of receipts and payments and Note 8 to the financial statements reflects an amount of Kshs.475,903,403 resulting in an unexplained variance of Kshs.9,790,612. Further, the additions of non-current assets of Kshs.475,903,403 were not included in the assets register.

In the circumstances, the accuracy and completeness of the summary of fixed asset register could not be confirmed.

218. Unsupported Training Expenses

The statement of receipts and payments reflects use of goods and services amount of Kshs.425,501,357 which includes training expenses amount of Kshs.195,245,580 as disclosed in Note 5 to the financial statements. The training expenses increased by Kshs.185,474,846 from Kshs.9,770,734 reported in the previous year. However, the high increase in expenditure was not supported by training needs assessment and programmes.

In the circumstances, the accuracy and occurrence of the training expenses amount of Kshs.195,245,580 could not be confirmed.

Emphasis of Matter

219. Pending Accounts Payables

Note 17.2 to the financial statements reflects pending accounts payable of Kshs.13,677,437 relating to supply of goods and services which were not settled during the year but instead carried forward to 2024/2025 financial year. Management did not explain why the bills were not settled during the year they occurred

Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

220. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final income budget and actual on comparable basis of Kshs.64,104,350,325 and Kshs.50,146,737,431 respectively, resulting in under-funding of Kshs.13,957,612,894 or 22% of the budget.

In the circumstances, the underfunding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

221. 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

222. Un-Updated Fixed Assets Register

Annex 2 of the financial statements reflects summary of fixed asset register amount of Kshs.1,490,942,390. Review of the fixed assets register provided revealed that it was not updated as most of the assets did not have values. Therefore, the amount of Kshs.1,490,942,390 disclosed as total value of assets does not reflect the true and fair view and the status of the assets as at 30 June, 2024.

In the circumstances, the existence of an effective mechanism to safeguard assets could not be confirmed.

DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR ECONOMIC PLANNING

COORDINATE IMPLEMENTATION OF POPULATION POLICY AND ICPD25 COMMITMENTS PROJECT – NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

223. 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

Conclusion

224. 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

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

NATIONAL INFORMATION PLATFORM FOR FOOD SECURITY AND NUTRITION PROJECT (CREDIT NO. FOOD/2017/393-022) - KENYA NATIONAL BUREAU OF STATISTICS

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

227. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects an approved final budget of Kshs.124,703,329. However, the Project spent Kshs.105,548,512 against actual receipts of Kshs.124,703,329 resulting in an underutilization of Kshs.19,154,817 or 15% of the receipts.

The under-utilization of the available funds affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

228. 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

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

EXECUTIVE OFFICE OF THE PRESIDENT - VOTE 1011

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

230. There were no material issues noted during the audit of the financial statements of the Executive Office of the President.

Emphasis of Matter

231. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.5,218,414,192 and Kshs.4,614,408,064 respectively, resulting in an under-funding of Kshs.604,006,128 or 12% of the approved budget. Similarly, the Office spent a total of Kshs.4,502,856,289 against actual receipts of Kshs.4,614,408,064 resulting in an under- utilization of Kshs.111,551,775 of the actual receipts.

The under-funding and under- utilization affected the planned activities and programmes of the State Department, which may have impacted negatively on effective service delivery to the public.

232. Pending Accounts Payable

Note 19.2 to the financial statements reflects pending accounts payable balance of Kshs.14,528,324,070. The balance relates to pending bills that were not settled during the year under review but were instead carried forward to the financial year 2024/2025. Failure to settle bills in the year for which they relate adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge to that year's budget provision.

My opinion is not qualified in respect to these matters.

Other Matter

233. Unresolved Prior Year Issues

In the audit report of the previous year, several issues on Projects implementation by the Nairobi Metropolitan Services were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. Although the issues were discussed by the Public Accounts Committee of the National Assembly, the Committee's recommendations are still pending.

Basis for Conclusion

234. Delay in Implementation of Contract for Construction of Small Claim Courts

A Deed of Novation was executed on 29 June, 2023 between the Nairobi Metropolitan Services (NMS), then under the Executive Office of the President, and the Judiciary. This agreement transferred the responsibility for the construction of small claims courts in four locations within Nairobi County-Dagoretti, Kasarani, Mihango, and Huruma to the Judiciary. The projects had been initiated under NMS as part of an intervention to expand access to justice within identified low-income areas.

Review of the Project's progress revealed the following:

i. Stalled Project - Mihango Small Claim Court

The tender for the completion of Mihango Small Claims Court was advertised on 12 February, 2024, with an estimated engineer's cost of Kshs.78,440,834. Six (6) bidders submitted applications for the works. However, the Tender Evaluation Report dated 15 March, 2024 recommended termination of the procurement process due to the non-responsiveness of all bids. As at the time of audit in October, 2024, the procurement process had not been restarted. Physical verification conducted in October, 2024 revealed that the project remained stalled at 20% completion level, a stage that was achieved under NMS before the project was transferred to the Judiciary.

ii. Delay in Completion of Kasarani Small Claim Court

The tender for the completion of construction of the Kasarani Small Claims Court was advertised 12 February, 2024, with an engineer's estimate of Kshs.74,615,304. The Evaluation Committee recommended the tender be awarded to a contractor at a contract sum of Kshs.73,156,617 and the professional opinion was issued on 20 March, 2024. However, physical verification of the project done in October, 2024 revealed that the project remained stalled at 20% completion, a level achieved by the NMS before the project's transfer to the Judiciary. The contractor was not on-site during the verification, and instances of vandalism on steel reinforcement bars were observed.

iii. Delay in Completion of Huruma Small Claim Court

Request to procure for the construction of Huruma Small Claims Court was done on 6 July, 2023. The contract was advertised on 12 February, 2024 at an engineer's estimate of Kshs.35,775,990. The contract was awarded to a contractor at a contract sum of Kshs.29,896,680 after the approval of the professional opinion on 18 March, 2024. Review of records revealed that construction works had begun and a total amount of Kshs.5,449,730 paid in respect of two certificates. However, due to delay in execution of the works, an intention to terminate the contract was issued to the contractor on 25 September, 2024. Further, physical verification done on 22 October, 2024 revealed that the works were at 60% completion level and the contractor was not on site.

In the circumstances, delay in completion of the projects may lead to cost escalations and value for money for resources spent may not be obtained.

235. Non-Adherence to One-Third (1/3) Basic Salary Rule

Analysis of the payroll records for the year under review, revealed that twenty (20) members of staff earned net salaries of less than a third (1/3) of the basic salary. This was contrary to Section19(3) of the Employment Act, 2007 (Revised 2012) which provides that the total amount of all deductions that may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds (2/3) 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.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

236. Long Outstanding Third-Party Deposits and Retention Balances

The statement of financial assets and financial liabilities reflects third party deposits and retention balance of Kshs.263,806,833 comprised of retention and deposits of Kshs.189,946,764 and Kshs.73,860,069 respectively as disclosed in Note 14 to the financial statements, However, review of the ageing analysis provided revealed that retentions amounting to Kshs.174,287,994 had been outstanding for over two (2) years. No explanation was provided for not paying the intended beneficiaries as required by the law.

In the circumstances, the existence of effective internal controls for the management of debts could not be confirmed.

237. Enhancement of Governance Systems for Security Related Expenditures

During the year under review, the Executive Office of the President incurred expenditures and transferred funds to a Government Agency for confidential security operations. Certificates of confidential expenditure were issued, supported by declarations from the Accounting Officer affirming proper use of funds in compliance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015.

However, there is need to enhance accountability of confidential expenditures through review of the Regulations to clearly define entities eligible for confidential security related expenditures and to specify what constitutes security related operations. Further, entities should establish internal oversight mechanisms and processes that include detailed budget projections and post-operation financial summaries to address risks and ensure responsible use and accountability of the funds, beyond the certificate.

The measures will strengthen governance, foster trust, and ensure funds are utilised responsibly without compromising State security.

DONOR FUNDED PROJECT

EU PARTNERSHIP FOR THE IMPLEMENTATION OF THE NATIONAL STRATEGY TO COUNTER VIOLENT EXTREMISM IN KENYA - NATIONAL COUNTER TERRORISM CENTRE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

239. Undrawn Project Funds

As disclosed under Paragraph 2.2 on project information, the Project was expected to start on 27 June, 2018 and close on 31 December, 2022. Further, Paragraph 2.7 on funding summary indicates that the Donor had made commitment amounting to Kshs.663,289,574 (EUR 5,300,000). However, the total amount received as at 30 June, 2024 was Kshs.591,130,800 (EUR 4,752,931) leaving an undrawn balance of Kshs.72,158,774 (EUR 547,068) or 10% of expected funding.

Failure to draw the committed funds may have impacted negatively on achievement of project objectives.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

240. 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

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

OFFICE OF THE DEPUTY PRESIDENT – VOTE 1012

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

242. There were no material issues noted during the audit of the financial statements of the Office of the Deputy President.

Emphasis of Matter

243. Pending Accounts Payable

As disclosed in Note 14.2 to the financial statements, the Office had pending accounts payable totalling Kshs.4,813,659 as at 30 June, 2024. The bills were not paid during the year under review but were instead carried forward to the financial year 2024/2025. Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

244. Non-Compliance with the Minimum Net Salary Rule

Review of the Office's payroll revealed that forty-two (42) members of staff received a net salary less than one-third (⅓) of their basic salary during various months of the year. This was contrary to Section19(3) of the Employment Act, 2007 which states that all deductions made by an employer from the wages or salaries of his employees at any one time shall not exceed two-thirds (⅔) of such wages or salaries.

In the circumstances, Management was in breach of the law.

245. Non-Compliance with Law on Ethnic Diversity

Review of human resources and personnel records provided for audit revealed that the Office of the Deputy President had five hundred and forty-two (542) employees, out of which two hundred and forty-nine (249) or 46% of the total number of employees were from one ethnic community. This was contrary to Section 7(1) and 7(2) of the National Cohesion and Integration Act, 2008 which provides that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and the no public establishment shall have more than one-third (⅓) of its staff from the same ethnic community.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

246. Lack of an Audit Committee

During the year under review, the Office did not have an Audit Committee. This was contrary to Section 73(5) of the Public Finance Management Act, 2012 which requires that every national government public entity should establish an Audit Committee whose composition and functions shall be as prescribed by the regulations. The Office, therefore, did not benefit from the oversight of an Audit Committee.

In the circumstances, the existence of an effective oversight mechanism to ensure existence of an efficient system of internal controls could not be confirmed.

247. Enhancement of Governance Systems for Security Related Expenditures

During the year under review, the Office incurred some expenditures on confidential security operations. Certificates of confidential expenditure were issued, supported by declarations from the Accounting Officer affirming proper use of funds in compliance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015.

There is need, however, to enhance accountability of confidential expenditures through review of the Regulations to clearly define entities eligible for confidential security related expenditures and to specify what constitutes security related operations. Further, entities should establish internal oversight mechanisms and processes that include detailed budget projections and post-operation financial summaries to address risks and ensure responsible use and accountability of the funds, beyond the certificate.

The measures will strengthen governance, foster trust, and ensure funds are utilised responsibly without compromising State security.

OFFICE OF THE PRIME CABINET SECRETARY – VOTE 1013

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

248. There were no material issues noted during the audit of the financial statements of the Office of the Prime Cabinet Secretary.

Emphasis of Matter

249. Pending Bills

Note 11.2 and Note 11.3 to the financial statements reflect balances of Kshs.79,215,115 and Kshs.19,067,923 for pending accounts payable and other pending payables respectively both totalling Kshs.98,283,038. The balance relates to pending bills that were not settled during the year but were instead carried forward to the financial year 2024/2025.

Failure to settle bills during the year to which they relate adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge to that year's budget provision.

250. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final budget and actual receipts on comparable basis of Kshs.1,416,850,262 and Kshs.1,271,292,569 respectively, resulting in an under-funding of Kshs.145,577,693 or 10% of the budget.

The under-funding affected the planned activities and programmes of the Office, which may have impacted negatively on effective service delivery to the public.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

251. Non-Compliance with the Law on Ethnic Diversity

Review of the employees records on staff ethnic composition indicated that the Office's workforce was denominated by two tribes which make up 54% of the workforce. Most marginalized tribes are not represented in the workforce. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 that requires all public establishments to seek to represent the diversity of the people of Kenya in employment of staff. Management did not provide a roadmap for resolving this issue.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

252. Understaffing in the Office

The Office has an approved staff establishment of one hundred and seventy-seven (177). However, during the year under review only one hundred and six (106) were in post resulting in understaffing of seventy-one (71). Further, in-depth scrutiny revealed that five (5) departments were overstaffed, eight (8) were understaffed and ten (10) departments did not have any staff. In addition, one (1) department had five (5) staff in post against no authorized post.

In the circumstances, the Office may not achieve the strategic objectives due to insufficient human resources.

STATE DEPARTMENT FOR PARLIAMENTARY AFFAIRS - VOTE 1014

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

253. 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

Basis for Conclusion

254. Non-Compliance with the Law on Ethnic Diversity

Review of Integrated Payroll and Personnel Database (IPPD) revealed that thirty (30) employees or 37% of the total of seventy-nine (79) employees were from the same ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which requires that no public establishment shall have more than one third (1/3) of its employees from the same ethnic community.

In the circumstances, Management was in breach of the law.

255. Non-Compliance with One-Third (1/3) Basic Salary Rule

During the year under review, eight (8) employees received a net salary less than one-third (⅓) of their basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which states that all deductions made by an employer from the wages or salaries of his employees at any one time shall not exceed two thirds (2/3) of such wages or salaries.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

256. Non-Establishment of an Audit Committee

During the year under review, the State Department did not have an Audit Committee. This was contrary to the provisions of Section 7(5) of the Public Finance Management Act, 2012 which requires that every National Government public entity shall establish an Audit Committee whose composition and functions shall be as prescribed by the Regulations. The State Department, therefore, did not benefit from the oversight of an Audit Committee.

In the circumstances, the existence of an effective oversight mechanism to ensure an efficient system of internal controls could not be confirmed.

STATE DEPARTMENT FOR PERFORMANCE AND DELIVERY MANAGEMENT – VOTE 1015

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

257. 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

Basis for Conclusion

258. Over Expenditure on Use of Goods and Services

The statement of comparison of budget and actual amounts reflects use goods and services final budget and actual on comparable basis of Kshs.152,138,429 and Kshs.157,819,363 respectively, resulting to over expenditure of Kshs.5,680,934. This was contrary to Section 53 (8) of the Public Procurement and Asset Disposal Act, 2015 which provides that, Accounting Officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

In the circumstances, Management was in breach of the law.

259. Net Pay below a Third of Basic Pay

The sampled payroll data revealed that five (5) employees were paid a net salary which was less than a third (1/3) of their basic pay. This was in contravention of Section 19(3) of the Employment Act, 2007 which provides that the total amount of deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

In the circumstances, Management was in breach of the law.

260. Irregular Secondment of the Government Delivery Services Officers to Counties and Ministries by the Cabinet Secretary

Audit of the Human Resources records revealed that the Cabinet Secretary for the Ministry of Public Service, Performance and Delivery Management vide a letter of June, 2024 to the Cabinet Secretary, Ministry of Interior and Coordination of National Government, re-deployed twenty-three (23) Government Delivery Services (GDS) officers to Counties as County Coordinators to assist in the tracking of Government projects and programs. This was contrary to Section 42 (1) of the Public Service Commission Act, 2017 which provides that the authority to second a public officer shall vest in the Commission and shall be carried out on the request of an authorized officer or public officer.

In the circumstances, Management was in breach of the law.

261. Retention of Staff Above Age of 60 Years

Review of June, 2024 payroll revealed that six (6) employees were over the age of sixty (60) years and another employee was above the age of sixty-five (65) years. However, details for the six (6) employees to confirm that they were living with disabilities were not provided for audit review. This was against the Human Resource Policies and Procedures Manual for the Public Service May, 2016 Section AD.21 which states that all officers shall retire from the Service on attaining the mandatory retirement age of sixty (60) years and sixty-five (65) years for persons with disabilities.

In the circumstance, Management was in breach of the human resource policy.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

262. Lack of an IT Strategic Plan

The audit observed that the department did not have an IT strategic plan for governance and management of its ICT resources. Further, there was no IT security policy in place to guide on safeguarding the State Department's assets and integrity, confidentiality and availability of data.

In the circumstances, the reliability of IT controls in place to assure the confidentiality, integrity and availability of information assets could not be confirmed.

STATE DEPARTMENT FOR CABINET AFFAIRS VOTE - 1016

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

263. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

264. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.522,058,494 and Kshs.356,055,427 respectively resulting to an under-funding of Kshs.166,003,067 or 32% of the budget.

Although Management explained that the underfunding resulted from the budget cut emanating from austerity measures imposed by the Government, the under-funding affected the planned activities and programmes of the State Department, which may have impacted negatively on effective service delivery to the public.

265. Pending Accounts Payable

Note 9.2 to the financial statements reflects pending accounts payable totalling Kshs.28,600,428 comprised of pending bills relating to supply of goods of Kshs.14,304,052 and supply of services of Kshs.14,296,376, as detailed in Annex 1 to the financial statements. The bills were not paid during the year under review but were instead carried forward to the financial year 2024/2025.

Failure to settle bills during the year in which they relate adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

266. Non-Compliance with the One-Third of Basic Salary Rule

Review of the State Department's payroll revealed that nineteen (19) officers were paid net salaries below the one-third basic pay threshold during various months of the year. This was contrary to Section19(3) of the Employment Act, 2007 which states that all deductions made by an employer from the wages or salaries of his employees at any one time shall not exceed two thirds of such wages or salaries.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

267. Lack of an Audit Committee

During the year under review, the State Department did not have an active Audit Committee. This was contrary to Section 73(5) of the Public Finance Management Act, 2012 which requires that every National Government public entity shall establish an Audit Committee whose composition and functions shall be as prescribed by the Regulations. The State Department, therefore, did not benefit from the oversight of an Audit Committee.

In the circumstances, the existence of an effective oversight mechanism to ensure efficient system of internal controls could not be confirmed.

STATE HOUSE – VOTE 1017

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

268. There were no material issues noted during the audit of the financial statements of the State House.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

269. Non-Adherence to One-Third (1/3) Basic Salary Rule

Analysis of the payroll records for the year under review, revealed that seventy-eight (78) members of staff earned net salaries of less than a third (1/3) of the basic salary. This was contrary to Section19(3) of the Employment Act, 2007 (Revised 2012) which provides that the total amount of all deductions that may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds (2/3) 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.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

270. Enhancement of Governance Systems for Security Related Expenditures

During the year under review, State House incurred expenditures and transferred funds to a Government Agency for confidential security operations. Certificates of confidential expenditure were issued, supported by declarations from the Accounting Officer affirming proper use of funds in compliance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015.

However, there is need, to enhance accountability of confidential expenditures through review of the Regulations to clearly define entities eligible for confidential security related expenditures and to specify what constitutes security related operations. Further, entities should establish internal oversight mechanisms and processes that include detailed budget projections and post-operation financial summaries to address risks and ensure responsible use and accountability of the funds, beyond the certificate.

The measures will strengthen governance, foster trust, and ensure funds are utilised responsibly without compromising State security

STATE DEPARTMENT FOR CORRECTIONAL SERVICES - VOTE 1023

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

271. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

272. Pending Accounts Payable

Note 16.2 to the financial statements discloses a pending accounts payable balance of Kshs.5,248,648,170 as at 30 June, 2024. The bills, owed to suppliers of goods and services, were not settled during the year under review but was carried forward to 2024/2025 financial year.

Failure to settle bills during the year to which they relate adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge to that year's budget provision.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

273. Non-Compliance with the Minimum Net Salary Rule

During the year under review, two thousand, five hundred and thirty-five (2,535) officers received a net salary less than one-third (⅓) of their basic salary. This was contrary to Section19(3) of the Employment Act, 2007 which states that all deductions made by an employer from the wages or salaries of his employees at any one time shall not exceed two-thirds (⅔) of such wages or salaries.

In the circumstances, Management was in breach of the law.

274. Irregular Leasing of a Residential House

The State Department entered into a tenancy agreement with a service provider to lease a residential house for the immediate former Commissioner General of Prisons at a monthly rent of Kshs.250,000. During the year under review, the State Department paid an amount of Kshs.3,000,000 as rent in respect of the leased house. However, the Commissioner General's letter of appointment did not indicate that his terms of employment included provision of a leased residential house and therefore the basis for the leasing of the house was not clear. Further, the Commissioner General of Prisons was entitled to a house allowance of Kshs.100,000 per month and therefore provision of a leased residential facility a cost of Kshs.250,000 per month accorded the officer a higher benefit than his entitlement. Further, Management did not provide evidence to confirm registration of the lease with the State Department for Housing and Urban Development.

In addition, the higher benefit was not based on advice from the Salaries and Remuneration Commission (SRC) pursuant to the provisions of Article 230(4)(b) of the Constitution of Kenya 2010 which mandates SRC to advise the national and county governments on the remuneration and benefits of all public officers.

In the circumstances, Management was in breach of the law.

275. Unbudgeted Expenditure at the Prison Staff Training College

Records maintained at the Prison Staff Training College (PSTC) indicate that the College had pending bills amounting to Kshs.85,842,162 as at 30 June, 2024.The bills arose after four thousand six hundred (4,600) Prison officers were sent to the College to undergo a development course after they were promoted to a higher rank (Corporal grade). However, by the time the officers were reporting for the training, the State Department had not secured financial resources to facilitate the training. On admission of the students, the College procured food and non-food items on credit, therefore, incurring debts to the tune of Kshs.85,000,000. Management did not explain why the training was organized without first securing funding so as to avoid any liabilities which would otherwise be avoided. This was contrary to Section 53 (8) of the Public Procurement and Asset Disposal Act, 2015 which provides that an Accounting Officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

In the circumstances, Management was in breach of the law.

276. Poor Maintenance of Buildings and Civil Works

Physical verification of various correctional facilities conducted in the months of September and November, 2024 revealed that the correctional facilities were poorly maintained as summarized below;

	Facility	Observations
1.	Kitengela Main Prison	Main store and food ration stores have worn out floors due to lack of repairs and maintenance. The ceiling boards in the ration store had fallen off due to leakage. There is a possibility of contamination of the stored food items due to contact with rainwater from the leaking roof.
2.	Nairobi Remand Prison	The roof to the Prison wards was leaking with rainwater seeping through to the floor due to the poor state of the roofing sheets which are old and rusty. Limited number of CCTV cameras in place to monitor activities and movement within the Prison.

	Facility	Observations
3.	Prisons Staff Training College	The store buildings were in a state of disrepair, characterized by cracked floors, broken pavements, and worn-out surfaces due to heavy foot traffic and inadequate maintenance.
4.	Thika Main Prison	The office spaces were cramped, poorly ventilated, and suffered from a leaking roof.
5.	Mixed Block at Kwale Main Prison	Leaking roof with a gaping hole resulting from a partial roof collapse in November 2021.

Further, no funds were allocated for maintenance of buildings to the correctional facilities.

In the circumstances, the existing conditions may significantly hinder the effective delivery of correctional services to the public.

277. Collapsed Perimeter Wall at Shimo La Tewa Maximum Prison

The State Department for Correctional Services entered into a contract with a local contractor for the construction of a perimeter wall at Shimo La Tewa Maximum Prison at a contract sum of Kshs.24,850,993. The contract period was to be sixteen (16) weeks commencing 4 May, 2017 but the works stalled on 23 December, 2017. It was later reported that on 24 July, 2018, 95 meters of the wall collapsed in the area between watch towers 2 and 3. Although the contract works resumed later, the contractor abandoned the site when the works were 60% complete as a result of which the project stalled. A site visit on 28 November, 2024, revealed that the collapsed wall remained unrepaired, three years after the incident. The contractor was also absent from the site. Further, despite the recommendation by the National Assembly's Public Accounts Committee that the contractor embarked on the repair work or legal action taken against him, no evidence was provided to indicate that the Committee's recommendation was acted on by Management. In addition, the Project Manager (State Department for Public Works-Nairobi) did not provide a detailed report on actual cause of the collapse of the wall and possible contractual remedies available to the Government for recovery of the amount of Kshs.22,365,893 paid to the contractor.

In the circumstances, value for money from the expenditure incurred on the project could not be confirmed. Further, the continued delay in the reconstruction of the wall poses a significant security risk.

278. Stalled Construction Projects in Various Correctional Facilities

Records maintained at various correctional facilities indicated that the State Department had initiated some thirty-eight (38) projects cumulatively valued at Kshs.570,005,684 with cumulative payments of Kshs.228,657,960 as at 30 June, 2024. However, the Projects stalled at various stages of completion. Physical verification conducted during the months of September and November, 2024 revealed other stalled projects as summarized below;

	Facility	Project	Observations
1	Thika Prison	Plumbing, drainage and upgrading of facilities	The Project with a contract sum of Kshs.5,200,500 had been abandoned despite perennial flooding inside the Prison and staff lines during rainy seasons. The flooding coupled with the poor sewage system posed a health risk to the inmates, staff and their families.
2	Thika Women Prison	Proposed new prison	The Project started in 2011 at a contract sum of Kshs.15,881,490 with the understanding that construction labour was to be provided by inmates. The works stalled at 40% completion.
3	Kapsabet Prison	Elevated watch tower	The works stalled at 85%. The total cost of the project was not revealed and no schedule of the amount so far spent was provided for review.
4.	Kisumu (Kodiaga) Maximum Prison	Rehabilitation of sewer line and sewerage treatment works at the prison	The contract was signed on 16 October, 2020 at a contract sum of Kshs.32,547,845 and the same was to be executed within a period of 26 weeks effective from 01 December, 2020. The works were abandoned and the contractor was not on site. Further, the Prison had on several occasions been sanctioned by the National Environment Management Authority for polluting River Saka and Lake Victoria contaminating the water used downstream by the communities.
5	Kibos Maximum Prison	Prisoners multipurpose dining hall	The Project commenced on November, 2011 and was to be completed in 2012 at a cost of Kshs.6,100,359. A total of Kshs.2,500,000 had been spent on the project. The floor slab was done and the process of walling had started but abandoned at three (3) feet above the slab.
		Proposed biogas plant	The Project commenced in May 2012 at an initial cost of Kshs.12,949,546 and was to be completed in three months. The Project was abandoned after Kshs.9,648,675 was spent and no more budgetary provisions were made for its completion.
		Construction of sewer line	The Project was for a contract sum of Kshs.50,529,400 and was to commence on 08 March, 2023 and expected to be completed by 13 September, 2023. As of 30 June, 2024, the contractor had been paid a sum of Kshs.25,669,121 on the first and second interim certificate representing 50.8% of the contract sum. The project was yet to be completed and the contractor was not on site.

In the circumstances, the value for money for the expenditure incurred on the stalled projects could not be confirmed.

279. Encroachment of Prison Land

Several parcels of land owned by various correctional facilities had been occupied by unauthorised individuals. Verification of the situation in the month of November, 2024 revealed further additional encroachments as detailed below;

	Facility	Approximate Size Encroached (Acres)	Remarks
1	Kitale Prison	2,321.09	Ownership has been a subject of litigation. Despite the National Assembly’s Public Accounts Committee directing that the encroachers be evicted immediately and the land is fenced off, no such eviction has been affected as directed.
2	Shimo La Tewa Prison	141.24	Allocated to seventy-seven (77) private individuals without de-gazettement of the same as Prison land.
3	Thika Prison	23.08	The Prison had land used as a quarry measuring approximately 120.45 Ha or 297.63 acres out of which 34.8 Ha or 86 acres had been encroached by unauthorized individuals. As at the time of the inspection, there were five active cases relating to the ownership of the two parcels of land.
4	Nakuru Prison		Land was gazetted in 1961 and registered. The original land size was 254.25 hectares or 628 acres. The land was later irregularly hived off and allocated to private developers among them churches and government Institutions.
5	Narok Prison	64.8	The Prison has gradually lost part of its original land to private developers who have erected permanent buildings for commercial or residential purposes. A borehole belonging to Narok Prison had been vandalized by private developers since the portion on which it occupied was allocated to a private developer effectively disconnecting the water supply to the Prison.

	Facility	Approximate Size Encroached (Acres)	Remarks
6	Malindi Prison	262	The whole prison land is not surveyed and the two land parcels making up the prison land have not been consolidated. One of the blocks was being occupied by unknown number of illegal occupants.
7	Shikusa Prison	764.7745	The land had not been surveyed and secured with titles. Records indicate that there exists a conflict between the Prison, Kenya Forest Service and the local community about the ownership of the land. The Kenya Forest Service and the locals claimed that the Prison had encroached onto the forest and were seeking relocation of the prison.
8	Kapsabet Prison	40.995	In 2005, the Chief Conservator of Forests, acting on the Ndung'u Report directed the Prison to cease farming in the forest and cede the land to the Kenya Forest Service. The Prison vacated the forest land but found out that the land they previously owned had been subdivided and allocated to private individuals and other entities. The Prison was yet to get a title deed for the remaining piece of land.
9	Kisumu Medium Prison	376.961	The Prison land has been surveyed but the prison is yet to acquire title deeds for the parcels of land. Further, the prison land is not fenced off allowing members of the public to trespass and at times cause losses and conflict with the Prison. Some residents claimed that the land was their ancestral land allocated illegally to the Prison by the colonial government. Part of the Land has been encroached onto by private developers. The Prison was also allocated land measuring 1.646 hectares (4.0674

	Facility	Approximate Size Encroached (Acres)	Remarks
			acres) in 1971 through Gazette Notice No. 721. The land has since been subdivided into three parcels and allocated to a church organization, a court, and private developers. The subdivision of the land is currently under investigation by the Ethics and Anti-Corruption Commission to establish how the land was reallocated to the current owners.
10	Kibos Medium Prison	284.49	The land was surveyed but no title deed had been issued. Further, the Prison did not have a perimeter wall and a sugar company had trespassed on the Prison land and cut trees.

In the circumstances, the ownership, safeguarding and security of the Prisons' land and other assets could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

280. Enhancement of Governance Systems for Security Related Expenditures

During the year under review, the State Department incurred some expenditures on confidential security operations. Certificates of confidential expenditure were issued, supported by declarations from the Accounting Officer affirming proper use of funds in compliance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015.

There is need, however, to enhance accountability of confidential expenditures through review of the Regulations to clearly define entities eligible for confidential security related expenditures and to specify what constitutes security related operations. Further, entities should establish internal oversight mechanisms and processes that include detailed budget projections and post-operation financial summaries to address risks and ensure responsible use and accountability of the funds, beyond the certificate.

The measures will strengthen governance, foster trust, and ensure funds are utilised responsibly without compromising State security.

281. Weak Controls in Management and Recording of Firewood

Review of records on delivery of firewood, revealed that the receipt, recording and issuing was done in tonnage. The firewood supplied was usually not fully dried leading to decrease in weight over time due to loss of moisture. Management relied on weighbridge certificates to ascertain the weight of firewood delivered. However, the weigh bridges were a significant distance away from certain correctional facilities and therefore there was no established system of confirming that the consignment delivered had not been interfered with before arriving at the facilities. Further, issuing of firewood was done through estimation in the absence of suitable weighing scales.

In the circumstances, Management should consider installation of a weigh bridge at an appropriate and convenient location which will assist the facilities determine the correct weight of the firewood.

282. Weak Controls in Management of Medical Drugs

Review of records revealed that medical drugs for the inmates were issued as per the prescription by the Medical Officer In charge at the Prison Dispensary. The drugs were collected from the Pharmacy by the orderlies who then would issue them to the inmates. However, the orderlies did not append their names and signatures in the issue book for drugs to confirm that they collected the drugs from the issuing officer at the Pharmacy. Further, there was no acknowledgement from the inmates that they had received the drugs making it difficult to confirm reliance on the records maintained at the Pharmacy.

In the circumstances, there was no mechanism in place to ensure adequate controls on purchase, administration and issuance of drugs.

STATE DEPARTMENT FOR IMMIGRATION AND CITIZEN SERVICES – VOTE 1024

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

283. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

284. Pending Accounts Payable

Note 27.4 to the financial statements discloses pending accounts payable balance of Kshs.3,124,336,522 as at 30 June, 2024. The balance relates to pending bills that were not settled during the year under review but were instead carried forward to the financial year 2024/2025.

Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

285. Non-Compliance with the Minimum Net Salary Rule

During the year under review, one thousand two hundred and seventy-five (1,275) employees received a net salary less than one-third (⅓) of their basic salary. This was contrary to Section19(3) of the Employment Act, 2007 which states that all deductions made by an employer from the wages or salaries of his employees at any one time shall not exceed two thirds (⅔) of such wages or salaries.

In the circumstances, Management was in breach of the law.

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

Basis for Conclusion

286. Lack of a Risk Management Policy

The State Department did not have a Risk Management Policy that provided a framework for minimizing risks by enhancing mitigative and corrective measures thereby maximizing potential opportunities. Further, risk assessment was not conducted during the year under review. As a result, there was no identification, assessment and rating of risks or development of strategies to deal with identified risks, so as to provide reasonable assurance that the Department's objectives would be achieved.

In the circumstances, the effectiveness of the State Department's risk management practices could not be confirmed.

287. Lack of an Approved Strategic Plan

Review of records provided for audit revealed that the State Department did not have an approved Strategic Plan. At the time of the audit in November, 2024 the Strategic Plan covering the period 2023-2027 was in draft form more than one year from the effective date of the plan.

In the circumstances, the State Department may not effectively manage and align its activities with long-term objectives.

RECEIVER OF REVENUE STATEMENTS - STATE DEPARTMENT FOR IMMIGRATION AND CITIZEN SERVICES

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

288. There were no material issues noted during the audit of the revenue statements of the State Department.

Emphasis of Matter

289. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final revenue budget and actual on comparable basis of Kshs.39,042,060,363 and Kshs.15,218,960,844 respectively, resulting in an under performance of Kshs.23,823,099,519 or 61% of the budget. The underperformance resulted to underfunding of planned development activities which may have adversely impacted on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

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

Basis for Conclusion

291. Manual Collection of Receipts at the Civil Registration Services Department

Review of records maintained at Civil Registration Services (CRS) Department revealed that the Department collected a total revenue of Kshs.264,968,624 which included an amount of Kshs.242,040,732 collected in cash from the various regional offices. The Service continued to use manual system in the collection and accounting of revenue although the E-citizen provides a digital platform for collection of revenue. In addition, there were no effective controls in place to mitigate the risk associated with the manual system.

NATIONAL POLICE SERVICE – VOTE 1025

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

292. There were no material issues noted during the audit of the financial statements of the Service.

Emphasis of Matter

293. Pending Accounts Payable

Note 12.2 and Note 12.3 to the financial statements reflects balance of Kshs.9,114,090,010 and Kshs.833,628,135 for pending account payables and other pending payables respectively as detailed in Annex 1 and Annex 2 to the financial statements both totalling Kshs.9,947,718,145. The bills relate to financial years 2018/2019 to 2023/2024 which were not settled during the year under review but were instead carried forward to the 2024/2025 financial year.

Failure to settle the bills during the year in which they relate, distorts the financial statements and adversely affects the budgeting provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

294. Stalled Projects

294.1 Abandoned Construction Works at Laisamis Police Station

The Service entered into a contract for erection and completion of Laisamis Police Station at a contract sum of Kshs.105,365,412. The contract was expected to take seventy-eight (78) weeks which was extended to one hundred and sixty-seven (167) weeks and the revised completion date estimated to be 26 February, 2017. However, review of project records provided revealed that the Contractor had abandoned the site before completion of the project and without any handing over status report. Further, the project had pending works including; paving, storm water drainage, landscaping, access road and parking, fencing and borehole.

In addition, on 05 February, 2018 the contractor forwarded a claim of Kshs.59,239,669 over and above the contract sum increasing the total cost of the project to Kshs.164,605,081 representing an increase of 56% of the original contract sum. Although the matter is under arbitration, the process had not been concluded and the project remained incomplete as at the time of the audit in December, 2024. In addition, the stalled building continues to deteriorate and may result to loss of public resources.

294.2 Stalled Administration Police Service Projects

Physical inspection of works and review of project documents revealed that the Service has three (3) stalled development projects awarded in 2006/2007 at the National Police College Embakasi ‘A’ Campus and which were at various levels of completion with payments made to date totalling Kshs.14,867,125.

In the circumstances, the Kenya Police Service may not have realized value for money from the projects.

295. Delay in Separation of Electricity Meters

In September, 2018 a policy change was made after the Presidential directive on National Police Service on policy framework and strategy for reorganization of the National Police Service and provision of decent housing for police officers and integration with the community. This necessitated the separation of electricity meters between the Kenya Police Service and individual police officers who are required to pay their individual electricity bills. In the financial years 2020/2021 and 2021/2022, the State Department paid Kshs.78,000,000 and Kshs.72,000,000 respectively to the Kenya Power and Lighting Company to aid in separating electricity meters from the one common meter paid by the State Department to individual police officers. Review of records revealed that the service provider had only fitted some housing units at West Park Estate with prepaid meters in November 2021 while separation of meters at the National Police College (NPC) Kiganjo was done in 2003. However, no other works have been undertaken in any other police line.

In the circumstances, there is possible risk of loss of public resources with the delayed separation of the meters.

296. Non-Adherence to One-Third Basic Salary Rule

Analysis of the payroll records for the year under review, revealed that 36,662 employees earned net salaries of less than a third of the basic salary. This was contrary to Section19(3) of the Employment Act, 2007 (Revised 2012) which provides that the total amount of all deductions that may be made by an employer from the wages of his employee 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.

In the circumstances, Management was in breach of the law.

297. Lack of Reports on Ex-Gratia Claims in the Contract for Provision of Medical Cover

The Service awarded a contract on 31 December, 2022 for provision of medical cover to the members of the National Police Service and the Kenya Prison Services to an

Insurance Company at a total premium of Kshs.8,669,999,999 which included Kshs.200,000,000 excess of loss (ex-gratia) inpatient claims. The contract period was from 1 January, 2023 to 31 December, 2023 with an extension for a further three months to 31 March, 2024 at an additional premium of Kshs.2,167,499,999. Clause 9 of the contract states that ex-gratia shall be Kshs.200,000,000 and shall be approved by the Standing Committee of the client before any payment is made on any ex-gratia claim. The same clause requires that the Insurance Company shall submit to the Committee detailed quarterly reports on all ex-gratia claims including their value, beneficiary, background and status of the claims among others and the insurer shall be required to submit back any unspent amount of ex-gratia at the end of the contract period. However, the Insurance Company did not provide reports on the ex-gratia claims and amounts paid from ex-gratia for medical cover contract between January 2023 and April 2024 and there was no evidence of approvals of ex-gratia payments by the Standing Committee.

Further, the Insurance Company did not submit back unspent amount of ex-gratia at the end of the contract period.

In the circumstances, the provision under Clause 9 of the contract was breached and the Kshs.200,000,000 for ex-gratia remains unaccounted for by the insurer.

298. Anomalies in Provision of Group Life Cover and Work Injury Benefits Act (WIBA) and Group Personal Accident Cover (GPA)

The National Police Service awarded a contract for Provision of Group Life Cover and Work Injury Benefits Act (WIBA) and Group Personal Accident Cover (GPA) to an Insurance Company at an annual premium of Kshs.5,082,499,671 covering a total population of 141,961 persons (National Police Service -109,557 and Kenya Prisons-32,404) from 01 January, 2023 to 31 December, 2023. This contract was extended for a further three months to March 2024 at a premium of Kshs.1,270,624,918. However, review of insurance records revealed the following anomalies: -

298.1 Unpaid Group Life Benefits

Clause 2.3.1 of the contract provides that upon the death of a member, the Member’s declared next of Kin shall be paid a lump sum compensation equivalent to five years (5) annual basic salary. However, as at the time of audit in November 2024, the Insurer had not paid twenty-one (21) claims totalling to Kshs.43,459,800 in respect of group life sum assured. This was contrary to the contract terms which states that claims shall be paid within five (5) days after notification and provision of all documents.

298.2 Unpaid Injury Group Personal Accident (GPA) Claims

The contract provides that where a member is out of work as a result of an injury arising out of an accident or as a result of illness such members shall be entitled to compensation for loss of gross salary upto a maximum period of two (2) years subject to the prevailing HR Policy at the time of injury or illness. However, review of insurance records revealed that as at the time of audit in November 2024, the Insurer had not settled two hundred and sixty-two (262) unpaid injury GPA claims despite having been notified.

298.3 Unpaid Claims under Work Injury Benefits Act

Clause 2.1.1 of the contract provides that temporary disablement shall be compensated through a periodical payment equivalent to the members salary. Periodical payments shall be made for as long as the temporary disablement continues but not for a period that exceeds (12 months). However, review of insurance records revealed that as at the time of audit in November 2024, the insurer had not settled five hundred and nine (509) Work Injury Benefits Act (WIBA) claims. Further, the contract provides that death or total disablement under WIBA or as a result of occupational /accident shall be compensated at a rate of eight (8) years gross salary of the beneficiary. However, review records provided revealed that the insurer had not settled two (2) WIBA death claims.

In the circumstances, Management did not adequately monitor the contract to ensure that the contract terms were complied with and ensure value for money and benefit to the members and their beneficiaries.

299. Anomalies in Provision of Comprehensive Medical Cover by the Defunct National Hospital Insurance Fund

The National Police Service entered into a contract for provision of a Comprehensive Medical cover for employees of the National Police Service (NPS) and Kenya Prisons Service through the National Hospital Insurance Fund (NHIF) for the period 01 July, 2021 to 30 June, 2022. The Insurance cover was intended to cover Principal Members if in employment at the commencement of the cover and was to be on family-shared basis covering the principal member and dependents. A three (3) months extension was approved on 14 June, 2022 covering the period from 01 July to 30 September, 2022. A further three (3) months extension of the medical cover contract was requested for and approved on 19 September, 2022. The additional three (3) months covered the period from 1 October to 31 December, 2022.

However, review of insurance records provided for audit revealed the following anomalies:-

299.1 Unremitted Ex Gratia Amount from NHIF

Clause 6.21.1 of the contract states that ex-gratia shall be Kshs.200,000,000 and shall be approved by the Standing Committee of the client before any payment is made on any ex-gratia claim. The same clause requires that the insurer submits to the Committee detailed quarterly reports on all ex-gratia claims including their value, beneficiary, background and status of the claims among others and the insurer shall be required to submit back any unspent amount of ex-gratia at the end of the contract period. The Insurer did not provide reports on the ex-gratia claims and amounts paid from ex-gratia for medical cover contract between July 2021 and June 2022 and the subsequent extensions of the contract. There was no evidence of approvals of ex-gratia payments by the Standing Committee. Further, the Insurer did not remit the unspent amount of ex-gratia at the end of the contract period.

299.2 Unpaid Last Expense under Medical Cover

Clause 6.2 of the contract states that there shall be last expense for the principal members at a rate of Kshs.200,000 and Kshs.50,000 for one declared dependent. The last expense payment shall be made within seventy-two (72) hours from the time of reporting subject to submission of the required claim documents. However, contrary to the provisions of the contract, details of claims made during the period under review to the time of audit in the month of November, 2024 for last expense covered in the Comprehensive Medical Cover revealed that fifty-one (51) claims of members totalling to Kshs.8,750,000 had been dispatched to NHIF but had not been paid.

In the circumstances, Management did not adequately monitor the implementation of the contract to ensure that the contract terms are complied with and ensure value for money and benefit to the members and their beneficiaries from the contract.

300. Anomalies in Provision of Enhanced Comprehensive Group Life Cover and Inclusion of Work Injury Benefits Act and Group Personal Accident Cover

The National Police Service entered into a contract for provision of enhanced comprehensive Group Life Cover and inclusion of Work Injury Benefits Act (WIBA)and Group Personal Accident cover (GPA) for employees of the National Police Service (NPS) and the Kenya Prisons Service through the Defunct National Hospital Insurance Fund (NHIF) for the period 01 July, 2021 to 30 June, 2022. The insurance cover was intended to cover principal members and dependents if in employment at the commencement of the cover. Subsequently, an extension of the contract for a period of six months from 1 July, 2022 to 31 December, 2022 was approved.

However, review of insurance records revealed the following anomalies: -

300.1 Unpaid Claims on Last Expense

Clause 5.2 of the contract provides that NHIF shall upon receipt of written notification of death of a member or dependent while the cover is in force, pay to the next of kin or such other person the amount specified for funeral expenses within three (3) days subject to provision of a duly completed claim form and copy of Burial Permit. Further, clause 5.3 provides that on the death of a member or dependent, NHIF shall pay Group Life benefit specified within five (5) days subject to provision of a duly completed claim form, original burial permit, original death certificate and a copy of National identification card or surrender of Identification Card. However, review of claims for funeral expenses covered under comprehensive group life cover revealed that thirty-two (32) claims of principal members, spouses and children totalling to Kshs.5,400,000 had been dispatched to NHIF but had not been paid as at the time of the audit in the November, 2024. This was contrary to the terms of contract which state that within three (3) days subject to provision of a duly completed claim form and copy of Burial Permit they shall pay the next of kin.

300.2 Unpaid Work Injury Benefits Act (WIBA) Claims

Clause 2.1.1 of the contract provides that disablement shall be compensated through a periodical payment equivalent to the members salary. Periodical payments shall be made for as long as the temporary disablement continues but not for a period that exceeds twelve (12) months. However, review of data provided for audit revealed that there were unpaid 496 WIBA claims amounting to Kshs.382,993,340.64 which had been submitted to NHIF and to the Department of Health and Safety (DOSH).

In the circumstances, Management did not adequately monitor the implementation of the contract to ensure that the contract terms are complied with and ensure value for money and benefit to the members and their beneficiaries from the contract.

301. Non-Operational National Police Service Hospital at Mbagathi

Construction and equipping of the National Police Service (NPS) Mbagathi Hospital was done under the supervision of the Ministry of Defence at a cost of Kshs.1,233,628,135. An amount of Kshs.400,000,000 was paid while the remaining balance of Kshs.833,628,135 was still outstanding as at the time of the audit in November 2024, and included as a pending bill. The construction and equipping of the Hospital was completed in the 2022/2023 financial year. However, as at the time of audit in November 2024, despite handing over of the Hospital having been done and commencement of recruitment of hospital staff, the Hospital was not in operation.

In the circumstances, value for money for funds spent on the project has not been realised.

302. Lack of Handing Over of Stalled Development Projects at Kanyoonyo Border Post Unit

The National Police Service initiated development works at Kanyoonyo border post unit. Physical verification of development projects revealed that there were stalled projects including the Kanyoonyo Airstrip and Sports Complex. The airstrip was intended to be used to ferry supplies to the officers, evacuate those needing specialized treatment and deploy tactical units. The airstrip was to be handed over to the Ministry of Transport for completion while the Sports complex was to be handed over to the Ministry of Sports for completion for use by the officers and the local community. However, as at the time of audit in November 2024 official handing over of the two projects to the respective Ministries to facilitate their completion had not been done.

In the circumstances, the public and the Service have not derived value for money for funds spent on this project.

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

Basis for Conclusion

303. Lack of Land Ownership Documents

Review of records relating to land ownership provided for audit revealed that the National Police Service was in possession of two thousand and seventy-three (2,073) parcels of land across the country with an estimated size of six thousand eight hundred and twenty-nine (6,829) hectares, out of which one hundred and sixty-seven (167) had title deeds and an additional eight hundred and six (806) had allotment letters. However, a detailed breakdown of the parcels of land with title deeds and allotment letters were not provided for audit. Further, no evidence was provided for audit to confirm that the title deeds had been submitted to The National Treasury as custodian of Government of Kenya assets. In addition, available information indicated that one hundred and thirty-nine (139) parcels had disputes or had been encroached on and Management did not provide an action plan to resolve the disputes.

In the circumstances, the ownership and safe custody of the assets could not be confirmed.

304. Stations Operating Without Authority to Incur Expenditure (AIE) Allocations

Review of records and physical verification revealed that two hundred and fifty-two (252) gazetted Police Stations in the Rift Valley and Central regions were operating without funding in form of Authority to Incur Expenditure (AIE). Further, the Regional Police Training Centre in Nyeri and the Kanyonyo Level 4 Border Police Unit Hospital also operated without funding in the form of Authority to Incur Expenditure (AIE) in the 2023/2024 financial year.

The lack of funding may affect the effective and efficient delivery of services to the public and also to the Police officers.

305. Asbestos Roofing at Embakasi B Campus Housing

The Government banned the use of asbestos in 2006, given its carcinogenic effects. Further, on 28 August, 2024, the Cabinet Secretary, Ministry of Environment, Climate Change and Forestry directed the National Environment Management Authority to map out facilities with asbestos roofing countrywide to ensure they are removed. He directed facilities including schools and other private establishments to remove asbestos within the next three (3) months. Physical inspection of the residential Houses at NPC Embakasi 'B' Campus revealed that one hundred and ninety-one (191) housing units still had asbestos roofing.

In the circumstances, long term exposure to hazardous materials could result in health risks.

306. Enhancement of Governance Systems for Security Related Expenditures

During the year under review, the Service incurred expenditure on confidential security operations. A certificate of confidential expenditure was issued, supported by a declaration from the Accounting Officer affirming proper use of funds in compliance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015. There is need to enhance accountability of confidential expenditures through review of the Regulations to clearly define entities eligible for confidential security related expenditures and to specify what constitutes security related operations. Further, entities should establish internal oversight mechanisms and processes that include detailed budget projections and post-operation financial summaries to address risks and ensure responsible use and accountability of the funds, beyond the certificate.

The measures will strengthen governance, foster trust, and ensure funds are utilised responsibly without compromising State security.

STATE DEPARTMENT FOR INTERNAL SECURITY AND NATIONAL ADMINISTRATION – VOTE 1026

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

307. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

308. Pending Accounts Payable

Annex 1b to the financial statements discloses a pending bills balance of Kshs.2,301,893,725 as at 30 June, 2024 which was not settled during the year under review but was carried forward to 2024/2025 financial year. The pending bills balance includes an amount of Kshs.924,804,285 relating to legal compensation claims in respect of damages payable to plaintiffs, arising out of court cases where the State Department had lost and was ordered to compensate or pay damages. No explanation was provided for non-payment of the outstanding awards despite the fact that the amounts continue to accrue interest every year.

Further, failure to settle bills during the year to which they relate adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge to that year's budget provision.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

309. Non-Compliance with the Minimum Net Salary Rule

During the year under review, three thousand eight hundred and fifteen (3,815) employees received a net salary less than one-third (⅓) of their basic salary. This was contrary to Section19(3) of the Employment Act, 2007 which states that all deductions made by an employer from the wages or salaries of his employees at any one time shall not exceed two thirds (⅔) of such wages or salaries.

In the circumstances, Management was in breach of the law.

310. Lack of Value for Money on Maintenance of Elevators

The State Department entered into a framework contract for monthly maintenance of lifts at Nyayo House and Harambee House on 14 August, 2023 for a period of two years at a contract sum of Kshs.8,978,000. During the year under review, the State Department for Internal Security and National Administration, the State Department for Immigration and Citizen services and the Nairobi Regional Commissioner made payments amounting to Kshs.10,588,260, Kshs.4,859,099 and Kshs.1,320,000 respectively, all totalling

Kshs.16,767,359 to the contractor on maintenance of lifts using the same contract. However, job cards for maintenance of the elevators were not provided for audit.

Further, a physical verification carried out in September 2024 revealed that two (2) lifts at Harambee House and two (2) lifts at Nyayo House were not functioning. In addition, Management did not provide evidence that a Contact Implementation Committee was put in place to monitor delivery of the contract as per the provisions of Section 151(2) of the Public Procurement and Asset Disposal Act, 2015 on management of specialized and complex contracts.

In the circumstances, value for money on the expenditure incurred on the repair, service and maintenance of lifts may not been realized. Further, the prolonged continuous breakdown of the lifts paused danger and inconvenience to staff and visitors accessing the two buildings.

311. Stalled Development Projects

Physical verification of works and review of project documents revealed that the State Department had eight (8) stalled development projects at various levels of completion and payment as detailed below:-

	Project	Commencement Date	Duration of Project	Total Cost (Kshs.)	Expenditure Incurred on the Stalled Project (Kshs.)	Percentage of Completion
1	Proposed Completion of Migori District Headquarters (Phase I)	31 July, 2009	3 years	701,536,030	539,010,127	80%
2	Tinderet Sub County Headquarters	12 April, 2011	2 years	49,000,000	30,000,000	82%
3	Nandi South Sub County Headquarters	28 April, 2010	2 years	48,500,000	30,000,000	73%
4	Bunyala DCC's Office	2010/2011	2 years	47,000,000	30,000,000	64%
5	Tigania East DCC's Office	2010/2011	2 years	75,590,000	73,141,250	97%
6	Igembe North DCC's office	10/06/2020	2 years	28,234,704	25,479,566	90%
7	Magunga district headquarters	15/03/2013	2 years	8,541,416	3,586,583	41%
8	Proposed Construction of 100 Persons Hostel Block for KSAL	14 April, 2020	3 years	198,109,780	102,437961	75%
	Total			**1,156,511,930**	**833,655,487**	

In the circumstances, the State Department did not obtained value for money from the stalled projects.

312. Unpaid Claims Under Work Injury Benefits Act and Group Personal Accident Cover

Review of Work Injury and Group Personal Accident Cover records and claims revealed that the State Department had ten (10) claims relating to Work Injury and Group Personal Accident Cover amounting to Kshs.18,739,285. The claims had not been settled by the National Hospital Insurance Fund (NHIF) because they were outside the contract period for civil servants' cover.

Further, the State Department had ten (10) claims for Work Injury and Group Personal Accident Cover amounting to Kshs.8,855,913 which were returned by NHIF due to incomplete records by the claimants. At the time of the audit in November, 2024, the claims were still pending because the claimants could not be traced.

In addition, the State Department had one hundred and fifty-four (154) cases of reported claims for Work Injury benefit claims and Group personal Accident cover which were to be settled through The National Treasury before the cover was transferred to NHIF with effect from 01 January, 2012. However, The National Treasury returned the claims to Ministries on 29 September, 2022 due to missing details/documents. The audit established that there was undue delay in processing the claims with some claims dating back to the year 2003. Some of the claims had not been evaluated and efforts to trace the beneficiaries were difficult and sometimes futile since the files had no contacts for the claimants and beneficiaries.

In the circumstances, Management did not adequately monitor the implementation of the contract to ensure that the contract terms were complied with and value for money from the contract was not achieved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

313. Lack of Land Ownership Documents

Review of land register provided for audit revealed that the State Department owned four thousand one hundred and fifty-one (4,151) parcels of land in various parts of the Country. Although Management indicated that it was in the process of acquiring the ownership documents, no evidence was provided on the progress made and title deeds for the parcels of land were not provided for audit.

Further, some parcels of land owned and developed by the State Department lacked proper survey plans, making it difficult to accurately determine and demarcate their boundaries.

In addition, the land register provided for audit was incomplete and most of the required information in the register were blank. Further, parcels of land on which Nyayo House and Harambee House buildings stand could not be traced in the register.

In the circumstances, the existence of an effective control system to safeguard the State Department's land could not be confirmed.

314. Enhancement of Governance Systems for Security Related Expenditures

During the year under review, the State Department for Internal Security and National Administration incurred some expenditures on confidential security operations. Certificates of confidential expenditure were issued, supported by declarations from the Accounting Officer affirming proper use of funds in compliance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015.

There is need, however, to enhance accountability of confidential expenditures through review of the Regulations to clearly define entities eligible for confidential security related expenditures and to specify what constitutes security related operations. Further, entities should establish internal oversight mechanisms and processes that include detailed budget projections and post-operation financial summaries to address risks and ensure responsible use and accountability of the funds, beyond the certificate.

The measures will strengthen governance, foster trust, and ensure funds are utilised responsibly without compromising State security.

REVENUE STATEMENTS - STATE DEPARTMENT FOR INTERNAL SECURITY AND NATIONAL ADMINISTRATION

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

315. There were no material issues noted during the audit of the revenue statements of the State Department.

Emphasis of Matter

316. Long Outstanding Arrears of Revenue

The statement of arrears of revenue reflects arrears amounting to Kshs.926,664,046 owed by various government agencies as at 30 June, 2024. The arrears of revenue include a balance of Kshs.671,581,466 representing 72% of total arrears that has been outstanding for between 1-3 years.

In the circumstances, the recoverability of arrears of revenue of Kshs.671,581,466 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

317. 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

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

DONOR FUNDED PROJECT

TECHNICAL ASSISTANCE TO ENHANCE THE CAPACITY OF THE PRESIDENT'S DELIVERY UNIT (ADB GRANT NO. 5500155012902) PROJECT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

319. 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

Conclusion

320. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

322. As required by the African Development Bank, I report based on my audit, that the Project’s funds have been utilized in accordance with the conditions outlined in the Grant Agreement, with due consideration for economy, efficiency, and effectiveness for their intended purposes. Further, goods and services financed under the Project have been procured in compliance with the Grant Agreement and the Bank's rules and procedures. I also confirm that all necessary supporting documents, records, and accounts have been maintained for all Project activities, and that adequate internal controls are in place to monitor expenditures, oversee financial transactions, and ensure the safe custody of assets.

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

323. Unsupported Cash and Cash Equivalents Balance

The statement of financial assets and financial liabilities reflects a balance of Kshs.18,951,304 in respect of cash and cash equivalents which, as disclosed in Note 9A to the financial statements, includes balances of Kshs.209,196 and Kshs.6,535 held in two separate bank accounts in a local bank. However, the two balances were not supported with cash books and bank reconciliation statements. Further, one of the account reflects a comparative balance of Kshs.22,626,576 which differs with the previous year's audited balance of Kshs.209,196 by an unexplained and unreconciled variance of Kshs.22,417,380.

In the circumstances, the accuracy of cash and cash equivalents balance of Kshs.18,951,304 could not be confirmed.

324. Unsupported Prior Year Adjustments

The statement of financial assets and financial liabilities reflects a debit balance of Kshs.212,667,901 in respect of prior year adjustments which, as disclosed in Note 13 to the financial statements, includes bank account balances adjustments of Kshs.32,667,870. Although Management explained that the adjustments related to recovered unspent bank balances, only recoveries amounting to Kshs.10,041,294 were supported leaving an unsupported balance of Kshs.22,626,576.

In the circumstances, the accuracy and completeness of the balance of Kshs.212,667,901 in respect of prior year adjustments could not be confirmed.

325. Unsupported and Long Outstanding Pending Accounts Payable

Note 16.2 to the financial statements discloses pending accounts payable of Kshs.2,709,240,026 which had not been settled as at 30 June, 2024. However, a detailed analysis of the pending accounts payable was not provided or disclosed in an Annex to the financial statements as required by the financial reporting template prescribed by the Public Sector Accounting Standards Board (PSASB). Further, the Note discloses a balance brought forward of Kshs.2,824,133,581 which however differs with the previous year's audited balance of Kshs.2,845,999,360 by an unexplained and unreconciled variance of Kshs.21,865,779.

In the circumstances, the accuracy and completeness of the pending accounts payable balance of Kshs.2,709,240,026 could not be confirmed.

Emphasis of Matter

326. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.2,377,961,984 and Kshs.2,068,585,264 respectively, resulting to an underfunding of Kshs.309,376,721 or 13% of the approved final budget.

The underfunding affected the planned activities and programmes of the State Department, which may have impacted negatively on effective service delivery to the public.

My opinion is not modified in respect of this matter.

Other Information

327. Non-Compliance with the Public Sector Accounting Standards Board Reporting Template

The annual report and financial statements submitted for audit did not include the Statement of Performance Against Predetermined Objectives, Management Discussions and Analysis, and Environmental and Sustainability Reporting under Other Information as required by the financial reporting template prescribed by the PSASB. Further, the Statement by Chief of Staff was not signed.

My opinion on the financial statements does not cover the Other Information and accordingly, I do not express an audit opinion or any form of assurance thereon.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

328. Non-Compliance with the Minimum Net Salary Rule

Review of the State Department's payroll revealed that twenty-six (26) members of staff received a net salary less than one-third (⅓) of their basic salary during various months of the year under review. This was contrary to Section19(3) of the Employment Act, 2007 which states that all deductions made by an employer from the wages or salaries of his employees at any one time shall not exceed two-thirds (⅔) of such wages or salaries.

In the circumstances, Management was in breach of the law.

329. Failure to Provide Recommendations Implementation Status Report

The Public Accounts Committee of the National Assembly upon examination of the Auditor-General's Report for 2020/2021 financial year made several recommendations. However, a progress report on the status of implementation of the Committee's recommendations was not provided. This was contrary to Section 68(4) of the Public Finance Management Act, 2012 which requires an Accounting Officer of a national government entity to prepare a report on actions taken by the entity to implement recommendations made in the Committee's report.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

330. Lack of an Audit Committee

During the year under review, the State Department did not have an Audit Committee contrary to Section 73 (5) of the Public Finance Management Act, 2012 which states that every national government public entity shall establish an Audit Committee whose composition and functions shall be as prescribed by the Regulations. The State Department, therefore, did not benefit from the oversight of an Audit Committee.

In the circumstances, the existence of an effective oversight mechanism to ensure the existence of an efficient system of internal controls could not be confirmed.

331. Lack of IT Strategy Committee and IT Steering Committee

The State Department did not have an IT Strategy Committee and an IT Steering Committee as set out in Section 6.2 of the Government ICT Standards by the ICT Authority. Further, the State Department did not have an approved ICT Policy for governance and management of its ICT resources. The absence of an approved ICT Policy creates a significant risk to information security and the safeguarding of the State Department's ICT assets. Further, without a sound and approved framework, users did not have any rules and procedures to follow in order to minimize risk of errors, fraud and the loss of data confidentiality, integrity and availability.

In the circumstances, the strength of governance systems around the State Department's ICT environment could not be confirmed.

332. Unclear Engagement of Members of the Nairobi Rivers Commission

During the year, the State Department transferred a total of Kshs.258,401,503 to the Nairobi Rivers Commission for running its operations. An additional amount of Kshs.36,538,883 was incurred at the State Department on behalf of the Commission including paying for the Commissioners' remuneration.

Review of records revealed that the gazette notice and appointment letters for Commission members failed to explicitly specify their employment status as either full-time or part-time. The Salaries and Remuneration Commission (SRC), through a letter dated 26 May, 2023, provided remuneration guidance based on whether the Commissioners were on full-time or part-time terms and Commissioners were individually allowed to determine whether they would serve on a full-time or part-time basis. This arrangement resulted in Commissioners with identical responsibilities and roles being engaged under varying terms, leading to operational inconsistencies. Some

Commissioners performed duties daily, while others only attended meetings, hence undermining the spirit of collective responsibility.

In the circumstances, the effectiveness of the governance structure at the Commission could not be confirmed.

333. Stalled Proposed Africities Convention Center Project in Kisumu County

As previously reported, the State Department awarded a contract for the construction of the proposed Africities Convention Centre in Kisumu at a contract sum of Kshs.890,829,345 for a duration of thirty-eight (38) weeks commencing on 16 July, 2021. The completion period was extended four times, with the latest completion date set for 13 January, 2025**.** Review of the project status report as at 30 April, 2024 revealed that, a total of one forty-five (145) weeks had lapsed and that the project was at 60% completion level. In addition, the certified works were valued at Kshs.448,337,137 out of which an advance payment of Kshs.250,000,000 had been made.

Physical verification of the site in December, 2024 revealed that there was no progress of works since the last extension due to non-payment to the contractor.

Further, the contractor in a letter dated 19 October, 2023 to the Works Secretary, State Department for Public Works tabulated a sum of Kshs.1,385,980,479 being claim for loss and expenses due to suspension of works since May, 2022 and a further claim for extended preliminaries, interest on delayed payments, idle plant and labour of Kshs.190,000,000 attributed to the contract extension.

In the circumstances, value for money from the expenditure of Kshs.250,000,000 incurred on the project could not be confirmed. Further, the State Department risks incurring additional costs in form of claims and interest on delayed payments.

DONOR FUNDED PROJECT

KENYA COOPERATION AND PARTNERSHIP FACILITY (KCPF) PROJECT NO.KE/FED 2019/041-712, CREDIT NO.FED/2021/423-175

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

335. Undrawn Project Funds

As disclosed under Paragraph 2.2 on project information, the Project was expected to start on 16 August, 2021 and close on 15 March, 2023. Further, Paragraph 2.7 on funding summary indicates that the Donor had made commitment amounting to Kshs.45,634,700.

However, the total amount received as at 30 June, 2024 was Kshs.31,534,900 leaving an undrawn balance of Kshs.14,099,800 or 31% of expected funding.

Failure to draw the committed funds may have impacted negatively on achievement of project objectives.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

336. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

338. As required by European Development Fund, I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records and, the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AN AGENCY UNDER THE STATE DEPARTMENT FOR DEVOLUTION

KENYA SYMBIOCITY PROGRAMME - SIDA NO. 51110060 - COUNCIL OF GOVERNORS

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

340. Unresolved Prior Years Issues

In the audit reports for the previous years, several unsatisfactory matters were raised on the Programme. These issues were deliberated by Public Accounts Committee during a sitting held in the month of August, 2024. However, at the time of compiling this report the Committee’s report on recommendations made had not been received.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

341. Lack of Closure Procedures

The Kenya Symbiocity Programme - SIDA NO. 51110060 Project ended on 30 June, 2023 according to the Amendment No. 3 to the Specific Agreement Article 19 on termination. However, at the time of audit in September, 2024, Management had not carried out closing procedures for the Programme despite the contract having reached its end of term.

In the circumstances, Management did not comply with the Specific Agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

STATE DEPARTMENT FOR THE ARID AND SEMI-ARID LANDS AND REGIONAL DEVELOPMENT – VOTE 1036

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

343. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

344. Pending Accounts Payable

Note 21.2 and Annex 1 to the financial statements reflects pending accounts payable totalling Kshs.3,682,608,355. The pending bills in respect of supply of goods and supply of services were not paid in the year under review but were carried forward to 2024/2025 financial year.

Failure to settle bills during the year to which they relate distorts the financial statements and adversely affect the budgetary provisions for the subsequent year as they form a first charge.

345. Undisclosed Contingent Liabilities

Note 21.5 to the financial statements indicates that the State Department had no contingent liabilities. However, Annex 3 to the financial statements indicates that there were nine (9) active litigation matters which had not been determined and whose outcome and likely liabilities were uncertain.

In the circumstances, the likely effect and settlement of the reported contingent liabilities arising from the outcome of the court cases could not be confirmed.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

346. Non-Compliance with the One-Third of Basic Salary Rule

Analysis of the Integrated Personnel and Payroll Database (IPPD) revealed that ten (10) officers earned less than one-third of their basic salary. This was contrary to Section C.1(3) of the Human Resource Policies and Procedures Manual for the Public Service of May, 2016 and Section19(3) of the Employment Act, 2007 which states that all deductions made by an employer from the wages or salaries of his employees at any one time shall not exceed two thirds of such wages or salaries.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

347. Lack of a Risk Management Policy

Review of the internal controls systems revealed that the State Department did not have an approved Risk Management Policy. Further, Management had not identified and documented risks and controls to respond to the risks. This was contrary to Regulation 165 (1) of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting Officer shall ensure that the National Government entity develops - risk management strategies, which include fraud prevention mechanism; and a system of risk management and internal control that builds robust business operations.

In the circumstances, existence of effective measures for identification of risks and appropriate internal controls and policies on how to control or mitigate the risks could not be confirmed.

DONOR FUNDED PROJECT

KENYA DEVELOPMENT RESPONSE TO DISPLACEMENT IMPACTS PROJECT (KDRDIP) IDA CREDIT NO.6021-KE AND GRANT NO.TFOA 7762-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

348. 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

349. Lack of Sanitation Facilities in Female, Male and Paediatrics Wards in Kakuma Sub-County Hospitals

Construction of female, male and paediatric wards at Kakuma Sub- County Hospital was budgeted at Kshs.12,500,000 and the funds were disbursed to the sub-project account and the Community Project Management Committee (CMPC). The CMPC awarded the contract to a contractor at a sum of Kshs.12,398,650. Physical inspection of the Project on 8 November, 2024 revealed that the wards were constructed without washrooms rendering them unusable in their current state. The Hospital Management is currently using the wards to store construction materials.

Review of the Bills of Quantities indicated that the washrooms were not provided for in the initial design of the Hospital. Enquiry from the CPMC established that the approved plans for the wards were not shared with stakeholders for their input and the omission was only discovered at the tail end of the construction phase of the project. In the absence of the necessary sanitary infrastructure, the wards cannot be used for the purpose intended. Further, the wards were not branded as KDRDIP Project funded initiative as required in the Agreements with the CMPC.

In the circumstances, value for money for the expenditure of Kshs.12,398,650 could not be confirmed.

350. Over Pricing in Procurement of Energy Saving Jikos

Jikos of similar make and sizes were selling at the local market at the range of Kshs.3,500 to Kshs.5,000 per jiko inclusive of taxes while the project prices ranged from Kshs 16,480 to Kshs.19,000 per jiko, hence a total expenditure of Kshs.7,346,000 for the purchase of 400 jikos.

In the circumstances, value for money for the expenditure of Kshs.7,346,000 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

352. As required by International Development Association, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records and, the Project's financial statements agree with the accounting records and returns.

MINISTRY OF DEFENCE - VOTE 1041

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

353. There were no material issues noted during the audit of the financial statements of the Ministry.

Emphasis of Matter

354. Pending Accounts Payable

Note 17.2 to the financial statements reflects pending accounts payable balance of Kshs.22,890,340,784 as at 30 June, 2024. The balance relates to pending bills that were not settled during the year under review but were instead carried forward to the financial year 2024/2025.

Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

355. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.156,282,889,256 and Kshs.133,731,784,732 respectively, resulting in an overall budget underfunding of Kshs.22,551,104,524 or 14% of budget.

The under-funding affected the planned activities and programmes of the Ministry, which may have impacted negatively on effective service delivery to the public.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

356. Stalled Infrastructure Modernization and Development Projects

Review of Ministry's projects progress reports and project implementation status reports indicated that three (3) projects, initiated between November 2021 to June 2022 with cumulative contract amounts of Kshs.21,946,793,240 and cumulative certified works and payments of Kshs.3,167,246,096 as at 30 June, 2024, had stalled**.** The projects were all past their expected completion dates**.** Physical verification carried out in the months of October and December, 2024 revealed that the respective contractors were not on site and no work was ongoing. Further, Management did not disclose measures and strategies put in place to revive and complete the stalled projects whose details are summarized below;

S/No.	Programme/ Project	Contract Date	Expected Completion Date	Estimated Cost	Payments as at 30 June, 2024	Outstanding Obligations as at 30 June, 2024	% of Completion
				(Kshs.)	(Kshs.)	(Kshs.)	
1.	Proposed Permanent Camp for 8 Bde HQs and 23 MIB	14.12.2021	14.08.2023	2,809,531,009	175,000,000	2,634,531,009	20%
2.	Proposed Improvement of 4.2 km road	21.06.2022	21.12.2022	238,178,798	90,192,000	147,986,798	60%
3.	Proposed FRRH	18.01.2022	18.01.2025	18,899,083,433	2,902,054,096	15,997,029,337	20%
	Total			**21,946,793,240**	**3,167,246,096**	**18,779,547,143**	

In addition, evidence that the contractors renewed their performance bonds was not provided for review.

In the circumstances, the value for money for the Kshs.3,167,246,096 incurred on the stalled projects could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

357. Agency Funding

During the year under review, the Ministry of Defence implemented and supervised several projects valued at Kshs.2,579,099,711 on behalf of other Ministries, Departments and Agencies. The Agency funds were received and paid out of Ministry of Defence's operational bank accounts. However, as reported in the previous year, management of Agency activities was not done through an Independent Special Purpose Vehicle for purposes of strengthening the internal controls in management and accountability of Agency funds.

In the circumstances, there is a risk of inadequate accountability over the funds received from the Ministries, Departments and Agencies due to comingling of funds.

358. Enhancement of Governance Systems for Security Related Expenditures

During the year under review, the Ministry incurred some expenditure on confidential security operations. A certificate of confidential expenditure was issued, supported by a declaration from the Accounting Officer affirming proper use of funds in compliance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015.

There is need, however, to enhance accountability of confidential expenditures through review of the Regulations to clearly define entities eligible for confidential security related expenditures and to specify what constitutes security related operations. Further, entities should establish internal oversight mechanisms and processes that include detailed budget projections and post-operation financial summaries to address risks and ensure responsible use and accountability of the funds, beyond the certificate.

The measures will strengthen governance, foster trust, and ensure funds are utilised responsibly without compromising State security.

RECEIVER OF REVENUE STATEMENTS - MINISTRY OF DEFENCE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

359. 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

Conclusion

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

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

Conclusion

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

STATE DEPARTMENT FOR FOREIGN AFFAIRS – VOTE 1053

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

362. Variances Between Balances in the Financial Statements and Balances in the Supporting Schedules

Note 10A to the financial statements discloses a balance of Kshs.393,274,333 in respect of deposit balance which, however, differs from the balance of Kshs.346,650,988 reflected in the supporting schedule by an unexplained and unreconciled variance of Kshs.46,623,345. Further, Note 12 to the financial statements discloses a balance of Kshs.368,896,438 in respect of missions' third party deposits, which, however, differs from the balance of Kshs.362,696,261 by an unexplained and unreconciled variance of Kshs.6,200,177. In addition, Note 11 to the financial statements discloses a balance of Kshs.14,899,736 in respect of imprests and advances which, however, differs from the balance of Kshs.17,952,452 reflected in the supporting schedule by an unexplained and unreconciled variance of Kshs.3,052,716.

In the circumstances, the accuracy and completeness of the respective balances in the financial statements could not be confirmed.

363. Cash and Cash Equivalents

The statement of financial assets and financial liabilities reflects a cash and cash equivalents balance of Kshs.3,331,379,195 which, as disclosed in Note 10A to the financial statements, includes bank balances totalling Kshs.3,330,931,846. However, the following unsatisfactory matters were observed.

363.1 Long Outstanding Unreconciled Items

As previously reported, the State Department's bank reconciliation statements reflected long outstanding reconciling items totalling Kshs.1,867,202,659 which have remained outstanding for more than six (6) months with some dating back to year 1994 as summarised below:

Particulars	Amount (Kshs.)
Payments in Cash Book not in Bank Statements	439,974,693
Receipts in Bank Statements not in Cash Book	105,917,296
Payments in Bank Statement not in Cash Book	592,258,479
Receipts in Cash Book not in Bank Statement	72,905,2191
Total	**1,867,202,659**

Further, all the outstanding reconciling items relate to various Missions abroad, an indication of inadequate internal controls on cash management in the Missions.

In addition, review of the Missions' records revealed that there were variances between the supporting schedules provided to support Missions' cash and cash equivalents balances and the Missions cash books as detailed below:

Mission	Balance as per Supporting Schedules	Balance as per Cash Book	Variance	Exchange Rate	Variance (Kshs.)
Washington Development USD	513,277.57	0	513,277.57	131	67,239,362
Washington Revenue USD	0	119.67	119.67	131	15,677
Geneva (Development Account) USD	0	68,982.49	68,982.49	131	9,036,706
Lusaka-Development USD	144,248.44	106,942.05	37,306.39	131	4,887,137
Tokyo-Recurrent Yen	0	19,344,679	19,344,679	0.87	16,829,871
Abuja-Development GBP	0	30,046.92	30,046.92	165	4,957,742
Abuja – Development-Naira	0	13,353,292.91	13,353,292.91	0.08	1,068,263
Hague-Development bank account Euro	0	63,290.05	63,290.05	142	8.987,187
Berlin recurrent	33,853.12	4,785.17	29,067.95	142	4,127,649
Khartoum- local currency	0	10,763,915.23	10,763,915.23	0.22	2,368,061
Khartoum- USD	0	1,478.26	1,478.26	131	193,652
Tokyo-Development	20,000,000	0	20,000,000		20,000,000
Paris-Development	24,311,588.95	0	24,311,588.95		24,311,589
Juba Development	20,000,000	0	20,000,000		20,000,000
Ottawa-Development	20,000,000	0	20,000,000		20,000,000
London-Revenue	0	287,564.11	287,564.11	165	47,448,078

363.2 Discrepancies in Bank Balances

Review of the State Department's bank reconciliation statements and cash books revealed the following matters:

i). The cash book for the Kenya Mission in Gaborone for April and May 2024 reflected total payments of USD247,166.74 equivalent to Kshs.32,378,843. However, a recasting performed on the cash book revealed a total of USD246,266.74 equivalent to Kshs.32,260,943 resulting in an unexplained variance of USD900 (Kshs.117,900).

ii). The bank reconciliation statement of the Kenya Mission in Algiers reflected that there were long outstanding payments in cash book not recorded in bank statement of USD19,500 which had been outstanding from 2020/2021. Although, this amount was cleared during the year under audit, the clearance entries could not be traced in either the cash book nor the bank statements.

iii). Review of the bank reconciliation statements for the Kenya Mission in London revealed the following matters:

a) The development, recurrent and deposits bank reconciliation statements for the month of June, 2024 reflected amounts of £171,593.49 (Kshs.28,312,926), £76,505.75 (Kshs.12,623,449) and £109,270.34 (Kshs.18,029,606) in respect of payments in bank not in cash books, respectively. However, it was not clear how payments went through the bank without being credited (paid) in the cash book and why the same remained uncleared for a long time.

b) The revenue bank reconciliation statement for the month of June, 2024 reflected receipts in the cash book not yet recorded in bank statement of £630 (Kshs.103,950). However, the amounts could not be traced to the cash book. In addition, no explanation was provided on how receipts could be in the cash book and not in bank, yet the Missions are not supposed to receive cash or cheques.

c) The revenue bank reconciliation statement for the month of June, 2024 reflects payments in bank statement not yet recorded in the cash book of £283,110.45 (Kshs.46,713,224). Management did not explain how payments went through the bank without being credited (paid) in the cash book.

iv). The cash book for the Kenya Mission in Kuala Lumpur as at 30 June, 2024 reflects a cash balance of MYR 38,465.63 (Kshs.1,069,345). Included in the amount is an IOU of MYR 38,435.36 (Kshs.1,068,503) which remained outstanding since the year 1996.

v). The June, 2024 bank reconciliation statement for the Kenya Mission in Khartoum included reconciling items amounting to SDG 32,168.87 (Kshs.7,077) and SDG 246,534.01 (Kshs.54,237) relating to a local currency account and a foreign currency account respectively which were not dated. The period in which the items remained outstanding could therefore not be determined.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.3,331,379,195 could not be confirmed.

364. Discrepancy in Appropriations-In-Aid

The statement of receipts and payments reflects proceeds from sale of assets and miscellaneous receipts totalling Kshs.218,683,256 as disclosed in Note 2 and Note 3 to the financial statements. Included in the receipts are Mission’s Appropriations-In-Aid (AIA) collections of Kshs.217,117,982 which differ with the amount of Kshs.196,547,971 reflected in the AIA returns by the Missions by an unexplained variance of Kshs.20,570,011.

In the circumstances, the accuracy and completeness of the receipts of Kshs.218,683,256 could not be confirmed.

Emphasis of Matter

365. Pending Accounts Payable

Note 16.2 to the financial statements reflects pending accounts payable balance of Kshs.2,932,196,070 as at 30 June, 2024. The bills were not settled during the year under review but were carried forward to 2024/2025 financial year.

Failure to settle bills during the year to which they relate adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge to that year's budget provision.

366. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.23,188,136,941 and Kshs.20,277,311,079 respectively resulting to an underfunding of Kshs.2,910,825,863 or by 13% of the approved final budget. Similarly, the State Department spent a total of Kshs.19,492,067,863 against actual receipts of Kshs.20,277,311,079 resulting to an under- utilization of Kshs.785,243,216 or 4% of the actual receipts.

The underfunding and underutilization affected the planned activities and programmes of the State Department, which may have impacted negatively on effective service delivery to the public.

367. Failure to Budget for Exchange Losses

The statements of receipts and payments reflects total payments of Kshs.19,492,067,863 which includes an amount of Kshs.854,498,714 being foreign exchange losses incurred by Missions. The foreign exchange losses were attributed to the fact that the budget was in Kenyan shillings while the expenditure at the Missions was in the currency of the country where the Missions were located. No special consideration was made for the State Department for Foreign Affairs to absorb the losses and disburse funds intact in line with Section 7 of the Foreign Service Act, 2021 which states that The National Treasury shall compensate the Ministry for any loss incurred resulting from foreign exchange adjustment, from monies sent to its Missions abroad. This negatively affected the liquidity of the Missions, resulting into pending bills in some of the Missions.

368. Contingent Liabilities

Note 16.3 to the financial statements reflects contingent liabilities totalling Kshs.4,048,290,231. The contingent liabilities related to legal cases against the State Department which were still ongoing as at the time of the audit in December, 2024. The significant amount of contingent liabilities poses a potential risk of loss of public funds.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

369. Long Outstanding Accounts Payable

The statement of financial assets and financial liabilities reflects a balance of Kshs.393,274,333 in respect of accounts payables – deposits which, as disclosed in Note 12 to the financial statements, is made up of third-party deposits and retentions. Review of the supporting analysis provided revealed that deposits totalling Kshs.24,590,468 had been outstanding for a long period of time with some dating back to the financial year 2019/2020. This was contrary to Regulation 106 of the Public Finance Management (National Government) Regulations, 2015 which states that unless otherwise exempted by an Act of Parliament, any deposit which has remained unclaimed for five (5) years may, with the approval of the Cabinet Secretary, be paid into Consolidated Fund and thereafter the Accountant-General may refund the deposit to any person entitled thereto, if he or she is satisfied that the claim is authentic.

In the circumstances, Management was in breach of the law.

370. Non-Compliance with the Minimum Net Salary Rule

During the year under review, one hundred and sixty-five (165) employees received a net salary less than one-third (⅓) of their basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which states that all deductions made by an employer from the wages or salaries of his employees at any one time shall not exceed two-thirds (⅔) of such wages or salaries.

In the circumstances, Management was in breach of the law.

371. Non-Compliance with National Social Security Fund (NSSF) Tier 2 Deductions

Review of the payroll indicated that the State Department did not update employee and employer deductions for National Social Security Fund (NSSF) Tier II effective February 2024 in compliance with a NSSF notification.

In the circumstances, Management was in breach of the law.

372. Incomplete Disclosure of Acquisition of Fixed Assets

Annex 2 to the financial statements on summary of fixed assets register did not include all information provided in the format prescribed and published by the Public Sector Accounting Standards Board (PSASB). The summary did not indicate balance in historical cost brought forward, additions during the year, disposals during the year, transfers in / (out) during the year and historical cost carried forward.

In the circumstances, Management was in breach of the PSASB reporting guidelines.

373. Operational Matters in Kenya Missions Abroad

Audit of sampled Kenya Missions abroad during the year revealed the following unsatisfactory matters that negatively affected the operational efficiency of the Missions;

373.1 Delayed Disbursements to Missions Abroad

During the year under review, the Department disbursed to Missions abroad a total of Kshs.14,348,782,682 which was done on a quarterly basis. However, review of records provided for audit indicated that the disbursements were done on the last month of the respective quarters. This resulted to delayed payments to local staff, foreign service allowances to the home-based staff, suppliers, office expenses and delayed procurement processes which may have affected the Country's image abroad.

In the circumstances, the delayed disbursement negatively affected the staff morale, caused low confidence and exposed the Country to reputational risks.

373.2 Deficiencies in Procurement Processes in Missions Abroad

Review of the Mission's procurement processes for sampled procurements carried out during the year revealed that most Missions did not have a list of registered suppliers, lacked standardized procurement documents and did not adhere to procurement requirement such as issuing quotations to suppliers. Further, the use of standard tender and prequalification documents in the host countries was found challenging due to the different and unique legal, regulatory and business environments that impeded the application of Kenya's legal and regulatory procedures in procurement of goods, works and services. The Missions therefore lacked guidelines to effectively undertake procurements in the host countries.

In the circumstances, the lack of Missions' specific guidelines may have affected the efficiency of procurement processes hence impacting negatively on service delivery by the Missions.

373.3 Assets Management in Missions Abroad

Physical verification of assets in sampled Missions revealed the following unsatisfactory matters;

373.3.1 Kenya High Commission in the Abuja, Nigeria

Physical verification of the building revealed that the roofs of the Chancery Building, High Commissioner's Residence and the Staff Quarters were leaking and required urgent renovation.

In addition, review of motor vehicle records revealed that a Mission vehicle was stolen in February 2022 and the theft reported to relevant authorities. Although the case was said to be under investigation, the matter had taken too long and the Mission was yet to make an insurance claim.

373.3.2 Kenya Mission in Beijing, China

Physical inspection of the Chancery building which was in the same compound with the Ambassador's residence revealed that although the building was located in a secure neighborhood, there were no CCTV cameras for monitoring activities within the building, there were no Security guards manning the Mission and there were no smoke detectors to provide early warning in case of a fire outbreak. In addition, one motor vehicle, despite being serviceable, had been grounded for more than four (4) years and its value continued to deteriorate due to wear and tear. Management explained that the vehicle had surpassed mileage as per the regulations of the host country and as a result could not be insured.

373.3.3 Kenya Mission in Berlin, Germany

Physical inspection of the Kenya Mission building in Berlin, revealed defects such as damaged roof and leakages at the attic terrace balcony, cracks on the walls, the gate's hydraulic and locking system, the verandah, exterior ceiling on the first floor damaged and paint peeling all-round the building among other defects. Although, officers from public works visited the Mission and made recommendations on the works required, repairs were yet to be done as at the time of the audit in August, 2024. Further, two deregistered motor vehicles, which had been approved for disposal, remained unsold. The vehicles remain parked on the Mission premises and continue to deteriorate.

In addition, an inspection of the building carried out following the end of tour of duty by the immediate former Head of Mission revealed that various items from the inventory list were missing. No explanation or evidence of action taken to establish the loss was provided. The household items and assets previously used by the former Head of Mission, were inadequately stored in the Kenya House garage, leading to their continued deterioration. There was no established policy governing the management and handling of household items at the conclusion of an officer's tour of duty.

373.3.4 Kenya Mission in Dar es Salaam, Tanzania

The Mission was allocated a five acres parcel of land in Dodoma and a title issued. However, the land had not been secured through fencing hence increased risk of encroachment.

Further, the Mission had two (2) staff houses in Mikocheni whose renovations stalled in the year 2020. A site visit revealed that the houses were in a prime location but they had dilapidated over time and the gains from the renovations which were valued at over Tshs.68,470,000 (approximately Kshs.3,400,000) may have been lost.

In addition, review of the Mission's records revealed that a residential house belonging to one of the agencies was sold in December 2021 for a sum of Tsh.425,000,000 (Kshs.20,000,000) as per the Sales Agreement between the buyer and the Kenyan High Commission in Dar es Salaam. However, the sales proceeds amounting to Kshs.20,000,000 were still being held in a deposits account at the Mission. No explanation was provided for failure to remit the sales proceeds to the State Department for Foreign Affairs for onward transmission to the Exchequer.

373.3.5 Kenya Mission in Paris, France

Physical verification of the chancery and review of the State Department for Public Works assessment and inspection report of Kenya's Chancery in Paris, revealed major cracks on the wall of the chancery running from the ground floor to the third floor. There was also evidence of basement and yard flooding, ceiling leaks and peeling wall paint. In addition, the report outlined the poor state of the Ambassador's residence in Paris with damaged fittings, roof tiles and corroded gutters due to lack of routine maintenance. No repair works had been done to address the matters.

373.3.6 Kenya Mission in Riyadh, Saudi Arabia

Review of documents indicated that the Republic of Kenya owned a chancery building and an official Residence. However, the Mission had only copies of the sale agreements with no evidence that the Embassy had been included in the ownership document.

373.3.7 Kenya Mission in Tel Aviv, Israel

Review of documents provided for audit indicated that Republic of Kenya owned the registered office known as sub parcels 11, 12, and 13 in parcel 405, Block 6109 on which the building named *Beit Zaksenberg* stood. The sales agreement dated December, 1996 states under Section 6.2 that the sellers undertake to register the right of ownership to the unit in the name of the Purchaser, at the Lands Registration office, within 24 months of the date of handing over possession. However, there was no evidence provided of a registered right of ownership to the sub parcels 11, 12 and 13. In addition, the building did not have any insurance cover.

In the circumstances, the State Department did not comply with Section 72(1)(a) and (b) of the Public Finance Management Act, 2012 which requires the Accounting Officer for a national government entity to be responsible for the management of the entity's assets and liabilities and manage those assets 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

374. Failure to Establish an Audit Committee

During the year under review, the State Department did not have an Audit Committee. This was contrary to the provisions of Section 7(5) of the Public Finance Management Act, 2012 which requires every National Government public entity to establish an Audit Committee whose composition and functions shall be as prescribed by the Regulations. The Department, therefore, did not benefit from the oversight of an Audit Committee.

In the circumstances, the existence of an effective oversight mechanism to ensure the existence of an efficient system of internal controls could not be confirmed.

375. Delays in Presentation of Letters of Credentials to Accredited Nations

Audit of ten (10) sampled Kenya Missions abroad undertaken in the month of August and September 2024 revealed that as at the time of audit, the Heads of Mission in Abuja, Nigeria, Dar es Salaam, Tanzania and Berlin, Germany had not presented their credentials to the accredited nations.

Delay in presentation of credentials limits the activities of the Head of Mission and diplomatic representation in the countries of accreditation.

376. Enhancement of Governance Systems for Security Related Expenditures

During the year under review, the State Department incurred some expenditures on confidential security operations. Certificates of confidential expenditure were issued, supported by declarations from the Accounting Officer affirming proper use of funds in compliance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015.

There is need, however, to enhance accountability of confidential expenditures through review of the Regulations to clearly define entities eligible for confidential security related expenditures and to specify what constitutes security related operations. Further, entities should establish internal oversight mechanisms and processes that include detailed budget projections and post-operation financial summaries to address risks and ensure responsible use and accountability of the funds, beyond the certificate.

The measures will strengthen governance, foster trust, and ensure funds are utilised responsibly without compromising State security.

STATE DEPARTMENT FOR DIASPORA AFFAIRS – VOTE 1054

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

377. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

378. Pending Accounts Payable

Note 10.2 to the financial statements reflects pending accounts payable balance of Kshs.173,835,378. The balance relates to pending bills that were not settled during the year but were instead carried forward to the financial year 2024/2025.

Failure to settle bills during the year to which they relate adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge to that year's budget provision.

379. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final budgeted and actual receipts on comparable basis of Kshs.1,187,710,293 and Kshs.997,202,827 respectively, resulting in an under-funding of Kshs.190,507,466 or 16% of the budget. Similarly, the State Department spent a total Kshs.975,180,868 against actual receipts of Kshs.997,202,827 resulting in an under-utilization of Kshs.22,021 959 of the actual receipts.

The under-funding and underutilization affected the planned activities and programmes of the State Department, which may have impacted negatively on effective service delivery to the public.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

380. Non-Compliance with NSSF Tier II Deductions

Review of the payroll indicated that the State Department did not update employee and employer deductions for NSSF Tier II effective February 2024 in compliance with NSSF notification.

In the circumstances, Management was in breach of the law.

381. Irregularities in Recruitment of Foreign Service Cadets

The State Department through a letter dated 11 October, 2023 to the Public Service Commission declared sixteen (16) vacancies for Foreign Service Officers III. The Commission vide a letter dated 15 February, 2024 conveyed their decision to appoint twenty-two (22) officers to fill the vacancies. This was contrary to Section B.4 of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which requires Ministries and State Departments to advertise all vacant posts in a manner that reaches the widest pool of potential applicants and allow for at least twenty-one (21) days before closing the advert.

The Public Service Commission appointed twenty-eight (28) Foreign Service Cadets through a letter dated 2 August, 2023 on local terms agreement. The cadets were appointed in excess of the approved staff establishment. The diaspora welfare and rights directorate had thirty-four (34) in post against fourteen (14) authorized resulting to twenty (20) excess. Further, diaspora investment and entrepreneurship directorate had thirty-three (33) in post against sixteen (16) authorized, resulting to seventeen (17) excess in post. Evidence of advertisement of the vacancies and the approval to recruit beyond the approved establishment was not provided for audit.

In the circumstances, Management was in breach of the policy guidelines.

382. Non-Adherence to One-Third (1/3) Basic Salary Rule

Analysis of the payroll records for the year under review, revealed that seven (7) members of staff earned net salaries of less than a third (1/3) of the basic salary. This was contrary to Section19(3) of the Employment Act, 2007 (Revised 2012) which provides that the total amount of all deductions that may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds (2/3) 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.

In the circumstances, Management was in breach of the law.

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

Basis for Conclusion

383. Non-Establishment of an Audit Committee

During the year under review, the State Department did not have an Audit Committee. This was contrary to the provisions of Section 73(5) of the Public Finance Management Act, 2012 which requires that every National Government public entity shall establish an Audit Committee whose composition and functions shall be as prescribed by the Regulations. The Department, therefore, did not benefit from the oversight of an Audit Committee.

In the circumstances, the existence of an effective oversight mechanism to ensure efficient system of internal controls could not be confirmed.

384. Enhancement of Governance Systems for Security Related Expenditures

During the year under review, the State Department incurred expenditures and transferred funds to a Government Agency for confidential security operations. Certificates of confidential expenditure were issued, supported by declarations from the Accounting Officer affirming proper use of funds in compliance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015.

However, there is need to enhance accountability of confidential expenditures through review of the Regulations to clearly define entities eligible for confidential security related expenditures and to specify what constitutes security related operations. Further, entities should establish internal oversight mechanisms and processes that include detailed budget projections and post-operation financial summaries to address risks and ensure responsible use and accountability of the funds, beyond the certificate.

The measures will strengthen governance, foster trust, and ensure funds are utilised responsibly without compromising State security.

STATE DEPARTMENT FOR TECHNICAL, VOCATIONAL EDUCATION AND TRAINING – VOTE 1064

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

385. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

386. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.33,606,783,833 and Kshs.26,835,101,058 respectively, resulting to an under-funding of Kshs.6,771,682,775 or 20% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

387. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues or given any explanation for failure to implement the recommendations as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

388. Long Outstanding Pending Bills

Note 19.2 to the financial statements and as disclosed in annex 1 reflects outstanding pending accounts payable balance of Kshs.195,891,049. Included in the balance are historical pending bills of Kshs.4,043,421 which have been outstanding for more than three (3) years. Failure to settle pending bills may result to penalties and interests and this was contrary to Regulation 42(1)(b) of the Public Finance Management (National Government) Regulations, 2015 which requires debt service payments to form first charge in the subsequent financial year.

In the circumstances, Management was in breach of the law.

389. Un-Surrendered Authorities to Incur Expenditure

The statement of financial assets and financial liabilities reflects imprests and advances balance of Kshs.1,637,587 as disclosed in Note 12 to the financial statements in respect of un-surrendered Authorities to Incur Expenditure (AIEs), an increase of Kshs.948,187 from 2022/2023 balance of Kshs.689,400.This was contrary to the provisions of Regulation 117 of the Public Finance Management (National Government) Regulations, 2015 which states that where an AIE holder observes that it will not be possible to utilize all the funds allocated for a particular project in a given financial year, the Accounting Officer will then surrender the resources to Project for re-budgeting.

In the circumstances, Management was in breach of the law.

390. Lack of Ethnic Diversity

Review of the payroll database revealed that the State Department had staff population of eight thousand and two (8,002), out of whom five thousand six hundred and twenty-three (5,623) or 70% of staff were from four (4) ethnic communities. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 that requires all public establishments to seek to represent the diversity of the people of Kenya in employment of staff. Management did not provide a roadmap for resolving this issue.

In the circumstances, Management was in breach of the law.

391. Irregularities in Implementation of Infrastructure Projects

391.1 Collapse of Chepareria Technical Training Institute

As previously reported, the contract for the construction of Chepareria Technical Training Institute was awarded to a local contractor at a contract sum of Kshs.48,743,504. However, the building collapsed while under construction and after more than Kshs.26,700,000 had been disbursed to the Institution and paid to the contractor. The collapse was attributed to poor workmanship by the contractor who seemed to have been unfamiliar with the site. As a result, the contractor has since demanded several conditions, including a new site and Bills of Quantities to redo the work. The State Department had not taken any action against the contractor - over five (5) years after the collapse of the building and abandonment of the site by the contractor. Further, contract agreement, payment certificates and vouchers, completion certificates and the status report of the project were not provided for audit.

391.2 Long Outstanding Unresolved Contract Variations

As previously reported, the State Department initiated the establishment of sixty (60) new Technical and Vocational Colleges (TVCs) in 2014/2015 financial year. However, review of records revealed that more than fifty (50) TVCs had raised contract variations amounting to Kshs.488,200,016. Further, included in the above projects are four (4) abandoned projects with contract sums and paid amounts of Kshs.219,742,691 and Kshs.185,910,595, respectively at Sigor, Samburu West, Kakrao and Balambala Technical Training Institutions.

Further, the State Department awarded contracts during 2015/2016 financial year for the construction of seventy (70) new Technical Training Institutes across the country at a total contract sum of Kshs.3,821,946,495 for a period of one year. Further, a report submitted by the Management reflects that four (4) projects with contract sums totalling Kshs.207,473,429 were incomplete at Igembe South, Ngeria, Wajir North and Moyale Technical Training Institutions.

In addition, the State Department awarded contracts in 2019/2020 financial year for the construction of thirty (30) Technical Training Institutes across the country at a total contract sum of Kshs.1,702,965,365 for a period of one year. Similarly, a report submitted by the Management reflects those five (5) projects with contract sum of Kshs.252,262,276 were incomplete at Mt. Elgon TVC, Kacheliba TVC, Kitutu Chache South TVC, Kilifi North TVC and South Mugirango TVC.

Similarly, the State Department awarded contracts in 2012/2013, 2014/2015 and 2017/2018 financial years for the construction of three (3) Technical Training Institutes at a total contract sum of Kshs.405,476,315. However, the projects are still incomplete.

391.3 Delay in Construction of New Technical and Vocational Colleges

The State Department initiated a project for the construction of thirty (30) new technical and vocational colleges (TVCs) across the country to enhance technical training capacity where several existing institutions were appointed to mentor the new colleges. Review of the financial and contractual records as well as physical verification of the projects revealed the following unsatisfactory matters:

391.3.1 Construction of Ngeria Technical and Vocational College

As reported in the previous year, the Rift Valley Technical Training Institute (RVTTI) signed a contract on 19 May, 2021 with a construction company for the construction of the proposed Ngeria Technical and Vocational College. The project contract sum was Kshs.46,992,333 for a contract period of fifty-two (52) weeks ending on19 May, 2022. The Project is still incomplete at 84% and the contractor was not on site. The contractor had been paid an amount of Kshs.39,571,911 with an outstanding balance of Kshs.7,420,424 with a revised expected completion date of 31 December, 2023. However, there was no performance bond executed for the extended period as the current one expired on 13 September, 2023. Management of Rift Valley Technical Training Institute explained that the delay in completion was caused by delays in Exchequer funding.

391.3.2 Construction of Mt. Elgon Technical and Vocational College

As previously reported, Kisiwa Technical Training Institute signed a contract on 22 March, 2019 between Kisiwa Technical Training Institute and a construction company for construction of the proposed Mt. Elgon Technical and Vocational College. The Project contract sum was Kshs.59,062,878 with a tenure of fifty-two (52) weeks ending on 21 March, 2020. Physical verification of the Project in November, 2023, revealed that the project was incomplete at 92% and the contractor was not on site. At the time of the audit in the same month, the contractor had been paid Kshs.57,039,820.

Further, on 29 January, 2023, the contractor was granted an extension of time for completion to 31 December, 2023. No further extension was provided for audit. Management did not provide reasonable justification for the delay in the completion of the Institute.

In the circumstances, value for money may not be obtained from the expenditure incurred on the above infrastructure projects.

392. Failure to Prepare and Submit Financial Statements for TVETs

During the financial year under review, two hundred and thirty (230) TVETs were funded by the State Department. However, only one hundred and fifty (150) TVETs submitted their respective financial statements, while eighty (80) TVETs did not submit the financial statements. This was contrary to Section 81(4)(a) of the Public Finance Management Act, 2012 and Section 14(2) of the Technical and Vocational Education and Training Act, 2013 which require that, not later than three months after the end of each financial year, the Accounting Officer for the entity shall; submit the entity's financial statements to the Auditor-General and a copy of the statement to the Controller of Budget, The National Treasury and the Commission on Revenue Allocation.

In the circumstances, Management was in breach of the law.

393. Staff Earning Net Pay of Less than One Third of Basic Salaries

Review of payroll for April 2024 revealed that two hundred and twenty-two (222) employees received net salaries of less than a third of their respective basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 (Revised 2012) which states that all deductions made by the employer from the wages or salaries of his employees at any one time shall not exceed two thirds of such wages or salaries.

Further, Management did not provide justification for allowing deductions that reduced the net pay to less than one-third of the staff's basic salaries.

In the circumstances**,** Management was in breach of the law.

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 TECHNICAL VOCATIONAL EDUCATION AND TRAINING FOR RELEVANT SKILLS DEVELOPMENT PROJECT - TVET PROJECT PHASE II (ADF LOAN NO.2100150033295)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

396. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts and payments budgets and actual amounts on a comparable basis of Kshs.867,000,000 and Kshs.762,185,436 respectively, resulting to an under-funding of Kshs.104,814,564 or 12% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

397. Unresolved Prior Year Matter

In the audit report of the previous year, an issue was raised under the Report on the Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issue or given any explanation for failure to implement the recommendation.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

398. Failure to Maintain Separate Project Bank Account

The statement of receipts and payments reflects receipts and payments controlled by the entity amounting to Kshs.131,210,064. However, Management did not maintain a separate Project bank account. As a result, disbursements and payments for Project's activities were processed through the State Department's Development Bank Account. This was contrary to Regulation 76(1) of the Public Finance Management (National

Government) Regulations, 2015 which states that ‘for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at Central Bank of Kenya unless it is exempted by the Cabinet Secretary, in writing, into which all funds shall be kept and such 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’.

In the circumstances, Management was in breach of the law.

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

Basis for Conclusion

399. Failure to Issue Notifications for Exchequer Issues

The statement of receipts and payments reflects transfers from Government entities amounting to Kshs.131,210,064 as disclosed in Note 1 to the financial statements. However, it was not possible to confirm the receipts since there was no notification from The National Treasury indicating the amount disbursed for the Project or itemized Exchequer issuance notification for the specific monies for the Project since all monies were channeled through development bank account for the State Department without specification. Further, the Project Management did not raise receipt vouchers to confirm actual receipt of funds.

In the circumstances, the effectiveness of internal controls over notifications of Exchequer issuance could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

400. As required by African Development Fund, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project’s financial statements are in agreement with the accounting records and returns.

EAST AFRICA SKILLS FOR TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (EASTRIP) IDA LOAN CREDIT NO.6334-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

401. 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

Conclusion

402. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

404. As required by International Development Agency (IDA), I report based on my audit, that: I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, In my opinion, adequate accounting records have been kept by the Project and the Project financial statements are in agreement with the accounting records and returns.

PROMOTION OF YOUTH EMPLOYMENT AND VOCATIONAL TRAINING IN KENYA (TVET I AND II) REFERENCE: LOAN NO. BMZ NO. 2016 67 211 and BMZ NO. 2016 65 298 AND PROJECT GRANT REFERENCE: NO.1930 05 527

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

406. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual amount on a comparable basis of Kshs.625,000,000 and Kshs.240,637,419 respectively, resulting to an under-funding of Kshs.384,362,581 or 61% of the budget. Further, the Project expended Kshs.240,637,419 against an approved budget of Kshs.625,000,000, resulting to under expenditure of Kshs.384,362,581 or 61% of the budget.

In the circumstances, the under-funding and under-expenditure affected the planned activities which may have a negative impact on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

407. Unresolved Prior Year Matters

In the audit report for the previous year, issues was raised in the Report on Lawfulness and Effectiveness in Use of Public Resources. However, the matters remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

408. Low Absorption of Funds

The funding summary at paragraph 2.7 under the Project Information and Overall Performance indicates that the Project had a duration of six (6) years from 2020 to 2026 with total donor commitments of Kshs.2,683,120,000. The State Department had received disbursements of Kshs.614,672,556 as at 30 June, 2024, resulting to undrawn balances of Kshs.2,068,447,444, an indication that the Project was only at 25% completion/financing. Failure to fully spend funds already released to the Project may have denied the beneficiaries of the Project critical services.

In the circumstances, the Project may not be completed on time and attain its objectives as intended.

409. Failure to Raise Receipt Vouchers for Receipts from Government of Kenya

The statement of receipts and payments reflects receipt from Government of Kenya amounting to Kshs.19,508,622. Records provided for audit review indicated that the funds were channeled through a development bank account of the State Department and not the project account, contrary to regulation 74(5) of the Public Finance Management (National Government) Regulations, 2015, which require all monies relating to the Project to be deposited to the specific Project Bank Account. Additionally, the receipts were not supported with The National Treasury's itemized Exchequer issuance notifications indicating the amount disbursed to the Project. Further, the Project Management did not raise receipt vouchers to confirm actual receipt of funds.

In the circumstances, it was not possible confirm whether the project coordination unit had control of the project funds. Further, the regularity of receipts from Government of Kenya of Kshs.19,508,622 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

411. As required by the Kreditanstalt fur Wiederaufbau (KfW), I report based on the audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project, and the financial statements are in agreement with the accounting records and returns.

PROMOTION OF YOUTH EMPLOYMENT AND VOCATIONAL TRAINING IN KENYA (PHASE II) LOAN NO. BMZ 2018 65 120

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

413. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.97,000,000 and Kshs.40,160,040 respectively, resulting in an under-funding of Kshs.56,839,960 or 59% of the budget.

The underfunding affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

414. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not resolved the issues or given any explanation for the failure to adhere to the provisions of the Public Sector Accounting Standards Board template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

415. Delayed Implementation of Project Activities and Slow Absorption

The statement of receipts and payments reflects a loan from external development partners of Kshs.40,160,040 as disclosed in Note 2 to the financial statements. The KfW Project under the supervision of the State Department for Vocational, Education and

Training had a start date of 01 November, 2022 and an end date of 31 October, 2025. The Project had a loan budget amount of Kshs.1,380,000,000, out of which only Kshs.40,160,040 for consultancy services had been utilized as at 30 June, 2024. The Project has therefore taken off at a very slow pace considering that many activities financed by the donor and which were budgeted for were not carried out during the year and have been carried over to the following fiscal year.

In the circumstances, the Project may not attain its objective as intended.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

417. As required by the Kreditanstalt fur Wiederaufbau (KfW), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. In my opinion, the information given in the reports on pages iii to xviii is consistent with the financial statements.

PROMOTION OF YOUTH EMPLOYMENT THROUGH SCHOLARSHIPS PHASE II ("WINGS TO FLY IV") PROJECT GRANT NO. BMZ-NO. 2018 67 399

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

419. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.160,000,000 and Kshs.74,721,240 respectively, resulting in an under-funding of Kshs.85,278,760 or 53% of the budget. Management explained that the under-funding was occasioned by slow progress of the implementing agency in placing scholars with the relevant institutions and forwarding a report to allow for additional disbursements.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

420. 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

421. Failure to Supervise and Authenticate Beneficiaries

The statement of receipts and payments reflects other grants and transfers and payments of Kshs.74,721,240 as disclosed in Note 2 to the financial statements. The summary of overall project performance indicates that the payments were in respect of four hundred and fifty-two (452) scholars. However, the following observations were made:

i. Management did not provide evidence of measures taken to ensure that the four hundred and fifty-two (452) scholars were actually the intended beneficiaries and instead, Management relied on information obtained from the Consultant (EGF) before approving disbursements;

ii. Review of the Consultant’s Letter dated 27 January, 2023, requesting for funds, revealed that one hundred and two (102) of the scholars were awaiting placement by Kenya Universities and Colleges Central Placement Service while one hundred and thirty-seven (137) had no admission letters. It was not clear why funds were released for the benefit of the two hundred and thirty-nine (239) scholars whose schools and reporting dates had not been confirmed;

iii. Management did not provide the current status report of the beneficiaries;

iv. There was no budgetary allocation within the State Department for monitoring and supervising implementation of the Project.

In the circumstances, the effectiveness of supervisory role of the State Department in implementation of the Project could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

422. As required by the KfW Development Bank, Equity Group Foundation and the Government of the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

SUPPORT TO TECHNICAL AND VOCATIONAL EDUCATION TRAINING AND ENTREPRENEURSHIP (TVETE PROJECT PHASE III) (LOAN No.2100150042254)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

424. Low Absorption of Project Funds

Paragraph 2.2 of the Project Information indicates that the Project was to be implemented within three and a half years from11 January, 2021 to 30 June, 2025. Further, Paragraph 2.7 of the funding summary indicates that the donor made commitment of Euro 38,404,002 equivalent to Kshs.4,336,374,840. However, actual draw down as at 30 June, 2024 amounted to Euro 7,984,200 equivalent to Kshs.1,131,810,042 or 26% of the commitment resulting to Kshs.3,204,564,798 or 74% of undrawn funding. Due to the low absorption of funds, the Project's objectives may not be achieved as the implementation window is scheduled to end in one (1) year. In addition, Management did not provide explanations for the delay in draw down of the funds.

In the circumstances, the low absorption of funds affected the planned activities and may have impacted negatively on service delivery to the public.

425. Underfunding of the Government of Kenya Component

The statement of receipts and payments reflects an amount of Kshs.68,333,433 in respect of receipts and payments controlled by the entity as disclosed in Note 1 to the financial statements. However, the approved estimates reflect an amount of Kshs.80,000,000, resulting to an undisbursed amount of Kshs.11,666,567 or 15% of the GoK counterpart funds. No explanation was provided for failure to disburse the approved allocation. This was contrary to Section 4.04 of the Loan Agreement between the Republic of Kenya and the African Development Fund which stipulates that the Borrower shall make appropriations in its annual budgets for its counterpart contribution, with the first appropriation being made no later than fiscal year 2020/2021.

In the circumstances, the objectives of the Programme may not be realized within the planned timeframe.

My opinion is not modified in respect of these matters.

Other Matter

426. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues or given any explanation for failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

427. Failure to Open Project Bank Account

Management did not open a Project bank account for the GoK counterpart funds. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which stipulates that for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at Central Bank of Kenya unless it is exempted by the Cabinet Secretary, in writing, into which all funds shall be kept and such 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.

In the circumstances, Management was in breach of the law.

428. Unauthorized Over Expenditure

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.780,000,000 and Kshs.958,638,946 respectively, resulting to overfunding by Kshs.178,638,946. Similarly, the Project spent Kshs.956,638,946 against budgeted expenditure of Kshs.780,000,000, resulting to an over-expenditure of Kshs.178,638,946 or 23% of the budget. This was contrary to Regulation 31(2)(d) of the Public Finance Management (National Government) Regulations, 2015 which stipulates that the Accounting Officer is responsible, in ensuring that the requisite authority has been obtained, where necessary, before provision is made in the estimates. Although Management explained that the expenditure was adjusted by an amount of Kshs.200,000,000, no justifiable reason was provided for the budget cuts which led to an unexplained over-expenditure.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

429. Failure to Issue Notifications For Exchequer Issues

The statement of receipts and payments reflects transfers from Government entities amount of Kshs.68,333,433 as disclosed in Note 1 to the financial statements. However, no notification from The National Treasury indicating the amount disbursed for the Project or itemized Exchequer issuance notification of the specific monies for the Project was provided for audit. It was observed that all monies were channeled through development bank account of the State Department for Technical, Vocational Education and Training without details. Further, the Project Management did not raise receipt vouchers to confirm actual receipts of funds.

In the circumstances, the effectiveness of internal controls on Exchequer issuances could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

430. As required by African Development Fund, I report based on my audit, that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR TECHNICAL, VOCATIONAL EDUCATION AND TRAINING

EAST AFRICA SKILLS FOR TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (EASTRIP) (IDA LOAN NO. 6334-KE) - MERU NATIONAL POLYTECHNIC

REPORT ON THE FINANCIAL STATEMENTS

Basis of Qualified Opinion

431. Unreconciled Transfers from Government Entities

The statement of receipts and payments reflects transfers from Government entities amount of Kshs.409,052,456 being receipts from the Ministry of Education as disclosed in Note 1 to the financial statements. However, records maintained at the Ministry of Education, State Department for Technical, Vocational Education and Training indicated that an amount of Kshs.422,163,362 was transferred to the Project in two tranches of Kshs.409,052,456 on 19 October, 2023 and Kshs.13,110,906 on 5 July, 2024 respectively, resulting to a variance of Kshs.13,110,906 which has not been explained or reconciled.

In the circumstances, the accuracy and completeness of transfers from Government entities amount of Kshs.409,052,456 could not be confirmed.

Emphasis of Matter

432. Slow Absorption of Project Funds

The statement of comparison of budget and actual amounts reflects the final receipt budget and actual on a comparable basis of Kshs.642,273,326 and Kshs.409,052,456 respectively, resulting into underfunding of the budget by Kshs.233,220,870 or 36%.

Similarly, the statement reflects expenditure final budget and actual of Kshs.642,273,326 and Kshs.313,136,081 respectively, resulting into under-expenditure of the budget by Kshs.329,137,244 or 51%. Although, Management attributed the under-expenditure to the achievement of low Eligibility Expenditure Programs (EEPs), reasons and measures implemented towards ensuring high EPPs were not provided for audit review.

Further, as disclosed under Paragraph 2.2 on the Project information and overall performance, the Project was earmarked to close in December, 2026. The Project's funding summary indicates that the Donor had made a commitment amounting to Kshs.1,242,791,640 equivalent of EUR 10,800,000 as at 16 September, 2019. However, actual drawdowns during the Project life amounted to Kshs.863,497,087 equivalent to EUR 7,503,887 leaving an undrawn balance of Kshs.379,294,553 or EUR 3,296,113. However, and considering the credit lapse period, the Project's planned deliverables earmarked for completion may not be realized.

My opinion is not modified in respect of this matter.

Other Matter

433. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not provided an explanation of how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

434. Delay in Construction of the Building Technology Flagship Center

As reported previously, the construction of the Building Technology Flagship Center (EASTRIP Project) at the Meru Polytechnic was awarded on 8 October, 2021 at a contract sum of Kshs.444,473,290 with a project duration of eighteen (18) months. The initial project completion date was May, 2023. The project completion date was extended by a period of three (3) months which at the time of audit has since lapsed without completion of the Project due to unresolved conflicts resulting in stoppage of works and termination of the contract in September, 2023 by the Institution. Following the termination of the contract, the two parties underwent an adjudication process of conflict resolution that was concluded on 27 December, 2023 and the contractor awarded payment of Kshs.46,488,948 which was disputed by the Institution. This resulted in the appointment of an arbitrator in an arbitration process which was ongoing. Review of the records provided revealed that the Office of the Attorney General on 9 April, 2024 advised the institution to proceed with the works with a different contractor upon obtaining the requisite approvals including World Bank and/or its designated representatives even as the arbitration proceeding was under way. However, as at the time of the audit in September, 2024, no evidence of approval by the World Bank for the Polytechnic to procure or engage a new contractor to complete the works had been provided for audit review which could further delay the conclusion of the Project.

Further, the Polytechnic in April, 2024 requested the contractor to initiate the demobilization process from the construction site in accordance with the contractual obligations outlined in the agreement. The contractor indicated that the issue is pending for hearing before the High Court and as such parties have to wait for the determination of the court before taking any step. However, Management has not disclosed the details of the court case, stage of determination, cost incurred to date and steps taken to ensure that the process is not delayed further. As at the time of the conclusion of the audit in September, 2024 the matter had not been addressed by the respective parties.

In the circumstances, the quality of work and value for money of the Project may be compromised with the possibility of the Project stalling due to delay in resolving the cost escalation claims.

435. Delay in Supply, Installation, Testing, Commissioning and Training of Trainers for the Building Technology Flagship Centre

The statement of receipts and payments reflects the acquisition of non-financial assets amount of Kshs.258,241,848 which includes the purchase of specialized plant, equipment and machinery amount of Kshs.258,068,848 as disclosed in Note 8 to the financial statements. Review of records provided shows that the tender was awarded to an international company on 23 March, 2021 with a project duration of six (6) months and completion planned for September, 2021. The project terms were amended by an addendum No.1 on 11 February, 2022 with the completion date extended by a period of six (6) months. However, as at the time of the audit in September, 2024, the project completion date had lapsed, the equipment and tools delivered to the institution in July, 2024 had not been installed, tested, or commissioned and users had not been trained.

In addition, no evidence of an extension of the contract was provided for audit review which may expose the institution in regard to enforcing rights in case the supplier fails to comply with their obligations. Further, the completion of the contract may be delayed due to ongoing disputes in respect to the contract on the building of the Technology Flagship Centre that has resulted in works stalled for an inordinately long period before completion.

In the circumstances, value for money in the purchase of specialized plant, equipment and machinery amount of Kshs.258,068,848 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

EAST AFRICA SKILLS FOR TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (EASTRIP) GRANT/CREDIT NO. IDA 6334-KE - KISUMU NATIONAL POLYTECHNIC

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

438. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2024. Management did not provide satisfactory reasons for the delay in resolving all the prior year audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

439. 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

440. Failure to Undertake Internal Audit on the Project

Analysis of the Kisumu National Polyethnic internal audit annual work plan for the year, revealed that audit for the Project was planned to be done twice. However, the internal audit records show that only one audit was undertaken for the period 1 April, 2023 to 31 December, 2023. This resulted to inadequacy in the scope.

In the circumstances, the adequacy and effectiveness of the internal controls in the Project Management could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

441. As required by International Development Agency (IDA), I report based on my audit, that: I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, ln my opinion, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

EAST AFRICA SKILLS TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (CREDIT NUMBER 6334-KE) - KENYA COAST NATIONAL POLYTECHNIC

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

443. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.575,000,000 and Kshs.112,307,751 respectively, resulting to an under-funding by Kshs.462,692,249 or 80.5% of the budget. Additionally, Management spent Kshs.196,416,645 against the budgeted expenditure of Kshs.575,000,000 resulting to under expenditure of Kshs.378,583,355 or 66%.

The underfunding and under-expenditure may have affected timely implementation of planned activities and service delivery to the citizens.

444. Late Requisition for Funds

The statement of comparison of budget and actual amounts reflects budgeted final expenditure of Kshs.575,000,000 against an actual expenditure of Kshs.196,416,645. However, review of withdrawal requests to World Bank indicated that the project Management made a request for withdrawals of Kshs.81,939,209 on 28 August, 2023 and another request of Kshs.414,937,791 on 28 May, 2024, one month to the end of the financial year. This implies that 72.2% of the budgeted funds were requisitioned at the end of the financial year while Kshs.78,123,000 or 14% of the budgeted funds were never requisitioned.

The late requisitioning of funds may have impacted negatively on the planned project activities.

My opinion is not modified in respect of these matters.

Other Matter

445. Unresolved Prior Year's Audit Matters

As reported in the previous year, several issues were raised in respect of the Report on Financial Statements and the Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

446. Construction – Civil Works

The statement of receipts and payments and Note 5 to the financial statements reflects an expenditure of Kshs.75,221,949 in respect to construction of Regional Flagship Marine Transport and Port Logistics Centre in Kwale County at a contract sum of Kshs.606,561,761. The following unsatisfactory audit observations were made in relation to the expenditure:-

446.1 Irregular Contract Variation

Review of procurement records in respect to the expenditure shows that Management entered into a contract with a construction company on 18 November, 2022 for a contract period of eighteen (18) months. The contractor had been paid Kshs.186,013,031 as at 30 June, 2024. However, review of certificate No. 3 dated 6 July, 2023 of Kshs.30,493,015 shows that Management had varied the works by Kshs.5,317,828 with Kshs.2,026,208 of the variation sums being paid within the year. The variation had been executed within eight (8) months from the date of signing the contract, contrary to the provisions of Section 139 (3) of the Public Procurement and Asset Disposal Act, 2015 which requires variations to be effected only after twelve months from the date of signing the contract

In the circumstances, Management was in breach of the law.

446.2 Slow Pace of Project Implementation

Project verification conducted on 28 August, 2024 at the construction site in Kwale County revealed that the construction was ongoing but at a slow rate. There were no activities ongoing at the catering center which was at 43.78% completion level. The clerk of works on site indicated that works had slowed down because the contractor was waiting for site instructions on installation of kitchen equipment while the Marine Centre was still in progress. As at the closure of the year, the measured and certified works were at 49.04% completion level yet the contract period is scheduled to end on 15 December, 2024.

In the circumstances, the project may not be completed on time and the stakeholders may not get value for money from the project as earlier envisaged.

446.3 Irregular Payment for Materials on Site as Part of Certified Works

Included in the expenditure of Kshs.75,221,949 on construction - civil works is an amount of Kshs.59,707,575 in respect to certificate numbers 3 and 4. Review of the itemized cost reports shows that Kshs.24,292,500 was included for material on site contrary to the general condition of the contract under section 44.4 and 44.5 which requires that, the value of work executed to comprise of the value of the quantities of work in the bill of quantities that have been completed. Further, subsequent certificate numbers 5, 6 and 7 also included material on site costing Kshs.21,884,367 approved for payment contrary to the general conditions of the contract agreement.

In the circumstances, Management was in breach of the law.

447. Lack of Value for Money in Procurement of Marine Equipment

The statement of receipts and payments and Note 6 to the financial statements reflects expenditure of Kshs.99,443,659 in respect to marine equipment. Review of procurement and payment documents shows that Management entered into a contract with a contractor for the supply, delivery, installation, testing and commissioning of maritime lab equipment, software and simulators including training on use of equipment, at a contract sum of Kshs.211,070,160 (USD 1,675,160). The contract was signed on 4 July, 2022 for a contract period of eight (8) months and the equipment's were to be delivered on diverse dates from July 2023 and to be installed at the marine laboratories under construction.

However, the equipment was delivered to the Kenya Coast National Polytechnic along Kisauni road in Mombasa town and not at Kenya Coast National Polytechnic's Waa campus, Kwale County as indicated in the contract through addendum number one (1) dated 3 November, 2021 which clarified on the place of delivery. Further, the marine laboratories where the equipment was to be installed are still under construction as at the time of audit inspection carried out on 29 August, 2024 and the lifeboat and davit, which forms part of the hardware delivered, are kept outdoors in the open field which exposes the equipment to the risk of damage or theft. In addition, no evidence was provided to show that the equipment was insured by Management to cover for any risks that may arise while under storage.

In the circumstances, value for money for the procurement of the marine equipment could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

STATE DEPARTMENT FOR HIGHER EDUCATION AND RESEARCH - VOTE 1065

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

449. Misstated Proceeds from Sale of Assets

The statement of receipts and payments reflects proceeds from sale of assets of Kshs.54,580,366,490 as disclosed in Note 4 to the financial statements. However, the actual collections amounted to Kshs.57,975,643,034 resulting in an unexplained variance of Kshs.3,395,276,545.

In the circumstances, the accuracy and completeness of the proceeds from sale of assets amount of Kshs.54,580,366,490 could not be confirmed.

450. Misstated Grants and Transfers to Other Government Entities

The statement of receipts and payments reflects grants and transfers to other government entities of Kshs.89,945,415,247 as disclosed in Note 7 to the financial statements. Included in the amount is current and capital grants to government agencies of Kshs.86,343,503,165 and Kshs.1,827,430,378 respectively totalling to Kshs. 88,170,933,543. However, the transfers differed with the confirmed receipts resulting in unreconciled net variances as analyzed below:-

Item	Reported Amount as Per Financial Statements (Kshs.)	Confirmed Receipts (Kshs.)	Variance (Kshs.)
Current Grants to Other Government Agencies	86,343,503,165	86,226,034,595	117,468,570
Capital Grants to Other Government Entities	1,827,430,378	1,836,581,416	(9,151,038)

In the circumstances, the accuracy and completeness of the grants and transfers to other government entities amount of Kshs.89,170,933,543 could not be confirmed.

451. Unconfirmed Deposits and Retentions

The statement of financial assets and financial liabilities reflects accounts payables-deposits and retentions balance of Kshs.22,758,352 as disclosed in Note 13 to the financial statements. The balance includes salary deductions, proceeds from idle assets and unidentified income of Kshs.258,228, Kshs.855,240 and Kshs.815, 657 respectively which were unsupported. Further, the balances had been outstanding for more than one (1) year and Management had not demonstrated effort made towards resolving or clearing the liabilities from the books of accounts of the State Department.

In the circumstances, the accuracy and fair statement of the accounts payables deposits and retentions balance of Kshs.22,758,352 could not be confirmed.

Emphasis of Matter

452. Budgetary Control and Performance

The statement of comparison of budget and actual amount reflects final receipts budget and actual on comparable basis of Kshs.159,687,327,097 and Kshs.139,317,219,862 respectively, resulting to an underfunding of Kshs.20,370,107,235 or 13% of the receipts budget.

In the circumstances, the underfunding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

453. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues or given any explanation for failure to implement the recommendations as at 30 June, 2024.

454. Challenges of New Funding Model for Higher Education

The Government adopted the New Funding Model (NFM) for higher education, effective from the financial year 2023/2024. The model shifts towards a student-centered funding approach and aims to make education more equitable, accessible, and sustainable. It emphasizes allocating resources based on financial need while addressing challenges such as affordability, inclusivity, and institutional sustainability. The Means Testing Instrument (MTI) used for assessing financial capacity of the students categorizes them into five financial bands, 1 to 5. The Instrument ensures targeted support through scholarships, loans, and household contributions. However, review of documents and interviews with the Fund Management revealed critical challenges the model was facing amongst them:-

i. Inaccurate data submission by applicants that led to distorted MTI scores;

ii. Limited public awareness that led to information gap to the intended beneficiaries;

iii. Delayed funds disbursements in the form of loans and scholarships that disrupted students' ability to pay tuition fees, access accommodation and cover living expenses;

iv. Inclusivity concerns where vulnerable groups, such as students with disabilities or those from marginalized regions, faced difficulties accessing the funds they need;

v. Emerging concerns on unique challenges, such as those faced by Muslim students who require sharia-compliant financial products, further hindered inclusivity;

vi. Loan repayment burden due to high unemployment and underemployment rates made it challenging for graduates to repay their loans, increasing default rates and threatening the sustainability of the revolving fund;

vii. There was no coordination between the other government agencies dealing with the higher education students support, namely the Higher Education Loans Board and the State Department for Technical and Vocational Education and Training; and

viii. The model was not integrated with the Kenya Universities and Colleges Central Placement Service (KUCCPS) system to ensure seamless tracking of students from placements in the universities to funding.

On 20 December, 2024, the High Court declared the NFM unconstitutional for being discriminatory as it violated students right to education. Further, the ruling clarified Government's responsibility in funding public universities and passing the responsibility to parents was a violation of the Constitution as the legitimate expectation of the citizens was violated.

In the circumstances, the effectiveness of the New Funding Model for Higher Education in supporting students funding requirements could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

455. Staff Over and Under Establishment

The statement of receipts and payments reflect compensation of employees amounting to Kshs.250,576,221 as disclosed in Note 5 to the financial statements. Review of the approved staff establishment revealed that the State Department had an approved staff establishment of one hundred and seventeen (117) staff against one hundred and seventy-six (176) staff in-post resulting to overstaffing by fifty-nine (59) staff. In addition, the State Department exceeded the approved staff establishment in thirty-three (33) cadres by sixty-nine (69) staff while there was an understaffing of twenty-nine (29) staff in eleven (11) staff cadres.

In the circumstances, the understaffing may have impacted negatively on service delivery while the overstaffing resulted to excessive wage bill, an indication of wasteful expenditure.

456. Unsupported Expenditure Commitments

Annex 1 to the financial statements discloses pending accounts payables of Kshs.51,666,945 as at 30 June, 2024. However, the balances were unsupported by way of supplier invoices and proof of contractual engagement. Further, review of the internal audit report revealed that the reported balance of Kshs.7,609,725 for the current year included Kshs.4,431,160 in respect of claims not committed in Integrated Financial

Management Information System (IFMIS) as at 30 June, 2024. However, the express approval of the Accounting Officer to commit in IFMIS was not provided for audit contrary to Regulation 51(1) of the Public Finance Management (National Government) Regulations, 2015 that requires all commitments for supply of goods or services be done not later than May 31st each year except with the express approval of the Accounting Officer in writing."

In the circumstances, Management was in breach of law.

457. Stalled Project on Science and Technology Parks

The statement of receipts and payments reflects grants and transfers to other Government entities of Kshs.89,945,415,247 as disclosed in Note 7 to the financial statements. Included in the amount is Kshs.1,827,430,378 in respect of capital grants to Government agencies and other levels of Government, out of which Kshs.34,690,865 was a payment to a construction company for the design and construction of materials and manufacturing block at Dedan Kimathi University at a contract sum of Kshs.928,976,976. Procurement records reviewed indicated that the contract was awarded on 5 August, 2020 with a commencement date of 26 August, 2020 and a completion date of 24 August, 2022, for a period of one hundred and four (104) weeks. The records further showed that the contract was later extended to 30 October, 2023 and the contract sum varied by Kshs.88,865,982 to Kshs.1,017,842,958. A further extension of one (1) year to October, 2024 was later granted.

However, the records indicated the value of works certified as of 30 June, 2024 was Kshs.212,928,989 or 20% of the contract sum**.** The total payments included Kshs.34,690,865 relating to pending bills settled in the year under review. However, a site visit conducted in September, 2024 revealed that the contractor was not on site and no works were on going, an indication that the project had stalled.

In the circumstances, value for money had not been realised from the expenditure of Kshs.212,928,989 on the stalled project while the risk of project costs escalating was high.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

DONOR FUNDED PROJECTS

EASTERN AND SOUTHERN HIGHER EDUCATION CENTRES OF EXCELLENCE (ACE II) PROJECT (CREDIT NO.5798-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

460. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues nor given any explanation for the failure to implement the recommendations.

Other Information

461. Unconfirmed Disbursement of Counterpart Funding

Review of the progress on attainment of stated objectives and counterpart funds disclosed in the financial statements reflects 100% achievement of the performance targets. However, Management did not provide confirmed disbursement bank statements of counterpart funds showing the opening balance, dates, currency and closing balances withdrawn as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

462. Failure to Open a Project Bank Account

During the financial year under review, Management did not open a Project bank account for the GOK counterpart funds. This was contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which stipulates that for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at Central Bank of Kenya unless it is exempted by the Cabinet Secretary, in writing.

In the circumstances, Management was in breach of the law.

463. Irregular Expenditure on Laptops and IPADs

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.4,014,220 as disclosed in Note 4 to the financial statements which includes amounts of Kshs.2,995,920 and Kshs.920,000 in respect of procurement of six

(6) MacBook laptops and two (2) computer IPAD 4 respectively. However, examination of supporting documentation revealed that, the procurement plan estimated price for each MacBook Laptop and each IPAD 4 was an amount of Kshs.180,000 and Kshs.360,000 respectively. Management acquired each MacBook laptop and computer IPAD 4 at a cost of Kshs.499,320 and Kshs.460,000, respectively. This resulted to an expenditure of Kshs.2,115,920 which was not supported by an approved and updated procurement plan. This was contrary to Regulation 51(2) of the Public Finance Management (National Government) Regulations, 2015 which requires that expenditure commitments for goods and services shall be controlled against spending and procurement plans approved by the responsible Accounting Officer, based on allocations and allotments from approved budgets.

In the circumstances, value for money on the procurements amounting to Kshs.2,995,920 and Kshs.920,000 in respect of six (6) MacBook laptops and two (2) computer IPAD 4 respectively could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

464. Incomplete Fixed Assets Register

Annex 3 to the financial statements reflects a balance of Kshs.30,490,153 in respect of summary of fixed assets. Review of the fixed assets register revealed incomplete details as it did not disclose: individual assets purchased using ACE II resources; tag number; delivery or installation date; payment voucher number; acquisition cost and responsible officer. This was contrary to Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015 and Appendix 6(a) of the Guidelines on Asset and Liability Management in the Public Sector. These laws state that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws and a standard fixed assets register template for entities in the public sector.

In the circumstances, the effectiveness of internal controls on the fixed assets could not be confirmed.

465. Failure to Raise Receipt Vouchers

The statement of receipts and payments reflects transfers from Government entities amounting to Kshs.5,672,220 as disclosed in Note 1 to the financial statements. However, the State Department for Higher Education and Research has not been raising receipt vouchers for specific users (individual projects and the State Department for Higher Education and Research separately) to account for the actual receipts of funds for all the users of the resources. This was contrary to Regulation 104(1) of the Public Finance Management (National Government) Regulations, 2015 which states that all receipts and payments vouchers of public moneys shall be properly supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation. Further, the receipt disclosed is a balancing amount and not supported.

In the circumstances, the effectiveness of internal controls on notifications of exchequer issuance and raising of receipt vouchers could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

466. As required by International Development Association, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR HIGHER EDUCATION AND RESEARCH

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

Basis for Qualified Opinion

467. Unsupported Field Activities under Research Expenses

The statement of receipts and payments reflects purchase of goods and services expenditure of Kshs.56,951,223 as disclosed in Note 12.5 to the financial statements. Included in the expenditure is research expenditure of Kshs.23,335,761 which includes an expenditure of Kshs.2,866,000 on field activities for the Safe Water Project. However, review of records in support of the expenditure revealed inconsistencies in requisitioning, work plan, and actual dates of the activities. The requisition from the user indicated that the activities were to be undertaken in July and August 2023 while the field registers supporting the expenditure indicated the activities took place in February and April to June 2023. No satisfactory explanations were provided for the inconsistencies. It was therefore not possible to confirm whether the reported activities took place.

In the circumstances, the accuracy and occurrence of the expenditure of Kshs.2,866,000 on field activities for the Project could not be confirmed.

Emphasis of Matter

468. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects total budget and actual income of Kshs.110,041,175 and Kshs.268,154,083 resulting to an overperformance of Kshs158,112,908 or 144% of the budgeted income. Similarly, the Project utilized an amount of Kshs.82,740,460 out of actual receipts of Kshs.268,154,083 resulting to an under-utilization of Kshs.185,413,623 or 69% of the actual receipts. The under-utilization was mainly on the acquisition of non-financial assets which Management has attributed to late disbursement of the exchequer funds.

The under-expenditure affected the planned Project activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

469. Low Absorption of Public Funds

The statement of receipts and payments reflects cumulative to-date total receipts and total payments of Kshs.828,369,030 and Kshs.585,331,213 respectively resulting to an under-utilization of Kshs.243,037,823 or approximately 29% as at 30 June, 2024. This was six months after the envisaged Project completion date of 31 December, 2023. However, there was no evidence that Management has sought an extension of the Project to implement the residual activities from the Donor/GoK. The lapse of the Project before utilization of the funding may have failed to implement and achieve all project deliverables, and a possibility that the project did not achieve the objective to the intended beneficiaries.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

470. Purchase of Goods and Services Expenditure

The statement of receipts and payments as disclosed in Note 12.5 to the financial statements reflects an amount of Kshs.56,951,223 in respect of the purchase of goods and services. The following unsatisfactory matters were however noted:

470.1 Non-Project Related Expenditure

Included in the expenditure is domestic travel and subsistence allowances of Kshs.10,898,061. The amount includes an expenditure of Kshs.2,572,311 in respect to Deans, Directors, and Chairmen of Departments training which was not a Project cost but was for the core functions and administrative duties of the University. In addition, a payment of Kshs.909,085 was made for review of the Strategic Plan that was not related to the Project and an amount Kshs.613,970 was paid for the provision of the conference facility. This was contrary to Regulation 52(1) and Regulation 93(1) of the Public Finance Management (National Government) Regulations, 2015 which requires that no public officer shall spend or commit funds until he or she has been properly authorized by means of an Authority to Incur Expenditure.

470.2 Non-Compliance with Procurement Procedures on Request for Quotation

Included in this expenditure is an amount of Kshs.4,725,467 relating to specialized materials and services, out of which an amount of Kshs.2,465,100 was used in the procurement of air tickets. Review of the records on provision of air tickets procured through the request for quotation method revealed the following irregularities:

i. The request for quotation procurement method was used. However, only two (2) firm's bids were received and evaluated as per the professional opinion. This was contrary to Section 106(2)(d) of the Public Procurement and Asset Disposal Act, 2015 which requires evaluation to be carried out on at least three (3) quotations.

ii. Further, Management did not provide the request for quotation register, tender opening minutes and evaluation minutes for audit review.

470.3 Irregular Use of Direct Procurement Method

Included in this expenditure is an amount of Kshs.336,601 in respect of routine maintenance. Review of records revealed that the amount was paid to a firm for servicing of motor vehicles. However, procurement records indicates that the service providers were single-sourced and did not meet the conditions of direct procurement as set out in Section 103(2) Public Procurement and Asset Disposal Act, 2015 which requires that a procuring entity may use direct procurement if any of the following are satisfied; the goods, works or services are available only from a particular supplier/contractor, or a particular supplier or contractor has exclusive rights in respect of the goods, works or services and no reasonable alternative exists.

470.4 Cash Procurements Beyond Allowable Limits

Included in this expenditure is an amount of Kshs.23,335,761 under research expenses. Included in research expenses is an amount of Kshs.100,000 on purchases made by use of cash imprests. However, the procurements were made in cash exceeding the cash purchase threshold of Kshs.50,000 per item per financial year for goods and services required under the second schedule threshold matrix of the Public Procurement and Asset Disposal Regulations, 2020. Further, cash procurements were not supported by the KRA Electronic Tax Receipt duly signed by the person undertaking the low-value procurement of the services.

In the circumstances, Management was in breach of the law.

471. Failure to Surrender Imprests in Due Time

The statement of financial assets and liabilities reflects a balance of Kshs.2,071,912 under outstanding imprest. Review of the imprest records maintained by Management revealed that imprests were issued to various officers during the year but were not surrendered as at 30 June, 2024. Management did not explain the failure by the officers to surrender the imprest held as required. This was contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015, which states that the holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station.

In the circumstances, Management was in breach of the law.

472. Irregular Engagement of Casual Employees

The statement of receipts and payments and as disclosed in Note 12.4 to the financial statements reflects an amount of Kshs.14,284,591 in respect to compensation of employees. Included in the amount is an expenditure of Kshs.545,091 paid to five (5) casual employees working in the insect farm and laboratory sections of the Project. However, the casuals were engaged continuously for a period of twelve (12) months from July 2023 to June 2024. This was contrary to Section 371(b) of the Employment Act, 2007 which stipulates that where a casual employee performs work that cannot reasonably be expected to be completed within a period, or a number of working days amounting in the aggregate to the equivalent of three months or more the contract of service of the casual employee shall be deemed to be one where wages are paid monthly.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

474. As required by International Development Association, I report based on my audit, that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records; and the Project's financial statements are in agreement with the accounting records and returns.

AFRICA CENTRE OF EXCELLENCE (ACE II) IN PHYTOCHEMICALS, TEXTILES AND RENEWABLE ENERGY (PTRE) PROJECT (IDA CREDIT NO.5798-KE) – MOI UNIVERSITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

476. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.494,454,391 and Kshs.275,312,115 respectively resulting to an underfunding of Kshs.219,142,276 or 44% of the budget. Similarly, the Project spent an amount of Kshs.257,989,129 against actual receipts of Kshs.275,312,115 resulting to an under-utilization of Kshs.17,322,986 or 6% of the actual receipts.

The underfunding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

477. Unresolved Prior Year Matters

In the audit report of the previous year, an issue on Budgetary Control and Performance was raised. However, Management of the Project had not resolved the outstanding issue as at 30 June, 2024 or given an explanation for failure to resolve the issue.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

478. Delayed Completion of Studies Under the Scholarship Program

The Project offers scholarship program which aims to admit and train thirty (30) PhD students and sixty (60) Master's students in analytical chemistry, textiles and renewable energy. The Scholarships are awarded for a maximum period of two (2) years for Master's degrees and 3 years for PhDs level. A total of Kshs.52,466,550 in tuition fees and Kshs.28,320,318 in research funding have been disbursed to date.

However, review of the academic progress of the scholarship beneficiaries revealed significant delays, with 71% of the PhD students and 55% of the Master's students yet to complete their studies. Further, sixty-seven (67) students who included twenty-two (22) students for PhD and forty-five (45) students for Master's Degree had exceeded the expected completion period as stipulated by scholarship terms.

In the circumstances, the delayed completion of scholarship courses may jeopardize future funding opportunities and achievement of the intended project objective of contributing to research and capacity building in the targeted fields of manufacturing.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

479. Lack of Audit Committee

During the year under review, it was observed that the project did not have an audit committee to oversee the governance mechanism and promote transparency and accountability in the management of resources of the project. This was contrary to Section 73(5) of the Public Finance Management Act, 2012 which states that every National Government public entity shall establish an audit committee whose composition and functions shall be as prescribed by the Regulations.

In the circumstances, the effectiveness of oversight on internal controls could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

480. As required by loan agreements signed between the Republic of Kenya and International Development Association (IDA Credit No.5798 - KE), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements agree with the accounting records and returns.

KENYA RURAL TRANSFORMATION CENTERS DIGITAL PLATFORM PROJECT– COOPERATIVE UNIVERSITY OF KENYA

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

482. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.80,000,000 and Kshs.36,865,238 respectively resulting to an under-funding of Kshs.43,134,762 or 54% of the budget. Similarly, the Project spent Kshs.32,058,509 against actual receipts of Kshs.36,865,238 resulting to under-utilization of Kshs.4,806,729 or 13% of actual receipts.

The under-funding and under-utilization affected the planned activities of the Project and may have impacted negatively on service delivery to the intended beneficiaries of the Project.

My opinion is not modified in respect of this matter.

REPORT ON THE LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

483. Irregular Recruitment of the Project Manager

The statement of receipts and payments reflects expenditure on purchase of goods and services totalling Kshs.22,149,594 which includes operation expenses of Kshs.5,080,753 as disclosed in Note 2 to the financial statements. The University through the Project recruited the services of a project manager vide an appointment letter dated 3 August, 2023 whose contract was to run until 20 March, 2025 at a consolidated salary rate of Kshs.110,000 per month resulting to an accumulated payment of Kshs.1,188,710 during the year under review. It was noted that Management recruited the project manager through a recommendation from the Institute of Anthropology, Gender and African Studies, University of Nairobi which was a direct selection method and based on "No objection" communication from the African Development Bank. The recruitment was contrary to Section 5(2) of the Employment Act, 2007 which requires that an employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice. Further, progress reports detailing the deliverables of the project manager were not provided for audit verification.

In the circumstances, Management was in breach of the law.

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

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

485. As required by the African Development Bank, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

USAID BORESHA JAMII PROJECT NO. (72061521CA00004) - JARAMOGI OGINGA ODINGA UNIVERSITY OF SCIENCE AND TECHNOLOGY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

486. Inaccuracies in the Financial Statements

The statement of receipts and payments, as disclosed in Note 4 to the financial statements, reflects purchase of goods and services comparative balance of Kshs.577,055,634 instead of Kshs.559,775,871 reported in the audited balances resulting in an unreconciled amount of Kshs.17,279,763. No disclosures have been made in the financial statements restating the prior year's balances.

In the circumstances, the accuracy of purchase of goods and services comparative balance of Kshs.577,055,634 could not be confirmed.

487. Unsupported Compensation to Employees

The statement of receipts and payments reflects expenditure on compensation to employees of Kshs.122,276,974 as disclosed in Note 3 to the financial statements. The following unsatisfactory matters were however noted:-

487.1 Unsupported Fringe Allowances

The amount comprises Kshs.98,606,298 on basic salary for permanent employees and Kshs.23,670,676 on other personnel payments – fringe allowances. Review of records provided in the payroll indicated that other personnel payment of Kshs.23,670,676 was paid to staff inform of house allowance and other allowances. Information on rates used to pay house allowance and other allowances payable to each grade or salary scale was not provided for audit. As a result, it was not possible to confirm the accuracy of allowances attached to a particular grade as required by Section 10.2.3(i) of Boresha Jamii Project policy and procedure manual.

487.2 Understatement of Compensation of Employees

The supporting ledger provided for audit indicated a balance of Kshs.125,433,439 which is adjusted by the difference of the current payroll liability of Kshs.5,535,711 and the prior year payroll liability of Kshs.2,379,245. The supporting schedule for the prior year's payroll liability amounts to Kshs.2,770,606, resulting in un explained difference of Kshs.391,360.

In the circumstances, the completeness and accuracy of compensation to employees of Kshs.122,276,974 could not be confirmed.

488. Undisclosed Pending Bills

Review of the accounts payable list revealed an outstanding payable amount of Kshs.32,933,431 as at year-end. Included in this amount are outstanding statutory deductions totalling Kshs.4,813,582, which were paid in the subsequent month of

July 2024 and net payable salary of Kshs.722,129 that has been outstanding for more than one year due to failure by staff members to clear on terminating their employment.

However, the amounts have not been disclosed by way of annexes to the financial statements. In addition, no reasons were provided for the failure to settle the rest of the pending bills amounting to Kshs.27,397,719 considering that the Project had a surplus for the year.

In the circumstances, the financial statements as prepared and presented are incomplete.

Emphasis of Matter

489. Budgetary Control and Performance

The project had final budgeted receipts and actual on comparable basis amounting to Kshs.2,800,000,043 and Kshs.2,158,154,516 respectively resulting to an under-funding of Kshs.641,845,527 or 23% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

490. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal controls, Risk management and governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

491. Non-Compliance with the Law on Ethnicity

The staff biodata provided for audit indicated that USAID Boresha Jamii Project had twenty-six (26) employees. Out of this number, fifteen (15) or 57% were from the same ethnic community, contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which provides that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public establishment shall have more than one-third of its staff from the same ethnic community.

In the circumstances, Management was in breach of the law.

492. Irregular Procurement of Group Medical Insurance Cover

The Project Management entered into a contract for the provision of staff medical cover for one year from 15 December, 2023 to 14 December, 2024 at a cost of Kshs.5,474,681. However, audit of the procurement process documents revealed that the provision of group medical insurance was not included in the procurement plan for 2023-2024 contrary to Section 45(3)(a) of the Public Procurement and Asset Disposal Act, 2015 which states that all procurement processes shall be within the approved budget of the procuring entity and shall be planned by the procuring entity concerned through an annual procurement plan.

In the circumstances, Management was in breach of the law.

493. Irregular Procurement of Software Licenses

Review of the payment voucher amounting to Kshs.3,087,326 for supply and delivery of Sophos, antivirus, office 365 and Sophos intercept licenses revealed that the software was procured through an open tender method and the tender was awarded during the year. The requisition by the user department was made on 07 November, 2023 while notification of the award was made on 10 January, 2024. However, it was not clear when the contract was entered into.

In the circumstances, Management was in breach of the law.

494. Non-Adherence to Affirmative Action on Procurement

Audit of the annual procurement plan that was prepared and used by USAID Boresha Jamii in the year of audit revealed that Management did not allocate at least thirty percent (30%) of its annual procurement budget to procure goods, works, and services from enterprises owned by youth, women and persons with disability contrary to Regulation 149 of the Public Procurement and Asset Disposal Regulations, 2020.

In the circumstances, Management was in breach of the law.

495. Failure to Provide a Contract Agreement for the New ERP System

During the year under review, the USAID Boresha Jamii Project replaced the QuickBooks accounting system with a new ERP system, which went live in November 2023. The budget and procurement process for the ERP system were handled by USAID, instead of the USAID Boresha Jamii Project. However, the contract agreement between USAID and the vendor was not provided for audit. As a result, the audit could not confirm the terms of reference in the contract agreement, scope of work, deliverables, or whether value for money was achieved in the procurement of the ERP system.

In the circumstances, the value for money spent on procurement of the ERP system could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

496. Weaknesses in the Internal Audit Function

Analysis of the Jaramogi Oginga Odinga University of Science and Technology internal audit department annual work plan for financial year 2023-2024 revealed that audit for donor-funded projects had not been adequately planned for. Review of the internal audit report for the USAID Boresha Jamii Project revealed that the scope was limited which can result in insufficient audit coverage and key areas such as effectiveness of the new ERP system, regularity of the human resource management, procurement and contract management not being covered.

In the circumstances, the effectiveness of the Project internal controls could not be confirmed.

497. Lack of an Approved Scheme of Service

During the year under review, the USAID Boresha Jamii did not have an approved Scheme of service contrary to provisions of its Human Resource Manual.

In the circumstances, it was not possible to confirm if the payment of allowances was done in accordance with the remuneration guidelines issued by the Salaries and Remuneration Commission.

STATE DEPARTMENT FOR BASIC EDUCATION – VOTE 1066

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

498. Unsupported Imprests Balances

The statement of financial assets and financial liabilities reflects imprests and advances balance of Kshs.310,391,696 as disclosed in Note 13 to the financial statements. Included in the imprests and advances balance is Kshs.309,722,388 in respect of district suspense imprests out of which Kshs39,891,065 had not been surrendered as at 30 November, 2024. Management did not provide evidence of measures being taken to recover or account for the long outstanding imprests and advances.

In the circumstances, the accuracy and completeness of imprests and advances balance of Kshs.310,391,696 could not be confirmed.

499. Unconfirmed Capitation for Free Primary Education, Junior Secondary School Education and Free Day Secondary Education

The statement of receipts and payments reflects subsidies and grants and transfers to other Government entities of Kshs.95,290,431,676 and Kshs.36,852,473,814 as disclosed in Notes 7 and 8 to the financial statements respectively. Included in the subsidies amount are Free Day Secondary Education (FDSE) and Junior Secondary Education (JSE) payments of Kshs.63,952,370,146 and Kshs.30,996,376,724 respectively. Further, the grants and transfers to other Government entities payment include an amount of Kshs.9,047,709,890 in respect of Free Primary Education (FPE) capitation. The disbursement of the three funds to the respective schools is based on the students' enrolment in the National Education Management Information System (NEMIS). However, no documentary evidence was provided for audit to confirm the student enrollment data in NEMIS had been verified by the respective Sub-County Offices before disbursement of the funding.

In addition, the NEMIS as configured does not have a cutoff date as it updates student's data on a continuous basis, making it difficult to confirm the number of students at a specific point in time. Further, the system does not register students without birth certificates or fund students who have attained the age of eighteen (18) years.

In the circumstances, the accuracy and completeness of subsidies and grants and transfers to other Government entities amounting to Kshs.95,290,431,676 and Kshs.36,852,473,814 respectively could not be confirmed.

Emphasis of Matter

500. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.155,358,042,736 and Kshs.145,971,103,485 respectively, resulting to an under-funding of Kshs.9,386,939,251 (or 6%) of the budget.

In the circumstances, the underfunding affected the planned activities and may have impacted negatively on service delivery to the public.

501. Pending Accounts Payables

Annex 1 to the financial statements reflects analysis of pending accounts payables balance of Kshs.833,584,638. Management did not settle the payables during the year under review but instead carried forward to the financial 2024/2025. Failure to settle bills during the year to which they relate adversely affects the budgetary provisions for the subsequent year.

My opinion is not modified in respect of these matters.

Other Matter

502. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management had not resolved the issues or given any explanations for failure to implement the recommendations as at 30 June, 2024.

Other Information

503. Unconfirmed Other Non-Financial Information

The strategic objectives of the State Department are to enhance equity in primary secondary education and to develop, maintain and enhance education quality standards. However, Management did not achieve planned targets on improvement of infrastructure and equipment for public primary schools and education assessment resource centres, training of Special Needs Education personnel, ICT integration services, capacity building of finance officers of learning institutions and completion of Diploma Teachers Training Colleges.

In the circumstances, the non-achievement of the planned activities may have denied the target beneficiaries the intended benefits.

My opinion on the financial statements does not cover the Other Information and accordingly, I do not express an audit opinion or any form of assurance thereon.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

504. Lack of Ownership and Weak Internal Controls Over Management of NEMIS

As previously noted, during the financial year 2021-2022, an amount of Kshs.239,784,833 was spent on reengineering of National Education Management Information System (NEMIS) under the PRIEDE project. The scope of the works for NEMIS strengthening entailed installation of one of the servers at a secondary site on an existing Government cloud infrastructure. This was to enable the server to harness the existing resources of the Government cloud such as processing and storage capabilities, load balancing, intelligent system monitoring, system scalability, data security and business continuity. The secondary site runs on VM ware as the virtualization software and CISCO or DELL servers.

However, the Management did not provide for audit purposes the ownership documents of the reengineered NEMIS, including copyright registration and reservation in accordance with Section 22 of the Copyright Act, 2001 and the signed handover documents that included instructions booklet explaining each functionality to the users of NEMIS and test environment confirmation indicating that issues pertaining to processing and storage capabilities, load balancing, intelligent system monitoring, system scalability, data security and business continuity have been addressed and resolved by the reengineered NEMIS.

Further, documentation relating to the development of reengineered NEMIS, and the structure of its administration highlighting the officers who hold different tasks and roles in the development, maintenance, administration, compliance and control of the NEMIS system was not provided for audit.

In the circumstances, value for money may not have been achieved on expenditure amounting to Kshs.239,784,833 in respect to reengineering and ownership of the NEMIS.

505. Lack of Fixed Assets Registers

Special audit of the public secondary schools revealed that various schools did not have fixed assets registers, contrary to Section 143(1)(2)(3) of the Public Finance Management Act, 2015 which states that ‘the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws and that the register for land and buildings shall record each parcel of land each building and the terms on which it is held, with reference to conveyance address, area, dates of acquisition, disposal or any major change in use, capital expenditure, leasehold terms maintenance contracts and other pertinent management details. All items of furniture and equipment issued for a government’s quarters or offices, large tools for government works, plant, equipment, vehicles shall be recorded in the register’.

Further, it was noted that various schools lacked land ownership documents to show ownership, land sizes and locations.

In the circumstances, Management was in breach of the law.

506. Lack of Audit Committees and Internal Audit Function

Review of the public secondary schools governance structure revealed that most of the schools had not established audit committees and internal audit arrangements, contrary to Regulation 166(1) and (2) of the Public Finance Management (National Government) Regulations, 2015 which states that, ‘the internal audit unit of a National Government entity is required to assess effectiveness of the School through an internal performance appraisal commenting on its effectiveness in the annual report to The National Treasury'.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

507. Understaffing and Overstaffing of the State Department

The approved staff establishment reflects staff in-post of four thousand two hundred and twenty-four (4,224) staff against an approved establishment of nine thousand five hundred and seventy-two (9,572), resulting to understaffing of five thousand three hundred and forty (5,348). Further, the approved staff establishment reflects staff in-post for various positions totalling two thousand and eighty-two (2,282) staff against an approved establishment of nine hundred and ninety-three (993), resulting to overstaffing of one thousand two hundred and eighty-nine (1,289) in positions.

In the circumstances, the overall understaffing and overstaffing in some cadres may have impaired the performance of the State Department.

DONOR FUNDED PROJECTS

KENYA PRIMARY EDUCATION EQUITY IN LEARNING PROGRAM IDA GRANT NO. D991-KE AND CREDIT NO. 7067-KE AND GRANTS NOS. TF C306-KE AND TF C307-KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

508. Unsupported Cash and Cash Equivalents Balance

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.997,257,669 as disclosed in Note 11 to the financial statements. However, the cash book provided in support of the balance reflected an amount of Kshs.868,239,967, resulting to an unexplained variance of Kshs.129,017,702. Further, the bank reconciliation statement for the period reflected cash book balance of Kshs.972,420,443, resulting to unreconciled and unexplained variance of Kshs.104,180,476.

In addition, Note 11C to the financial statements discloses that the program "has fifty-six (56) number of Program accounts spread within the Program implementation areas, three (3) operation accounts by CBK, six (6) commercial bank accounts by SAGAS, forty- seven (47) commercial bank accounts by counties, five (5) foreign currency designated accounts and eight (8) short term deposits accounts". However, closing bank balances have not been incorporated in the financial statements.

In the circumstances, the accuracy and completeness of the reported cash and cash equivalents balance of Kshs.997,257,669 could not be confirmed.

509. Unsupported Imprests and Advances Balance

The statement of financial assets and liabilities reflects imprests and advances amounting to Kshs.380,613,376 as disclosed in Note 12 to the financial statements. Included in the balance was inter-entity receivable of Kshs.331,447,004 which was not supported by way of detailed schedules.

In the circumstances, the accuracy and completeness of imprests and advances balance of Kshs.331,447,004 could not be confirmed.

510. Unsupported Payments by Third Parties

The statement of receipts and payments reflects other grants and transfers/payments by third parties of Kshs.45,588,747,643 as disclosed in Note 10B to the financial statements. However, the payments were not supported by schedules, payment vouchers, invoices and delivery notes.

In the circumstances, the accuracy and occurrence of the grants and transfers/payments by third parties amounting to Kshs.45,588,747,643 could not be confirmed.

511. Unsupported Budget

The statement of comparison of budget and actual amounts reflects final receipts and expenditure budget amounts of Kshs.11,813,990,890 and Kshs.11,487,957,874 respectively. However, the budget was unsupported by an approval casting doubts on its authenticity.

In the circumstances, the accuracy and validity of the reported budget amounts could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

512. Undrawn Loan Balances

The funding summary under the program information and overall performance reflects total Donor and Government of Kenya (GoK) commitment amount of Kshs.49,943,304,850 over the Program life from 05 August, 2022 to 31 December, 2026, out of which Government of Kenya commitment totaled Kshs.14,604,640,000. However, only Kshs.15,370,062,727 had been drawn as at 30 June, 2024, resulting to undrawn balance of Kshs.34,573,242,123or 69% of the funding. Further, during the year under review, there was no Government counterpart funding/contribution to the Program. This was contrary to the disbursement and financial information letter which requires IDA Credit, IDA Grant and GoK to finance 38.5%, 16.5% and 45% of expenditure respectively.

In the circumstances, the low absorption affected the planned activities and may have impacted negatively on service delivery to the public while the GoK is in breach of the law.

513. Supply, Delivery, Installation and Commissioning of ICT Equipment in Public Teacher Training Colleges

The Program Management procured for the supply, delivery, installation and commissioning of ICT equipment in thirty-five (35) public teacher training colleges through framework contracts valued at Kshs.1,042,287,068. However, there was no evidence of notifications to the Public Procurement Oversight Authority on all signed contracts awarded through all procurement methods under Section 138(2) of the Public Procurement and Asset Disposal Act, 2015(PPADA) and Regulation 131(1)(b) of the Public Procurement and Asset Disposal Regulations, 2020 which provide that an accounting officer of a procuring entity shall report all contract awards to the Authority as prescribed.

Further, the Program initiated Programs on the installation and commissioning of ICT equipment in thirty (30) public teacher training colleges. The contracts were signed on 27 October, 2023 and were to run for a duration of three (3) months with expected completion date of 27 January, 2024. However, all the programs had not been completed as at 30 June, 2024. This was contrary to Regulation 137 (e) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that the requirements of the contract shall be closely monitored to ensure that there are no deviations or risks and those identified dealt with in time.

In addition, Management did not impose liquidated damages on the suppliers as required by Section 140 of the Public Procurement and Asset Disposal Act, 2015. Physical verification at Kibabii Teachers Training College revealed that ten (10) laptops supplied to the College had been stolen and the matter reported to the police.

In the circumstances, value for money may not have been realized from the contracts while Management was in breach of the law.

514. Failure to Maintain Separate Banking Arrangements

The State Department operated two Project bank accounts namely; P-Grant D991 KE and P- DLI CR 7067 KE. However, funds from IDA and GPE Grants, both Disbursement Linked Indicators (DLI) and Investment Project Financing (IPF) were deposited into P-Grant D991 KE account. Further funds from IDA loans (both DLI and IPF) were deposited into P- DLI CR 7067 KE account. This was contrary to disbursement and financial information requirement for the Program Management to set up and maintain three separate accounts.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

516. As required by International Development Agency (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

KENYA PRIMARY EDUCATION EQUITY IN LEARNING PROJECT IDA GRANT NO. D991-KE AND CREDIT NO. 7067-KE AND GRANTS NOS. TF C306-KE AND TF C307-KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

517. Unsupported Bank Balance

The statement of financial assets and liabilities reflects bank balance of Kshs.499,459,232 as disclosed in Note 11B to the financial statements. However, the cash book provided in support of the balance reflected an amount of Kshs.453,079,937, resulting to an unexplained variance of Kshs.46,379,295. Further, Note 11 discloses a bank account held at CBK with nil balance for which there were no bank reconciliation statements provided to support the Nil balance.

In addition, Note 11B discloses that the Project "had fifty-six (56) project accounts spread within the project implementation areas, three (3) operation accounts by CBK, six (6) commercial bank accounts by SAGAs, forty-seven (47) commercial bank accounts by counties, and five (5) foreign currency designated accounts". However, the closing bank balances had not been incorporated in the financial statements.

In the circumstances, the accuracy and completeness of the reported bank balance of Kshs.499,459,232 could not be confirmed.

518. Unsupported Deposits and Retentions

The statement of financial assets and liabilities reflects deposits and retentions balance of Kshs.331,529,555 as disclosed in Note 13 to the financial statements. However, the balance was not supported by way of detailed schedules.

In the circumstances, the accuracy and completeness of deposits and retentions balance of Kshs.331,529,555 could not be confirmed.

519. Unsupported Budget and Underfunding

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.880,077,338 and Kshs.757,420,235, resulting to under-funding of Kshs.122,657,103 or 14%. Further, the budget was unsupported by an approval casting doubts on its authenticity.

In the circumstances, the accuracy and validity of the reported budget amounts could not be confirmed while the under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

520. Failure to Maintain Separate Banking Arrangements

The State Department operated two Project bank accounts namely; P-Grant D991 KE and P- DLI CR 7067 KE. However, funds from IDA and GPE Grants, both Disbursement Linked Indicators (DLI) and Investment Project Financing (IPF) were deposited into P-Grant D991 KE account. Further funds from IDA loans (both DLI and IPF) were deposited into P- DLI CR 7067 KE account. This was contrary to disbursement and financial information requirement for the Program Management to set up and maintain three separate accounts.

In the circumstances, Management was in breach of the law.

521. Undrawn Loan Balances and Delays in Remittance of Counterpart Funds

The Funding Summary under the Project Information and Overall Performance reflects Donor commitment amount of Kshs.4,947,445,150 over the Project life from 05 August, 2022 to 31 December, 2026 which included Government of Kenya commitment of Kshs.1,233,500,000. However, only Kshs.1,009,147,645 had been drawn as at 30 June, 2024, resulting to undrawn balance of Kshs.3,938,297,505 or 80% of the funding. Further, counterpart funds contribution amounted to Kshs.127,342,897 or 10% of the commitment. This was contrary to the Disbursement and Financial Information Letter which requires IDA Credit, IDA Grant and GoK to finance 38.5%, 16.5% and 45% of expenditure.

In the circumstances, the low absorption may affect the planned Project activities and may have impacted negatively on service delivery to the public.

522. Overdrawn Bank Account

The statement of financial assets and liabilities reflects cash book overdraft balance of Kshs.71,216,521 as disclosed in Note 11A to the financial statements. However, no authority was sought from The National Treasury to overdraw the account, contrary to Section 28(4) of the Public Finance Management Act, 2012 which requires that "An accounting officer for a national government entity shall not cause a bank account of the entity to be overdrawn beyond the limit authorized by The National Treasury or a board of a national government entity, if any".

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

524. As required by International Development Agency (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

GOK/UNICEF EDUCATION FOR YOUNG PEOPLE PROGRAMME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

526. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not resolved the issues or given any explanation for the failure to adhere to the provisions of the Public Sector Accounting Standards Board template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

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

Basis for Conclusion

528. Dormant Status of the Project

As previously reported, the annual report and financial statements indicate that the Programme started in September, 2006 with the objective of expanding and improving early childhood development and education for the most vulnerable and disadvantaged children. The Government of Kenya was required to contribute 10% while UNICEF was to provide 90% of the funds. However, it was observed that for over two (2) years, the Programme had not been budgeted within the State Department budget with the last expenditure being incurred in the financial year 2019-2020. Further, there was no status report on the Programme implementation and details on the program grant/credit number therefore the extent of UNICEF contribution and Government of Kenya contribution could not be confirmed. In addition, the statement of performance against programme's predetermined objectives states that "the objectives are not clear as the programme has stalled since the financial year 2015/2016".

In the circumstances, the status of the Programme as at 30 June, 2024 could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

Conclusion

529. As required by the GoK/UNICEF Country Programme Action Plan, 2014-2016, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

SECONDARY EDUCATION QUALITY IMPROVEMENT PROJECT (CREDIT NO.6138-KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

530. Unsupported Consultancy Payments

The statement of receipts and payments reflects an amount of Kshs.338,219,507 in respect of purchase of goods and services as disclosed in Note 3 to the financial statements which includes consultancy services expenditure of Kshs.296,075,075. Included in the consultancy services expenditure is an amount of Kshs.60,360,050 paid to consultants for works in thirty (30) Counties. The consultancy contract scope covered design, clerks of works and supervision of projects. However, field visits to sampled

Counties of Laikipia, Baringo and Homa Bay revealed that the Consultant did not have Clerks of Works at the Project sites and the works were ongoing with no evidence of supervision.

In the circumstances, the occurrence and accuracy of consultancy services expenditure of Kshs.60,360,050 could not be confirmed.

Emphasis of Matter

531. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.2,700,000,000 and Kshs.1,186,328,447 respectively, resulting to an under-funding of Kshs.1,513,671,553 or 56% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

532. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

533. Procurement and Management of Infrastructure Projects

Review of records revealed that Management signed agreements on 26 April, 2022 with twenty-five (25) contractors for the construction of one thousand five hundred and six (1,506) classrooms, eight hundred and sixty-three (863) laboratories and one thousand nine hundred and thirty-two (1,932) sanitation facilities in thirty (30) targeted Counties, all valued at Kshs.6,655,812,555.

The following observations were however made:

533.1 Improper Constitution of Contracts Implementation Committee

Review of records provided for audit revealed that a technical committee of three (3) members was constituted to recommend payments for twenty-five (25) contractors undertaking construction of classrooms, laboratories and sanitation facilities in thirty (30) targeted Counties. However, the user department, specifically the schools, and the procurement function were not represented in the Committee. Further, there were no minutes of Committee meetings and field inspection reports in support of payments. Instead, the Committee relied on the recommendations of the consultants to confirm the scope of works done in recommending the payments to the contractors. This was also contrary to the provision of Regulation 139(3) of the Public Procurement and Asset Disposal Regulations, 2020 provides that payments shall only be made after an invoice or fee note is accurately raised and submitted in accordance with the provisions of the contract.

In addition, there were no Projects Status Reports as prescribed by Regulation 138(7) of the Public Procurement and Asset Disposal Regulations, 2020 and no risk register was prepared by the Committee on the risks identified and their likely impact on the Projects.

533.2 Unsupported Revision of Contract Durations

Review of the contract documents revealed extensions on the completion dates of up to six times without the requisite approvals as tabulated below:

Lot	County	Number of Revisions	Expected Completion Date as Per Contract	Latest Revised Completion Date	Cumulative Extension (Days)	Percentage of Works Completion as of 30 June, 2024
1	Bungoma	5	28-May-22	15-Jun-24	749	98%
4	Migori	5	29-Nov-22	15-Jun-24	564	87%
9	Muranga	6	1-Dec-22	15-Jun-24	562	96%
20	Wajir	5	10-Dec-23	15-Jun-24	188	88%
21	Mandera	5	6-Dec-22	15-Jun-24	557	83%
22	Marsabit	2	21-Aug-23	15-Jun-24	299	95%
25	Garissa	4	28-Aug-23	15-Jun-24	292	51%
26	Kitui	5	11-Dec-22	15-Jun-24	552	70%
28	Taita Taveta	4	26-Apr-22	15-Jun-24	781	53%

Further, the projects under the extended contracts remained incomplete as of end of the financial year while the performance bonds for the contracts had expired without renewal.

533.3 Projects Not Commenced

The Projects Status and Progress Report also indicated that a total of thirty (30) classrooms, forty (40) laboratories, four (4) water projects and four hundred and seventy-one (471) sanitation blocks valued at Kshs.573,900,000 had not been commenced as at 30 June, 2024. No explanations were provided for the delay in commencement of the works. In addition, liquidated damages had not been levied by the employer as provisioned under Clause 47.1 of the Project Conditions of Contract (PCC) for the delayed commencement. Further, termination proceedings had not been commenced despite the contractor having abandoned the work for period exceeding twenty-eight (28) days without evidence of authorization by the Project Manager.

533.4 Delay in Completion of Infrastructure Projects

The Status and Progress Report dated 16 July, 2024, indicated that as at year end, an amount of Kshs.4,789,195,317 or 72% of the total contract sum being the value of works certified, claimed and paid while the actual completed work stood at 77%. This was indicative of 23% of the works not done as at 30 June, 2024. Further, advance payments amounting to Kshs.475,080,581 had been recovered from the original advanced sum of Kshs.658,683,601. However, recovery of advance payments of Kshs.119,914,993 for five (5) contracts in five (5) Counties with certified works exceeding 90% which is the threshold for full recovery of the advances amount stood at Kshs.101,588,718 resulting into an under recovery of Kshs.18,326,275 as tabulated below:

County	Percentage of Completed Works	Advanced Amount (Kshs.)	Advance Recovered (Kshs.)	Outstanding Advance (Kshs.)
Busia	99.9%	64,554,655	64,544,655	10,000
Homa Bay	96%	6,660,383	1,674,468	4,985,915
Turkana	90%	37,500,896	35,369,595	2,131,301
Marsabit	95%	7,058,059	-	7,058,059
Isiolo	95%	4,141,000		4,141,000
Total		**119,914,993**	**101,588,718**	**18,326,275**

533.5 Stalled Construction Projects

The Projects Status and Progress Report indicates two hundred and sixty-seven (267) Projects in three Counties with contract sum of Kshs.344,235,750 had stalled. The projects were distributed as follows; Tana River County (67), Kwale County (186) and Taita/Taveta County (14). However, no explanation was provided for the stalled projects.

Further, no evidence of liquidated damages being claimed and paid by the contractors was provided for audit. In addition, the performance bonds had expired and exposes the Project to loss of funds.

533.6 Poor Workmanship and Incomplete Works

Physical verification undertaken in the month of September, 2024 in Homa Bay and Baringo Counties revealed the following anomalies:

i. Review of works done on the construction of laboratories for God Bura and Tonga Boys Secondary Schools in Homa Bay County revealed cracked and peeling off of the plastered floors and the gas and water system had not been connected to the laboratories. Although the defects had been noted by the School administration and reported to the contractors, no remedial work had been done.

   Further, the laboratory at God Bura Secondary School lacked access ramp for the physically challenged students and the desks, chairs and laboratory chairs supplied were of substandard quality as they had protruding nails and were rejected by the School. Similarly, the wooden furniture had splinters and grains. Defects noted by the Schools and reported to the contractors had not been rectified;

ii. Marigat Integrated Day Secondary School and Marigat Boarding Primary School in Baringo County benefited from contracts for the construction of laboratory and sanitation facilities at the cost of Kshs.3,000,000 and Kshs.900,000 respectively. However, for the Secondary School, the contractor was not on site as at the time of audit verification. Further, the laboratory was incomplete as electrical wiring and water piping had not been done while the floors and walls were cracked; and

iii. Marigat Boarding Primary School inspection revealed that the sanitation facilities constructed for special need students did have provisions for their needs including the sitting bowls, holding ramps or flushing systems. In addition, the boys' special needs door was incorrectly installed as it was not opening in both ways.

In the circumstances, value for money may not have been realized from expenditure on the construction contracts valued at Kshs.6,655,812,555 while Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

535. As required by the International Development Association, I report based on my audit that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

PROMOTION OF YOUTH EMPLOYMENT THROUGH SCHOLARSHIPS PHASE II ("WINGS TO FLY IV") PROJECT NO. BMZ-NO. 2018 67 399

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

537. The statement of comparison of budget and actual amounts reflects a final receipts budget and actual on comparable basis of Kshs.175,000,000 and Kshs.149,757,219 respectively, resulting to underfunding of Kshs.25,242,781 or 14% of the budget.

The underfunding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

538. 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

539. Weak Controls over Scholarships Award

Review of other grants and transfers of Kshs.149,757,219 as disclosed in Note 2 to the financial statements indicates that the payment was in respect of three hundred and fifteen (315) learners. However, Management did not provide for audit review evidence that measures were taken to ensure that the scholars were for the intended beneficiaries. Instead, Management relied on information obtained from the consultant (Equity Group Foundation) before approving disbursement of funds. In addition, Management did not provide current status report of the beneficiaries for audit review. Further, there was no budgetary allocation to the implement the Project within the State Department.

In the circumstances, the effectiveness of the internal controls over the award of scholarships could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

540. As required by the KfW Development Bank, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records; and, the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR MEDICAL SERVICES - VOTE 1082

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

541. Inaccurate Fixed Assets Register

The summary of fixed assets register as disclosed in Annex 2 to the financial statements reflects fixed assets balance at historical cost of Kshs.9,547,916,600 with a Nil balance for land. However, the State Department is in possession of three (3) title deeds for parcels of land of undetermined value. In addition, title deed for a parcel of land where the Ministry of Health headquarters is located was not provided for audit. Further, the fixed assets balance excludes the Ministry of Health headquarters buildings and a list of twenty-four (24) medical equipment of undetermined value.

In the circumstances, the ownership, accuracy, completeness and valuation of fixed assets balance of Kshs.9,547,916,600 could not be confirmed.

Emphasis of Matter

542. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.105,559,624,287 and Kshs.80,702,060,243 respectively resulting to an underfunding of Kshs.24,857,564,044 or 24% of the budget.

The underfunding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

543. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024 and no explanation was provided for failure to implement recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

544. Non-Compliance with Budgeting Process

The statement of comparison of budget and actual amounts reflects final payments budget of Kshs.105,559,624,287 out of which Kshs.200,000,000 relates to construction of three (3) hospitals which were introduced through supplementary estimates. However, these hospitals did not meet the conditions in respect to unforeseen or unavoidable in circumstances where no budget provision was made. The supplementary budget also includes pending bills amount of Kshs.779,000,000 which should have been budgeted during the normal budgeting process. This was contrary to Regulation 40(3) of the Public Finance Management (National Government) Regulations, 2015 which states that the purpose for which approval is sought for a supplementary budget shall be (a) for unforeseen and unavoidable, in circumstances where no budget provision was made; or (b) unavoidable, in circumstances where there is an existing budgetary provision which however is inadequate.

In the circumstances, Management was in breach of the law.

545. Long Outstanding Deposits

The statement of financial assets and financial liabilities and as disclosed in Note 13 to the financial statements reflects third party deposits and retention balance of Kshs.206,179,672 out of which Kshs.84,980,883 relates to long outstanding deposits for over five (5) years from 2016/2017. This was contrary to Regulation 106 of the Public Finance Management (National Government) Regulations, 2015 which states that unless otherwise exempted by an Act of Parliament, any deposit which has remained unclaimed for five (5) years may, with the approval of the Cabinet Secretary, be paid into Consolidated Fund and thereafter the Accountant-General may refund the deposit to any person entitled thereto, if he or she is satisfied that the claim is authentic.

In the circumstances, Management was in breach of the law.

546. Failure to Operationalize the Emergency Medical Treatment Fund

The statement of comparison of budget and actual amounts reflects final payments budget of Kshs.105,559,624,287 out of which Kshs.90,000,000 relates to emergency medical treatment fund meant for emergency treatment and management of chronic illnesses. However, the vote book indicated that the funds remained unutilized since no regulations had been enacted to guide its implementation. In addition, this appropriation lapsed at the end of the financial year due to failure to operate a separate fund account contrary to Section 15(1)(x) of the Health Act, 2017 which states that 'The national Government ministry responsible for health shall establish an emergency medical treatment fund for emergencies to provide for unforeseen situations calling for supplementary finance.

In the circumstances, Management was in breach of the law.

547. Unbudgeted Pending Bills

The statement of comparison of budget and actual amounts reflects final payments budget of Kshs.105,559,624,287. Schedules provided for audit revealed pending bills balance of Kshs.1,557,873,023 for use of goods and services and Kshs.24,389,033,396 for legal cases carried forward from financial year 2022/2023. However, these amounts were not budgeted for in the financial year 2023/2024 despite payments of Kshs.1,453,811,444 and Kshs.82,622,195 under use of goods and services and legal cases respectively. This was contrary to Paragraph 20 of The National Treasury Circular number 7/2023 dated 21 June, 2023 which states that in order to ensure there is no accrual in payment of arrears (pending bills), Accounting Officers should ensure that carryover payments emanating from FY2022/2023 are treated as a first charge against the financial year 2023/24 budgetary allocation before entering into any new commitments.

Further, the State Department incurred Kshs.8,202,829,963 in respect to interest and penalties on legal cases due to non-payment leading to loss of funds.

In the circumstances, Management was in breach of the law and value for money on expenditure incurred in respect of interest and penalties could not be obtained.

548. Stalled Equalization Fund Projects

Review of project documents provided for audit revealed that forty-four (44) equalization fund projects were at various stages of implementation. Twenty-eight (28) projects were ongoing while sixteen (16) projects of undetermined value had stalled. However, details of these projects including contract price and value of work done were not provided for audit. It was therefore not possible to confirm the completion status of these Projects as at 30 June, 2024.

In the circumstances, the value for money spent on the stalled projects could not be confirmed.

549. Underfunding of Maternity Programme

The statement of comparison of budget and actual amounts reflects final payments budget of Kshs.105,559,624,287 out of which Kshs.4,098,000,000 relates to implementation of free maternity programme. However, only Kshs.2,000,000,000 was transferred to the National Health Insurance Fund for the implementation of the programme resulting to an underfunding of Kshs.2,098,000,000 or 51% of the budget. This was contrary to Article 43(1)(a) of the Constitution of Kenya 2010 which states that, ‘Every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care.

In the circumstances, Management was in breach of the law.

550. Stock Out of Vaccines at the Central Vaccine Store

Review of the vaccine stock ledgers revealed that during the year, three antigens (BCG, OPV and Measles Rubella) were out of stock for an average of sixty-five (65) days due to delays in providing funding to the procuring agent. The stock outs at the Central Vaccine Store (CVS) affects the availability of vaccines at the health facilities which significantly affects the life of citizens. This was contrary to Section 160(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity shall manage its inventory, assets and stores for the purpose of preventing wastage and loss, and continuing utilization of supplies.

In the circumstances, Management was in breach of the law.

551. Delayed Completion of Pediatric Emergency Centre and Burns Management Centre

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects acquisition of assets amount of Kshs.3,256,146,761 out of which Kshs.34,047,734 relates to construction of Pediatric Emergency Centre and Burns Management Centre at Kenyatta National Hospital. The project duration was two (2) years from 02 August, 2018 to 10 November, 2020 at a contract sum of Kshs.2,959,511,555. However, the value of work done as at 30 June, 2024 about two and half years after the expected completion date was Kshs.1,099,686,586 and the project was verified to be incomplete. In addition, the value of work done includes interest on delayed payments of Kshs.68,043,601 which could have been avoided. This was contrary to Section 151 (2) (c) of the Public Procurement and Asset Disposal Act, 2015 which requires a procuring entity to meet all its payment and other obligations on time and in accordance with the contract.

In the circumstances, value for money on expenditure of Kshs.34,047,734 in respect to the construction of Pediatric Emergency Centre and Burns Management Centre could not be confirmed.

552. Inadequate Patients Beds at Mathari Hospital

Note 9 to the financial statements reflects construction of buildings amount of Kshs.572,941,804 out of which Kshs.12,579,005 relates to renovations of wards at Mathari Hospital. Data maintained at the Hospital indicated a total of six hundred and fifty-three (653) hospital beds. However, review of the daily inpatient attendances indicated the number of inpatients exceeded the available beds resulting to patients being kept on the floor or sharing of beds for a period of two hundred and sixty-one (261) days thereby raising the risk of cross infection. This was contrary to Article 43 (1) (a) of the Constitution of Kenya 2010 which states that, 'Every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care.

In the circumstances, Management was in breach of the law.

553. Delayed Construction of Kisii Cancer Centre

Note 9 to the financial statements reflects construction of buildings amount of Kshs.572,941,804 out of which Kshs.283,032,102 is advance payment for the construction of Kisii Cancer Centre. The construction works were awarded on 31 January, 2024 for a period of seventy-eight (78) weeks alongside other five (5) contracts for the supply, installation, commissioning, operation and maintenance of various medical equipment at Kshs.155,467,261 but the period was not specified. In addition, Management had previously awarded procurement of other medical equipment and furniture on 05 December, 2023 at Kshs.235,230,551 before the award of construction works.

However, as at 30 June, 2024 about nine (9) years after the loan signing date, the project had not commenced despite payment of an advance. This was contrary to Section 151(2)(a) and (c) of the Public Procurement and Asset Disposal Act, 2015 which provides that ‘for the purpose of managing complex and specialized procurement contracts the contract implementation team shall be responsible for monitoring the performance of the contractor, to ensure that all delivery or performance obligations are met or appropriate action taken by the procuring entity in the event of obligations not being met and ensure that the procuring entity meets all its payment and other obligations on time and in accordance with the contract.

In the circumstances, the value for money on advance payment of Kshs.283,032,102 for the construction of Kisii Cancer Centre could not be confirmed.

554. Budget In-Adequacy for Community Health Promoters Kits

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects acquisition of assets amount of Kshs.3,256,146,761. The amount includes purchase of specialized plant, equipment and machinery amount of Kshs.2,629,748,382 out of which Kshs.2,500,000,000 relates to community health promoters’ kits. Review of expenditure records revealed that the kits were procured using a three-year contract of Kshs.24,760,791,759 out of which Kshs.10,226,991,917 relates to the first year. However, the first-year portion of the contract exceeded the approved budget estimate of Kshs.5,000,000,000 by Kshs.5,226,991,917. This was contrary to Section 53 (8) of the Public Procurement and Asset Disposal Act, 2015 which states that ‘an Accounting Officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

In the circumstances, Management was in breach of the law.

555. Delayed Installation of Medical Gases

Note 9 to the financial statements reflects purchase of specialized plant, equipment and machinery amount of Kshs.2,629,748,382 out of which Kshs.32,390,255 relates to supply, installation, testing and commissioning of medical gases plant and pipeline system at Trans Mara Subcounty Hospital. The project was awarded to a contractor on 17 May, 2022 at a contract sum of Kshs.61,845,550 for a period of forty weeks. However as at 30 June, 2024 about two years later, the project was incomplete based on the value of work done totalling Kshs.32,390,255 or 52%. In addition, Management awarded another contract for the supply, delivery, installation, testing, training, commissioning and maintenance of medical oxygen generating plant at the same hospital on 15 June, 2022 of Kshs.74,564,711 for a period of twelve (12) weeks. However as at 30 June 2024 about two years later, the work had not started and the performance security had expired.

Audit indicated that the two (2) contracts above totalling Kshs.136,410,261 for the oxygen system were financed through Governance for Services Delivery in Kenya (GESDEK) project dated 2 October 2020. The project lapsed on 30 June, 2023 but Management continued to incur expenses contrary to Article 10 of the Credit Facility Agreement which requires no further drawdown be made under the project after 30 June, 2023.

Further, despite the delay, no interest on delayed performance was charged. This was contrary to Section 140 (b) of the Public Procurement and Asset Disposal Act, 2015 which states that 'the contractor shall be liable to liquidated damages for delayed performance'.

In the circumstances, Management was in breach of the law.

556. Unconfirmed Testing of Health Products

The statement of receipts and payments reflects use of goods and services amount of Kshs.5,138,695,802 out of which Kshs.49,597,602 relates to health medical drugs issued to hospitals without evidence of testing. This was contrary to Section 35D(1)(c) of the Pharmacy and Poisons Act, 2012 which requires the National Quality Control Laboratory to test on behalf of the Government all locally manufactured and imported drugs or medicinal substances to determine whether they comply with the set rules.

In the circumstances, Management was in breach of the law.

557. Encroachment of Land at Mathari Teaching and Referral Hospital

The summary of fixed assets register as disclosed in Annex 2 to the financial statements reflects Nil land balance. Available information confirmed that the Ministry owns a parcel of land which houses Mathari Teaching and Referral Hospital of undetermined value. Physical verification conducted in the month of October 2024 indicated that the land was partially fenced making it an easy target for private developers to grab or encroach. Further, it was observed that an undisclosed developer had erected a temporary fence on the unfenced portion of the land. This was contrary to Regulation 139(1) of the Public Finance Management (National Government) Regulations, 2015 which states that 'The Accounting Officer of a national Government entity shall take full responsibility and ensure that proper control systems exist for assets and that (a) preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse; (b) movement and conditions of assets can be tracked.

In the circumstances, Management was in breach of the law.

558. Proposed Establishment of a Neuropsychiatric National Teaching and Referral Hospital

The summary of fixed assets register as disclosed in Annex 2 to the financial statements reflects Nil land balance. According to a letter dated 27 October 2021, The National Treasury approved the establishment of a Neuropsychiatric National Teaching and Referral Hospital at Ngong Kajiado County at a cost of Kshs.5,000,000,000 over a two-year period with an initial budget allocation of Kshs.2,500,000,000 in the year 2021/2022.

Further, an amount of Kshs.579,150,000 paid for the implementation of the project was later refunded to The National Treasury on 29 March, 2023 without explanation. In addition, it was not possible to confirm the total amount paid out and whether the refund was for the full amount earlier paid. As at 30 June, 2024, this project had not commenced contrary to Section 68(1) of the Public Finance Management Act, 2012 which states 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:— (a) lawful and authorised; and (b) effective, efficient, economical and transparent'

In the circumstances, Management was in breach of the law.

559. Procurement of the Healthcare Information Technology Digitization System

The State Department procured the Healthcare Information Technology Digitization system of Kshs.104,808,136,478. However, review of tender documents, contract agreement and financial proposal indicated the following unsatisfactory matters;

559.1 Unbudgeted Procurement

During the year under audit, the State Department initiated procurement for the provision of Healthcare Information Technology Digitization for Universal Health Care. The system was procured at a cost Kshs.104,808,136,478 through Specially Permitted Procurement Procedure but was not included in the procurement plan nor the medium-term budgetary expenditure framework. This was contrary to Section 53 (7) of the Public Procurement and Asset Disposal Act, 2015 which states that, 'multi-year procurement plans may be prepared in a format set out in the Regulations and shall be consistent with the medium-term budgetary expenditure framework for projects or contracts that go beyond one year'.

In the circumstances, Management was in breach of the law.

559.2 Uncompetitive Procurement

The system was procured through Specially Permitted Procurement Procedure pursuant to Section 114(A) (2)(d) by directly sourcing a partner at a cost of Kshs.104,808,136,478. However, this process was contrary to Article 227(1) of the Kenya Constitution 2010 which requires a fair, equitable, transparent, competitive and cost-effective ways of acquiring goods and services.

In the circumstances, Management was in breach of the law.

559.3 Undefined Scope of Works

The works involves installation of the system in public health facilities but the number of health facilities to be installed were not disclosed in the contract agreement. In addition, the contract price includes training, support and customer education costs of Kshs.7,023,810,224 but the number of healthcare workers to be trained on the system and the mode of training to arrive at the costs was not disclosed in the contract agreement. This was contrary to Section 150(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer or his or her appointed representative shall be responsible for ensuring that the goods, works and services are of the right quality and quantity.

In the circumstances, Management was in breach of the law.

559.4 Lack of Payment Arrangement Agreement

According to the financial proposal, the consortium proposed the adoption of a funding model which entails charging fees from member contributions to Social Health Authority (SHA), claims from health facilities and charges for the track and trace solution at a rate of 2.5%, 5% and 1.5% respectively for ten (10) years resulting to projected revenues of Kshs.111,019,068,754. These funds according to Clause 12.4 of the general conditions of the contract are to be transferred to an Escrow account daily or at a frequency of not less than one week.

This substantially means membership contributions to Social Health Authority and claims from health facilities have expressly guaranteed the repayment of the project. This is a material fact which entails levying fees from the public but was not supported by evidence of public participation contrary to the principles of public finance as outlined under Article 201(a) of the Constitution of Kenya 2010 which requires openness and accountability including public participation in financial matters.

In the circumstances, Management was in breach of the law.

559.5 Unfavorable Contract Clauses

Review of the contract agreement indicated the following unfavorable clauses;

i. The contract prohibits the State Department from developing another system or a product with similar functionalities to compete with the system being procured putting the Government at risk in the event of growing needs or for technological changes. Clause 16.2.5 (c) of the general conditions of the contract states that, 'The procuring entity shall ensure neither the procuring entity nor the Government health agencies nor the procuring entity authorized users shall access all or any part of the system in order to build a product or service which competes with the system or undertake similar functionalities to the system or attempt to do so'.

ii. In addition, Clause 39.1 of the contract agreement requires any dispute arising from the contract be settled by arbitration under the rules of London Court of International Arbitration. However, the procurement was conducted based on the provisions of the Public Procurement and Asset Disposal Act, 2015 and any dispute should be referred to the Public Procurement Administrative Review Board as per Section 28(1) of the Public Procurement and Asset Disposal Act 2015.

iii. Further, according to Clause 15 of the general conditions of the contract, mobile network operator company consortium will deliver the system as a service (SaaS) solution where end users will connect to the system hosted by the consortium without the need for installation or management of the software in the end users' devices. However, ownership of the system, system components and all intellectual property rights shall remain in the ownership of the consortium except for the infrastructure which is to be transferred to the procurement.

In the circumstances, value for money on the procurement of Healthcare Information Technology Digitization system at Kshs.104,808,136,478 could not be confirmed.

559.6 Project's Financing and Payment Model Risks

The following project's financing and payment model risks were identified;

i. The project is to be financed from projected revenues of Kshs.111,019,068,754 from member contributions to Social Health Authority (SHA), claims from health facilities and charges for the track and trace solution at a rate of 2.5%, 5% and 1.5% respectively. However, this model was not supported by baseline survey reports indicating the viability of this proposal to meet the payment obligations.

ii. In addition, the projected revenues include 5% to be deducted from claims made by health facilities which has the effect of increasing healthcare costs indicative of a service charge of 5% to citizens every time they access healthcare services.

iii. Further Clause 12.4 of the general conditions of the contract, requires the projected revenues be transferred to an Escrow account to be held by an escrow agent appointed by both parties. However, details on the signatories to the account were not disclosed in the contract agreement.

In the circumstances, Management was in breach of the law.

560. Non-Compliance with the One-Third Rule of Basic Salary

Review of the payroll indicated that three hundred and eighty-six (386) employees earned a net salary of less than a third (1/3) of the basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 (Revised 2012) which requires the total amount of all deductions which may be made by an employer from the wages of his employee at any one time not to exceed two-thirds of the basic pay.

In the circumstances, Management was in breach of the law.

561. Non-Compliance with Staffing of Persons with Disabilities

The statement of receipts and payments reflects compensation of employee amount of Kshs.8,367,225,596. Analysis of the muster roll revealed that the State Department had one thousand three hundred and ninety-four (1394) staff out which only thirty-two (32) or (2.3%) are persons living with disability. This was contrary to Section B.23 (1) of Human Resource Policies and Procedures Manual for the Public Service May, 2016 which states that the Persons with disability shall be accorded equal opportunities for employment provided they have the necessary qualifications and are suitable for such employment and that the Government shall implement the principle that at least five (5) percent of all appointments shall be for persons with disabilities.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

562. Inconsistencies in Vaccine Immunization Data

Review of immunization data at the Central Vaccine Store revealed inconsistencies in three vaccines (PCV, HPV and DPT) where the total administered doses of 9,641,888 exceeded the available doses of 8,440,170 by 1,201,718.

In the circumstances, the effectiveness of internal controls in the management of vaccine immunization data could not be confirmed.

563. Inadequate Transition Planning from GAVI Vaccine Support

The Government of Kenya entered the accelerated transition phase from Gavi support in January, 2022 and is expected to fully finance its vaccine needs by 1 January, 2030. However as at 30 June, 2024 there was no clear transition roadmap as the vaccines currently received as donations and other support activities provided in kind are not costed and reported. The lack of an overall cost schedule of all fixed and operational immunization activities hinders planning and decision making during the transition period.

In the circumstances, the effectiveness of the internal controls in transition from GAVI vaccine support where the Management could have a clear transition roadmap and have an overall cost schedule including purchase of vaccines, maintaining infrastructure, staffing, cold chain equipment, waste disposal and vaccines campaign programmes could not be confirmed.

DONOR FUNDED PROJECTS

EAST AFRICA'S CENTRE OF EXCELLENCE FOR SKILLS AND TERTIARY EDUCATION IN BIOMEDICAL SCIENCES-PHASE 1 (LOAN NO. 2100150031997) PROJECT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

564. Variance in Counterpart Funding

The statement of receipts and payments reflects an amount of Kshs.28,130,914 in respect to the transfer from Government entities being counterpart funding. However, review of the project's Integrated Financial Management Information System (IFMIS) vote book revealed counterpart payments of Kshs.47,233,337 resulting to unreconciled and unexplained variance of Kshs.19,102,423.

In the circumstances, the accuracy and completeness of the transfer from Government entities amounting to Kshs.28,130,914 could not be confirmed.

Emphasis of Matter

565. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget amount of Kshs.622,500,000 and actual on comparable basis amount of Kshs.231,293,062 resulting to an under-funding of Kshs.391,206,938 or 63% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

566. Undrawn Loan Balances

The funding summary under the project information and overall performance reflects lender's loan commitment amount of Kshs.3,340,000,000 over the Project life, 17 December 2014 to 31 December, 2024. However, only Kshs.2,562,607,985 had been drawn as at 30 June, 2024 resulting to an undrawn balance of Kshs.777,392,015 or 23% of the funding.

In the circumstances, the low absorption hinders the achievement of the Project's objective of focusing on public health problems including infectious diseases.

567. Undisbursed Additional Loan Financing

The funding summary under the project information and overall performance reflects an additional loan financing amount of Kshs.2,186,520,000 acquired on 5 April, 2023. However, these funds had not been disbursed by 30 June, 2024 since the project foreign currency and the local currency accounts had not been opened. This exposed the government to loan commitment charges as per Section 2.03 of the additional loan agreement which requires the borrower to pay commitment charges at a rate of 0.5% per annum of the undisbursed loan balance which accrue one hundred and twenty days after the loan agreement is signed.

In the circumstances, the delayed account opening exposed the Government to loan commitment charges which also hinders the achievement of the Project's objective.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

568. Failure to Channel Counterpart Funds to the Project Account

The statement of receipts and payments reflects an amount of Kshs.28,130,914 in respect to transfer from Government entities as disclosed in Note 1 to the financial statements. The amount relates to counterpart funds paid directly by the Ministry of Health instead of being channeled to the project implementation account. This was contrary to Paragraph 4.3.7 of the Technical Annexes to the Loan Appraisal Report of 2014 which requires transactions be paid from the Project implementation account.

In the circumstances, Management was in breach of the law.

569. Interest on Delayed Performance

The statement of receipts and payments reflects an amount of Kshs.2,287,248,682 in respect of the cumulative acquisition of non-financial assets as disclosed in Note 5 to the financial statements out of which Kshs.1,896,550,620 was incurred on the construction of East Africa Centre of Excellence. The contract was for twenty-four (24) months from 27 April, 2020 to 26 April, 2022 which was later extended for additional twenty (20) months up to 31 December, 2023. However, as at 30 June, 2024 six (6) months after the lapse of the extension period, the project remained incomplete while interest on delayed performance by the contractor was not being charged. This was contrary to Section 140 (b) of the Public Procurement and Asset Disposal Act, 2015 which states that 'the contractor shall be liable to liquidated damages for delayed performance'

In the circumstances, Management was in breach of the law.

570. Irregular Contract Variation

The statement of receipts and payments reflects acquisition of non-financial assets cumulative amount paid of Kshs.2,287,248,682 as disclosed in Note 5 to the financial statements. The amount includes Kshs.298,396,698 being the price variation for the construction of East Africa's Kidney Institute Centre of Excellence. However, the contract variation was not reviewed by a contract implementation team or an evaluation committee before approval by the Accounting Officer. This was contrary to Regulation 132 (1) and (2) of the Public Procurement and Asset Disposal Regulations, 2020. In addition, the variation amount includes Kshs.23,111,833 which was varied within one year of contract signing contrary to Section 139 (3) of the Public Procurement and Asset Disposal Act, 2015 which states that no contract price shall be varied upwards within twelve months from the date of the signing of the contract.

In the circumstances, Management was in breach of the law.

571. Delayed Project Completion

The statement of receipts and payments reflects cumulative payments on purchase of goods and services of Kshs.2,790,048,277 incurred to set up East Africa's Kidney Institute Centre of Excellence. The project was for five (5) years from 17 December, 2014 financed through a loan of Kshs.3,340,000,000 and an additional Government counterpart funding amount of Kshs.334,000,000 totalling Kshs.3,674,000,000. However, as at 30 June, 2024 four years later than the completion date, the project was incomplete despite the Government having started loan repayments and the project's benefits are yet to be realized.

In the circumstances, citizens may not have received value for money due to the delayed project implementation and the project's objective of focusing on health problems including infectious diseases may not have been realized.

572. Loan Commitment Charges

The statement of receipts and payments reflects cumulative loan received amount of Kshs.2,562,607,985 as disclosed in Note 2 to the financial statements whose agreement was signed on 17 December, 2014. According to Sections 3.03 and 3.04 of the loan agreement, the Government is required to pay commitment charges at a rate of 0.5% per annum of the undisbursed loan balance semi-annually on 1 April and 1 October every year. A trend analysis for nine (9) years from 2015/2016 financial year indicated commitment charges of Kshs.119,093,103 due to huge undisbursed balances which could have been avoided had Management adhered to the project timelines.

In the circumstances, the citizens will not enjoy value for money on the undisbursed loan balances.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

TRANSFORMING HEALTH SYSTEMS FOR UNIVERSAL CARE (THS-UC) PROJECT GRANT IDA CREDIT NO.5836 - KE, TFOA2561, TFOA2792 AND CR. P152394

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

574. Un-Surrendered Cash and Cash Equivalents

The statement of financial assets reflects nil bank balance as disclosed in Note 12.8 to the financial statements. However, the summary of County disbursements as at 30 June, 2024 provided for audit revealed cash balances of Kshs.47,883,457 held in thirty (30) counties which was not surrendered to the Project bank account. Management did not offer satisfactory explanations as to why the funds remained un-surrendered despite these projects having ended on 30 September, 2023. Analysis of the un-surrendered balances for six (6) sampled Counties revealed total balance of Kshs.3,880,935 as per certificate of bank balances while the Project's disbursement schedule reflected balance of Kshs.29,454,208 resulting to an unexplained variance of Kshs.25,573,273.

In the circumstances, the accuracy and completeness of reported nil bank balance as 30 June, 2024 could not be confirmed.

Other Matter

575. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in use of Public Resources. The matters remained unresolved as at 30 June, 2024.

Other Information

576. Unachieved Project Objectives

The financial statements under source of funds information at page vii reflects an amount of Kshs.1,340,579,715 in respect of undrawn fund balance. The amount is indicative of the unimplemented project activities as at the date of project end on 30 September, 2023. As a result, the objective of the project objective of to improving the utilization and quality of Primary Health Care (PHC) services may not have been realized.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

577. Unauthorized Expenditure

The statement of comparative budget and actual amounts reflects nil final receipts and expenditure budgets. However, the statements also l reflects actual receipts and expenditure of Kshs.25,691,553 and Kshs.314,923,413 respectively indicative of unauthorized expenditure, contrary to Section 68(2)(h) of the Public Finance Management Act, 2012 which requires an accounting officer to prepare estimates of expenditure and revenues of the entity in conformity with its strategic plan.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

578. Incomplete Fixed Asset Register and Failure to Handover Project Assets

The statement of receipts and payments and as disclosed in Note 12.6 reflects cumulative expenditure of Kshs.166,495,025 on acquisition of non-financial assets and as further reflected in Annex 3 of the summary of fixed assets register. However, the fixed asset register does not include the acquisitions made during the year amounting to Kshs.6,931,260. Further there was no handing over report for the project assets provided for audit review despite the Project having closed on 30 September, 2023.

In the circumstances, the internal controls over the management of the Project’s assets could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

579. As required by International Development Agency (IDA), I report based on my audit, that: I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, In my opinion, adequate accounting records have been kept by the Project and the Project financial statements are in agreement with the accounting records and returns.

COVID-19 HEALTH EMERGENCY RESPONSE PROJECT GRANT/CREDIT NO.6598-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

581. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,300,000,000 and Kshs.1,702,564,217 respectively resulting to under-funding of Kshs.597,435,783 or 26% of the budget.

The under-funding affected the implementation of planned Project activities which may have impacted negatively on service delivery to the public.

582. Unsettled Account Payables

Other important disclosures number 11 and 12 disclose pending accounts payable and pending staff payables of Kshs.2,257,700 and Kshs.13,255,440 respectively. The balances were not paid as at the close of the financial year. However, Management did not provide any satisfactory reasons for failure to settle the pending bills.

Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect to these matters.

Other Matter

583. Withdrawn Amounts Not Claimed

The statement of special (designated) account reconciliation as at 30 June, 2024 at annex 5 to the financial statements reflects an amount of EUR 192,080 (equivalent to Kshs.26,614,605) as withdrawn but not claimed. However, details of the withdrawal and reasons for failure to submit expenditure returns were not been provided for audit review.

Delays in submission expenditure returns distorts the reported Project expenditures for the year.

584. Unmeasurable Performance Targets

During the year under review, the Project planned to conduct various programs activities as per the strategic objectives. However, the annual financial report and financial statements submitted for audit under the statement of performance against projects predetermined objectives did not provide measurable performance indicators.

In the circumstances, the achievement of Project objectives may not be measured.

585. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal controls, Risk Management and Governance*.* However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

586. Imbalanced Project Budget

The statement of comparison of budget and actual amounts reflects final receipts budget and expenditure budget of Kshs.2,300,000,000 and Kshs.1,598,515,505 respectively resulting to a budgeted surplus of Kshs.701,484,495. This is indicative of an imbalanced budget contrary to Regulation 33(c) of the Public Finance Management (National Government) Regulations, 2015 which states that unless provided otherwise in the Act, these Regulations or any other guidelines developed in furtherance of the Act or these Regulations the budget shall be balanced.

In the circumstances, Management was in breach of the law.

587. COVID-19 Vaccine Doses

The Government of Kenya (GoK), the African Vaccine Acquisition Trust (AVAT) and the African Export-Import Bank (AFREXIMBANK) entered into a participating agreement dated 26 May, 2021 for procurement of COVID 19 Vaccines. The agreement required GoK to procure a minimum of ten million vaccine doses at a unit price of ten United States Dollar. Subsequently, the GoK through the Ministry of Health placed an order of 13,333,333 COVID 19 vaccine doses valued at USD 57,680,044 comprising of vaccine and AVAT costs. However, delivery was only made for 1,804,800 vaccine doses with the balance of 11,528,533 pending delivery.

From review of available Project documents and discussion with management, the following unsatisfactory matters were noted:

587.1 Unutilized Vaccine Doses

According to Ministry of Health (MOH) letter Ref. MOH/ADM/1/1/2 dated 19 August, 2024, 1,804,800 doses of COVID 19 vaccines had been delivered and a further, 2,721,600 doses had been manufactured but not shipped. The unshipped component was indicated as no longer needed and were due for destruction. Discussions with management revealed that approval by Cabinet was being awaited to destroy the vaccine doses not shipped as at the time of concluding the audit.

587.2 Accrued Interest on Unshipped Vaccines

A letter dated 10 June, 2024 from AVAT to the Republic of Kenya through the MOH indicates an amount of USD 64,880,637 as due on account of the 13,333,333 vaccine doses comprising of vaccine cost of USD 57,680,044 and accrued interest amounting to USD 7,199,993 (equivalent to Kshs.930,599,071) being payments made to the vaccine manufacturer for vaccines that were made available for delivery as per the terms of the contract. Although GoK has engaged with AFREXIMBANK in an attempt to have the interest waived the Bank had not acceded to this request as at the time of the audit.

From the foregoing, value may not have been realized from the agreement for the supply of COVID 19 doses while the Government is at risk of accruing further interest with the continued delays in settlement of the accounts.

588. Compliance with Loan Guidelines on Disbursement of Loan/GOK Transfers

588.1 Undrawn Loan Balances for COVID-19 Vaccines

The Government of Kenya committed to purchasing a minimum of 10 million doses of Covid-19 vaccine through the African Vaccine Acquisition Trust (AVAT). However, only 1,804,800 doses at a cost of Kshs.1,509,952,257 (USD 13,536,000) had been delivered to date.

In addition, the statement of account from AVAT dated May, 2024 indicated that Kenya had an outstanding obligation of USD 64,880,036.82 or Kshs.8,385,744,758 equivalent inclusive of accrued interest of USD 7,199,993 or Kshs.930,599,095 equivalent for doses that were manufactured as per the contract agreement but not requisitioned.

In the circumstances, the Project will incur expenditure for doses not received.

588.2 Interest on Undrawn Balance

Review of the source of funds on additional financing II donor commitment revealed an amount of Kshs.18,674,811,830 out of which Kshs.800,311,701 had been drawn resulting to undrawn balance of Kshs.17,874,500,129 or 96% of donor commitment. This undrawn balance continues to attract a commitment fee at the rate of 0.5% per annum which is equivalent to Kshs.89,372,500 per year. This was contrary to Regulations 193 and 194 (m), of the Regulations, 2015, which states that, it is the objective of the Public Debt Management Office (PDMO) to ensure that the Government's financial needs and its payments are met at the lowest possible cost with a prudent degree of risk.

In the circumstances, Management was in breach of the law and unnecessary commitment fee at a rate of 0.5% per annum may be incurred.

588.3 Failure to Remit Counterpart Funding

Review of the source of funds breakdown revealed that the project did not receive counterpart funding amount of Kshs.100,000,000 from the Government of Kenya. This was contrary to Regulation 83 (1) and (2b) of the Public Finance Management (National Government) Regulations, 2015 which states that The National Treasury shall be responsible for establishing sound cash management systems, procedures and processes, to ensure efficient and effective banking and cash management practices. This includes ensuring payments, including transfers to other levels of government and National Government entities are made when due for efficient, effective and economical programme delivery and the national government's normal terms for the account.

In the circumstances, the government did not meet part of their contractual obligation by failing to remit the counterpart funding to the Project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

Conclusion

590. As required by International Development Agency (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND - TO CONTRIBUTE TO ACHIEVING VISION 2030 THROUGH UNIVERSAL ACCESS TO COMPREHENSIVE HIV PREVENTION, TREATMENT AND CARE PROGRAM- KEN-H-TNT NO. 2065

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

592. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis amount of Kshs.1,198,818,219 and Kshs.767,331,132 respectively resulting to underfunding of Kshs.541,866,626 or 45% of the budget.

The underfunding may have affected the planned activities thereby impacting negatively on service delivery to the public.

593. Pending Accounts Payable

Annex 4a on analysis of pending bills reflects a balance of Kshs.12,186,464 being outstanding pending bills at the closure of the financial year. This was contrary to Section 53(8) of the Public Procurement and Asset Disposal Act, 2015 which requires an accounting officer not to commence any procurement proceedings until satisfied that sufficient funds to meet the obligations of the resulting contract(s) are reflected in approved budget estimates and are available.

Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of these matters.

Other Matter

594. Unexplained Amount Withdrawn but not Claimed

The statement of Special (Designated) Credit No. GA 1547 account reconciliation reflects withdrawn and not claimed amount of USD 5,322,080 as at 30 June, 2024. However, the details of this amount and reasons for failure to submit expenditure returns have not been provided for audit review.

In the circumstances, the objective of contributing to achieving vision 2030 through universal access to comprehensive HIV prevention, treatment and care may not be realized.

595. Unutilized Project Funds

The source of funds under the funding summary indicates that the project had undrawn funds of Kshs.167,268,070 as at 30 June, 2024 which is the project close date. This indicates that the project was not able to achieve the objectives of reducing new HIV, STI and viral hepatitis infections, reducing morbidity and mortality due to HIV, scaling up treatment of STIs and HCV and increasing access to ART treatment as planned.

In the circumstances, the project did not achieve the objectives of reducing new HIV, STI and viral hepatitis infections, reducing morbidity and mortality due to HIV, scaling up treatment of STIs and HCV and increasing access to ART treatment.

596. Missed Performance Targets

Review of the project performance indicated that the project planned to perform 97,220 medical male circumcisions during the year under review. However, the project only achieved 65,550 resulting to an unachieved target of 31,670 or 33%.

In the circumstances, the strategic objective to reduce new HIV, STI and Viral Hepatitis infections through increased access to testing for HIV, syphilis and viral hepatitis targeting key populations may not be attained.

597. Unresolved Prior Year Matters- Long Outstanding Imprest and Advances

As reported previously, the statement of financial assets reflects imprests and advances amount of Kshs.330,000 as disclosed in Note 6 to the financial statements which relates to an imprest advanced in 2018. This was contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015, which states that a holder of temporary imprests shall account or surrender the imprest within seven working days after returning to duty station.

Although Management indicated that the matter was resolved, there was no evidence provided in support for audit review.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

598. 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

599. Lack of an Asset Register

During the year under review, Management did not provide a fixed asset register despite owning furniture and equipment, computers, fixtures and software which were tagged but not recorded in the asset register.

In the circumstances, the effectiveness of internal controls on maintenance of the fixed assets register could not be confirmed.

600. Failure to Perform Internal Audits

During the year under review, there was no evidence of performing internal audits on the Project since no internal audit reports were provided for audit.

In the circumstances, the effectiveness of reviewing the governance mechanisms of the project to provide assurance that appropriate institutional policies and procedures could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

601. As required by Global Fund, I report based on my audit, that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project, and the Project's financial statements are in agreement with the accounting records and returns.

DANIDA PRIMARY HEALTHCARE (PHC) SUPPORT PROGRAM

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

603. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.768,675,000 and Kshs.471,579,000 respectively resulting to an under-funding of Kshs.297,096,000 or 39% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

604. Undrawn Grant Funds by Counties

The statement of receipts and payments reflects an amount of Kshs.440,979,000 in respect to transfers to other Government entities as disclosed in Note 3 to the financial statements, being transfers to the expected forty-seven (47) Counties. Analysis of DANIDA Primary Healthcare statements provided for audit revealed that the funds were transferred to thirty-six (36) Counties while eleven (11) Counties missed out due to non-compliance with funding requirements. However, the Government Additional Allocations Act, 2024 had allocated Kshs.577,500,000 for all the forty-seven (47) Counties resulting to an under disbursement of Kshs.136,521,000.

In the circumstances, Program activities were not implemented in the eleven (11) Counties that did not meet the funding requirements resulting in denial of essential primary healthcare services to the public.

My opinion is not modified in respect of these matters.

Other Matter

605. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

606. Failure to Prepare and Submit County Financial Statements

The statement of receipts and payments reflects an amount of Kshs.1,661,838,015 in respect to DANIDA funds paid to the thirty-six (36) out of forty-seven (47) Counties from inception in January, 2021 to date and as disclosed in Note 4 to the financial statements. However, the respective forty-seven (47) Counties financial reports on the utilization of the funds were not prepared and submitted to the Auditor-General for audit. This was contrary to Section 8.3 of DANIDA Development Engagement Document (DED) on Bilateral Development Cooperation under Denmark's Strategic Framework for Kenya - January, 2021 - December, 2025, which states that the accounting and auditing of the DANIDA funds is to be undertaken by the Office of the Auditor-General and annual audit reports issued for each individual County, for the conditional grant support. Danish Embassy should timely receive copies of the forty-seven (47) signed annual audit reports from the Office of the Auditor-General.

In the circumstances, Management was in breach of the law while value for money from the transfers to the Counties could not be confirmed.

607. Delays in Transfer of Funds

The statement of receipts and payments reflects an amount of Kshs.440,979,000 in respect to transfers to other Government entities as disclosed in Note 3 to the financial statements. The amount of Kshs.440,979,000 transfers to thirty-six (36) out of forty-seven (47) Counties. Analysis of DANIDA Primary Healthcare special purpose account statements from the Counties revealed that the funds were transferred on 21 June, 2024 being nine (9) days to the closure of the financial year. Further, an amount of Kshs.7,738,500 for Isiolo County was erroneously transferred to the recurrent account instead of the County revenue fund account. In addition, as at the time of this audit in August, 2024 eight (8) Counties had not transferred grant amounting to Kshs.87,609,750 to their special purpose accounts. Further, six (6) Counties did not transfer the grants amounting to Kshs.45,248,463 to health facilities for period ranging from fifty-two (52) days to sixty (60) days after receipt. In addition, three (3) Counties did not submit their special purpose account statements for audit.

The delays were contrary to Section 8.1 of the DANIDA Development Engagement Document under Denmark's framework agreement for Kenya which requires that grant funds disbursed to various County Revenue Funds be channeled without delay to County Special Purpose Accounts for Health and eventually to the recipient health facilities' commercial banks accounts within twenty-five (25) days with all transactions being done through IFMIS.

In the circumstances, Management was in breach of the law.

608. Non-Adherence to Bilateral Agreement Budget Timelines

Review of the approved DANIDA Primary Healthcare Support Program annual workplan and budget for the year 2023/2024 revealed that the Ministry of Health submitted it to the Royal Danish Embassy on 6 November, 2023. This was contrary to Section 5(1) on Implementation Arrangements and Approach of the Bilateral Agreement between the Danish Ministry of Foreign Affairs and The National Treasury of the Government of Kenya on development cooperation concerning the DANIDA Primary HealthCare Support Program signed on 14 December, 2020 which states that the Ministry of Health shall submit their annual workplan and budget for Denmark's grant support to the Danish Embassy for approval by 01 June every year.

In the circumstances, Management was in breach of the law.

609. Non-Compliance with Co-Financing Requirements

The statement of receipts and payments reflects an amount of Kshs.440,979,000 in respect to transfers to other Government entities as disclosed in Note 4 to the financial statements being transfers to thirty-six (36) out of forty-seven (47) Counties. During the 2023/2024 financial year, the Counties were required to provide counterpart funding of Kshs.450,000,000 or 50% to support outreach, operation and maintenance activities. However, twelve (12) Counties did not contribute counterpart funding totalling Kshs.102,671,124.

In the circumstances, the failure to contribute counterpart funding obligation affects the sustainability efforts of the project and value for money on the public primary healthcare.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

610. Control Weaknesses at the Healthcare Facilities

Physical verification of seventeen (17) healthcare facilities in three (3) Counties (Laikipia, Murang'a and Isiolo) sampled revealed various internal control weakness such as inadequate financial accountability: uncontracted casual worker accumulated casual wages, non-compliance with statutory worker benefits deduction and remittance, missing bank reconciliations, discrepancies in fund utilization, breach of procurement regulations and unused funds that hindered program implementation. Further, there were operational inefficiencies that were compounded by infrastructure issues like lack of electricity, poor ICT access, geographical barriers and security concerns.

In the circumstances, the effectiveness of internal controls over the utilization of DANIDA Primary Healthcare funds could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

611. As required by International Development Agency (IDA), I report based on my audit, that: I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, In my opinion, adequate accounting records have been kept by the Project and the Project financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER STATE DEPARTMENT FOR MEDICAL SERVICES

KENYA HEALTH SECTOR PROGRAMME SUPPORT III (DANIDA REF.104.KENYA.810.300-GRANT) – COUNTY GOVERNMENT OF KISII

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

612. Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.6,515,094. However, review of the cash book, bank statements and bank balance certificate revealed that Management did not prepare monthly bank reconciliation statements and board of survey reports for the fifty (50) bank accounts were not provided for audit. In addition, there were variances noted between the cash book and bank confirmation certificates balances as at 30 June, 2024 in respect of forty-seven (47) bank accounts out of the fifty bank accounts totalling Kshs.87,508.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.6,515,094 could not be confirmed.

613. Unexplained DANIDA Budget Amount

The statement of comparison of budget and actual amounts reflects DANIDA budget amount of Kshs.29,473,875, while the funding summary at page vii indicates DANIDA support for the year 2023/2024 of Kshs.14,206,500, resulting to a variance of Kshs.15,267,375. Management has explained, without providing supporting evidence, that the variance represents previous year’s balance that was in the County Revenue Fund (CRF) on 3 July, 2023.

In the circumstances, the accuracy and fair statement of the DANIDA budget amount of Kshs.29,473,875 could not be confirmed.

Emphasis of Matter

614. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis amounts of Kshs.131,759,686 and Kshs.40,442,053 respectively, resulting to an under-funding of Kshs.91,317,633 or 69% of the budget. Similarly, the Programme spent Kshs.33,926,959 against actual receipts of Kshs.40,442,053 resulting to an under-utilization of Kshs.6,515,049 or 16% of the actual receipts.

In the circumstances, the under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

Other Matter

615. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2024. Management did not provide satisfactory reasons for the delay in resolving all the prior year audit issues. In addition, for the items indicated as resolved, the reference number to the external audit report and actual date of resolution of the audit issues had not been indicated as per the approved template by the Public Sector Accounting Standards Board (PSASB).

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

616. Late Submission of Financial Statements

The Financial statements for financial year ended 30 June, 2024 were submitted on 2 October, 2024 which was three months and two days after the end of the financial year. This was contrary to Section 149(2)(K) of the Public Finance Management Act, 2012 which provides that an Accounting Officer shall, in respect of the entity concerned, not later than three months after the end of each financial year, prepare annual financial statements for that financial year and submit them to the Auditor-General for audit, with a copy to the County Treasury.

In the circumstances, Management was in breach of the law.

617. Delay in Disbursement of Programme's Funds from County Revenue Fund

Review of the documents provided revealed that Kshs.14,206,500 donor commitments to the project reached the County Revenue Fund on 21 June, 2024 as grants for the implementation of the planned programme for the financial year 2023/2024. However, at the time of audit on 12 October, 2024, the funds were still being held in the designated special purpose account and had not been released to the health facilities. This was contrary to the Memorandum of Understanding (MoU) between Royal Danish Embassy and Ministry of Health, Council of Governors and County Governments, which requires that such funds should be transferred to the health care facilities within twenty-five (25) days.

In the circumstances, the objectives of the programme may not be realized within the planned time frame while Management was in breach of the MoU.

618. Non-Compliance with the Legal Minimum Wages

The statement of receipts and payments reflects compensation of employees amount of Kshs.21,299,876 which, as disclosed in Note 3 to the financial statements, comprises basic wages of temporary employees of Kshs.20,241,800 and compulsory national social security scheme amount of Kshs.1,058,076. The amounts relate to payments to casual workers engaged in the various health facilities during the year under review. Documents provided for audit revealed that the employees were assigned either cleaning, data clerk or security roles at an average pay ranging from Kshs.3,000 to Kshs.6,000 per month which varied in different facilities. However, the wages paid were contrary to Gazette Supplement No.114 and Legal Notice No.125 on the Regulation of Wages Order, 2022 which set minimum wages for cleaners and watchmen at Kshs.9,673 per month.

Further, review of documents provided revealed the following anomalies:

i. The contracts provided did not contain any role to be performed by the employee and the terms of engagement.

ii. There was no uniformity of pay despite casuals working in the same conditions under same the policies.

iii. Requisition for the casuals and subsequent approvals were not provided for audit, an indicator that specific needs were not identified before the engagement of the casuals.

iv. Employee records including master rolls were not well maintained for all the health facilities engaging the casuals.

v. It was further noted that the Kshs.21,151,536 spent on compensation of employees was paid in cash, which is prone to abuse. Management did not provide satisfactory explanations on why the payments could not be processed through banks.

In the circumstances, Management was in breach of the law while internal controls over wages were not effective.

619. Unclaimed Reimbursements from National Hospital Insurance Fund

The statement of receipts and payments reflects proceeds from domestic and foreign grants amount of Kshs.30,647,492 which, as disclosed in Note 1 to the financial statements, includes Kshs.4,136,617 relating to claim proceeds from NHIF. However, Management did not provide updated information on amount claimed by each facility and outstanding pending claim from NHIF by each facility. Further, out of the one hundred and thirty-four (134) health facilities in Kisii County, only six (6) disclosed their outstanding NHIF claims amounting to Kshs.855,950**.** In addition**,** Management did not demonstrate any action plan to claim the amounts from NHIF.

Failure to claim the NHIF funds may have adversely affected delivery of primary health services to the public.

620. Non-Compliance with National Treasury Circular on Asset Management

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.183,540 which is analysed in Note 5 to the financial statements. Note 5 also reflects Kshs.205,817 for 2022-2023 and Kshs.6,763,288 cumulative to date. However, Management did not provide an asset register where the balances could be confirmed.

In the circumstances, the accuracy of the reported cumulative assets value of Kshs.6,763,288 acquired during the programme period could not be confirmed.

621. Error in Project Funding Summary

The Project funding summary indicates that the Project was renewed for a duration of 5 years from 2020 to 2027 instead of seven (7) years which was erroneous. This was contrary to Regulation 42(1)(a) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that an Accounting Officer shall sign financial statements thereby making himself or herself responsible for their correctness.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

A CASE STUDY ON INTEGRATED DELIVERY OF SELECTED NON-COMMUNICABLE DISEASES IN KENYA (PHGF GRANT NO. TFOA5636) - MOI TEACHING AND REFERRAL HOSPITAL

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

624. Pending Staff Payables

Annex 4(b) to the financial statements disclosed pending bills amounting to Kshs.2,318,966 being unpaid monthly salaries for the project staff for a period of six (6) months from August, 2021 to February, 2022. As at the time of conducting the audit in September, 2024, the bills had been pending for over twenty-six (26) months contrary to Section 18(2) of the Employment Act, 2007: The project management risks making nugatory payments arising from legal suits from employees for non-payment of their legally earned salaries and wages. In addition, non-payment or delayed payment of staff salaries and wages may damage the reputation of the Hospital and erode public trust in the Hospital.

My opinion is not modified in respect of this matter.

Other Matter

625. Unresolved Prior Year Matters

In the audit report of the previous year, two (2) paragraphs were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. However, the issues remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

626. Undisbursed Project Grants

As previously reported, The Project was for a duration of four (4) years from 28 February, 2018 to 31 January, 2022 with an approved budget of USD 2,500,000 equivalent to Kshs.267,389,977 using an average rate of USD 1/Kshs.106.956.

Review of records indicate that as at the completion of the Project on 31 January, 2022, the World Bank (IDA) had disbursed the total amount of USD 2,500,000 (approximately Kshs.267,389,977) and the same had been deposited in the Project's Special Deposit Account at the Central Bank of Kenya. However, the total amount disbursed to the Project was USD 2,478,225 (approximately Kshs.265,061,011) leaving a balance of USD 21,669.40 (approx. Kshs.2,816,970) that is yet to be disbursed to the Project.

Review of correspondences indicate that World Bank, through its, Kenya Country Office wrote an unreferenced letter to the Management of the Project on 18 January, 2024 acknowledging the closure of the project. In the letter, the Bank sought confirmation from the Project Management to report on whether the balance of USD 21,669.40 was disbursed to the projects. However, based on the reported balance in the bank accounts as reported on Note 11.1 of the financial statements, the amount is yet to be disbursed.

The continued withholding of the balance amounting Kshs.2,816,970 (USD 21,699.40) may have impeded the Project's ability to discharge its obligations.

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

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

Conclusion

628. As required by International Bank for Reconstruction and Development/International Development Association, I report based on my audit that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND HIV/AIDS PROJECT GRANT NUMBER KEN-H-TNT-2065 - NATIONAL SYNDEMIC DISEASES CONTROL COUNCIL

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

630. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget amount of Kshs.903,628,469 and actual on a comparable basis of Kshs.751,642,520 resulting to underfunding of Kshs.151,985,949 or 17%. Similarly, the Project had a final expenditure budget of Kshs.903,628,469 and actual on a comparative basis of Kshs.737,504,523 resulting to an under-absorption of Kshs.166,123,946 or 18%.

Failure to receive full funding may negatively impact on the strategic goals which may not be realized.

631. Pending Accounts Payable

Note 10 to the financial statements on other important disclosure reflects an amount of Kshs.24,505,994 relating to pending account payables that was outstanding as at the closure of the financial year.

Failure to settle bills distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

632. Challenges in the Project Implementation

The statement of receipts and payment reflects cumulative receipts since the Project inception of Kshs.1,117,888,330. However, during the year under review, the project experienced challenges including delays in approval for the reprogramming of the COVID-19 response mechanism (C19RM) funds thus slowing down related program activities and significant delays between the requisition and the actual receipt of funds from The National Treasury. Further, it was noted that the project received funds from The National Treasury via the Ministry of Health which had impacted negatively on the timely implementation of the project's planned activities.

In the circumstances, the funds approval and reprogramming may have delayed on the implementation of project activities.

My opinion is not modified in respect of these matters.

Other Matter

633. Unexplained Withdrawal not Claimed

The statement of special (designated) credit no 69600-account reconciliation reflects the amount withdrawn and not claimed of Kshs.580,437,867 (USD 5,322,080) as at 30 June, 2024. However, the details of this amount and reasons for failure to submit expenditure returns have not been provided for audit review. Further, the funding summary indicated that an amount of Kshs.324,907,572 was reprogrammed by The National Treasury to procure health commodities but there was no evidence of no objection having been sought from the donor to support the reprogrammed activities. As a result, it was not possible to confirm if the commodities procured were in line with the approved program activities and its contribution to achieving vision 2030 through universal access to comprehensive HIV prevention, treatment and care objectives.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

636. As required by Global Fund, I report based on my audit, that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR PUBLIC HEALTH AND PROFESSIONAL STANDARDS – VOTE 1083

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

637. Unconfirmed Port Health Revenue

The statement of receipts and payments reflects proceeds from the sale of assets of Kshs.6,846,581,892 as disclosed in Note 3 to the financial statements. The proceeds include an amount of Kshs.167,962,200 relating to revenue from Port Health Services. An amount of Kshs.42,554,200 was collected using manual receipt books and banked. However, the bank statements and cash books were not provided for audit hence it could not be confirmed whether the amount collected was banked.

In the circumstances, the accuracy and completeness of revenue from Port Health Services amount of Kshs.167,962,200 could not be confirmed.

638. Unconfirmed Employee Costs

The statement of receipts and payments reflects compensation of employees amounting to Kshs.6,127,432,989 as disclosed in Note 5 to the financial statements. However, tthe payroll for September, 2023 was not provided for audit review.

In the circumstances, the accuracy and completeness of employee costs amount of Kshs.6,127,432,989 could not be confirmed.

639. Overstated Exchequer Releases

The statement of receipts and payments reflects transfers from The National Treasury of Kshs.17,707,224,089 as disclosed in Note 1 to the financial statements. However, the Integrated Financial Management Information System (IFMIS) data reflects an amount of Kshs.17,261,528,886 resulting in an unexplained variance of Kshs.445,695,202. This could be indicative of non-adherence to cutoff procedures where exchequer releases made after year end are recorded in the period under review.

In the circumstances, the accuracy and completeness of transfer from The National Treasury amount of Kshs.17,707,224,089 could not be confirmed.

Emphasis of Matter

640. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.30,213,788,118 and Kshs.26,253,842,862 resulting to under-funding of Kshs.3,959,945,256 or 13% of the budget. Similarly, the State Department spent an amount of Kshs.25,631,997,817 of the actual receipts of

Kshs.26,253,842,862 resulting to an under-utilization of Kshs.621,845,045 or 2.4% of the realized budget.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

641. Pending Accounts Payables

Note 15.2 to the financial statements on pending accounts payables and as disclosed in Annex 1 discloses pending bills of Kshs.86,026,360 that was outstanding as at the end of the year. The pending bills include a balance of Kshs.14,512,600 for the financial year 2022/2023 that had remained unsettled. Management did not explain the failure to settle the bills despite the requirement of it forming the first charge in the subsequent period budget.

Failure to settle bills during the year to which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of these matters.

Other Matter

642. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

643. Non-Compliance with the Climate Change Regulations

The National Climate Change Action Plan (NCCAP) III 2023-2024 and the Climate Change Act, 2016 on delivery action plan require the State Department and National Public entities to work through their climate change units to integrate NCCAP 2023–2027 into strategies and implementation plans, and to report to the National Climate Change Council on an annual basis on performance and implementation. There was no evidence of the State Department having reported annually to the Council on the status and progress of performance and implementation on climate change.

In the circumstances, Management was in breach of the law.

644. Non-Adherence to Fiscal Responsibility Principle on Employee Compensation

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects compensation of employees of Kshs.6,127,432,989. This amount exceeded the set threshold of thirty-five (35) percent of the total revenue and expenditure budget of Kshs.8,128,580,506 by Kshs.3,282,429,812 or 40% of the total revenue. This was contrary to Regulations 26 (1a) of the Public Finance Management (National Government) Regulations, 2015 which states that the national government's expenditure on the compensation of employees (including benefits and allowances) shall not exceed thirty-five (35) percent of the national government's equitable share of the revenue raised nationally plus other revenues generated by the national government pursuant to Article 209 (4) of the Constitution.

In the circumstances, Management was in breach of the law.

645. Staff Earning Less Than a Third of Basic Salary

Review of the payroll for the month of June 2024, revealed that fifty-nine (59) employees earned less than a third of their basic salary**.** This was contrary to Section 19 (3) of the Employment Act, 2007 (Revised 2012) which states 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 which under the provisions of subsection (1), may be made by an employer from the wages of his employee 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.

In the circumstances, Management was in breach of the law.

646. Delays in Project Implementation

Note 15.2 to the financial statements on pending accounts payables and as disclosed in Annex 1 discloses pending bills of Kshs.86,026,360. The balance includes an amount of Kshs.8,154,368 in relation to the contract for the construction of microwave medical waste housing of Kshs.29,077,375. The contract was signed on 24 October, 2023 with a contract duration of twenty-four (24) weeks to 13 August, 2024. Further, a that no cost contract extension was awarded on 12 August, 2024 for a period of three months to 14 November, 2024. However, physical inspection and review of the project file on 18 October, 2024 revealed that works were approximately at 40% completion and the contractor was not on site.

In the circumstances, the Project objectives may not have been met and the targeted citizens may not benefit.

647. Non-Adherence to Fiscal Responsibility Principle on Development Expenditure

The statement of comparison of budget and actual amounts combined reflects actual recurrent and actual development expenditure of Kshs.7,721,452,792 and Kshs.1,000,001 respectively resulting in recurrent expenditure of 99.99% of the total expenditure. This was contrary to Regulation 26(1)(f) of the Public Finance Management (National Government) Regulations, 2015 which states that pursuant to Section 15(5) of the Act, the national government expenditure on development shall be at least thirty percent in line with the requirement under Section 15(2)(a) of the Act,

In the circumstances, Management was in breach of the law.

648. Non-Compliance with the National Values and Principles of Governance

Circular Number OP/CAB.1/31 dated 13 March, 2024, the values and principles of the Public Service require the State Departments to authenticate academic and professional certificates of employees in the staff establishments and the reports filed with the Public Service Commission by 30 September, 2024 with a copy to the Executive Office of the President and to develop the Fifth Generation Strategic Plan and align it to the Bottom-Up Economic Transformation Agenda (BETA) by 30 June, 2024. However, the State Department has not demonstrated process towards alignment to the directives as per the circular.

649. Missed Performance Targets

The State Department had four performance programs of preventive and promotive health services, health resource development and innovation, health policy standards and regulations and general administration with various strategic objectives. However, the department did not achieve its targets for the year.

In the circumstances, the non-achievement of the set targets for the year may have impacted on the service delivery to the members of the public.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

650. Understaffing of the Department

During the year under review, the State Department had an approved staff establishment of six hundred and sixty-three (663) staff. However, only one hundred and eighty-eight (188) were in post resulting to an understaffing of four hundred and seventy-three (473) positions.

In the circumstances, the effectiveness of service delivery of the State Department with the existing staff deficits could not be confirmed.

651. Lack of Training Needs Assessment

Note 6 to the financial statements discloses training expenses of Kshs.125,063,755. However, these trainings were conducted without a Training Needs Assessment being undertaken to identify the performance gaps and inform the training programmes.

In the circumstances, the effectiveness of the training undertaken during the year could not be confirmed.

652. Incomplete Assets Register

Annex 2 to the financial statements reflects a balance of Kshs.87,792,919 under a summary of fixed assets. However, the values of fourteen (14) motor vehicles were indicated as N/A, the serial numbers of the duplex digital telephone headsets under ICT equipment were not indicated and the total amount in each category was not disclosed the fixed assets register.

In the circumstances, the effectiveness of the internal controls on fixed assets could not be confirmed.

DONOR FUNDED PROJECTS

SUPPORT OF THE HEALTH CARE FINANCING STRATEGY - REPRODUCTIVE HEALTH - OUTPUT BASED APPROACH PROJECT (CREDIT BMZ NO. KENYA 201065853)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

654. Lack of Financing Plan for Payables

The statement of financial assets and liabilities reflects a bank balance of Kshs.1,000,219 as disclosed in Note 11A to the financial statements. As previously reported, the pending accounts payable balance of Kshs.4,436,435 as disclosed in other important disclosures would not be fully settled by the current bank balance. The financing of the resultant deficit of Kshs.3,436,216 was not explained. In addition, other important disclosures reflect court cases with estimated contingent liabilities of Kshs.10,188,233 (reduced to Kshs.4,432,141 on mutual agreement) for which its financing was also not explained.

In the circumstances, the financing of pending accounts payable balance of Kshs.4,436,435 and estimated claims arising from the court cases of Kshs.10,188,233 could not be confirmed.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

655. Failure to Close Project

The Project Financing Agreement indicates Project end date of 31 January, 2017 However, the Project has not been closed. During the year under review, the Project incurred avoidable bank charges of Kshs.32,489. Management has not provided explanation for the continued delays to close the Project and the related bank accounts.

In the circumstances, Management was in breach of the law and the Project continues to incur avoidable bank charges.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

657. As required by KfW (German Development Bank), I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND - TO REDUCE MALARIA INCIDENCE AND DEATHS BY AT LEAST 75 PERCENT OF THE 2016 LEVELS BY 2023 WORKING TOWARDS A MALARIA- FREE KENYA - KEN-M-TNT NO.2064

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

658. Unsupported Compensation of Employees

The statement of receipts and payments reflects compensation of employees amount of Kshs.19,512,954 and as disclosed under Note 4 to the financial statements. However, the ledger provided in support amounted to Kshs.19,336,714 resulting to unexplained variance of Kshs.176,240. Further, the individual employee personal files and employee contracts were not provided for audit verification.

In the circumstances, the accuracy and completeness of the above amounts on compensation of employees of Kshs.19,512,954 could not be confirmed.

659. Misclassified Training Expenses

The statement of receipts and payments reflects an amount of Kshs.1,303,384,464 in respect to purchase of goods and services as disclosed in Note 5 to the financial statements. This amount includes domestic travel and subsistence amount of Kshs.851,260,739 out of which Kshs.126,582,250 relates to training costs misclassified as domestic travel.

In the circumstances, the accuracy and completeness of domestic travel and subsistence amount of Kshs.851,260,739 could not be confirmed.

Emphasis of Matter

660. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,925,000,000 and Kshs.1,518,703,608 respectively resulting to under-funding of Kshs.406,296,392 or 21% of the budget. Further, the supplementary budget reduced the Government of Kenya counterpart funding from Kshs.1,100,000,000 to Kshs.420,000,000 which was then transferred to Kenya Medical Supplies Agency (KEMSA) to partly pay pending bills amount of Kshs.542,261,440 resulting an unpaid balance of Kshs.122,261,440 to be funded subsequent budget appropriations from the donor.

The under-funding affected the implementation of Project activities which may have negatively impacted on the service delivery to the citizens.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

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

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

663. As required by Global Fund, I report based on my audit that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND TUBERCULOSIS GRANT CREDIT NO. KEN-T-TNT-2067

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

664. Unsupported Training Services Expenditure

The statement of receipts and payments and Note 4 to the financial statements reflects purchase of goods and services which includes training expenses amount of Kshs.110,237,974. However, review of the payment vouchers amounting to Kshs.56,677,070 revealed unsupported transport costs amounting to Kshs.2,817,000.

In the circumstances, the accuracy and completeness of the training expenses amounting to Kshs.2,817,000 could not be confirmed.

Emphasis of Matter

665. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final expenditure budget and actual on comparable basis of Kshs.562,125,746 and Kshs.395,545,163 respectively, resulting to an under-expenditure of Kshs.166,580,583 or 30% of the budget.

The under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

666. Undrawn Balance

Review of source of funds under project information and overall performance of the financial statements revealed that the project had an approved budget of Kshs.1,505,627,819 being funding for the period of three (3) years from 1 July, 2021 to 30 June, 2024. However, as at 30 June, 2024 and the end of the Project, only Kshs.1,398,855,114 was drawn leaving Kshs.112,123,430 undrawn.

Further, out of the drawn amount of Kshs.1,398,855,114, the cumulative Project expenditure as at 30 June, 2024 amounted to Kshs.1,338,607,305 resulting to an unexplained underutilization of Kshs.60,247,809.

In the circumstances, the Project may not have achieved its planned objectives.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

667. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

669. As required by Global Fund, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

RESILIENT SUSTAINABLE SYSTEMS FOR HEALTH (RSSH) KEN-T-TNT 2067 SUB-RECIPIENT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

671. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.355,161,619 and Kshs.194,870,378 respectively, resulting to an under-funding of Kshs.160,291,241 or 45% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

672. Failure to Settle Pending Bills

Annex 4a to the financial statements reflects other pending payables balance of Kshs.13,728,020. The bills were carried forward to financial year 2024/2025 and Management attributed the non-settlement to insufficient exchequer issues.

Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

Other Matter

673. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues nor given any explanation for the failure to implement the recommendations.

Other Information

674. Under Absorption of Project Funds

Review of the project information and overall performance under paragraph 2.7A on source of funds revealed donor commitment of Kshs.1,073,372,973 or USD 9,920,388 for three (3) years from 2021/2022 to 2023/2024. However, only Kshs.592,515,741 or USD 5,476,182 was received resulting to undrawn balance of Kshs.480,857,232 or 45% of the funding. Management attributed the low absorption to some commitments retained at The National Treasury for procurement of equipment and commodities which was not supported by documentary evidence.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

675. Failure to Open Special Deposit Account

Global Fund entered into grant agreement KEN-T-TNT 2067 on 14 June, 2021 with implementation period of 01 July, 2021 to 30 June, 2024 at USD 42,675,832. However, as previously reported, the project does not have an account opened and maintained at Central Bank of Kenya for purposes of disbursement of funds under the Grant Name and Number (KEN-T-TNT 2067). This was contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which requires that for the purpose of disbursement of Project Funds, there shall be opened and maintained a project account for every project at Central Bank of Kenya unless it is exempted by the Cabinet Secretary, in writing.

In the circumstances, Management was in breach of the law.

676. Lack of Sub-Recipient Agreement

Global Fund entered into grant agreement KEN-T-TNT 2067 on 14 June, 2021 with implementation period from 01 July, 2021 to 30 June, 2024 at USD 42,675,832. However, only an agreement with The National Treasury being the Principal Recipient was provided for audit while that of Ministry of Health being Sub Recipient was not provided for audit. This was contrary to Regulation 4.3 (2) of the Global Fund Grant Regulations, 2014 which requires the Principal Recipient to enter into a written agreement with each sub-recipient creating obligations of the sub-recipient to the Principal Recipient that are generally equivalent to those of the Principal Recipient under the relevant Grant Agreement.

In the circumstances, Management was in breach of the law.

677. Unapproved Airtime Allowance Rates

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.325,070,085 as disclosed in Note 3 to the financial statements. The amount includes other operating expenses of Kshs.32,018,106 out of which Kshs.2,677,000 relates to payments for procurement of airtime cards distributed to twenty-six (26) Health Information System staff and fourteen (14) project staff at a fixed rate of Kshs.5,000 per month. However, Management did not explain the criteria used to allocate Kshs.5,000 to different cadres of staff. This was contrary to the circular on economic utilization and efficient delivery of telephone services in the public service which states that officers on job group R, Q and P may be provided with mobile phone airtime not exceeding Kshs.5,000 per month while officers on job groups N and M may be provided with mobile phone airtime not exceeding Kshs.3,000 per month.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

679. As required by Global Fund, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project’s financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR ROADS – VOTE 1091

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

680. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

681. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipt budget and actual on comparable basis of Kshs.178,059,797,219 and Kshs.145,017,934,102, respectively resulting in an under-funding of Kshs.33,041,863,117 or 19% of the budget. Similarly, the State Department spent an amount of Kshs.144,959,442,217 against actual receipts of Kshs.145,017,934,102 resulting in under-utilization of Kshs.58,491,885.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

682. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although the issues were subsequently presented before the Public Accounts Committee, they remained unresolved as at 30 June 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

683. Non-Compliance with One-Third Rule on Basic Salary

Review of the Commission’s staff payroll revealed that for the twelve (12) month period there were one hundred and eleven (111) employees whose salary deductions exceeded two-thirds (2/3) of the basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which states inter alia the total amount of all deductions which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

DONOR FUNDED PROJECTS

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT LOAN NO.6768-KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

685. Unauthorised Expenditure

The statement of comparison of budget and actual amounts reflects final receipts budget and actual amounts on comparable basis of Kshs.370,000,000 and Kshs.975,298,123 respectively, resulting to over-funding of Kshs.605,298,123 or 164% of the budget. However, the Project spent an amount of Kshs.1,125,672,290 against actual receipts of Kshs.975,298,123 resulting to an over-expenditure of Kshs.150,374,167 or 15% of the actual receipts. The expenditure amounts to unauthorised expenditure as the same had not been budgeted and no letter of no Objection was availed from the Donor. Further, the over-funding and over-expenditure of 164% and 15% respectively were not explained.

In the circumstances, the propriety of the expenditure could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

686. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

688. As required by International Development Agency (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

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

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

690. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final budget receipts and payments on actual comparable basis amounts of Kshs.1,490,000,000 and Kshs.1,148,957,653, respectively resulting to underfunding of Kshs.341,042,347 or 23% of the budget. However, the Project spent an amount of Kshs.1,116,075,159 against actual receipts of Kshs.1,148,957,653 resulting to under-utilization of Kshs.32,882,494 or 3% of the actual receipts. The under-funding and under-utilization affected the planned activities and may have impacted negatively on the project objectives.

My opinion is not modified in respect of this matter.

Other Matter

691. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved all the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

692. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

694. As required by the International Development Agency (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

EAST AFRICA SKILLS TRANSFORMATION AND REGIONAL INTEGRATION PROJECT IDA CREDIT NO.6334-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

696. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.300,000,000 and Kshs.295,660,796 respectively, resulting in an under-funding of Kshs.4,339,204 or 1% of the budget. Similarly, the Project spent an amount of Kshs.191,599,833 against actual receipts of Kshs.295,660,796 resulting to an under-utilization of Kshs.104,060,963 or 35% of actual receipts. Management attributed the under realization and under-utilization mainly to lengthy approval of no objection from the donor.

The under-funding and under-utilization may have impacted negatively on service delivery to the public.

697. Undrawn Loan Balance

Section 2.7 of the annual report and financial statements indicates that the Project was to run for five (5) years from year 2018 to 2024 with an approved budget of Kshs.1,086,168,320 from the donor (World Bank). As at 30 June, 2024, the Project had drawn EUR 5,328,282 equivalent to Kshs.526,361,538 or 61% of the donor commitment for the five (5) years the Project had been in operation leaving an undrawn balance of

Kshs.137,330,791 for the remaining one-year period. The absorption rate of the funds is slow, an indication that the Project may not be completed within the remaining period.

My opinion is not modified in respect of these matters.

Other Matter

698. Unresolved Prior Year Issues

In the audit report of previous year, several issues were raised under Emphasis of Matter and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Project Management had not resolved the issues or given any explanations for failure to do so.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

699. 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

700. Failure to Update Fixed Assets Register

Annex 2 to the financial statements reflects summary of fixed assets of historical cost of Kshs.157,129,295. However, review of the assets register revealed the Project assets were not tagged with unique identification numbers. This was contrary to Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015 which require the Accounting Officer to maintain a register of assets under his or her control or possession as prescribed by the relevant laws.

In the circumstances, the effectiveness of internal controls in place to safeguard the assets from loss, misuse or theft could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

701. As required by International Development Agency (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR ROADS

NUNO - MODOGASHE ROAD PROJECT (CREDIT NO. KUWAIT-813; SFD-N/A; OF ID-1331P; BADEA-N/A; ADFD-N/A) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

703. Long Outstanding Pending Bills

Annex 4 to the financial statements and Note 1 on other important disclosures to the financial statements reflect pending accounts payables balance of Kshs.576,215,829. The balance is made up of the previous year's pending accounts payable in respect of unsettled land compensation and construction of civil works balances of Kshs.117,139,146 and Kshs.459,076,683, respectively. However, Management did not provide plans put in place to settle the outstanding debt.

In the circumstances, the Project is at risk of incurring additional costs in form of interest and penalties for failure to settle project-related costs as and when they fall due.

704. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects receipts final budget and actual on a comparable basis of Kshs.100,995,093 and Kshs.10,000,000 respectively, resulting to under-funding of Kshs.90,995,093 or 90% of the budget. The under-funding affected the planned activities and may have impacted negatively on project objectives.

705. Project Closure Report

Paragraph 2.7 on Funding Summary indicates that the Project was for four (4) years starting on 20 November, 2015 and ending on 31 March, 2020 with an approved budget of USD 67,000,000, equivalent to Kshs.6,773,847,400 financed by the Donor component while an amount of Kshs.10,168,008,949 was to be financed by the Government of Kenya (GoK) as counterpart funds. The statement on application of funds reflects that as at 30 June, 2024, there was an unutilized balance of Kshs.142,145,980 being counterpart funds by GoK. Further, Paragraph 2.8 on Summary of Overall Project Performance indicates that the Project was 100% completed and taken over by the Authority. However, the Project closure report was not provided for audit. Management did not explain the failure to close the Project.

My opinion is not modified in respect of these matters.

Other Matter

706. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

707. 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

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

KENOL-SAGANA-MARUA HIGHWAY IMPROVEMENT PROJECT (P-KE-DBO-037) CREDIT NOs.5050200000901 AND 2000200004504 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

710. Pending Bills

Note 9 and Annex 6 to the financial statements reflect pending accounts payable balance of Kshs.3,663,028,046 which includes acquisitions of land, construction of roads and consultancy services amounts of Kshs.2,461,673,627, Kshs.1,198,282,335 and Kshs.3,072,084 respectively. Although Management 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 was at risk of incurring unquantified significant interest costs and penalties with the continued delay in making payments for invoiced bills.

Failure to clear pending bills in the year to which they relate distorts the budget of the following year as they constitute a first charge on that budget.

711. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,950,069,048 and Kshs.1,767,293,878 respectively resulting to an under-funding of Kshs.1,182,775,170 or 40% of the budget. Similarly, the project spent Kshs.1,754,309,140 against an approved budget of Kshs.2,950,069,048 resulting to an under-expenditure of Kshs.1,195,759,908 or 41% of the budget.

The under-funding and under-expenditure will delay the overall completion of the project and may affect service delivery to the public.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

712. Project Implementation

712.1 Dualling of Kenol-Sagana (A2) Road

As reported previously, the Government of Kenya awarded a contract of Kshs.8,496,537,823 to an international Contractor on 05 August, 2020 for the dualling of Kenol-Sagana (A2) road (48Km) through contract for a period of thirty-six (36) months. The commencement date of the contract was 07 October, 2020 with an expected completion date of 06 October, 2023. However, physical verification revealed that the contractor was working under Defect Liability period which was ending on 6 March, 2025.

In the circumstances, it was not possible to confirm the defect liability period for the pending works.

(i) Delay in Project Implementation

According to the Engineer's report dated September, 2024, the percentage of weighted overall work completed (physical progress) stood at 105% against planned 100% (including estimated preliminaries and materials on site, and financial progress of 89% against 84%) based on appraisal no. 2 addendum 3). Further, the amount certified to date for the contract as advance payment was Kshs.1,123,530,189 and for work done and materials on site was totalling Kshs.9,618,876,924 (113%) inclusive of interest on delayed payments on Interim Payment Certificate (IPC) No. 29. In addition, the time elapsed was 48.8 Months. Based on the analysis, it was noted that the contract was behind the programmed or planned physical progress.

Physical verification carried out in the month of September, 2024 revealed that some of the component to be undertaken were behind schedule mainly due to failure to acquire land for construction by the National Land Commission.

(ii) Failure to Relocate Powerline Posts

Kenya National Highways Authority paid Kshs.8,773,753 to Kenya Power and Lighting Company Limited for relocation of all the powerline posts for Lot 1. However, physical verification in September, 2024 revealed that eighteen (18) posts had not been relocated despite payment. In a letter dated 18 July, 2024, Kenya Power and Lighting Company Limited issued an additional quotation of Kshs.13,000,000 for relocation of the remaining eighteen (18) posts leading the client to reduce the relocation to only four (4) posts. This failure compromised the Project to a reduction of the service road width from 9M to 5M and omission of footpath due to space constraints.

In the circumstances, value for money on the Kshs.8,773,753 paid to Kenya Power and Lighting Company Limited and expected benefits from civil works could not be confirmed.

(iii) Nugatory Expenditure

(a) Compensation of Buildings and Businesses

Note 9 and Annex 6 to financial statements discloses pending accounts payable balance of Kshs.3,663,028,046 which includes acquisitions of land, construction of roads and consultancy services amounts of Kshs.2,461,673,627, Kshs.1,198,282,335 and Kshs.3,072,084 respectively.

The balance of Kshs.2,461,673,627 on land acquisition includes an amount of Kshs.1,188,670,182 on land acquisition at Karatina town through compensation to business owners whose buildings are to be demolished. However, the original approved map in respect to the dual carriage was not provided for audit review.

In the circumstances, the authenticity of Kshs.1,188,670,182 payable on proposed land acquisition in Karatina town could not be confirmed.

(b) Extended Consultancy Services

Consultancy services for the construction supervision of Lot 1 dual of Kenol - Sagana (A2) Road vide contract number KenHA /CS/D/023/2020 was awarded to a consultancy firm at a contract price of USD,1,003,914 and Kshs.256,734,047 exclusive of VAT. This was to end in August, 2023. However, the delayed completion of works by the main contractor due to failure to acquire land and relocation of power line posts resulted to a variation of the contract to USD 1,371,209 and Kshs.308,132,051 (exclusive of VAT) on 11 July, 2024. This resulted to an increase in costs of USD 367,295 and Kshs.51,398,004. Further, a penalty on interest for late payment on interim payment certificate No.29 totalling Kshs.24,992,420 was charged on 27 July, 2023.

In the circumstances, value for money on the variation and expected benefit from the works could not be confirmed.

712.2 Dualling of the Sagana-Marua (A2) Road Section

The Government of Kenya entered into a contract with a foreign contractor on 30 July, 2020 for the dualling of Sagana-Marua (A2) road (36Km) through contract for a period of thirty-six (36) months. The commencement date of the contract was 19 October, 2020 and therefore the expected completion date was 18 October, 2023. However, there was a revised contract completion date to 10 July, 2025. Further, the original contract sum totalled Kshs.6,115,038,571 including contingencies. This was revised to a total of Kshs.9,146,922,301 including contingencies.

According to Project brief for September, 2024 the percentage of weighted overall work completed (physical progress) stood at 87% against the programmed target of 99% (Main carriageway works). Based on the analysis, it was noted that the contract was behind schedule of the programmed or planned physical progress.

The delay was as a result of relocation of community pipelines which were not identified during feasibility study. Further, relocation of ICT was also at 62% due to lack of space. Management did not provide evidence on public participation at the initial stage which would have identified and addressed delay issues identified.

In addition, review of monthly progress report of the road shows that the Project had various pending works neither commenced nor completed.

The financial statements under pending accounts payable reflects land acquisitions balance of Kshs.2,461,673,627 during the year under review. Review of records revealed that some of the major sections and amenities affected by the delays in land acquisition processes were Mwanda junction to Kerugoya junction; Kerugoya junction to Mathaithi area within Karatina township which is highly built-up section; Giagatika junction to Mahigaini area; Mahigaini area to Marua interchange; Land identified for construction of road side markets along the project road; and additional land for the construction of footbridges.

In the circumstances, the delay in implementation of the various project works will contribute to delays in the delivery of the overall project by the two contractors and there is a risk of cost over runs which may cause cost variations or interest on delayed payments.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

714. As required by African Development Bank (ADB), I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

UPGRADING OF KIBWEZI-MUTOMO-KITUI-MIGWANI ROAD PROJECT NO. BLA2016K001 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

716. Long Outstanding Account Payables

Note 10 to the financial statements reflects pending accounts payable balance of Kshs.3,706,110,153 which comprise of additions for the year and payments during the year of Kshs.437,071,686 and Kshs.115,376,930 respectively. Further, the total payables balance of supply of services reduced from a balance of Kshs.75,016,624 in the previous year to Kshs.66,516,624 representing a reduction of Kshs.8,651,200 or 12%. The Authority did not provide an explanation on the measures put in place to facilitate payments of the outstanding certificates which have been raised for works done and the accrued interest if any, arising from delayed payments. The Project was therefore at risk of incurring additional interest costs due to continued delay in settlement of outstanding payables.

My opinion is not modified in respect of this matter.

Other Matter

717. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not provided an explanation on how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

718. Lack of Authority for Contract Variation

Review of project records revealed that KENHA on 28 April, 2021 executed Addendum 3 of the contract for Kibwezi-Mutomo-Kitui Road with a foreign contractor which varied upwards the project cost by an amount of Kshs.3,141,024,204 thereby revising the total contract sum from a balance of Kshs.18,404,888,139 to Kshs.21,545,912,343.

The entire contract variation amount was to be funded by the Government of Kenya and paid in Kenya shillings. The revised scope of works included construction of 29.52Km section from end of Kibwezi-Mutomo-Kitui-Migwani Section to Mbondoni (Junction with A3 Road).

Management did not explain why it carried out an upward variation of the contract by an amount of Kshs.3,141,024,204 without express authority of The National Treasury.

In the circumstances, Management was in breach of the law.

719. Incomplete Contract Works

As previously reported, the Kenya National Highways Authority (KENHA) entered into a commercial contract with a Foreign Contractor at a contract sum of Kshs.18,404,888,139 on 09 February, 2011 for the Upgrading of Kibwezi-Mutomo-Kitui Road Project. Review of the contract document revealed that on 20 September, 2016, KENHA and the Contractor executed Addendum 1 under the contract where the scope of works was increased under the existing contract sum of Kshs.18,404,888,139. This was at the request of KENHA due to drastic decrease in international oil prices bitumen, steel and diesel by big margins.

The increased scope of works included Engineering, Procurement and Construction of Kabati-Migwani direction (16.7Km) road. Further, Management executed Addendum No. 2 under the existing contract on 4 October, 2020 which also included the Engineering, Procurement and Construction of Kabati-Migwani direction of a further (8.92Km) road. The additional works in Addendum 1 and 2 when aggregated totals 25.62Km which is the distance between the two (2) towns.

However, physical verification carried out on the section of the road on 24 September, 2024 revealed that the road works terminated at 8Km to Migwani town. In addition, the contractor was not on site and the project works had stalled.

In the circumstances, value for money spent on the Project could not be confirmed.

720. Avoidable Interest on Delayed Payments

As reported previously, the statement of receipts and payments reflects acquisition of assets amount of Kshs.115,225,730 which includes Kshs.99,691,520 in respect to construction of roads as disclosed in Note 4 to the financial statements. The amount further includes Kshs.70,584,182 relating to interest payments, which arose from delayed payments to the contractor for the upgrading of Kibwezi-Mutomo-Kitui-Migwani Road Project.

Further, Annex 4 to the financial statements reflects pending bills amount of Kshs.3,706,110,153 which includes unpaid interest on delayed payments totalling Kshs.543,630,272.

Management attributed the delay in settling the bills to the financiers' requirement that the development partner portion could only be settled upon proof that GOK counterpart portion of each IPC had been settled, inadequate budgetary allocations in the current as well as prior financial years, delays in release of Exchequer funds which led to delays in processing of GOK counterpart portion and lapse of the Financing Agreement prior to project completion in 2024/2025 financial year also contributed to the delays in settling bills.

In the circumstances, the value for money spent on the Project may not be realized due to the continued escalation of interest payments which will have to be paid.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

722. As required by Export-Import Bank of China, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

DUALLING OF MAGONGO ROAD (A109L): PHASE II (FIDIC EPC/TURNKEY BASED) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

724. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects approved receipts budget of Kshs.282,629,465 all of which was realized. In addition, budgeted expenditure amounted to Kshs.282,629,465 while actual expenditure was Kshs.271,541,568, resulting to under-utilization of Kshs.11,087,897 or 4%. Available information indicates that the project was for a duration of six (6) years from 2018 to 2024 with an approved budget of USD 11,785,982 equivalent to Kshs.1,190,973,504.

The under-utilization affected the planned Project activities and may have impacted negatively on service delivery.

My opinion is not modified in respect of this matter.

Other Matter

725. Unresolved Prior Year Matters

Various prior-year audit issues remained unresolved as at 30 June, 2024. Even though Management indicated that the Authority has already appeared before the Public Accounts Committee (PAC) and made submissions on all matters raised by the Auditor-General for the financial year 2022/2023, the PAC report was yet to be shared.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

726. Irregular Variation of Project Costs on Government Contribution

The statement of receipts and payments reflects cumulative receipts to date from the inception of Kshs.3,911,855,753 out of which Kshs.1,190,973,504 or approximately 30% were receipts from Trade Mark East Africa (TMEA) while Kshs.2,720,882,249 or approximately 70% were receipts from The Government of Kenya (GoK). However, the financing agreement indicated that the TMEA contribution was to be 32% while GoK contribution was to be 68%. The increased variation of Kshs.190,063,553 borne by GoK was attributed to price and interest on delayed payments.

In the circumstances, the value for money and efficient achievement of strategic goals of the project could not be confirmed.

727. Failure to Adequately Budget for Pending Bills

Note 10 to the financial statements on other important disclosures and the corresponding analysis at Annex 4 to the financial statements reflect a balance of Kshs.1,538,311,916 in respect of pending bills. The balance includes Kshs.1,451,647 in respect to supply of services, Kshs.225,262,970 in relation to construction of civil works and Kshs.1,311,597,299 in relation to lands compensation. As reported in the previous years, Management has undertaken to liaise with The National Treasury to obtain adequate budgetary allocation to pay the pending bills. However, review of the approved budget for the year 2023 - 2024 revealed that Management did not have an adequate budget for the pending bills, contrary to the provisions of Regulation 31(2) of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer to budget for and obtain approval for all services which can be foreseen.

In the circumstances, Management was in breach of the law.

728. Delay in Completion of the Project

Review of project information revealed that the Project commenced on 2 May, 2018 for an initial contract period of sixty (60) months, with an initial completion date of 1 May, 2020 and an original contract sum of Kshs.2,420,327,530. However, during the implementation of the project, several extensions of time were requested cumulatively summing up to 1591 days out of which 933 days were determined and approved by the employer while the cost claim is still being evaluated. The revised completion date based on the extension of time was 20 November, 2022 with an actual completion date of 8 June, 2024 and a revised contract sum of Kshs.2,464,287,937. A physical verification of the road project undertaken on 17 September, 2024 revealed that the contractor was not on site on account of substantial completion of the Project. The physical progress of works completed was 92.66% with time elapsed being 74 months. However, street lights have not been installed and some sections of the road works which included a roundabout at Kwa Jomvu junction was not done as designed due to failure of the Authority to compensate land owners. This was contrary to Section 5(1), (8) and (9) of the Public Procurement and Asset Disposal Act, 2015 which provides that all procurement by State organs and public entities are subject to the rules and principles of this Act. An accounting officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates. An accounting officer who knowingly commences any procurement process without ascertaining whether the good, work or service is budgeted for, commits an offence under this Act. In addition, Section 47(6) of the Public Finance Management Act, 2012 states that if a project that is being financed by a grant or donation requires National Government funding, the project may only be started when the required funding has been appropriated in accordance with this Act or is authorized by other legislation or the Cabinet Secretary has given a written authorization for the project to start.

In the circumstances, the achievement of the Project objectives and value for money could not be confirmed.

729. Irregular Variation of Contract Sum on Consultancy Services

Review of the contract agreement for consultancy services for supervision of the project dated 11 June, 2018, revealed initial contract sum of Kshs.97,326,900. Over the past six (6) years, the contract sum has increased to Kshs.194,429,055 translating to an increase of Kshs.97,102,155 or 99.8% of the original contract sum which exceeds the 25% threshold set by law. Management did not provide any approval for separate tender or justification for the contract variation contrary to Section 139(4) (b) of the Public

Procurement and Asset Disposal Act, 2015 on amendments or variations to contracts which provides that the quantity variation for goods and services does not exceed fifteen percent (15%) of the original contract quantity.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

731. As required by Financier and Financing Agreement I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the, so far as appears from the examination of those records and the financial statements are in agreement with the accounting records and returns.

KAPCHORWA-SUAM-KITALE AND ELDORET BYPASS ROADS PROJECT (KENYA) ID NO. P-Z1-DBO-183 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

732. Unsupported Prior Year Adjustments

Note 8 to financial statements reflects prior year adjustment amounts of Kshs.1,217,296,234 and Kshs.4,768,528 in respect to land compensation and rehabilitation of roads respectively. However, Management have not submitted the supporting schedules or ledgers and journal vouchers for the adjusted amount of Kshs.1,217,296,234.

In the circumstances, the accuracy and completeness of the prior year adjustment amount of Kshs.1,217,296,234 could not be confirmed.

Emphasis of Matter

733. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis amounts of Kshs.2,103,437,748 and

Kshs.1,814,857,794 resulting to an under-funding of Kshs.288,579,954 or 14% of the budget.

Further, the statement does not include the itemized budget for the various expenditure codes under purchase of goods and services to enable proper budgetary controls. Therefore, the comparison between the budgeted and actual expenditure codes could not be determined.

The underfunding affected the planned activities of the Project and may have negatively affected service delivery to the public.

734. Failure to Settle Pending Bills

Note 1 on other important disclosures and Annex 4 to the financial statements reflect pending accounts payable balance of Kshs.3,334,689,262 as at 30 June, 2024. The balance includes amounts of Kshs.2,106,145,939 for construction of roads, Kshs.1,204,698,605 for land compensation and Kshs.23,844,718 for supply of goods and services respectively.

Review of documents and schedules provided for audit in support of land compensation revealed that there is a long delay in compensating of persons affected by the project (PAPs). It was not clear why the PAPs had not been compensated in full despite the progress of the project being at an average of 97% to completion and the contractual period of the project having expired.

Failure to clear pending bills in the year to which they relate distorts the budget of the following year as they constitute a first charge on that budget.

My opinion is not modified in respect of these matters.

Other Matter

735. Outstanding Disbursement of Donor and Counterpart Funds

The funding summary information in the financial statements under paragraph 2.7A - source of funds, reflects an amount of Kshs.23,396,164,233 in respect of the projected total funding for the Project. Further, the amount received to date totaled Kshs.15,168,551,829 resulting to an undrawn balance of Kshs.8,227,612,404.

The project commenced on 23 February, 2018 and was expected to end on 30 September, 2023 and has therefore been in existence for more than five (5) years while having received a total of Kshs.15,168,551,829 or 65% of the expected receipts. However, although Management explained that the project duration was extended to 31 March, 2025, it may not be possible for the Project to receive the undisbursed amount of Kshs.8,227,612,404 which represents 35% of the expected total funding by that date.

In the circumstances, the overall objectives of the project may not be met, and this may affect service delivery to the public.

736. Unresolved Prior Year Matters

In the audit report for the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, review of the prior year Auditor-General's recommendations and the implementation status report revealed that all of the issues remained unresolved as at 30 June, 2024. Further, although the issues had been discussed in the Public Accounts Committee of the National Assembly, they remained unresolved as at the time of the audit in October, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

737. Nugatory Payments - Interest on Delayed Payments

Review of records provided for audit revealed that the contractor has lodged a claim for Kshs.318,602,456 in respect to interest charges caused by delays in the implementation of the project by the employer. The amount includes Kshs.132,581,708 in respect to interest on delayed payments of Interim Payment Certificates (IPC) No. 20, 27 and 30. Further, an additional claim of Kshs.186,020,748 was caused by unnecessary delays in the payment of certified works by the Authority.

In the circumstances, the Project may incur an additional and avoidable cost of Kshs.318,602,456 which could have been applied in the execution of other projects.

738. Unutilized Lorry Park on Lot 1 Road Project

An audit inspection exercise carried out on 25 September, 2024 on Lot 1 phase of the project revealed that the construction of Eldoret by-pass was complete and had been taken over by Kenya National Highways Authority (KeNHA) and is fully in use by the general public. The contract for Lot 1 road project had an original contract sum of Kshs.5,079,517,696 which was later revised to an amount of Kshs.6,585,040,565.

Further, it was observed that included in the deliverables for the road construction was a lorry park that was constructed after acquisition of land at the tail end of the thirty-two (32) kilometer stretch of the road. However, the audit inspection revealed that the facility was idle against the planned objective of the Project and therefore the value for money for the lorry park may not be realized as expected. In addition, the traffic flow through the bypass appears quite low compared to Uganda road which passes through Eldoret city and therefore working against the original idea of constructing the bypass.

In the circumstances, the value for money for the construction of the lorry park on Lot 1 of the road project could not be confirmed.

739. Delayed Completion of the Project

The contract for Lot 2 - Kitale-Endebess-Suam Road was signed on 1 September, 2017 between Kenya National Highways Authority on behalf of the Government of Kenya and an international construction company. The commencement date was on 12 February, 2018 with the expected completion date being 13 December, 2021 which was later revised to 30 September, 2023. The contract sum was agreed at Kshs.4,474,991,402 which was later revised to Kshs.4,955,349,857 and the amount of certified works as at 30 June, 2024 was Kshs.4,924,432,766 with the total amount paid to date being Kshs.4,412,152,621 or 90% of the amount certified for payment.

According to the progress report provided, the weighted progress stood at 94% compared to seventy-nine (79) months or 263% of the contract period elapsed. This implies that the contractor is working behind schedule and therefore indicates slow progress in the execution of the contract. Available documents indicate that the project was taken over by the employer on 23 September, 2023 as evidenced by the taking over certificate. The section taken over by the employer included rehabilitation of Kitale-Endebes road of 19.8 km and the Endebes-Suam road at 25.2km.

It was observed that the defects liability period was planned to last for twelve (12) months, from 20 July, 2023 to 19 July, 2024 for both Lot 1 and Lot 2 of the road projects. This implies that the contractor for Lot 2 may be undertaking works without a valid contract with the employer (KeNHA) since the contract period has lapsed. Further, the defects liability period for the project has elapsed before the actual road works have been completed. As a consequence, it is not possible to know who between the contractor and the employer, will take responsibility for the defects that may arise upon completion of the pending construction works.

Although Management explained that an extension for completion of works was granted by the Donor to 30 December, 2024, it may not be possible for the Contractor to have completed all the outstanding works by that date.

In addition, the performance guarantee submitted by the Contractor was to expire on 30 September, 2024 and therefore may not cover the pending works since they had not been completed within the revised contract period.

An audit inspection exercise carried out on the road construction project on 25 September, 2024 revealed the following unsatisfactory matters:

(i). The contractor is yet to complete the entire stretch of Kitale -Endebess road with approximately 1km of dual carriage in Kitale town. Further, the street lights and foot bridges in the town have not been done.

(ii). Access and service roads identified in the scope of works are yet to be started (including the access road to Kitale Stadium). In addition, the Kitale Market is yet to be completed with several works yet to be completed. The roofing at the market was not well done and the market area floods when it rains and this may come with challenges to the traders as the rain water may destroy their merchandise.

(iii). Construction of bus bay is incomplete and there is slow relocation of Kenya Power poles and power lines.

(iv). The one-stop boarder post is yet to be completed.

In the circumstances, value for money may not have been realized in the implementation of the Project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

741. As required by African Development Fund (ADF) and African Development Bank (AfDB), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have not been kept by Management of the Project, so far as appears from the examination of those records and, the Project's financial statements are not in agreement with the accounting records and returns.

MOMBASA PORT AREA ROAD DEVELOPMENT PROJECT LOAN NO. KE – P29 and KE P32 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

742. Inaccuracies in the Financial Statements

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.2,483,389,056 and as disclosed in Note 4 to the financial statements which includes construction of roads of Kshs.2,238,199,105 that differ with the supporting schedule amount of Kshs.2,257,637,704 resulting to an unreconciled variance of Kshs.19,438,599. In addition, the statement reflects payments controlled by the entity surplus of Kshs.19,438,599 against total surplus of Kshs.19,483,599 resulting to an unreconciled variance of Kshs.45,000. Further, Note 4 to the financial statements omits road construction comparative and cumulative amounts of Kshs.3,045,785,895 and Kshs.33,690,448,070 respectively and reflects acquisition of non-financial assets cumulative amount of Kshs.39,604,6876,700 instead of Kshs.39,604,686,700.

In the circumstances, the accuracy and completeness of the financial statement amounts could not be confirmed.

Emphasis of Matter

743. Budgetary Control and Performance

The statement of comparison of the budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.4,576,376,887 and Kshs.2,506,408,730 respectively resulting to an under-funding of Kshs.2,069,968,157 or 45% of the budget. Similarly, the Project spent a balance of Kshs.2,486,970,131 against actual receipts of Kshs.2,506,408,730 resulting to an under-utilization of Kshs.19,438,599 or 0.8% of the actual receipts.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

744. Pending Bills

The financial statements reflects pending bills of Kshs.7,734,645,628 in Annex 5 comprising of supply of services Kshs.11,059,457, civil works Kshs.4,178,074,939 and land compensation of Kshs.3,545,511,232. However, a detailed schedule indicating date, supplier name, contract number, contract value, invoice numbers, itemized payments to-date for each contract and outstanding balance was not provided for audit.

Failure to settle bills during the year in which they relate, adversely affects the budgetary provisions for the subsequent year as they form a first charge.

745. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not given any explanation on how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

746. Delay in Project Completion

The Project was for a duration of ten (10) years from 2 June, 2012 to 2 June, 2022 (Revised time of completion is March, 2026) with an approved budget of JPY 40,157,000,000 equivalent to Kshs.32,258,118,100. However, the financial statements under funding summary reflect that the donor commitment was

Kshs.32,258,118,100 against actual cumulative disbursements of Kshs.32,141,058,627 resulting to pending disbursements of Kshs.117,059,473. Similarly, the Government funding commitment was Kshs.14,628,529,360 against actual cumulative disbursements of Kshs.7,697,804,410 resulting to pending disbursements of Kshs.6,930,724,950 which have affected Project completion contrary to Schedule 1, Section 3 of the Loan Financing Agreement Number KE-P32 dated 4 July, 2017 which states that the project expected completion date is December, 2021.

In the circumstances, the continued delay in disbursing the Government funding commitment is an indication that the Project financing model is in breach of financing agreement and affects the Project's execution.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

747. Unconfirmed Ownership and Value of Fixed Assets

The summary of fixed assets in Annex six (6) to the financial statements reflects total assets of Kshs.39,604,686,700 out of which Kshs.2,162,605,483 are in respect of land acquisitions. However, land ownership documents as well as valuation reports were not provided for audit review.

Failure to obtain land ownership documents may delay Project implementation and expose Project to litigations

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

748. As required by the Japan International Cooperation Agency (JICA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

MOMBASA-NAIROBI-ADDIS ABABA ROAD CORRIDOR PROJECT PHASE II (MARSABIT-TURBI ROAD) LOAN AGREEMENT NO. 2100150020744 2024 – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

750. Long Outstanding Pending Bills

Note 9 to the financial statements and Annex 4 on other important disclosures reflects pending accounts payables balance of Kshs.62,165,683. The pending bills have been outstanding since the financial year 2016. Management did not provide an explanation on how and when it intends to settle the pending bills. The Project is at risk of incurring additional costs in form of interest and penalties for failure to settle Project costs as and when they fall due.

751. Lack of Project Closure Report

Paragraph 2.2 on Project Information in the financial statements indicates that the Project start date was 11 December, 2011 and Project end date was 30 November, 2017.

Further, Paragraph 2.7 on funding summary indicates that the Project had an approved budget of UA 125,000,000 equivalent to Kshs.17,985,375,000 that was to be financed by the African Development Fund (Donor) while an amount of Kshs.652,553,197 was to be financed as counterpart fundings by the Government of Kenya (GoK). However, as at 30 June, 2024 an amount of UA 30,939,909 equivalent to Kshs.4,451,726,987 was undrawn loan balance and no confirmation certificate of the amount was provided for audit.

In addition, Paragraph 2.8(ii) on summary of overall project performance on physical progress based on outputs, outcomes and impacts showed that as at 30 June, 2024, the Project was completed and taken over by the employer in the financial year 2017/2018. However, the Project closure report was not provided for audit and Management did not provide an explanation for the failure to close the Project.

My opinion is not modified in respect of these matters.

Other Matter

752. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management had indicated the issues as resolved as at 30 June, 2024, no evidence was provided to support the position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

753. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

755. As required by African Development Bank, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate counting records have been kept by the Project, so far as appears from the examination of those records and, the Project financial statements are in agreement with the accounting records and returns.

MOMBASA-NAIROBI-ADDIS ABABA ROAD CORRIDOR PROJECT PHASE III (TURBI-MOYALE ROAD PROJECT) CREDIT NUMBER: LOAN 21001500255546 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

757. Long Outstanding Pending Bills

Note 10 to the financial statements reflects pending accounts payables balance of Kshs.11,539,155 as at 30 June, 2024. However, the accounts payables have been outstanding since the financial years 2016 and no plausible explanation has been provided why it has taken too long to settle. The Project runs a risk of incurring interest costs and penalties due to continued delay in settling payables.

Failure to settle the accounts payables in the year they occur, distorts the budget of the subsequent year as they form first charge.

758. Lack of Project Closure Report

Paragraph 2.2 of the Project Information indicates that the Project was earmarked to start on 12 October, 2012 and close on 15 October, 2016. Further, Paragraph 2.7 on Funding Summary indicate that the Project had a Donor commitment of UA 120,000,000 equivalent to Kshs.18,652,080,000 which had been fully drawn and utilized. However, as at the time of the audit in September, 2024, six (6) years after the closure date, the Project had been substantially completed and handed over to the employer but had not been closed and no efforts were demonstrated to address the matter.

Failure to close completed project may continue to attract administrative expenses which could otherwise be avoided.

Other Matter

759. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under Report on Lawfulness and Effectiveness in Use of Public Resource, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

760. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

762. As required by African Development Bank, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project, so far as appears from the examination of those records and the Project financial statements are in agreement with the accounting records and returns.

MOMBASA-MARIAKANI HIGHWAY PROJECT (A109) ROAD LOT 1: (MOMBASA - KWA JOMVU) ADF LOAN NO.2100150032743 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

763. Inaccuracies in the Financial Statements

The statements of management responsibilities, receipts and payments and assets and liabilities were signed by the Director-Development and Deputy Director (F and A) instead of the Project Coordinator and Project Accountant. The statement of financial assets and liabilities reflects a fund balance brought forward of Kshs.16,591,039 that differed with the prior year's Nil comparative balance resulting to an unreconciled variance of Kshs.16,591,039. Annex 1 on the prior year's Auditor-General’s recommendations was signed by the Director-Development instead of the Project Coordinator. The reconciliation of inter-entity transfers was signed by the Director-General instead of the Project Coordinator.

In the circumstances, Management did not comply with the financial statements presentation format prescribed in the Annual Financial Reporting template issued by the Public Sector Accounting Standards Board.

Emphasis of Matter

764. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,072,677,349 and Kshs.1,593,700,735 respectively resulting to an underfunding of Kshs.478,976,614 or 23% of the budget. However, the Project spent Kshs.1,602,339,902 against actual receipts of Kshs.1,593,700,735 resulting to an overutilization of Kshs.8,639,167.

The underfunding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

765. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several matters were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management indicated the issues were resolved, the proof of how the issues were resolved was not provided for audit as detailed below;

766. Unsupported Transfers from Government Entities

The statement of receipts and payments reflects transfer from Government entities of Kshs.229,341,735 as disclosed in Note 1 to the financial statements which include an annuity fund of Kshs.109,483,464 and appropriation in aid amount of Kshs.18,000,000. However, copies of the exchequer notifications and receipt vouchers in respect of annuity funds and appropriation-in-aid were not provided for audit.

In the circumstances, the accuracy of the transfers from Government entities of Kshs.229,341,735 could not be confirmed.

767. Unsupported Cash and Cash Equivalents Balance

The statement of financial assets reflects cash and cash equivalents balance of Kshs.12,631,732 as disclosed in Note 5 to the financial statements. The amount includes Kshs.4,679,860 held in a local bank retention account whose certificate of bank balance was not provided for audit. The balance further excludes Kshs.16,591,039 held in another local bank account whose bank reconciliation statement reflected the reconciled bank balance of Kshs.3,582,156,401 resulting in an unexplained variance of Kshs.3,565,565,362. Further, the two (2) bank accounts were maintained in commercial banks instead of the Central Bank of Kenya. Management did not provide evidence of exemption by the Cabinet Secretary. This was contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that for disbursement of project funds, there shall be opened and maintained project account for every project at Central Bank of Kenya unless it is exempted by the Cabinet Secretary, in writing, into which all funds shall be kept and such 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.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.12,631,732 could not be confirmed.

768. Unsupported Deposits and Retention Monies

The statement of financial assets reflects a balance of Kshs.4,679,860 in respect of deposits and retentions and as disclosed in Note 6 to the financial statements which represents a decrease of Kshs.7,341,570 from the previous year's balance of Kshs.12,021,430. However, the details and corresponding taking over certificates issued for the sections or part of the works completed were not provided for audit contrary to the provisions of Clause 14.9 of the contract agreement between the contractor and the Authority which provides that when taking over certificate has been issued for the works, the first half of the retention money shall be certified by the engineer for payment to the contractor and that if a taking over certificate has been issued for a section or part of the works, a proportion of the retention money shall be certified and paid.

In the circumstances, the accuracy and authenticity of the retention monies paid and the balance of Kshs.4,679,860 could not be confirmed.

769. Presentation and Disclosures of the Financial Statements

Review of the financial statements submitted for audit revealed various inconsistencies in presentation and disclosure as indicated below:

i. The list of the implementation challenges and recommended steps were omitted in the summary on overall performance section.

ii. The payment of retention monies of Kshs.7,341,570 for the year under review and Kshs.3,011,714 for 2021/2022 financial year were disclosed in the statement of financial assets under the represented by section as a decrease instead of disclosing them as adjustments in the statement of cashflows.

iii. Adjustments which included deposits and retention monies paid during the year under review were not disclosed in the statement of cashflows.

In the circumstances, the financial statements were not compliant with the format prescribed in the Annual Financial Reporting template issued by the Public Sector Accounting Standards Board.

770. Irregular Transfer of Project Motor Vehicles

Information provided during the audit indicated that the Project Resident Engineer had nine (9) motor vehicles acquired between March, 2017 and October, 2018. However, it was noted that the vehicles were transferred to the project contractor under unclear circumstances to reduce the project cost. The value of the vehicles and the total cost reduction was not disclosed. This was contrary to the provisions of Regulation 139(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which provides that the Accounting Officer of a National Government entity shall take full responsibility and ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse.

In the circumstances, Management was in breach of the law.

771. Pending Bills

The financial statements under other important disclosures reflect pending bills of Kshs.2,225,743,167 as at 30 June, 2023 and as analyzed in Annex 4 of the financial statements. Management did not provide a satisfactory explanation for the failure to settle the huge outstanding amount of pending bills.

In the circumstances, the Project risks incurring significant losses in the form of interest and penalties due to continued delay in settlement of the pending bills.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

772. Nugatory Project Expenditure

Included in the pending bills amount of Kshs.2,084,230,795 as disclosed in Note 9 to the financial statements are taxes amount of Kshs.18,449,623 that have remained unsettled for over two (2) years and interests accrued due to delayed payments of Kshs.856,733,470 which could have been avoided had the bills been settled in time.

In the circumstances, the accrued interest of Kshs.856,733,470 on delayed payments amounts to wasteful expenditure.

773. Delayed Land Compensations

Annex 4 to the financial statements reflects accumulated paid land compensation cost of Kshs.4,625,656,168. The amount excludes pending bills of Kshs.801,568,591. This amount is based on the award letter from the National Land Commission dated 11 January, 2023 in which the Commission was seeking the Authority to deposit Kshs.618,762,235 having finalized inspection of the project-affected person's premises and awarded the amount. Further inquiry revealed that the project-affected person had been awarded a court injunction through MSA HC Petition No. 13 of 2015 stopping the demolition of structures encroaching Road Reserve. Although Management indicated that the matter had been settled in Annex 6 to the financial statements, no evidence was provided that the affected persons had accepted the award and that the amount was due for payment.

In the circumstances, the Project risks incurring significant losses in the form of interest and penalties due to continued delay in settlement of Land compensations.

774. Delayed Project Implementation and Completion

The statement of receipts and payments reflects total cumulative receipts of Kshs.15,715,649,884 out of which Kshs.6,249,116,430 was in respect of transfer from Government entities while Kshs.9,466,533,454 was in respect of loans from external development partners resulting in total cumulative payments of Kshs.15,707,698,012. As previously reported, the contract was awarded to an international contractor at a cost of Kshs.6,016,868,260 on 29 July, 2016 with a commencement date of 6 January, 2017. The African Development Fund (ADF) and the Government of the Republic of Kenya were jointly financing the project, the Bank taking 97.8% of the cost while the Government of Kenya financing the remaining 2.2% including the tax elements arising during execution of the Contract.

The contract period was extended to 24 November, 2024 from the initial completion date of 3 August, 2019, occasioning the variation of the contract sum to Kshs.8,538,736,334 from the original contract sum of Kshs.6,016,868,260. Review of the monthly progress report number 77, indicated that the contractor and the joint consultants requested for several extensions of time cumulatively adding up to 2,895 days.

In the circumstances, the implementation of the Project was behind schedule and may lead to cost escalation and delayed realization of the expected benefits from the Project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

776. As required by the African Development Fund and the Government of the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

EPC/TURN KEY CONSTRUCTION OF FIVE FOOTBRIDGES AND T-MALL FLYOVER ON MOMBASA AND LANGATA ROADS (PROJECT LOAN CREDIT NO. KEN-01001 AND KEN-02001-19) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

778. Long Outstanding Pending Bills

Annex 4 to the financial statements and Note 8 on other important disclosures to the financial statements reflects pending accounts payable balance of Kshs.8,443,320. Management attributed the pending bills to the outstanding GoK counterpart funds. However, Management did not provide details of the measures put in to settle the pending bills.

In the circumstances, the Project is at risk of incurring additional cost inform of interest and penalties for failure to settle project related costs as and when they fall due.

779. Project Closure Report

Paragraph 2.7 on Funding Summary, the Project was for a duration of three (3) years starting from 17 January, 2020 and end on June, 2023 with an approved budget of EURO 35,680,000 equivalent to Kshs.4,316,858,976 by the donor (Spanish Government) component and an amount of Kshs.40,000,000 (counterpart funding) by Government of Kenya (GoK). Further, Paragraph 2.8 on Summary of Overall Performance indicates that the T-Mall flyover Project had been completed and handed over to the employer on 22 January, 2024 while the footbridges at T-Mall and Nyayo Stadium, Galleria, Langata Barracks and Uhuru Gardens had been taken over as at 30 June, 2024. However, the project closure report was not provided for audit. Management did not provide an explanation for the failure to close the project.

In addition, out of the GoK counterpart funding of Kshs.40,000,000, only an amount of Kshs.8,620,303 had been received as at 30 June, 2024 resulting to counterpart underfunding of Kshs.31,379,697.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

780. 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

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

KENYA - SOUTH SUDAN LINK ROAD PROJECT (REF. NO. 2020 62 065 AND BMZ NO.2020 83 939) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

783. Budgetary Control and Performance

The statement of comparison of budget and actual amount reflects final budget and actual on comparable basis of Kshs.1,645,028,770 and Kshs.1,571,031,273 respectively resulting to an under-funding of Kshs.73,997,497 or 4% of the budget.

The underfunding affected the planned activities of the Project and negatively impacted on service delivery to the public.

784. Failure to Settle Pending Bills

Note 1 of other important disclosures and Annex 4 to the financial statements reflect pending accounts payable balance of Kshs.78,131,434 as at 30 June, 2024. Review of the financial statements and other records revealed the following observations:

i. Included in the movement of the accounts payable are additions for the year of Kshs.93,728,055 for consultancy services which is above the approved supplementary budget of Kshs.40,000,000 leading to unbudgeted/unfunded expenditure of Kshs.53,728,055. Failure to adhere to the budget may lead to delayed payments and interest and penalties from the suppliers.

ii. Included in the pending accounts payable is an amount of Kshs.12,988,543 for consultancy services that has been outstanding for more than a year.

Management attributed this situation to inadequate Government budget allocations in the year under review and prior financial years.

Failure to clear pending bills in the year to which they relate distorts the budget of the following year as they constitute a first charge on that budget.

My opinion is not modified on the effect of these matters.

Other Matter

785. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. However, although the issues had been discussed in the Public Accounts Committee of the National Assembly, they remained unresolved as at the time of the audit in October, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

786. Delay in Project Implementation

The funding summary information in the financial statements under Paragraph 2.7A - source of funds reflects projected total funding for the project amount of Kshs.16,006,231,974. However, the amount received as at 30 June, 2024 totaled

Kshs.1,705,348,406 resulting to an undrawn balance to date of Kshs.14,300,883,568 11% of the expected receipts.

The project commenced on 24, April, 2017 and was initially expected to end on 31 December, 2021 which was later revised to 31 December, 2027 and has therefore been in existence for more than seven (7) years.

Further, the amount of Kshs.1,705,348,406 includes a balance of Kshs.1,542,446,109 which was paid to the road contractor as advance payment as per the contract agreement for mobilization. The contract for the road works was signed on 21 February, 2024 between the Kenya National Highways Authority and the Contractor at a contract sum of Kshs.15,424,461,082. The contract period for the Project is eighty-four (84) months comprising of thirty-six (36) months improvement works period, twelve (12) months defects notification period and thirty-six (36) months of maintenance starting from the defect's notification period. From the foregoing the road works and maintenance project are expected to take seven (7) years to complete as agreed.

However, there is a risk that it may not be possible for the Project to receive the undisbursed amount of Kshs.14,300,883,568 which represents 89% of the expected total funding within the remaining three (3) years project duration.

Further, Paragraph 4.1 of the loan agreement dated 24 April, 2024 states that the borrower will pay a non-refundable commitment fee of 0.25% on undisbursed loan amounts. The commitment fee is due for payment in arrears on 30 March and 30 September of each year, for the first time on 30 September, 2017. The Project is at risk of incurring additional and avoidable penalties on the undisbursed loan amounts due to delay in the implementation of the Project.

In the circumstances, the overall objectives of the Project may not be met and this may affect service delivery to the public.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

788. As required by KfW Frankfurt am Main ('KfW''), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project, so far as appears from the examination of those records and the Project's financial statements are in agreement with the accounting records and returns.

TIMBOROA-ELDORET ROAD REHABILITATION PROJECT NO. P-KE-DBO-019 (LOAN NO. 2100150023344) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

790. Project Closure Report

Paragraph 2.7 on Funding Summary, the Project was for a duration of five (5) years starting from 23 March, 2011 and end on 16 July, 2016 with an approved budget of Unit of Account (UA) 30,184,430 equivalent to Kshs.4,215,044,439 and Government of Kenya (GoK) counterpart funding of Kshs.1,201,564,645. The Project had received all the donor commitments and GoK counterpart funding as at 30 June, 2024.

Further, as disclosed in paragraph 2.8(ii) on Summary of Overall Project Performance, the physical progress based on outputs, outcomes and impacts since Project commencement, the Project was 100% complete by the end of the financial year 2016/2017 and handed over to the Authority. However, the Project closure report was not provided for audit. Management did not provide an explanation for the failure to close the Project.

My opinion is not modified in respect of these matters.

Other Matter

791. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

794. As required by African Development Fund, I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records and, the Project's financial statements are in agreement with the accounting records and returns.

NAIROBI-THIKA HIGHWAY IMPROVEMENT PROJECT LOT I AND II CREDIT NO.2100150015544 PROJECT NO.P-KE-DBO-018 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

796. Long Outstanding Pending Bills

Annex 3 to the financial statements and Note 10 on other important disclosures to the financial statements reflects pending accounts payable balance of Kshs.466,535,699. The balance is made up of previous years pending accounts payables in respect of unsettled acquisition of land and construction of buildings balances of Kshs.458,535,699 and Kshs.7,887,522, respectively. However, Management did not provide plans put in place to settle the outstanding debt. In the circumstances, the Project is at risk of incurring additional cost in form of interest and penalties for failure to settle project related costs as and when they fall due.

797. Project Closure Report

Paragraph 2.7 on Funding Summary indicates that the Project was for a duration of eight (8) years starting from 26 November, 2007 and end on 22 July, 2015 with an approved budget of Accounting Unit (AU) 117,850,000, equivalent to Kshs.11,605,814,729 by the Donor (African Development Fund) component and an amount of Kshs.22,367,688,394 (counterpart funding) by Government of Kenya (GoK). The Donor commitment and GoK counterpart funding amounts had been fully received by the Project as at 30 June, 2024.

Further, paragraph 2.8 on Summary of Overall Project Performance indicates that the Project was completed and taken over by the Government of Kenya. However, the Project closure report was not provided for audit. Management did not provide an explanation for the failure to close the Project.

My opinion is not modified in respect of these matters.

Other Matter

798. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

801. As required by African Development Fund, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit; Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MULTINATIONAL ARUSHA-HOLILI/TAVETA-VOI ROAD CORRIDOR DEVELOPMENT PROJECT PHASE I PROJECT LOAN NO.2100150028894 PROJECT NO.P-ZI-DBO-075 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

803. Long Outstanding Pending Bills

Note 6 on other important disclosures and Annex 4 to the financial statements reflect pending accounts payables balance of Kshs.21,807,516. The balance is made up of previous year's pending accounts payable in respect of unsettled acquisition of land and construction of road balances of Kshs.13,985,986 and Kshs.7,821,530 respectively. The pending bills balance of Kshs.13,985,986 in respect of acquisition of land ought to have been settled before the commencement of the Project as per the conditions set out in the Loan Agreement. Although Management attributed the pending bills to the outstanding Government of Kenya (GoK) counterpart funds, details of the measures put in place to settle the pending bills were not provided.

In the circumstances, the Project is at risk of incurring additional costs in form of interest and penalties for failure to settle project related costs as and when they fall due.

804. Undrawn Balance and Failure to Close the Project

According to Paragraph 2.7 on Funding Summary, the Project was for a duration of five years starting from 15 July, 2013 and end on 31 December, 2019 with an approved Donor budget of UA75,000,000 equivalent to Kshs.10,660,050,000 and Government of Kenya (GoK) counterpart funding of Kshs.3,104,597,761. The total Donor commitments received as at 30 June, 2024 amounted to UA54,457,650 equivalent to Kshs.7,740,283,636 leading to an undrawn balance of AU20,542,350 equivalent to Kshs.2,919,766,364.

Further, Paragraph 2.8(ii) on Summary of Overall Project Performance based on outputs, outcomes and impacts since Project commencement indicates that the Project was completed and taken over by the employer during the financial year 2019/2020. However, the Project closure report was not provided for audit and Management did not provide reasons for failure to close the Project, over four (4) years after the completion date.

My opinion is not modified in respect of these matters.

Other Matter

805. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

806. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

808. As required by African Development Bank, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by Management the Project, so far as appears from the examination of those records and, the Project's financial statements are in agreement with the accounting records and returns.

PORT REITZ/MOI INTERNATIONAL AIRPORT ACCESS (C110) ROAD (FIDIC EPC/TURNKEY BASED) PROJECT - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

810. Long Outstanding Pending Bills

Note 9 on other important disclosures and Annex 4 to the financial statements reflect pending accounts payable balance of Kshs.822,548,139. The balance constitutes previous years' pending accounts payables in respect of unsettled land compensation and construction of civil works balances of Kshs.29,624,000 and Kshs.792,924,139, respectively. However, during the year under review, the Project had no budget and there was no financial activity it was noted. No explanation was provided as to why the Project Management continues to disclose pending bills on unsettled land compensation and construction of civil works without making provisions on how to settle the bills.

In the circumstances, the Project is at risk of incurring additional cost in form of interest and penalties for failure to settle Project-related costs as and when they fall due.

811. Failure to Close the Project

Paragraph 2.7 on Funding Summary, the Project was for twenty-four (24) months starting from 7 May, 2015 to 8 May, 2017, with a defects notification period of twenty-four (24) months or two years. The approved budget was USD 59,834,256 equivalent to Kshs.6,049,374,905. Further, Paragraph 2.8 on Summary of Overall Performance indicates the physical progress as at 30 June, 2024 was 100%. However, the Project closure report was not provided for audit and management did not provide an explanation for the failure to close the Project, seven (7) years after the completion date.

My opinion is not modified in respect of these matters.

Other Matter

812. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management had indicated the issues as resolved as at 30 June, 2024, no evidence was provided to support the position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

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

Conclusion

814. 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) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

816. Long Outstanding Unpaid Retentions

Note 9 to the financial statements reflects third-party retention balance of Kshs.21,012,749. The unpaid retentions arose due to the failure by the contractors to submit the retention Interim Payment Certificates (IPCs) to facilitate the release of the retention money as provided in the contract agreements. However, Management did not explain how it intends to facilitate the payment of the long outstanding retention money some dating back to 2015. The Project is already closed and is at risk of incurring additional costs in form of interest and penalties for failure to settle Project-related costs.

817. Long Outstanding Pending Bills

Note 12 on other important disclosures and Annex 4 to the financial statements reflects long outstanding pending accounts payable balance of Kshs.51,888,621. The Project was completed and handed over to the employer on 24 February, 2017. However, Project records revealed unutilized amount of Kshs.29,864,222 as at 30 June, 2024 against outstanding pending bills of Kshs.51,888,621. Management did not provide details of the measures put in place to settle the pending bills. The Project is at risk of incurring additional cost inform of interest and penalties for failure to settle Project costs as and when they fall due.

818. Lack of Project Closure Report

Paragraph 2.2 on Project Information in the financial statements indicates that the Project start date was 4 April, 2006 and Project end date was 30 September, 2019.

Further, Paragraph 2.7 on Funding Summary indicates that the Project had an approved budget of USD 22,084,735 equivalent of Kshs.977,850,059 to be financed by Trademark East Africa and Kshs.1,668,501,725 to be financed by International Development Association (IDA) while an amount of Kshs.2,116,367,701 was to be financed as counterpart funding by the Government of Kenya.

In addition, Paragraph 2.8(ii) on Summary of Overall Project Performance on physical progress based on outputs, outcomes and impacts showed that the Project was completed and taken over by the employer in the financial year 2021/2022. However, the Project closure report was not provided for audit. Management did not provide an explanation for the failure to close the Project, over three (3) years after the completion date.

My opinion is not modified in respect of these matters.

Other Matter

819. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management had indicated the issues as resolved as at 30 June, 2024, no evidence was provided to support the position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

820. Interest on Delayed Payments

The statement of receipts and payments and Note 6 to the financial statements reflects acquisition of non-financial assets balance of Kshs.32,148,527. Included in the balance was Kshs.18,978,908 which was paid as interest on late payment for Interim Payment Certificate (IPC) No. 11A and IPC No.12 issued on 18 September, 2019 an amount that could otherwise been avoided.

In the circumstances, the value for money on the interest on delayed payments could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

822. As required by the International Development Agency (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

SIRARI CORRIDOR ACCESSIBILITY AND ROAD SAFETY IMPROVEMENT PROJECT: ISEBANIA-KISII-AHERO (A1) ROAD REHABILITATION - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

823. Unsupported Land Compensation

The statement of receipts and payments reflects acquisition of non-financial assets balance of Kshs.2,922,440,401 as disclosed in Note 5 to the financial statements. Included in the amount is a balance of Kshs.15,000,000 which was paid as being part of an award totalling Kshs.148,740,070 to the three hundred and twenty-two (322) Persons Affected by the Project (PAPs) in Daraja Mbili-Nyamataro-Kisii Town-Suneka section of the road through the National Land Commission. However, review of records revealed that the parcels of lands which were valued by the National Land Commission were on KeNHA road reserve. Management explained that the compensation paid to the Persons Affected by the Project (PAPs) on the road reserves was not for land but for improvements and the lost business. However, as provided in Section 3.6.2 of KeNHA's Environment and Social Safeguards Policy, 2019, the occupants of the land were encroachers and were thus not entitled to any compensation.

In the circumstances, the regularity of payment of Kshs.15,000,000 on compensation for the land could not be confirmed.

Other Matter

824. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, although the issues had been discussed in the Public Accounts Committee of the National Assembly, they remained unresolved as at the time of the audit in October, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

825. Interest on Delayed Payments

Annex 4 to the financial statements reflect pending bills for civil works totalling Kshs.3,201,078,059. Review of interim payments certificate relating to the pending bills revealed that two construction companies charged interest on delayed payments of Kshs.331,130,553 and Kshs.325,896,185 respectively all amounting to Kshs.657,026,738. This was a cost which could have been avoided had Management made payments as and when they were due considering that the Project had adequate funding at the time.

In the circumstances, the delay in payments of certified works had made the project costs to continue escalating with interest payments that were an irregular charge to public funds.

826. Failure to Prepare a Fixed Assets Register

Annex 5 to the financial statements reflects the summary of fixed assets register with a closing cost of Kshs.25,735,878,765 including land valued at Kshs.76,476,393; construction of roads amounting to Kshs.25,125,437,216 and machinery and equipment at a cost of Kshs.533,965,156. Further, there were various assets valued at Kshs.2,922,440,401 which were additions made during the year under review. However, the Management did not provide assets register to support the assets valued at Kshs.25,735,878,765. This was contrary to Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

In the circumstances, Management was in breach of the law.

827. Non-Payment of Pending Bills

Annex 4 to the financial statements reflect a balance of Kshs.3,826,896,490 in respect to pending bills that were not settled in the financial year 2023/2024 but were instead carried forward to the financial year 2024/2025. The pending bills amount comprised of balances of Kshs.107,642,149, Kshs.3,201,078,059 and Kshs.518,176,282 in respect of consultancy services, civil works and outstanding land compensation respectively, where some invoices date back to the year 2013. Management explained that the pending bills were not settled due to inadequate budgetary provision by the Government and late release of exchequer funds during the year under review and therefore did not form a first charge in the year. This was contrary to the provision of Regulation 42(1) of the Public Finance Management (National Government) Regulations, 2015 which states that debt service payments shall be a first charge on the Consolidated Fund and the Accounting Officer shall ensure this is done to the extent possible that the Government does not default on debt obligations.

In the circumstances, the pending bills may affect the budget for 2024/2025 financial year.

828. Delay in Completion of Installation of Weighbridge Equipment at Rongo Station

The statement of receipt and payment reflect an expenditure of Kshs.2,992,440,401 in respect of acquisition of non-financial assets. The expenditure includes an amount of Kshs.344,650,712 in respect to research studies, project preparation, design and supervision as disclosed in Note 5 to the financial statements. The expenditure of Kshs.344,650,712 further includes an amount of Kshs.65,995,181 in respect to a contract for design, supply and installation of weighbridge equipment at Rongo station. The contract was signed on 09 May, 2021 for a period of twelve (12) months ending on 08 March, 2022.

However, physical verification done in October, 2024 revealed that the contractor was still on site and the works were ongoing despite the lapse of contract period. Management explained that African Development Bank granted an extension of the project duration to 30 June, 2025 and that the delay in completion of the project was caused by inadequate budget provision by the Government.

In the circumstances, the regularity and value for money realized from the expenditure on the Project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

830. As required by African Development Bank (AfDB), I report based on my audit that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MOMBASA – NAIROBI – ADDIS ABABA ROAD CORRIDOR DEVELOPMENT PROJECT: (ISIOLO/MERILLE/MOYALE ROAD) LOAN AGREEMENT NO.210015008850 AND GRANT NO.2100155004016 – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

832. Lack of Project Closure Report

As reported in the previous year, paragraph 2.2 on Project Information in the financial statements indicates that the Project start date was 4 February, 2005 and Project end date was 31 December, 2010.

In addition, Paragraph 2.8(ii) on Summary of Overall Project Performance on physical progress based on outputs, outcomes and impacts showed that as at 30 June, 2024, the Project was completed and taken over by the employer. However, the project closure report had not been prepared and submitted for audit fourteen (14) years after lapse of the closure date.

Further, the statement of assets and liabilities and the statement on application of funds reflects cash and cash equivalents or unutilized balance of Kshs.18,682,650 which remain idle.

My opinion is not modified in respect of this matter.

Other Matter

833. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance which remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

834. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

836. As required by the African Development Fund, I report based on my audit, that that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project, and the Project's financial statements are in agreement with the accounting records and returns.

NORTHERN CORRIDOR REHABILITATION PROGRAMME-PHASE III (ELDORET-TURBO-WEBUYE-MALABA ROAD IMPROVEMENT PROJECT) GRANT NO.9774KE - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

838. Long Outstanding Pending Bills

Annex 4 to the financial statements and Note 5 on other important disclosures to the financial statements reflect pending accounts payables balance of Kshs.54,792,931 in respect of the construction of civil works. The pending accounts payables have been brought forward from previous years. However, Management did not provide plans put in place to settle the outstanding debt. The Project is at risk of incurring additional costs in the form of interest and penalties for failure to settle project-related costs as and when they fall due.

839. Lack of Project Closure Report

Paragraph 2.7 on funding summary, the Project was for eleven (11) years starting from 2007 and ending on 2018 with an approved budget of EUR 80,319,598 equivalent to Kshs.8,306,652,819 and the Government of Kenya (GoK) counterpart funding of Kshs.5,617,201,287. The Project had received all the Donor commitments and GoK counterpart funding as at 30 June, 2024.

Further, as disclosed in paragraph 2.8(ii) on summary of overall project performance, the physical progress based on outputs, outcomes and impacts since Project commencement, both project lots were completed and handed over by the employer in the financial year 2017/2018. However, the Project closure report was not provided for audit. Management did not explain the failure to close the Project.

My opinion is not modified in respect of these matters.

Other Matter

840. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

841. 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

842. 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

Unmodified Opinion

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

Emphasis of Matter

844. Pending Bills

844.1 Long Outstanding Pending Bills

Note 11 to the financial statements on other important disclosures and Annex 4 to the financial statements reflect pending bills amounting to Kshs.7,148,109,740 as at 30 June, 2024. Included in the amount were pending bills totalling Kshs.6,475,353,356 which had been outstanding for long with some dating back to the year 2016.

Management explained that the delay in settling the pending bills was as a result of the exhaustion and lapse of the financing agreement prior to completion of all the project components; and inadequate budgetary allocations in the year under review as well as the prior years and delays in the release of exchequer funds by the Government as well as non-receipt of all the budgeted exchequer funding.

Failure to clear pending bills in the year to which they relate distorts the budget of the following year as they constitute a first charge on that budget.

844.2 Interest on Delayed Payments

Included in the pending bills balance of Kshs.7,148,109,740 is an accrued interest amount of Kshs.615,796,001 that resulted from non-payment and delayed payments of the pending bills.

In the circumstances, the Project runs the risk of incurring significant unquantified interest costs and penalties with the continued delay in settling invoiced bills.

845. Lack of Project Closure Report

Review of the project records revealed the Project had continued operations six and a half (6½) years after closure date and no closure report was provided for audit review. It was explained that the delay in Project's completion and closure arose due to inadequate funding by the Government.

My opinion is not modified in respect of these matters.

Other Matter

846. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under Report on Lawfulness and Effectiveness in Use of Public Resources. However, although the issues had been discussed by the Public Accounts Committee of the National Assembly, they remained unresolved as at the time of the audit in October, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

847. Delayed Completion of Project

The Project Management entered into various contract agreements for construction of roads. During the year under review, the Projects Status Reports revealed that one (1) project had not been completed and was behind schedule. The construction of the second carriageway of the Athi River Machakos turn off section commenced on 8 March, 2017 with a completion date of 7 December, 2017 at contract sum of Kshs.5,288,529,208. The contract period and contract sum were varied to 28 April, 2023 and Kshs.6,229,173,463 respectively. However, the Project Progress Report revealed that the Project was yet to complete and was at 90.5% complete.

The delayed completion of the project denied the public benefits that could have been derived from the Project.

In the circumstances, value for money spent on the project has not been obtained.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

849. As required by International Development Association (IDA) and Financing Agreements, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MERILLE - MARSABIT ROAD REHABILITATION PROJECT (LOAN AGREEMENT NO.KE/FED/2009/021-655) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

851. Long Outstanding Pending Bills

Annex 4 at Note 6 to the financial statements on other important disclosures reflect an amount of Kshs.69,056,118 in respect of pending accounts payables. Review of the statement of comparison of budget and actual amounts revealed that Management did not provide a budget for settling the bills during the year under review, No explanation was provided on how and when Management intends to settle the pending bills. The Project is at risk of incurring additional costs in the form of interest and penalties for failure to settle Project costs as and when the amounts fall due.

852. Lack of Project Closure Report

Paragraph 2.2 on Project Information in the financial statements indicates that the Project start date was 28 January, 2013 with a Project end date of 27 May, 2017. Further, Paragraph 2.7 on Funding Summary indicates that the Project had an approved budget of Euro 88,200,000 equivalent to Kshs.9,457,421,400 to be financed by the European Union (Donor) and counterpart funding of Euro 49,504,097 equivalent to Kshs.5,308,175,796 by the Government of Kenya (GoK).

In addition, Paragraph 2.8(ii) on Summary of Overall Project Performance on physical progress based on outputs, outcomes and impacts showed that as at 30 June, 2024, the Project was substantially complete and taken over by the employer. However, the Project closure report was not provided for audit and Management did not explain the failure to close the Project.

My opinion is not modified in respect of these matters.

Other Matter

853. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management had indicated the issues as resolved as at 30 June, 2024, no evidence was provided to support the position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

854. 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

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

KENYA NAIROBI SOUTHERN BYPASS ROAD PROJECT (LOAN AGREEMENT NO. CHINA EXIM BANK PBC NO. (2011) 32 TOTAL NO. (183) NO.1420303052011211 5528) – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

857. Long Outstanding Pending Accounts Payables

Note 8 on other important disclosures and Annex 4 reflects pending accounts payables balance of Kshs.3,623,386,920 in respect of construction of roads and acquisition of land. However, the statement of comparison of budget and actual amounts reflects final budgeted receipts of Kshs.609,500 resulted in inadequate budgetary provisions for settling the pending account payables. Management did not provide details of the measures put in place to settle the pending bills. The Project is at risk of incurring additional costs in the form of interest and penalties for failure to settle Project costs as and when the amounts fall due.

858. Lack of Project Closure Report

Paragraph 2(ii) on Project Information in the annual report indicates that the Project start date was 1 December, 2011 with an end date of 30 June, 2016. Further, paragraph 2(vii) on the Funding Summary indicates that the Project had an approved budget of USD183,600,000 equivalent to Kshs.14,622,050,880 to be financed by China Exim Bank while an amount of Kshs.7,111,098,730 was to be financed as counterpart fundings by the Government of Kenya.

In addition, Paragraph 2(viii) on Summary of Overall Project Performance on physical progress based on outputs, outcomes and impacts showed that the Project was completed and taken over by the employer. However, the Project closure report was not provided for audit. Management did not explain the failure to close the Project, over eight (8) years after the completion date.

My opinion is not modified in respect of these matters.

Other Matter

859. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and

Governance. Although Management had indicated the issues as resolved as at 30 June, 2024, no evidence was provided to support the position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

860. Wasteful Expenditure

The Project incurred expenditure amounting to Kshs.756,062,674 being claim for contract prolongation as a result of the right of access to the site, an expenditure that would otherwise been avoided.

In the circumstances, the value for money on the expenditure could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

NAIROBI-THIKA HIGHWAY IMPROVEMENT PROJECT LOT 3 GOVERNMENT CONCESSIONAL LOAN AGREEMENT NO.(2009) 39 TOTAL NO.(290) – 1290003022009110585 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

863. Long Outstanding Pending Bills

Annex 4 to the financial statements and Note 7 on other important disclosures to the financial statements reflects opening pending accounts payable balance of Kshs.550,671,327. During the year under review, an amount of Kshs.207,898,548 was paid resulting to a closing balance of Kshs.342,772,779 as at 30 June, 2024. Management indicated that this relates to interest charged on delayed settlement of final payment certificates due to low Government of Kenya (GoK) development budget ceilings. Further, the donor commitment and GoK counterpart funding was fully received and paid out for the project which was completed and handed over to the GoK in 2014.

In the circumstances, the Project is at risk of incurring additional cost in form of interest and penalties for failure to settle project related costs as and when they fall due.

864. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects receipts final budget and actual on a comparable basis of Kshs.270,000,000 and Kshs.210,771,699 respectively resulting to under-funding of Kshs.59,228,301 or 22% of the budget. However, the Project spent an amount of Kshs.207,898,548 against actual receipts of Kshs.210,771,699 resulting to an under-utilization of Kshs.2,873,151 of the actual receipts.

The under-funding and under–utilization affected the planned activities and may have impacted negatively on project objectives.

865. Project Closure Report

Paragraph 2.8(ii) on summary of overall project performance indicates that the Project was completed and taken over by the employer. However, the project closure report was not provided for audit. Management did not provide an explanation for the failure to close the Project.

My opinion is not modified in respect of these matters.

Other Matter

866. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT LOAN NO.5140 – KE - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

870. Long Outstanding Pending Bills

Note 12 under other important disclosures to the financial statements reflects pending accounts payables balance of Kshs.4,585,054,465 as analyzed in Annex 4 which comprises of Kshs.2,789,191,279 for construction of civil works and Kshs.1,795,863,186 for land compensation. The pending bills have been outstanding for long some dating back to May, 2019. No explanation was given on why the pending bills did not form first charge in the subsequent years as provided for in Regulation 42(1)(a) of Public Finance Management (National Government) Regulations, 2015.

Delayed settlement of the pending bills may result to loss of public funds due to accrued penalties and interest costs on unpaid amounts. Further, failure to clear pending bills in the year to which they relate distorts the budget of the following year as they constitute a first charge on that budget.

871. Low Absorption of Project Funds

Review of the financial statements and as disclosed under project information and overall performance in Note 2.7 on Funding Summary indicates that the Project was for a six (6) year period and funding commitments of Kshs.19,140,160,545 and Kshs.29,862,488,597 from the development partner (Donor) and Government of Kenya (GOK) respectively, all totalling Kshs.49,002,649,142. However, the Project had drawn only an amount of Kshs.3,127,882,038 or 16 % of the total donor funding as 30 June, 2024 compared with 100% project period elapsed an indication of very low project funds absorption.

In the circumstances, the credit may lapse without being fully utilized and the Project's planned deliverables earmarked for completion with the funding may not be realized.

My opinion is not modified in respect of these matters.

Other Matter

872. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resource, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

873. Delayed Project Implementation

Management entered into a contract between Kenya National Highways Authority and a contractor for rehabilitation and capacity enhancement of James Gichuru Road Junction to Rironi Highway (A104) at a cost of Kshs.16,366,586,563 (inclusive of taxes) and for a period of thirty-six (36) months plus twelve (12) months defect liability period. The contract sum was later revised to a sum of Kshs.20,414,794,998 and contract period was extended by four (4) years and nine (9) months ending 24 March, 2024. However, review of monthly progress report for June, 2024, revealed that works completed (physical progress) was at 74% against the planned physical progress of 100%. Further, the amount of works certified to date is Kshs.15,754,005,980 or 77% of the total contract sum while an amount of Kshs.12,871,647,971 had been paid. The time elapsed was eighty-three (83) months or 101.4% of the contract period.

Further, field inspection carried out on 13 September, 2024 revealed that the contractor was on site but the following works were still pending four (4) months after the set completion date; structural works - Kangemi bridge (km 323+505); approximately 32km of service roads; 20.5km of interchange slip roads; 20no. foot bridges; approximately 30km of u-drains; 50km of footpaths and streetlighting; 4km Nairobi School internal access road network; 250 metres Kenya Forestry Research Institution (KEFRI) Muguga station internal access road network and parking; improvement of Kangemi and Kinoo markets in conjunction with the County Governments of Kiambu and Nairobi as proposed in the resettlement action plan prepared for the project.

In addition, as at time of physical verification, September, 2024, the project had accumulated Interest on delayed Payments amounting to Kshs.1,247,395,801 that could have otherwise been avoided. Delay in completion of the road projects will lead to increase in avoidable costs of interest and penalties on delayed payments as well as deny the public the benefits that would have accrued from the completed project.

In the circumstances, value for money of Kshs.12,871,647,971 already incurred could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

875. As required by International Development Agency (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

NORTHERN CORRIDOR TRANSPORT IMPROVEMENT PROJECT IDA CREDIT NO. 3930-KE AND 4571-KE - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

877. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under Report on Lawfulness and Effectiveness in Use of Public Resource, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

880. As required by International Development Agency (IDA), I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records and, the Project's financial statements are in agreement with the accounting records and returns.

REGIONAL MOMBASA PORT ACCESS ROAD PROJECT (LOAN NO. (KFW): 27459, GRANT NO. (KFW): 202061919) AND CREDIT NO. (KFW): 84010 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

882. Delayed Project Implementation

The project funding summary indicates that the project is for a duration of forty-one (41) months from August, 2017 to December, 2020 which was later extended to 31 December, 2025 with an approved budget of EURO 155,214,370 equivalent to Kshs.18,137,916,633. Physical verification exercise undertaken on 17 September, 2024, revealed that the planned physical progress of the project was 15.40%. However, only 7.36% has been achieved whereas the planned financial progress was 18.94% against the actual 11.70% paid. Among the works verified was the first priority section on the right-hand side where the 4.26 Km of carriageway is complete. Other structures constructed include two (2) box culverts, one (1) cattle underpass, nine (9) cross culverts, and three (3) service ducts which are currently in use as traffic diversion. In addition, on the left-hand side works include ongoing construction of embankment, three (3) pipe culverts, one (1) box culvert, and one (1) underpass. On the second priority section, on the right-hand side, 2.3 Km of Dense Bituminous Macadam (DBM), nine (9) cross pipe culverts, four (4) service ducts were complete and 0.6 Km side drain constructed while on the left-hand side, there is an existing pavement still in use for passage of traffic. The delay in the project implementation is attributed to delays in payment of land compensation for Project Affected Persons (PAPs) and relocation of power lines and water lines.

My opinion is not modified in respect of this matter.

Other Matter

883. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2024. Even though Management indicated that the Authority has already appeared before the Public Accounts Committee (PAC) and provided the answers to all matters raised by PAC, the evidence of implementing the recommendations was not provided for audit.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

884. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

886. As required by KfW Frankfurt am Main ("KfW"), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

MULTINATIONAL HORN OF AFRICA ISIOLO - MANDERA CORRIDOR (EL WAK – RHAMU ROAD) UPGRADING PROJECT - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

888. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.310,000,000 and Kshs.16,046,300 respectively resulting to an under-funding of Kshs.293,953,700 or 95% of the budget. However, the Project spent an amount of Kshs.6,161,800 against actual receipts of Kshs.16,046,300 resulting to an under-utilization of Kshs.9,884,500 or 62% of the actual receipts.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

889. Low Absorption of Project Funds

Review of the financial statements and as disclosed in Note 2.7 on Funding Summary indicates that the Project period was five (5) years at funding commitments of Kshs.23,537,367,000 and Kshs.678,429,990 from the development partners (Donor) and Government of Kenya (GOK) respectively, all totalling Kshs.24,215,796,990. However, the Project had drawn only an amount of Kshs.16,046,300 or 0.07% of the total commitment as at 30 June, 2024 compared to 40% of the Project period which had elapsed an indication of very low Project funds absorption.

In the circumstances, the credit may lapse without being fully utilized and the Project's planned deliverables earmarked for completion with the funding may not be realized.

890. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

891. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

893. As required by the African Development Bank (ADB), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

KENYA NAIROBI WESTERN BYPASS PROJECT (LOAN NO. CHINA EXIM BANK GCL NO. (2017) 28 TOTAL NO. 633) – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

895. Long Outstanding Pending Accounts Payable

Note 7 on other important disclosures and Annex 4 to the financial statements reflects pending accounts payable balance brought forward to 2023/2024 of Kshs.1,637,046,287 in respect of construction of roads and acquisition of land. However, the statement of comparison of budget and actual amounts reflects final budgeted receipts of Kshs.57,258,930 resulting to inadequate budgetary provisions for the settlement of the pending accounts payable. Management did not provide details of the measures put in to settle the pending bills.

In the circumstances, the Project is at risk of incurring additional costs in the form of interest and penalties for failure to settle Project costs as and when the amounts fall due.

896. Failure to Close the Project

Paragraph 2.2 on Project Information in the financial statements indicates that the Project start date was April, 2019 and Project end date was June, 2022 revised to September, 2023.

Further, Paragraph 2.7 on Funding Summary indicates that the Project had an approved budget of Yuan 1,190,253,600 equivalent of Kshs.20,947,868,233 to be financed by China Exim Bank while an amount of Kshs.682,137,160 was to be financed as counterpart fundings by the Government of Kenya.

In addition, Paragraph 2.8 on Summary of Overall Project Performance on physical progress based on outputs, outcomes and impacts showed that the Project was completed and taken over by the employer. However, the Project closure report was not provided for audit and Management did not provide an explanation for the failure to close the Project, over a year after the completion date.

My opinion is not modified in respect of these matters.

Other Matter

897. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management had indicated the issues as resolved as at 30 June, 2024, no evidence was provided to support the position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

898. Interest on Delayed Payments

Note 7 to the to the financial statements and Annex 4 reflects pending accounts payables balance of Kshs.1,637,046,287 which includes amounts of Kshs.1,347,371,712 and Kshs.289,674,575 for the acquisition of land and construction of roads, respectively. Included in the pending accounts payables is an amount of Kshs.4,628,287 in respect of interest charged on delayed payment that could have been avoided.

In the circumstances, the value for money on the interest on delayed payments could not be confirmed.

899. Delay in Completion of Project

The statement of receipts and payments and Note 4 reflects acquisition of non-financial assets amount of Kshs.54,163,195 in respect of construction of roads and acquisition of land balances of Kshs.30,000,000 and Kshs.24,163,195, respectively. Review of contract documents revealed that Kenya National Highways Authority and China Road and Bridge Corporation signed addendum 3 contract amounting to Kshs.815,740,720 on 7 March, 2022 for additional road works.

During the time of audit in September, 2024, the implementation status report indicated that works valued at Kshs.326,296,288 had been certified completed and further works valued at Kshs.196,777,772 had been done but not certified resulting to total cost of works done of Kshs.523,074,060 or 64.1% of the additional works. However, only an amount of Kshs.41,250,000 had been paid resulting to the contractor suspending works and abandoning site. In the foregoing, the Project is exposed to litigation costs and penalties due to delayed payments. The Project is at risk of incurring additional costs in form of interest and penalties for failure to settle Project costs as and when the amounts fall due.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

900. 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-DBO-040 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

902. Long Outstanding Pending Bills

Annex 4 to the financial statements and Note 5 on other important disclosures to the financial statements reflects pending accounts payable balance of Kshs.83,344,955 in respect of construction of a road. However, review of the Project's records revealed that the entire balance of Kshs.83,344,955 was brought forward from the previous years. However, Management did not provide plans put in place to settle the outstanding debt.

In the circumstances, the Project is at risk of incurring additional cost inform of interest and penalties for failure to settle Project related costs as and when they fall due.

903. Project Closure Report

Paragraph 2.7 on Funding Summary indicates that the Project was for a duration of seven (7) years starting from 8 February, 2007 and end on 30 November, 2014 with an approved budget of UA 49,241,000, equivalent to Kshs.5,353,288,072 by the donor component and an amount of Kshs.4,026,952,076 being counterpart funding by Government of Kenya (GoK). The summary reflects that the Project had received the total Donor commitments and the GoK counterpart funding. However, a balance of UA 1,346,337 equivalent of Kshs.146,368,459 of the donor commitments was undrawn as at 30 June, 2024.

Further, paragraph 2.8 on Summary of Overall Project Performance indicates that the Project was substantially completed and was handed over to the employer. However, the Project closure report was not provided for audit. Management did not provide an explanation for the failure to close the Project.

My opinion is not modified in respect of these matters.

Other Matter

904. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

905. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

907. As required by African Development Bank, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

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

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

909. Budgetary Control and Performance

The statement of comparison budget and actual amounts reflected final receipts budget of Kshs.6,366,870,792 against actual receipt of Kshs.5,565,685,947 resulting to underfunding of Kshs.801,184,845 or 13% of the approved budget. Similarly, the Project expended Kshs.5,710,861,012 against the actual receipts of Kshs.5,565,685,947 resulting to over utilization of Kshs.145,175,065 or 3% of the actual receipts.

The underfunding affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

910. Failure to Settle Pending Bills

Note 12 to the financial statements and Annex 4 of the financial statements reflects Kshs.662,640,731 in respect of pending accounts payables. The balance includes an amount of Kshs.589,728,304 which relates to pending certificates to contractors while Kshs.72,912,428 relates to unpaid compensation to Project Affected Persons as a result of land acquisition during the construction of the roads.

In the circumstances, the Project risks incurring significant losses in form of interest and penalties due to continued delay in settlement of the pending bills.

My opinion is not modified in respect of these matters.

Other Matter

911. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, although the issues had been discussed in the Public Accounts Committee of the National Assembly, they remained unresolved as at the time of the audit in October, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

912. Delayed Counterpart Funding

Review of Project funding summary revealed that the total counterpart funding from the Government of Kenya reported the previous year was Kshs.12,794,234,000 but has been reduced to Kshs. 5,125,410,913. Further, as at 30 June, 2024, the actual funding received was Kshs.4,462,274,629 equivalent to 87% of the total counterpart financing projection. The balance of counterpart funding of Kshs.663,136,284 or 13% had not been disbursed to fund the Project's activities.

In the circumstances, the underfunding of the Project affected the planned activities and may have negative impact on service delivery to the public.

913. Undrawn Loan Balances

According to the funding summary, the Project started on 20 July, 2015 and was expected to end by 29 December 2024. As at 30 June, 2024, a total of Kshs.45,195,980,680 had been drawn from the donor commitment of Kshs.49,284,758,606, leaving an undrawn balance of Kshs.4,088,777,926. The project may not be able to draw full funding within the project life which may deny the public accessing the remaining funding. Further, in accordance with Clause II (2.03) of the financing agreement, the loan will continue to attract penalty on the undrawn balance in form of commitment fees.

In the circumstances, the Project costs may continue escalating as a result of penalty payments which are irregular and avoidable charge to public funds.

914. Project Implementation Status

914.1 Delay in Completion of Socio-Economic Infrastructure in Turkana and West Pokot Counties

Review of records revealed that four of the twenty-six (26) socio-economic infrastructure projects located in Turkana and West Pokot Counties of Kenya had not started as at the time of the audit. The other twenty-two (22) were at an average of seventy-eight percent (78%) completion. The initial completion date of the Project was 15 February, 2024 which was extended to 30 December, 2024.

In the circumstances, it is not certain whether the projects will be completed within the stipulated deadline of 30 December, 2024.

914.2 Delay in Payments to Contractors

Review of interim payment certificate (4) dated 31 May, 2024 for Lot 2 projects revealed that payments for works totalling to Kshs.313,414,024 due to contractor were still outstanding as at the time of the audit. Similarly, the interim payment certificate dated 25 July, 2024 for Lot 1 projects for works done amounting to Kshs.310,337,848 due to the contractor were still outstanding as at the time of the audit.

Site visits conducted revealed that this has affected the delivery of pending works as the contractors have been forced to scale down on labor force and acquisition of materials leading to delay in project implementation.

In the circumstances, the delay in project implementation will lead to additional costs of penalties and interest.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

916. As required by international Development Association (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief were necessary for the purpose of the audit. Further, In my opinion, adequate accounting records have been kept by the project, so far as appears from the examination of those records and, the Project's financial statements are in agreement with the accounting records and returns.

MOMBASA GATE BRIDGE CONSTRUCTION PROJECT (I) LOAN AGREEMENT NO.KE-P34 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

918. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.30,057,540 and nil actual on comparable basis amount resulting to an under-funding of Kshs.30,057,540 or 100% of the budget. Further, the statement reflects expenditure budget of Kshs.30,057,540 and nil actual expenditure amount. However, the budget was not utilized implying that there was no activity during the year under review.

Lack of funding and non-utilization of budgeted amounts affected the planned activities and may have impacted negatively on service delivery to the public.

919. Slow Absorption of Project Funds

Paragraph 2.7 of the funding summary indicates that the project was to be implemented within seven (7) years from 5 December, 2019 with the targeted completion date of 30 June, 2027. The donor made a commitment of JPY 47,800,000,000 equivalent to Kshs.49,047,624,422. However, as at 30 June, 2024, with over four (4) years of the Project duration lapsed, only JPY 914,348,663 equivalent of Kshs.938,214,013 or 2% had been drawn leaving JPY 46,885,651,337 equivalent of Kshs.48,109,410,409 or 98% of Donor commitment undrawn. The absorption rate of funds is slow, an indication that the project may not be completed within the remaining period.

920. Pending Accounts Payable

Note 8 and Annex 4 to the financial statements reflects pending bills balance of Kshs.859,320 owed to a supplier of services which were incurred in the financial year ended 30 June, 2023 but were carried forward to current financial year under review. The pending bills were outstanding as at 30 June, 2024.

Failure to settle bills during the year to which they relate adversely affects the budgetary provisions for the subsequent year as they form a first charge. The Project runs the risk of incurring significant interest costs and penalties with the continued delay in settling the bills.

My opinion is not modified in respect of these matters.

Other Matter

921. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

922. Delayed Commencement of Project

Review of project records revealed that the implementing agency (KeNHA) had entered into a contract for the provision of project consultancy services on 31 August, 2021 at a contract sum of USD 36,579,745 (JPY 2,270,091,056). The scope of the consultancy, was to assist in preparation of tender documents, construction supervision, facilitation of implementation of environmental and social monitoring plan and transfer of technology. As at 30 June, 2024, the consultant had been paid advance payments amounting to Kshs.938,214,013 from donor commitments while an amount of Kshs.22,245,038 under the GoK counterpart funds, had been utilized on procurement of goods and services all amounting to a cumulative expenditure of Kshs.960,459,051. Despite the above payments, the project has remained in the preparation phase for a period of over four (4) years.

In the circumstances, the value for money paid to the consultant could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

BAGAMOYO-HOROHORO-LUNGALUNGA-MALINDI ROAD PROJECT (PHASE 1) ID NO: PZ-BDO-129 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

925. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

926. Undisbursed Receipts

The Project was allocated an amount of Kshs.75,000,000 in the supplementary estimates by the National Assembly and as communicated to Management on 25 June, 2024. Out of the allocation, an amount of Kshs.41,000,000 was in respect of Lot 1-Mombasa-Mtwapa section and an amount of Kshs.34,000,000 was in respect of Lot 2 - Mtwapa-Kilifi section of the Project. However, during the year under review, the funds were not disbursed to the Project by The National Treasury leading to non-payment of Project Affected Persons (PAPs).

In the circumstances, the implementation of the Project may be negatively affected.

927. Slow Project Implementation

927.1 Lot 1 - Mombasa Mtwapa

The contract agreement for Bagamoyo - HoroHoro - Lunga Lunga - Malindi Road Project-Lot 1, was signed on 18 March, 2022 at a contract sum of Kshs.7,590,747,593 with a forty- eight (48) months contract period broken down into thirty-six (36) months for construction works and twelve (12) months for defect notification period. Review of the monthly progress report (MPR) as at 27 August, 2024 revealed that the contractor's amount certified to date was Kshs.2,269,862,424 which included Interim Payment Certificate (IPC) No.1 on advance payments to IPC No. 12 out of which Kshs.1,607,306,318 had been paid to the contractor. The report further revealed that the contractor had only completed 18.14% of the works against 45.31% of overall programmed progress due to the inability to obtain access to the section between Km 0+000 to Km 6+000 due to delay in compensation of Project Affected Persons. This has led to failure by the contractor to commence construction of two (2) grade separated intersections at Kengeleni and Bombolulu. This was an indication that the Project was significantly behind schedule and may not be delivered within the timelines provided in the contract agreement which had twelve (12) months period to closure.

927.2 Lot 2 - Mtwapa-Kwa Kadzengo-Kilifi

The contract agreement for Bagamoyo - Horo Horo - Lunga Lunga - Malindi Road Project-Lot 2, was signed on 5 November, 2021 at a contract sum of Kshs.7,546,323,677 with forty-eight (48) months contract period broken down into thirty-six (36) months for construction works and twelve (12) months for defect notification period. Review of the Monthly Progress Report as at 30 August, 2024, revealed that the amount certified to date was Kshs.6,193,404,262 out of which Kshs.5,383,856,266 had been paid to the contractor. The report further revealed that the contractor had only completed 62% of the works and the project was expected to close by 5 December, 2024. However, the contractor had not been able to access some sections of the construction sites due to delay in land acquisition. This led to delay in commencement of the construction of a dual carriage road with service roads on a 7.66Km section in Mtwapa town and the construction of proposed weighbridge. This was an indication that the Project was significantly behind schedule and may not be delivered within the timelines provided in the contract agreement.

In the circumstances, the delay in the implementation of the road works will adversely affect the completion of the project and the project objectives and value for money may not be achieved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

929. As required by the African Development Bank and African Development Fund, I report based on my audit that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MOMBASA SPECIAL ECONOMIC ZONE DEVELOPMENT PROJECT I LOAN NO.KE-P35 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

931. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management had indicated the issues as resolved as at 30 June, 2024, no evidence was provided to support the position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

932. Delayed Project Implementation

Review of financial records provided for audit revealed that the Government of Kenya (GoK) entered into financing agreement with Japan International Cooperation Agency (JICA) for the implementation of Mombasa Special Economic Zone Development Project at a donor commitment of ¥37,090,000,000 equivalent to Kshs.33,887,278,500 and GoK counterpart funds of Kshs.2,500,000 totalling to Kshs.33,889,778,500. According to the agreements signed on 27 February, 2020, the Project was to commence in October, 2020 with a contract duration of four (4) years and expected completion date of 31 December, 2024.

The statement of receipts and payments indicates that an accumulated amount of Kshs.76,443,165 had been incurred on the Project, which amounts to 0.2% of the total funding. However, out of the Project timelines of fifty (50) months, forty seven (47) months or 94% of the Project time had lapsed. According to the Project brief for the month of September, 2024, the Project is in the procurement process for the main contractor with only procurement for the consultancy services concluded.

In the circumstances, value for money of the funds spent could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT LOAN NO.6768-KE – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

934. 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

935. Delay Project Completion

Review of the financial statement as disclosed in Note 2.7 on the funding summary revealed that the Project period was eight (8) years at funding commitments of Kshs.73,232,977 and Kshs.6,000,000,000 from International Development Bank (Donor) and Government of Kenya (GOK) respectively, totalling Kshs.79,232,977,110. The Project had drawn Kshs.11,957,602,955 or 15% of the total funding as at 30 June, 2024 compared with 50% project period elapsed an indication that the Project was behind schedule. Further, an amount of Kshs.1,080,170,778 of the drawn amount had not been utilized as at 30 June, 2024.

In the circumstances, the Project may not achieve its objectives and the public may not obtain services expected to accrue from the completed project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

937. As required by International Development Agency (IDA), I report based on my audit, that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records; and the Project's financial statements are in agreement with the accounting records and returns.

SAMATAR-WAJIR ROAD PROJECT (LOAN NO.13451P, 13/779 AND 995) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

939. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,010,057,540 and Nil respectively resulting to under-funding of Kshs.2,010,057,540 or 100% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

940. Unresolved Prior Year Matters

In the audit report of the previous year, one issue was raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issue as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

941. Delayed Project Implementation

As previously reported, the Project received total Government counterpart funding of Kshs.12,500,000 being budgeted amount for year 2022/2023. Records provided by the Management indicated that although the Project secured the entire requested funding for the year and the funds being received on 30 September, 2022, no Project activities were initiated. Review of the Project record in the year under review revealed that the amount of Kshs.12,500,000 was still held in the bank account and no activity had been implemented.

Further, the Project implementation timeline was expected to be for a duration of four (4) years from 2021 to 2024 with an approved budget of USD 83,000,000 equivalent to Kshs.8,950,570,600 from development partners. However, as at 30 June, 2024, the Project was still in the procurement process stage, despite the fact that the implementation window is scheduled to conclude within six (6) months.

In the circumstances, delayed Project implementation has negatively affected service delivery to the public.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

THE ESTABLISHMENT OF BUS RAPID TRANSIT LINE 5 PROJECT (EDCF LOAN AGREEMENT NO. KEN-5) - KENYA URBAN ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

944. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.281,697,437 and Kshs.145,655,731 respectively resulting in an under-funding of Kshs.136,041,706 which is 48% of the budget.

The under-funding affected the planned project activities and may have had a negative impact on service delivery to the public and timely completion.

945. Account Payables (Pending Bills)

Note 1 on other important disclosure in Annex 4 to the financial statements reflect pending accounts payable balance of Kshs.20,935,795 which was not settled during the financial year 2023/2024 but was carried forward to the 2024/2025 financial year. Delayed payment of invoices bills may result in high cost due to interest and penalties.

Failing to clear pending bills in the year to which they relate distorts the budget for the year as they constitute a first charge on that budget.

My following opinion is not modified in respect of these matters.

Other Matter

946. Unresolved Prior Year Matters

In the Audit report of the previous year, two issues were raised on delayed commencement of Works and Irregular clause on Financing Agreement and non-compliance with the Public Procurement and Asset Disposal Act, 2015. However, the Management had not resolved the issues nor given any explanation for the failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

947. Delayed Commencement of Works

The statement of receipts and payments as disclosed in Note 3 to the financial statements reflects a cumulative amount of Kshs.320,579,360 in respect of acquisition of non-financial assets which relates to the design, review and supervision of works, even though the work had not yet commenced.

Further, the Project was supposed to run for three and a half (3.5) years from June, 2022 to December, 2025 with an approved loan budget from the donor of US$ 59,000,000 equivalent to Kshs.6,498,501,900. However, the financial statements and the relevant support documents indicated that, as at 30 June, 2024, only an amount of Kshs.294,409,617 or 5% of the Development Partner commitments, had been disbursed to the project, leaving an undrawn balance of Kshs.6,204,092,283, or 95% of the donor commitments.

The low absorption and delayed funding by Development Partner, which Management attributed to failure to commence the works component in the year under review, may have a negative impact on project service delivery and successful completion of the project by December 2025.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

949. As required by the Financing Agreement EDCF Loan Agreement No.KEN-5 dated 29 January, 2021, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

NAIROBI OUTER RING ROAD IMPROVEMENT PROJECT (LOAN NO.2100150030144) – KENYA URBAN ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

951. Long Outstanding Pending Accounts Payable

Note 1 on other important disclosures and Annex 4a to the financial statements reflects an amount of Kshs.846,198,623 in respect of pending accounts payable which includes balances of Kshs.839,433,031 and Kshs.6,765,591 for construction of civil works and consultancy services, respectively. However, the statement of comparison of budget and actual amounts reflects amounts of Kshs.30,000,000 on final budgeted receipts and payments resulting to inadequate budgetary provisions for the settlement of the pending accounts payable. Management did not provide details of the measures put in place to settle the pending bills. The Project is at risk of incurring additional costs in form of interest and penalties for failure to settle Project costs as and when the amounts fall due.

952. Lack of Project Closure Report

Paragraph 2.2 on Project Information in the financial statements indicates that the Project start date was 17 September, 2014 and Project end date was 30 September, 2019 and the completion date was revised to 25 April, 2020.

Further, Paragraph 2.8 on Summary of Overall Project indicates that all the components of the Project were completed in the financial year ended 30 June, 2021 and the overall progress was at 100%. However, the Project closure report was not provided for audit. Management did not provide an explanation for the failure to close the Project, over three (3) years after the completion date.

My opinion is not modified in respect of these matters.

Other Matter

953. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management had indicated the issues as resolved as at 30 June, 2024, no evidence was provided to support the position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

954. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

956. As required by the African Development Bank, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

NAIROBI INTELLIGENT TRANSPORTATION SYSTEM ESTABLISHMENT AND JUNCTIONS IMPROVEMENT PROJECT PHASE I (ECDF LOAN AGREEMENT NO. KEN-6) - KENYA URBAN ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

958. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budget receipts and actual on a comparable basis of Kshs.83,526,008 and Kshs.74,936,412 respectively, resulting in an under-funding of Kshs.8,589,957. The shortfall was attributed to counterpart-funding inform of transfer from Government entities indicating actual receipts of Kshs.11,410,403 compared to the budgeted amount of Kshs.20,000,000, resulting to an under-funding of Kshs.8,589,597 or 43% of the budget. Similarly, the Project Management spent an amount of Kshs.74,936,412 against an expenditure budget of Kshs.83,526,008 resulting to an under-expenditure of Kshs.8,589,957. The counterpart under-funding points to potential weaknesses in meeting donor conditions and enforcing project controls.

In the circumstances, the under-funding and the under-expenditure may have negatively impacted service delivery and the implementation of planned programs for the project.

My opinion is not modified in respect of this matter.

Other Matter

959. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under Emphasis of Matter and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Project Management had not resolved the issue as at 30 June, 2024 or given any explanation for failing to adhere to the provisions of the Public Sector Accounting Standards Board template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

960. Delay in Implementation of the Project

As reported previously, the Project duration is four (4) years, running from 17 May, 2022 to 17 May, 2026 with an approved loan budget of US$ 61,000,000 equivalent to Kshs.6,718,790,100. However, by 30 June,2024, only an amount of Kshs.158,815,021 or 2.4% of the Development Partner’s commitment of Kshs.6,718,790,100 had been received by the Project.

Further, review of contract documents revealed that the project was behind schedule as the phases for selection of contractor, review of the bidding document and the supporting the bidding procedure had not been completed while detailed design phase had yet to begin. These project components were originally scheduled to be completed within the first twelve (12) months of the project. As at 30 June, 2024 the project was behind schedule by over fourteen (14) months and was still implementing components relating to the first (12) twelve months.

In addition, the statement of receipts and payments reflects an amount of Kshs.184,225,424 in respect of acquisition of non-financial assets which as disclosed in Note 3 to the financial statements, pertains to the design review and supervision of systems works. However, delays were noted in the commencement of the project's works. Management attributed the low absorption of the Development Partner's loan budget to the failure to commence the works component in the financial year 2023/2024, which was expected to consume the highest portion of the loan facility.

In the circumstances, there was a risk that the Project delivery would be delayed due to the delay in commencement of works which may have an impact on service delivery to the public.

961. Lack of Clarity of Contract Terms on Additional Payments to Contractor

Paragraph 1.2 of Part A of the contract document for consultancy services between the Kenya Urban Roads Authority and the Project Consultant, dated May 5, 2022, outlines the improvement of twenty-five junctions and the installation of Intelligent Transportation System (ITS) field equipment at these intersections, as well as the construction of a Traffic Management Center in Nairobi City County. The total duration of the consulting services contract is expected to be thirty-four and a half (34.5) months. However, in the event of work suspension or delays due to external factors not attributable to the consultant, any necessary extensions to the construction supervision period will be accommodated. These could include changes in the scope of work and additional assignments for the extended period will be accepted and added to the contract amount, including related reimbursable expenses. However, the contract does not clearly specify how the contract sum would be affected in such circumstances.

In the circumstances, the Project may incur an indeterminate amount in penalties and additional costs if unforeseen events occur.

962. Irregular Clause on Financing Agreement and Non-Compliance with the Public Procurement and Asset Disposal Act, 2015

As previously reported, the Government entered into a contract with an international Company for consultancy services for Nairobi ITS (Intelligent Transportation System) Establishment and Junctions Improvement Project on 05 May,2022 for thirty-four and a half (34.5) months from the date of commencement.

However, review of Part IV and Schedule 4 of the Project's Financing Agreement revealed that only suppliers who were nationals of the Republic of South Korea or juridical persons incorporated and registered there could bid for the consultancy services. This was contrary to Section 60(1) of the Public Procurement and Asset Disposal Act, 2015 which requires that an Accounting Officer of a procuring entity shall prepare specific requirements relating to the goods, works or services being procured that are clear, that give a correct and complete description of what is to be procured and that allow for fair and open competition among those who may wish to participate in the procurement proceedings.

In the circumstances, the Project Management and The National Treasury were in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

SUPPORT TO ROAD SECTOR POLICY: 10TH EDF RURAL ROADS REHABILITATION PROJECT IN KENYA NO.KE/FED/023-571 - KENYA RURAL ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

964. Unreconciled Cumulative Funding Summary

As reported previously, the statement of receipts and payments reflects cumulative receipts totalling Kshs.3,018,559,000 while the project information and overall performance under funding summary reflects total cumulative funding summary cumulative amount totalling Kshs.3,031,416,752 resulting in a variance of Kshs.12,857,752 which has not been explained or reconciled.

In the circumstances, accuracy and completeness of the financial statements could not be confirmed.

965. Inaccuracies in the Statement of Cash Flows

As reported previously, the statement of cash flows reflects cash and cash equivalents at the end of the year of Kshs.1,767,174 while the recalculated balance is a negative of Kshs.(316,064,390) resulting to an unexplained variance of Kshs.(317,831,564). In addition, the statement of cash flows reflects Road Works Expenditure amount of Kshs.434,391,680 while Note 4 to the financial statements discloses roadworks expenditure amount of Kshs.434,368,844 leading to a variance of Kshs.22,836 which has not been explained or reconciled.

In the circumstances, the accuracy and completeness of the statement of cash flows could not be confirmed.

966. Unconfirmed Proceeds from Foreign Grants

The statement of receipts and payments reflects proceeds from foreign grants amount of Kshs.317,831,564 being grants of EUR 2,940,434.49 received from development partners - the European Union, as disclosed in Note 2 to the financial statements.

However, Management has not demonstrated how the individual transactions in Euros were converted to Kenya Shillings in line with Article 7.4 of the financing agreement. This Article states that transfers in Euro shall, if necessary, be converted into the Beneficiary's national currency as and when payments have to be made by the Beneficiary, at the bank rate in force on the day of payment by the Beneficiary.

In the circumstances, the accuracy and completeness of the proceeds from foreign grants amount of Kshs.317,831,564 could not be confirmed.

Other Matter

967. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, Management has not indicated how each of the issues raised in the previous year Auditor-General's report, was resolved, including the information required under the prescribed reporting format.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

968. Presentation of the Financial Statements

Review of the financial statements submitted for audit revealed that Bank Reconciliation statement as at 30 June, 2024, Board of Survey Report and Special Deposit Account(s) reconciliation statement(s) have not been attached as Annexures to the financial statements.

In addition, the statement of comparison of budget and actual amounts reflects a column titled "actual received", which has not been explained. In addition, the budget utilization variance" and budget utilization % columns reflect incorrect amounts. Further, the statement reflects material variances which have not been explained in footnotes as required by the financial reporting template issued by the Public Sector Accounting Standards Board.

In the circumstances, the financial statements have not been presented in accordance with the financial reporting template issued by the Public Sector Accounting Standards Board and IPSAS.

969. Delays in Project Implementation

969.1 Construction of Chuka - Kaanwa Road

As reported previously, review of Project documents revealed that the Authority awarded a contract for construction of Chuka - Kaanwa Road to a Contractor at a contract sum of Kshs.233,196,528. The Project was for one (1) year beginning on 7 September, 2022 and was expected to be completed by 7 September, 2023. Physical inspection of the Project on 7 October, 2024 revealed that the contractor was on site and the work had not been completed.

In the circumstances, value for money to be realized from the expenditure totalling Kshs.233,196,528 incurred on the Project could not be confirmed.

969.2 Delay in Construction of Kaanwa – Wakathite Road

The contract for the construction of Kaanwa - Wakathite Road was awarded to a Contractor at a contract sum of Kshs.221,386,000 on 7 September, 2022 for a one (1) year period to be completed on 7 September, 2023.

Review of the Project in October 2024 revealed that the Project was complete, Interim Payment Certificates totalling Kshs.190,927,618 had been certified while certificate No.s 7 and 8 for Kshs.30,819,251 and Kshs.27,794,639 respectively had not been paid. Further, Interim Payment Certificate No.6 for Kshs.33,234,588 was indicated to have been partially paid without indication of how much had not been paid.

In addition, a request by the contractor for substantial inspection submitted by the contractor on 31 July, 2024 had not been acted upon and no explanation was provided for this delay.

In the circumstances, value for money to be realized from the expenditure totalling Kshs.221,386,000 incurred on the Project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

971. As required by the European Commission, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by Management of the Project, so far as appears from the examination of those record and the Project's financial statements are in agreement with the accounting records and returns.

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

Basis for Qualified Opinion

972. Unsupported Consultancy Services

The statement of receipts and payments reflects consultancy amount of Kshs.35,005,463. Review of records provided indicates that the amount was paid to service providers.

However, claims for reimbursable travel costs were not supported by air tickets, boarding passes, or online receipts. In addition, hours worked by consultants were not supported by timesheets and work logs detailing the hours worked by the consultants were either incomplete or entirely missing, making it impossible to confirm the validity of the billed hours.

In the circumstances, the accuracy, completeness and validity of consultancy amount of Kshs.35,005,463 could not be confirmed.

973. Variance Between Financial Statements and Notes to the Financial Statements

The statement of financial assets reflects accounts payable balance of Kshs.3,413,088 being cumulative retention as disclosed in Note 8 to the financial statements. However, Note 8 to the financial assets discloses a balance of Kshs.4,248,349 resulting to an unexplained and an unreconciled variance of Kshs.835,261.

In the circumstances, the accuracy and completeness of accounts payable balance of Kshs.3,413,088 could not be confirmed.

Emphasis of Matter

974. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts of Kshs.180,000,000 against actual income of Kshs.85,248,805 resulting to an under-collection of Kshs.94,751,195 or 53% of the budget. Further, the statement reflects actual expenditure of Kshs.35,095,385 against actual receipts of Kshs.85,248,805 resulting to an under-expenditure of Kshs.50,153,420 or 59% of the budget.

The under-funding and under-expenditure may have affected the planned activities and impacted negatively on service delivery to the public.

975. Pending Accounts Payable

Note 1 on other important disclosures to the financial statements reflects pending accounts payable totalling Kshs.31,120,457 which have been outstanding for more than one (1) year. Management did not explain reasons for non-settlement of the bills which puts the Project at the risk of incurring significant interest costs and penalties with the continued delay in payment. Further, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of these matters.

Other Matter

976. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. Although the issues were indicated as resolved in the financial statements, Management did not provide an explanation on how the issues were addressed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

977. Unexplained Over Financing of the Project

The funding summary indicate that, the Project received total funding of Kshs.1,467,856,772 against total funding of Kshs.1,370,000,000 provided in the financing agreement leading to over-financing by Kshs.97,856,772. There was no evidence or explanation provided by Management on this anomaly. The variance has not been satisfactorily explained as required by the Public Sector Accounting Standards Board financial reporting template.

In the circumstances, Management was in breach of the financing agreement and the Public Sector Accounting Standards Board financial reporting template.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

978. Outstanding Retentions and Deposits Refund

Note 8 to the financial statements indicated that KeRRA held accumulated retention monies totalling Kshs.4,248,348 in respect of various contractors after the end of defects liability period. However, retention monies for contractors totalling Kshs.3,413,088 have continued to be held by Management since 2018 without a plausible explanation.

In the circumstances, the effectiveness of governance matters on retentions could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

979. As required by the Kreditanstalt Fur Wiederaufbau (KFW), I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

ROADS 2000 PHASE TWO - CENTRAL KENYA RURAL ROADS IMPROVEMENT AND MAINTENANCE PROJECT (AFD CREDIT NO. CKE 101201B, CREDIT NO. CKE 104601J AND CREDIT NO. CKE 109401 M) - KENYA RURAL ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

980. Unsupported Prior Year Adjustment

The statement of financial assets reflects negative prior-year adjustment balance of Kshs.32,770,568. However, approved journal vouchers and details, were not provided for audit.

In the circumstances, the accuracy and completeness of the negative prior year adjustment balance of Kshs.32,770,568 could not be confirmed.

981. Inaccuracy in Accounts Payable

The statement of financial assets reflects accounts payable balance of Kshs.32,770,568. However, the adjustment from Nil balance reflected in the initially submitted financial statements to the negative balance of Kshs.32,770,568 in the amended financial statements was not supported by journal vouchers, ageing analysis and ledgers. Further, the statement reflects Nil accounts payable comparative balance while Note 9 to the financial statements discloses comparative accounts payable balance of Kshs.3,363,070 thus an unreconciled and an unexplained variance of Kshs.3,363,070.

In the circumstances, the accuracy and completeness of accounts payable balance of Kshs.32,770,565 and Nil comparative balance could not be confirmed.

982. Nugatory Expenditure on Accrued Interest

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.63,618,534 being construction of roads as disclosed in Note 4 to the financial statements. However, review of documents provided revealed that payments amounting to Kshs.4,820,323 were made to a consultancy firm in respect to an interest claim of Kshs.3,649,573 and 50% arbitration fee of Kshs.1,170,750 resulting from delayed settlement of a principal amount of Kshs.30,919,686 awarded by the Arbitral Tribunal for arbitration proceedings for not honoring a contract on consultancy services for design and supervision of Batch 2 low volume seal and gravel roads in Kiambu, Murang'a and Kirinyaga regions under the phase II of AFD Roads 2000 Programme.

No explanation was given by Management as to why the principal amount remained unpaid for three hundred and forty-eight (348) days after the forty-five (45) days granted by the Arbitral Tribunal, resulting to an interest claim of Kshs.3,649,573.

In the circumstances, the regularity of the interest of Kshs.3,649,576 and arbitration fee of Kshs.1,170,750 could not be confirmed.

983. Inaccuracy in Acquisition of Non-Financial Assets

The statement of receipts and payments reflects acquisition of amount of Kshs.63,618,534 being construction of roads as disclosed in Note 4 to the financial statements. However, examination of the payment vouchers and ledgers provided in support of the balance revealed that the authority paid retention money amounting to Kshs.9,609,481 from the KeRRA-GOK Counterpart-AFD Account and not from the designated retention account in respect to retention withheld in respect of two contracts.

In the circumstances, the accuracy and completeness of acquisition of non-financial assets could not be confirmed.

Emphasis of Matter

984. Unspent Project Funds

Review of Project records in respect of the completed projects revealed unspent project funds amounting to Kshs.104,020,768 held at the KeRRA AFD bank account and KeRRA GoK AFD Counterpart bank account. The balance represents a significant amount that would have been disbursed for implementation of road maintenance, rehabilitation and development programmes. Management did not provide a satisfactory explanation for retaining the significant amount of cash in bank accounts at the expense of service delivery, since the roads implemented are in dire need of maintenance.

In the circumstances, the under-utilization of funds affected service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

985. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements. However, Management has not provided an explanation of how the issues were resolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

986. Unbalanced Budget

The statement comparative budget and actual amounts reflects final budget receipts and expenditure of Kshs.50,000,000 and Kshs.44,340,988 resulting to a variance of Kshs.565,339. This was contrary to Regulation 33(C) of the Public Finance Management (National Government) Regulations, 2015 which states that unless provided otherwise in the Act, these Regulations or any other guidelines developed in furtherance of the Act or these Regulations, the following guidelines shall be observed at all times during budget formulation and approval that the budget shall be balanced.

In the circumstances, Management was in breach of the law.

987. Presentation of the Financial Statements

The statement of receipts and payments reflects purchase of goods and services, acquisition of non-financial assets and total payments amounts of Kshs.(4,875,185), Kshs.(63,618,534) and Kshs.(68,493,719) respectively. However, no explanation has been provided as to why the amounts have been presented in brackets contrary to the requirements of the financial reporting template issued by the Public Sector Accounting Standards Board.

In addition, the statement of assets and liabilities reflects Note 10 to the financial statements which has not been disclosed under Notes to the financial statements. Further, Note 9 to the financial statements does not correspond to the statement of financial assets.

In the circumstances, the financial statements have not been presented in accordance with the financial reporting template issued by the Public Sector Accounting Standards Board.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

989. As required by the financing agreements Credit No. CKE 101201B, No. CKE 104601J and No. CKE 109401M dated 23 May, 2006, 5 July, 2010 and 4 April, 2016 respectively, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

UPGRADING OF "GILGIL MACHINERY" ROAD PROJECT 2024 - KENYA RURAL ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

990. Irregular Charge of Interest on Delayed Payments

The financial statements reflects pending bills balance of Kshs.384,025,443 for the period ended 30 June, 2024 which includes Kshs.38,714,887 in respect of interest payable on delayed payment of interim certificates.

Had the Management paid the contractor promptly as stated in the contract agreement, Kshs.38,714,887 payable as interest on delayed payment of interim payment certificates would have been avoided. The liability created for not paying the certified work on time would have saved some funds for other projects. The Management did not provide explanation on failure to make payments to the contractor on interim payment certificates when they became due.

In the circumstances, the interest payable of Kshs.38,714,887 would be an irregular charge to public funds.

Emphasis of Matter

991. Delay in the Disbursement of Government Counterpart Funding

As previously reported, the statement of receipts and payments, reflects a loan amount from development partner of Kshs.33,413,143 and Kshs.70,000,000 for counterpart funding from the Government of the Republic of Kenya. The total cumulative counterpart funding from the Government of Kenya was Kshs.232,500,000 representing 58% of the total counterpart financing projection of Kshs.400,000,000. With the expected closing date of the Project set at January 2025, it is doubtful that the counterpart financing balance of Kshs.167,500,000 or 42% will be disbursed to the Project activities before project closure date.

In the circumstances, the Government of the Republic of Kenya was in contravention of Section 3.05(a) and (b) of the Financing Agreement.

992. Failure to Settle Pending Bills

Annex 3 to the financial statements reflects pending bills balance of Kshs.384,025,443 that were not settled in the year under review but were carried forward to 2024/2025 financial year. The Management did not explain why the interim payment certificates were not settled when they were due. Consequently, the Project risks incurring significant interest costs and penalties with continued delay in payment.

Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge as stipulated by Regulation 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015.

My opinion is not modified in respect of these matters.

Other Matter

993. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, Management had not indicated how each of the issues raised in the previous year Auditor-General's report, was resolved, including the information required under the prescribed reporting format.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

994. Delayed Completion of the Road Project

As reported previously, review of Project documents revealed that the Management entered into a contract with the Contractor for upgrading to bitumen standard of Gilgil - Machinery Road at a contract sum of Kshs.1,476,491,036 on 06 February, 2019 for a period of twenty four (24) months ending on 04 May, 2021. However, due to the delays in implementation of the Project, the employer awarded a fourteen (14) months extension of time to the Contractor with the revised date of completion being 12 July, 2022. The Contractor applied for further extension of time with the revised date of completion being 30 July, 2024 as a result of delays due to default in payments of interim certificates. Further, review of monthly project progress monthly progress report (MPR) No 61 of June, 2024 revealed that the contractor suspended works from 8 August, 2023 to 12 March, 2024 citing delayed payments as the reason for suspension. Consequently, a new Project completion date of 9 January, 2025 had been proposed. However, request by the contractor and approval thereof for the revised date of completion was not provided for audit. As at the time of audit, the completion of the Project had been delayed by about sixty five (65) months from the initial projected end date of 4 May, 2021.

In the circumstances, value for money realized from the Project could not be confirmed.

995. Presentation of the Financial Statements

Management has not reported, under the statement of performance against project's predetermined objectives, the outcomes, indicators and performance of the project during the year under review. In addition, Management has not reported the metrics met, objectives yet to be met, challenges and opportunities of the project in implementing its agreement, as required by the Public Sector Accounting Standards Board (PSASB) financial reporting template.

In the circumstances, the financial statements have not been prepared in compliance with the PSASB financial reporting template and IPSAS.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

997. As required by the Arab Bank for Economic Development in Africa (BADEA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

ASAL RURAL ROADS PROJECT CREDIT NO.CKE 117 01 H – KENYA RURAL ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

999. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final receipt budget and actual on comparable basis of Kshs.846,000,000 and Kshs.694,882,742 respectively resulting to under-funding of Kshs.151,117,258 or 18% of the budget. However, the Project spent an amount of Kshs.544,060,744 against actual receipts of Kshs.694,882,742 resulting to under-utilization of Kshs.150,821,998 or 22% of the total receipts. The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1000. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management had indicated the issues as resolved as at 30 June, 2024, no evidence was provided to support the position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1001. 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

1002. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1003. As required by the Agence Francaise De Development (AFD), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR TRANSPORT – VOTE 1092

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1004. There were no material issues noted during the audit of the revenue statements of the State Department

Emphasis of Matter

1005. Long Outstanding Accounts Payables

Note 18.2 to the financial statements reflects long outstanding pending accounts payables balance of Kshs.5,623,569. Failure to settle pending bills when due may attract avoidable expenditure in form of interest and penalties.

My opinion is not modified in respect of this matter.

1006. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources. The issues remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1007. Unlawful Forfeiture of Leave Days

During the year under review, the State Department forfeited one thousand two hundred and sixteen (1,216) leave days in respect of seventy-nine (79) members of staff members. This was contrary to Section 28 of the Employment Act, 2007 which requires that an employee is entitled after every twelve (12) months of service with his employer to not less than twenty-one working days of leave with full pay and therefore no provision for forfeiture of leave days. Further, review of records revealed that in an employment and labour relations court case number 243 of 2015 ruling paragraph 24 states that '' there is no employment policy which supersedes the law and that Employment Act, 2007 Section 28 does not sanction the practice of forfeiture of unutilized leave days. The policy of forfeiture of annual leave days adopted by the State Department for Transport has no foundation in law." Paragraph 26 of the same ruling states that the prayer for annual leave previously forfeited for the years 2011, 2012 and 2013 was allowed and the claimant was compensated accordingly.

In the circumstances, the State Department was in breach of the law.

1008. Non-Compliance with Persons with Disability Law on Disability

Review of employment records revealed that the State Department had a workforce of one hundred and forty (140) staff members during the year under review. It was however noted that only two (2) or 1% of the staff were persons with disability. This was contrary to the Person with Disability Act, 2003 which requires entities to have at least 5% of the workforce be persons with disability.

In the circumstances, the State Department was in breach of the law.

1009. Unclaimed Assets - Third-Party Deposits and Retention

The statement of financial assets and liabilities and as disclosed in Note 12 to the financial statements reflects a balance of Kshs.21,985,917 in respect of third-party Deposits and retention. This includes an amount of Kshs.18,585,030 in respect of long outstanding deposits for Kenya Railways retirees and Ministry of Roads and Transport of Kshs.16,585,030 and Kshs.2,000,000, respectively. However, the Kenya Railways retirees' deposit balance has been outstanding for long and no explanation was given as to why the amount remained unpaid or why it was not remitted to the consolidated Fund. This was contrary to Regulation 106 of the Public Finance Management (National Government) Regulations, 2015 which states that unless otherwise exempted by an Act of Parliament, any deposit which has remained unclaimed for five (5) years may, with the approval of the Cabinet Secretary, be paid into Consolidated Fund and thereafter the Accountant-General may refund the deposit to any person entitled thereto, if he or she is satisfied that the claim is authentic. Similarly, the amounts could be surrendered to the Unclaimed Financial Assets Authority as provided under the Unclaimed Financial Assets Act, 2011.

In the circumstances, Management was in breach of the law.

1010. Delay in Completion of the Transport Data Centre

The State Department entered into a contract with a consultancy firm at a contract sum of Kshs.22,390,000. The consultancy agreement dated 4 July, 2012 was to run for a period of sixty-four (64) weeks up to 25 September, 2013. Further, the State Department through the East Africa Trade and Transport Facilitation Project awarded a contract for the supply, installation, testing, commissioning and handover of a Transport Data Centre IT, networking, software and hardware on 30 September, 2014 at a cost of Kshs.130,739,261.

Review of the State Department's financial statements for the financial year 2023/20224 revealed that there was no update on the status of this facility even though the contract agreements had expired. In addition, the contractor and the consultant had not completed the project to warrant the issuance of a completion certificate and official handover of the facility. Records revealed that 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 2022 and no additional payments had been made as at 30 June, 2024.
Further, the project records revealed no progress from the 2023 project status report. Management did not explain the failure to deliver the project ten (10) years after the

contract end dates. In addition, delayed completion of the project, may lead to obsolescence of the already installed equipment resulting in loss of public funds.

In the circumstances, value for money already incurred in this project could not be confirmed.

1011. Failure to Comply with Approved Staff Establishment

The Approved Staff Establishment for the State Department was one hundred and five (105) staff against the in-post of one hundred and forty (140) staff resulting in overstaffing of thirty-five (35) officers.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1012. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECT

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT GRANT/CREDIT NUMBER 6768-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1013. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1014. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total budgeted receipts of Kshs.300,000,000 consisting of Kshs.270,000,000 from the donor and Kshs.30,000,000 from GOK counterpart. However, the actual receipts amounted to Kshs.91,268,140 from the donor and a Nil balance as counterpart funds, resulting in an under-collection of Kshs.208,731,860 or 70% of the budget. Further, the statement reflects a total budgeted expenditure of Kshs.300,000,000 against the actual expenditure of Kshs.96,850,096 resulting in an under-expenditure of Kshs.203,149,904 or 68% of the budgeted expenditure.

The under-funding and under-expenditure is an indication that the Project may not have achieved the planned objectives which may have a negative impact on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1015. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. The matters remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1016. Delay in Project Implementation

During the year under review, the approved budget for proceeds from borrowings and the budgeted project expenditure was Kshs.300,000,000. However, the Project received an amount of Kshs.91,268,140 from borrowings, out of which, only Kshs.96,850,096 was spent. As disclosed in Paragraph 2.8(i) of the project information and overall performance, the cumulative expenditure to date is Kshs.164,685,833 against the expected amount of Kshs.889,852,894 thus indicating a low uptake of funds of 19% and yet the Project is in its fourth year of implementation.

In the circumstances, the general and specific objectives, outcome and performance of the project may not be realized in a timely way, which may negatively impact on service delivery to the public.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1017. Lack of Internal Audit Check

During the year under review, no internal audit was conducted on the Project. Further, no quarterly reports were provided for audit as required by project implementation manual.

In the circumstances, the effectiveness of internal controls of the Project could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1018. As required by International Development Agency (IDA), I report based on my audit, that: I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, ln my opinion, adequate accounting records have been kept by the Project and the Project’s financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR TRANSPORT

NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT (IDA CREDIT NO.5140-KE) – KENYA RAILWAYS CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1019. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1020. Long Outstanding Pending Accounts Payables

Note 1 on other important disclosures and Annex 4 reflects pending accounts payables balance of Kshs.3,900,000 in respect of supply of services. However, the statement of comparison of budget and actual amounts reflects Nil balances on budgeted receipts and payments resulting to lack of budgetary provisions for the settlement of the pending accounts payables. Management did not provide details of the measures put in to settle the pending bills. The Project is at risk of incurring additional costs in form of interest and penalties for failure to settle Project costs as and when the amounts fall due.

1021. Lack of Project Closure Report

Paragraph 2.2 on Project Information in the financial statements indicates that the Project start date was 26 December, 2012 and the Project end date was 31 December, 2018.

Further, Paragraph 2.7 on Funding Summary indicates that the Project had an approved budget of USD 11,930,000 equivalent of Kshs.1,071,552,600 to be financed by the World Bank – International Development Association while an amount of Kshs.87,000,000 and Kshs.64,696,113 was to be financed as counterpart fundings by the Government of Kenya and Kenya Railways Corporation, respectively.

In addition, Paragraph 2.8 on Summary of Overall Project indicates that the Project was closed. However, the Project closure report was not provided for audit. Management did not provide an explanation for the failure to close the Project, over six (6) years after the completion date.

My opinion is not modified in respect of these matters.

Other Matter

1022. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. The issues remain unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1023. 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

1024. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1025. As required by International Development Agency (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MULTINATIONAL LAKE VICTORIA MARITIME COMMUNICATIONS AND TRANSPORT (MLVMCT) PROJECT – KENYA MARITIME AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1026. Unsupported Cash and Cash Equivalents

The statement of financial assets and liabilities and as disclosed in Note 11(a) to the financial statements reflects bank balances of Kshs.61,405,180 held at a commercial bank. However, as reported previously, the balance includes unsupported and unpresented cheques totalling Kshs.1,319,084, for which reconciliation or explanation was not provided for audit.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.61,405,180 as at 30 June, 2024 could not be confirmed.

Other Matter

1027. Unresolved Prior Year Matters

In the audit report of the previous financial year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. Although Management reported that the issues were resolved, no evidence was provided to show how the issues were resolved or deliberated by the relevant oversight committee.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1028. 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

1029. There were no material issues relating to effectiveness of internal controls, risk management and governance.

SAFE ROADS/USALAMA BARABARANI PROGRAMME GRANT NUMBER KE/FED/037-778 – NATIONAL TRANSPORT AND SAFETY AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1030. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1031. Undrawn Loan Balance

Section 2.7 of the funding summary indicates that the Project is for a duration of 5½ years from 01 March, 2020 to August 2025, with an approved budget of EUR 5,375,000, which is equivalent to Kshs.754,171,625. As at 30 June, 2024, the Project had operated for 4 ½ years or 82 % of the project period. However, an amount of Kshs.483,378,573, or 64% of the total commitments had already been drawn, leaving an undrawn balance of Kshs.270,793,052 or 36% to be drawn within the remaining 1 year to the end of the Project period. Further, out of the total funds drawn of Kshs.483,378,573, only an amount of Kshs.382,602,912 had been utilized as at 30 June, 2024, while the balance of Kshs.100,775,661 or 21% remained unutilized. In addition, out of the total commitment of counterpart funding of Kshs.150,834,325, only an amount of Kshs.42,277,920, or 28% had been received as at 30 June, 2024 which is significantly low compared to the Project implementation period lapse of 81%. The absorption rate of the funds is slow, an indication that the Project may not be completed within the remaining one-year period.

My opinion is not modified in respect of this matter.

Other Matter

1032. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Emphasis of Matter and under the Report Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board reporting template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1033. There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

Conclusion

1034. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

Conclusion

1035. As required by the Financing Agreement, I report based on my audit that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, information given in the Project Management is consistent with the financial statements. In addition, adequate accounting records have been kept by the Management of the Project, so far as appears from examination of those records and the Project's financial statements are in agreement with the accounting records and returns.

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT (IDA CREDIT NO. 6768 KE) - NATIONAL TRANSPORT AND SAFETY AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1036. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1037. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.360,000,000 and Kshs.328,230,749 respectively resulting to an under-funding of Kshs.31,769,251 or 9% of the budget. However, the Project spent Kshs.257,684,045 against actual receipts of Kshs.328,230,749 resulting to an under-utilization of Kshs.70,546,704 or 21% of actual receipts.

The under-funding and under-utilization may have affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1038. Unresolved Prior Year Matter

In the audit report of the previous year, an issue was raised on Budgetary Control and Performance. However, the Project Management had not resolved the issue as at 30 June, 2024

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1039. Undrawn Loan Balance and Unutilized Loans

The Project Information and Overall Performance on funding summary reflects donor commitment of EUR 21,400,000 (Kshs.2,737,569,320). This summary comprises of amount received to date of Kshs.1,222,435,696 or 45% and undrawn balance of Kshs.1,515,133,624 or 55% with an absorption rate for the year of 72% (2022/2023-81%). Further, the statement of receipts and payments reflects cumulative loans received of Kshs.1,222,435,696 and amount paid to date of Kshs.972,753,710 resulting to an unutilized balance of Kshs.249,681,986 or 20% of the loan received.

The undrawn and unutilized loans balance to date reflects loans advanced which were subject to interest and other loan charges levied annually as detailed below:

i. Commitment fee on undrawn balance equivalent to 0.5% of Kshs.1,413,153,396 for four (4) years of Kshs.28,263,068 payable on donor commitments that were yet to be drawn; as per Article II paragraph 2.03 of the Financing Agreement;

ii. The service charge on withdrawn balance that was unspent of Kshs.2,637,467 or 0.75 of 1% of Kshs.351,662,213 before service charge basis adjustment as per Article II paragraph 2.04 of the Financing Agreement; and

iii. The interest charge on withdrawn balance not utilized of 1.25% of Kshs.351,662,213 or Kshs.4,395,778 before service charge basis adjustment as per Article II paragraph 2.04 of the Financing Agreement.

In addition, the special deposit account reflected amount withdrawn but not claimed amounting to EUR 2,425,697.45 which according to Financing Agreement was subject to commitment fee of approximately EUR 52,351 equivalent to Kshs.7,269,769 (at the prevailing exchange rate of 138.8659) disclosed in Note 7 to the financial statements. No evidence was provided of loans charges exemptions in respect of the undrawn loan balance.

In the circumstances, the slow rate of absorption of the loans implies that the public will incur unnecessary costs in form of interest, service charge and commitment fees resulting in wasteful expenditure.

1040. Counterpart Underfunding

The statement of receipts and payments reflects counterpart funds amounting Kshs.15,000,000 as disclosed in Note 1 to the financial statements. This amount represents 3% of the total counterpart funds receivable from the Government by the Project of Kshs.462,986,577, an indication of an underfunding.

In the circumstances, low counterpart funding of the Project may affect the Project financial resources resulting to inefficiencies in the Project implementation and may impact negatively on the timely attainment of the Project strategic goals.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1041. Delayed Project Implementation

The Financing Agreement for the Project was signed on 7 October, 2020 with an implementation timeline of eight (8) years or ninety-six (96) months starting from 22 December, 2020 and ending on 31 December, 2028. As at 30 June, 2024, the Project had been in the operational implementation phase for a period of forty-two (42) months or 44% of total Project period, while the total amount disbursed was EUR 8,988,356 (Kshs.1,237,435,696) or 39% of the Project budget. Although, the funds remained unutilized, the service charge and interest due on the loan granted to the Project continues to accumulate whereas the Project outcomes are yet to be achieved.

There was no acceleration plan provided for audit review to confirm how the Management planned to recover the Project period in order to align progress with time. This exposes the Project to possible overruns and risk of not achieving the Project objectives efficiently and within budget due to expiry of the agreed deadlines.

In the circumstances, it is doubtful that the Project would be completed within the stipulated time frame of December, 2028.

1042. Failure to Implement the Approved Project Procurement Plan

Review of records revealed that the Project had an annual approved procurement and disposal plan of Kshs.1,314,172,000 against a final budget of Kshs.360,000,000 resulting to a variance of Kshs.954,172,000 between the project procurement plan and budgeted resources. Further, the statement of comparison of budget and actual amounts reflects receipts of Kshs.328,230,748 and payments of Kshs.257,684,045 resulting to an under-funding of the approved procurement plan by Kshs.985,941,252 and an under-implementation of Kshs.1,056,487,955 respectively which was not explained.

In addition, the adjustments of Kshs.330,000,000 on original budget as reflected in the statement of comparison of budget and actual amounts had an equivalent commitment fee of 0.05% or Kshs.1,650,000 payable without equivalent benefits as per Article II paragraph 2.03 of the Financing Agreement of July, 2020. However, documentary evidence on revision of the procurement plan to accommodate the budgeted resources and revised work plans was not provided for audit. Failure to prepare a procurement plan that matches budget estimates reflects ineffectiveness in Project planning and implementation.

In the circumstances, the effectiveness of the internal controls and risk management in the Project implementation could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1043. As required by International Development Association, I report, based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR SHIPPING AND MARITIME AFFAIRS – VOTE 1093

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1044. There were no material issues noted during the audit of the financial statements for the State Department.

Emphasis of Matter

1045. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.3,221,912,776 and Kshs.910,231,629 respectively, resulting in under-funding of Kshs.2,311,681,147 or 72% of the budget. Similarly, the State Department spent an amount of Kshs.910,143,706 against actual receipts of Kshs.910,231,629 resulting to an under-utilization of Kshs.87,923 of the actual receipts.

The under-funding may have affected the implementation of planned activities by the State Department which may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1046. Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1047. Outstanding Pending Bills

Note 16.2 to the financial statements reflect pending bills balance of Kshs.32,041,973 comprising of Kshs.5,832,493 brought forward from 2022/2023 financial year and additions of Kshs.26,209,480 during the year under review. No payments were made during the year. This was contrary to Section 74(4) of the Public Finance Management Act, 2012 which provides that 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 in circumstances where funds are provided for in the budget.

In the circumstances, Management was in breach of the law.

1048. Non-Compliance With the One Third of the Basic Salary Rule

Review of the monthly payrolls revealed four (4) employees earned a net salary which was less than a third (1/3) of the basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which provides that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

In the circumstances, Management was in breach of the law.

1049. Leave Management

Review of the human resources management records revealed that fifteen (15) employees did not proceed for their annual leave during the year. This was contrary to the Public Service Commission (PSC) Human Resource Policies, 2016 Section E.3 (1) read together with Public Service Commission circular on Annual Leave Ref No: OP/CAB.2/1 of 27 September, 2023 which states that annual leave is a right to every public officer and will be granted for recuperative purposes to enable the officer to renew his energies and improve on efficiency.

In the circumstances, Management was in breach of the regulations and policies.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1050. Lack of Risk Management Policy and Disaster Recovery Plan

During the year under review, the State Department did not have a risk management policy framework. In the absence of the framework, the mechanisms for identification of risks, definition of strategies to mitigate the impact of the risks were unclear which might impact on risk mitigation.

In addition, there was no Disaster Recovery Plan in place in case of any disaster the auditee may not be able to recover any information. This was contrary to the Regulation 165(1) of the Public Finance Management (National Government) Regulations, 2015, which states that the Accounting Officer shall ensure that the national government entity develops - the role of Accounting Officer in risk management. (a) risk management strategies, which include fraud prevention mechanism; and (b) a system of risk management and internal control that builds robust business operations.

In the circumstances, the existence and sufficiency of a system of a risk management system and effectiveness of controls on internal controls could not be confirmed.

STATE DEPARTMENT FOR HOUSING AND URBAN DEVELOPMENT – VOTE 1094

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1051. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1052. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.78,183,381,707 and Kshs.45,493,272,431, respectively, resulting to an underfunding of Kshs.32,690,109,276 or 42% of the budget. However, the State Department spent an amount of Kshs.45,442,941,304 against actual receipts of Kshs.45,493,272,431 resulting to an underutilization of Kshs.50,331,127 or 0.1% of the actual receipts.

The underfunding affected the planned activities and may have impacted negatively on service delivery.

1053. Long Outstanding Pending Bills

Attention is drawn to Table 1 to the financial statements on analysis of pending bills which, reflects total pending bills of Kshs.1,443,579,325. The pending bills were categorized as bills verified and payable and bills under verification of Kshs.1,177,852,653 and Kshs.265,726,672, respectively. Management explained that the reason for non-payment of the bills categorized as verified and payable was due to inadequate Exchequer releases during the year. However, there was no explanation why the pending bills categorized under verification had remained unverified for over a long period of time.

My opinion is not modified in respect of these matters.

Other Matter

1054. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Emphasis of Matter and Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the issues remained unresolved and no explanation was provided for delay in implementing the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1055. Non-Compliance with One-Third Rule on Basic Salary

Review of the State Department's payroll for the month of June, 2024 revealed that thirty-six (36) employees were earning salaries below the recommended one-third of their basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which states that all deductions made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or salaries. This may expose staff to pecuniary embarrassment.

In the circumstances, Management was in breach of the law.

1056. Stalled Construction of Economic Stimulus Programme Markets - Cluster 51

The statement of receipts and payments reflects an expenditure under acquisition of assets of Kshs.16,562,700,010 which includes construction and civil works expenditure of Kshs.15,312,065,668 as disclosed in Note 8 to the financial statements, out of which Kshs.5,212,826 was paid to a contractor for construction of Economic Stimulus Programme Markets-Cluster 51. Review of contract documents revealed that the contract for construction of Kasarani, Gilgil and Mzee wa Nyama Market-Cluster 51 was awarded at a contract sum of Kshs.147,766,679. However, as at the time of audit in October, 2024, the Project had stalled at 15% works to completion and 100% of the allocated time had lapsed.

In the circumstances, the value for money spent on the stalled Project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1057. Other Receipts

1057.1 Unrealized Collection of Appropriations-In-Aid (AIA)

The statement of receipts and payments reflects other receipts amount of Kshs.974,753,049 in respect of rent collections from various Government houses. However, the statement of comparison of budget and actual amounts indicated that the State Department had budgeted to collect Kshs.1,115,000,000 against actual on comparable basis of Kshs.974,753,049 resulting to an under-collection of Kshs.140,246,951 or 13% of the budget.

1057.2 Unremitted Rent Revenue

Review of revenue records and payroll by- products (payrolls on house rent deductions) revealed that the State Department expected to receive rent amounting to Kshs.1,063,088,053. However, review of annual rent receipts schedule revealed that the

State Department received Kshs.974,753,049 resulting to an unrealised rent of Kshs.88,335,004.

1057.3 Uncollected Rent Revenue from Government Houses

The total number of Government houses across the country as at 30 June, 2024 stood at forty-nine thousand, five hundred and fifty-five (49,555) with an expected monthly rental income of Kshs.109,799,669 resulting to an annual rent potential of Kshs.1,317,596,028 assuming full occupancy. However, the rent collections on Government houses for the year under review amounted to Kshs.974,753,049 resulting to an under-performance of Kshs.342,842,979 or 26% of the full potential. The under-collection of rent is likely to impact negatively on the ability of the State Department to meet its revenue and expenditure target.

1057.4 Boarded Houses

Review of the Government Houses Inventory held by State Department of Housing and Urban Development showed that five thousand three hundred and ninety-seven (5,397) Government houses have been boarded countrywide either through demolition, transfer to other entities, natural perils (fire, flooding, condemned, re-development) or converted to office for other entities. The boarding of the houses has depleted the Government houses resulting to revenue loss and reduced availability of houses for critical Government services. These boarded houses had an estimated annual rent of Kshs.176,829,360 assuming full occupancy. However, despite the boarding of the houses, there is no evidence that the State Department has embarked on re-stocking of the Government houses pool/inventory.

In the circumstances, the effectiveness of internal controls on revenue collection could not be confirmed.

1058. Lack of Ownership Documents

The State Department entered into contracts with various contractors for the construction of Affordable Houses across the country at a total contract sum of Kshs.49,456,549,086. However, land ownership documents for sites where the projects are being implemented were not provided for audit.

In the circumstances, it could not be confirmed on how the sectional titles would be processed without the original land ownership documents and this could hinder the Affordable Houses sale to the public.

1059. Failure to Close Dormant Bank Accounts

The statement of financial assets and financial liabilities reflects cash and cash equivalents balance of Kshs.903,431,981. The balance includes amounts of Kshs.1 and Kshs.29,166 in respect of Kenya Urban Support Program Account and Housing Fund Tax Account, respectively. However, the two (2) bank accounts are dormant and no transactions were carried out in the accounts since the Kenya Urban Support Program 1 was finalized and closed while the Housing Fund Tax was transferred to the Affordable

Housing Fund. No explanation was given for failure to close the two dormant bank accounts.

In the circumstances, the existence of effective controls on cash management could not be confirmed.

DONOR FUNDED PROJECTS

SECOND KENYA INFORMAL SETTLEMENTS IMPROVEMENT PROJECT (IDA CREDIT NO.6759-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1060. 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

1061. Failure to Transfer Funds to Project Special Purpose Account

The statement of receipts and payments and Note 9 to the financial statements reflects a balance of Kshs.4,498,671,470 in respect of transfers to other Government entities. The funds were transferred to County Governments and was confirmed to have been received in the County Governments County Revenue Accounts. However, it was noted that five (5) County Governments did not transfer funds amounting to Kshs.427,373,055 to the County Special Purpose Accounts.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1062. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1063. As required by International Development Agency (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

KENYA INFORMAL SETTLEMENTS IMPROVEMENT PROJECT (IDA CREDIT NO.4873-KE, AFD CKE 1055 01J AND SIDA - TF: 018327)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1064. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1065. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management had indicated the issues as resolved as at 30 June, 2024, no evidence was provided to support the position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1066. There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

Basis for Conclusion

1067. Failure to Transfer Motor Vehicles

The summary of fixed assets register reflects a balance of Kshs.82,478,360 in relation to transport equipment. The balance relates to fifteen (15) motor vehicles registered under the State Department for Housing and Urban Development which were distributed to the Counties for operations of the Project's activities. The Project was closed, and implementation and completion report published. However, the motor vehicles logbooks are held by the State Department for Housing and Urban Development while the vehicles are still held and operated by the County Governments.

In the circumstances, the ownership, custody and effectiveness of internal controls in the management of the motor vehicles could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1068. As required by International Development Agency (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

NAIROBI METROPOLITAN SERVICES IMPROVEMENT PROJECT (IDA CREDIT NO.5102-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1069. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1070. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management had indicated the issues as resolved as at 30 June, 2024, no evidence was provided to support the position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1071. Delay in Completion of Project

The statement of receipts and payments reflects an amount of Kshs.162,190,820 in respect of acquisition of non-financial assets which, as disclosed in Note 12.5 to the financial statements includes an amount Kshs.124,058,454 relating to part payment for construction of Mitubiri Sanitary Landfill Site Project. Review of the Project's file revealed that the contract for construction works was awarded to a Contractor at a contract sum of Kshs.1,056,478,730. The contract agreement was signed on 30 May, 2017 with a contract period of three hundred and fifty (350) days, and the Project was expected to be completed on 7 April, 2020. However, the Project completion date has been revised eleven (11) times with the latest revised completion date of 22 December, 2024 with completion of defect liability period of 22 December, 2025. Further, the Project's status report as at 30 June, 2024 revealed that 83% of work was complete and the Project was 1,713 days behind scheduled time.

In the circumstances, value for money on the delayed completion of the Project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1072. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1073. As required by International Development Agency (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

KENYA URBAN SUPPORT PROGRAM IDA CREDIT NO.61340-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1074. There were no material issues noted during the audit of the financial statements of the Program.

Other Matter

1075. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1076. 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

1077. Failure to Close Operations Bank Account

Paragraph 2.2 on Project Information reflects that the Project start date was 26 July, 2017 and the Project end date was 31 December, 2023. The Project Management was given an extension period of six (6) months by the World Bank to clear all the pending payments and officially close the Project. The Program's Special Deposit Accounts were closed by The National Treasury and an acknowledgement confirming the closure was issued on 19 August, 2024. However, during the audit in August, 2024, the Program's operations account held at the Central Bank of Kenya had not been closed. No reason was provided to explain the same.

In the circumstances, existence of effective internal controls in the management of the operations account could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1078. As required by the International Development Agency (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR HOUSING AND URBAN DEVELOPMENT

KISUMU URBAN PROJECT (PROJECT ADVANCE ACCOUNT) - CKE 1035.01.G - COUNTY GOVERNMENT OF KISUMU

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1079. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1080. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, Management has not resolved some of the issues or given any explanation for failure to address them.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1081. Non-Closure of Project and Handover of Project's Assets

According to the Project Financing Agreement, the deadline for use of funds was 30 June, 2022. However, review of documents provided for audit revealed that there was no handover for the Project's assets to the implementing entity, the County Government of Kisumu.

Further, during the year under review, no funds were received by the Project and no expenditure was made from the bank account which had a balance of Kshs.2,199,109. Also, Project records indicate pending bills of Kshs.31,575,700 as at 30 June, 2024.

In the circumstances, the Project may not meet its obligations while Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1082. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1083. As required by the French Development Agency (FDA), I report based on my audit that, I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records; and, the Project's financial statements are in agreement with the accounting records and returns.

KISUMU URBAN PROJECT (CASH EXPENDITURE FUND) – CKE 1035.01.G –COUNTY GOVERNMENT OF KISUMU

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1084. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1085. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2024. Management had not provided satisfactory reasons for the delay in resolving all the prior year audit issues.

REPORT ON THE LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1086. Non-Closure of Project and Handover of the Project's Assets

According to the Project Financing Agreement, the Project's technical completion date was 31 January, 2022 while the deadline for use of funds was 30 June, 2022. During the year under review, the Project did not receive any funding and there were no activities carried out by the Project. However, it was not clear why Management had not formally handed over the Project to the implementing entity.

In the circumstances, Project Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1087. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1088. As required by Agency Francaise De Development (AFD), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR PUBLIC WORKS – VOTE 1095

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1089. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1090. Pending Bills

Note 16.2 and Annex 1 to the financial statements reflect pending accounts payable balance of Kshs.696,695,679. Delayed settlement of pending accounts payables may attract avoidable costs in interest and penalties on amounts due. Further, failure to settle bills during the year in which they relate adversely affects the provisions of the subsequent year to which they form a first charge.

My opinion is not modified in respect of this matter.

Other Matter

1091. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although the issues were subsequently presented before the Public Accounts Committee, they remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1092. Failure to Remit Long Outstanding Retention Deposits

The statement of financial assets and financial liabilities and as disclosed in Note10 to the financial statements reflects accounts payables-deposits balance of Kshs.298,805,492. Review of the supporting schedule provided revealed that the balance included an amount of Kshs.194,635,995 in respect of retentions or deposits held for the years between the years 2000 and 2018. However, no explanation was given for the failure to remit the long outstanding balance to the Consolidated Fund as required. This was contrary to Regulation 106 of the Public Finance Management (National Government) Regulations, 2015 which states that unless otherwise exempted by an Act of Parliament, any deposit which has remained unclaimed for five (5) years may, with the approval of the Cabinet Secretary, be paid into Consolidated Fund and thereafter the Accountant-General may refund the deposit to any person entitled thereto, if he or she is satisfied that the claim is authentic. Alternatively, the amounts could be surrendered to the Unclaimed Financial Assets Authority as provided under the Unclaimed Financial Assets Act, 2011.

In the circumstances, Management was in breach of the law.

1093. Delayed Completion of Projects

1093.1 Proposed Tharaka-Nithi County Headquarters at Kathwana

The proposed Tharaka-Nithi County Headquarters at Kathwana Project was awarded to a contractor at a contract sum of Kshs.366,823,803 which was later revised to Kshs.458,239,186. The Project was for a duration of four hundred and fifty-nine (459) weeks beginning 27 July, 2015 to 15 May, 2024. Review of the Project file revealed conflicts between the contractor, the State Department of Public Works and the County Government of Tharaka-Nithi due to slow performance and delayed payments. In May and August 2022, the Principal Secretary, the State Department for Public Works instructed the County Government of Tharaka-Nithi to terminate the contract on account of non-performance by the contractor resulting from arbitration between the two parties led by the Architectural Association of Kenya (AAK) without success.

Further, delayed implementation and payments resulted to additional project costs in form of labour and materials price variation and interest on delayed payments escalating project cost to Kshs.458 million.

Field inspection of the Project in the month of October, 2024 revealed that the contractor was not on site and the Project had stalled.

In the circumstances, delayed completion of the Project denied the public value for money and service delivery.

1093.2 Proposed Headquarters for Nyandarua County at Ol Kalou

The proposed Nyandarua County Headquarters at Olkalou Project was awarded to a contractor at a contract sum of Kshs.617,644,564 for a duration of one hundred and four (104) weeks beginning 16 March, 2017 and ending on 16 March, 2019. The contract was terminated on 16 March, 2019 (initial completion date) for failure to perform as per the contract terms with the contractor having achieved 19% completion status. The contractor went to Court and sought an injunction to the tendering process of a new contract that had been restarted by the County Government of Nyandarua. In June, 2020, the termination was lifted by the employer and the initial contractor agreed to resume work and complete the Project by July, 2021 which was not achieved. However, through an arbitration process and an addendum dated 01 July, 2021, the contractor transferred the assigned works to another contractor at an agreed amount of Kshs.24,900,855 with no further claims. The Project completion was extended to 31 December, 2022 through a letter dated 18 January, 2022.

During the year under review, the State Department paid a total of Kshs.48,908,999 to the various contractors working on or assigned to the Project.

However, the following anomalies were noted;

(i) As previously reported, there was no evidence that the Project Management team attempted to warn and possibly terminate the services of the contractor earlier than 16 March, 2019, which was the initial project completion date, when 19% of the works had been delivered.

(ii) At the time of termination, payments amounting to Kshs.101,623,125 had already been made to the contractor including an amount of Kshs.13,078,306 meant for the installation of lifts. However, as previously reported, it was not possible to install lifts given that the Project had stalled at the foundation level.

(iii) Review of the Project Implementation Status (PIS) report revealed that the Project was significantly behind schedule at 53% completion more than six (6) years after the Project commenced.

(iv) As previously reported, available records revealed that there were additional charges related to the Project totalling Kshs.83,497,615 occasioned by fluctuations of builders' work and materials, interest on delayed payments and contractual claims that could otherwise be avoided.

A field inspection conducted on the Project in October, 2024 revealed the following;

(i) The perimeter wall was at about 90% completion level and plastering of the walls and window fixing was in the process. However, the contractor had abandoned the site, a pointer to further delay in project completion.

(ii) The Project was seven (7) months to the completion date and the Project had stalled.

There was no handover report on the status of the Nyandarua County headquarters between the State Department for Public Works and the County Government of Nyandarua as per the Inter-Governmental Relations Technical Committee (IGRTC) letter dated 26 March, 2024 casting doubts on project ownership.

In the circumstances, value for money on the Project could not be confirmed.

1094. Proposed Headquarters for Tana River County

The proposed Tana River County Headquarters Project was awarded to a contractor at a contract sum of Kshs.495,268,750 for a duration of seventy nine (79) weeks commencing 16 March, 2020 and ending on 22 September, 2021. However, a field visit conducted on the Project in the month of October, 2024 revealed that the Project site was changed after the design stage of the Project resulting to cost variation of Kshs.500,000,000. Further, to ensure the cost is contained within the Kshs.500,000,000 limit, key infrastructure works of lifts installation, generator installation, underground tank, high-level and low-level tanks, access roads and parking, and landscaping had been omitted from the initial design. The redesigning of the Project in the new site and completion of the omitted works was projected to push the cost up by Kshs.350,000,000. No satisfactory explanation was given as to why the change of site had not been factored during the Project feasibility study stage so as to save on costs. Further, the feasibility study was not provided for audit review.

In the circumstances, delayed completion denied service delivery to the public.

1095. Proposed Construction of Isiolo County Headquarters

As previously reported, the proposed construction of Isiolo County Headquarters was awarded to a contractor at a revised contract sum of Kshs.556,905,703 from an initial contract sum of Kshs.870,706,011 with a completion date of 30 August, 2021. Review of the progress report as at 30 June, 2022 revealed physical progress of 50% with more than 109% of the time having elapsed, an indication of slow progress in project implementation. Further, the contractor raised an extension of time claim from 30 August, 2021 to 30 August, 2022 whose approval was not provided for audit review. In addition, at the time of audit, only works valued at Kshs.102,300,195 representing 18% of the contract sum had been certified for payment. Included in the amount was Kshs.2,972,179 relating to interest on delayed payments which forms an extra charge to public funds.

Further, a field inspection conducted on the Project during the month of October, 2024 revealed that the contractor had abandoned the site and project had stalled. The Project estimated percentage completion was 60% as indicated in the progress report.

In the circumstances, value for money of the Project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1096. Lack of Lease Document for Likoni Road Warehouses

Review of records revealed that the State Department leased Independent Electoral and Boundaries Commission (IEBC) warehouses at the Supplies Branch along Likoni Road, Industrial Area on or before 31 May, 2023. However, no lease agreement showing terms of occupation was provided for audit review. Further, a correspondence dated 06 December, 2022 indicated that IEBC was supposed to vacate the premises but no evidence was provided to show that the premises were vacated and rent paid during the year.

In the circumstances, the existence of an effective mechanism to safeguard public assets and premises could not be confirmed.

1097. Lack of an Audit Committee

During the year under review, the State Department operated without an Audit Committee to deliberate on the Internal Audit Reports. Management provided Internal Audit Reports that had not been approved by the Audit Committee. This was contrary to Section 73(5) of the Public Finance Management Act, 2012 which states that every National Government public entity shall establish an Audit Committee whose composition and functions shall be as prescribed by the Regulations. Further, Management explained that as at 30 June, 2024, the State Department was in the process of reconstituting the Audit Committee.

In the circumstances, the existence of an effective mechanism to ensure vibrant internal controls system to oversight over financial oversight, risk management and internal controls could not be confirmed.

1098. Lack of a Risk Management Policy

During the year under review, the State Department did not have a Risk Management Policy. This was contrary to Regulation 165 of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting Officer shall ensure that the National Government entity develops risk management strategies, which include fraud prevention mechanisms; and a system of risk management and internal control that builds robust business operations.

In the circumstances, the internal controls on risk management which would assist in the detection of fraud and other areas of internal control weaknesses in the operations of the State Department could not be confirmed.

STATE DEPARTMENT FOR IRRIGATION – VOTE 1104

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1099. Receipts - Proceeds from Sale of Assets

The statement of receipts and payments reflects proceed from sale of assets amount of Kshs.236,566,988 which, as disclosed in Note 4 to the financial statement, is in respect of sale of certified rice seeds and breeding stocks. However, an analysis of the revenue and detailed listing of the revenue was not provided for audit review.

In the circumstances, the accuracy and completeness of the proceeds from sale of assets amount of Kshs.236,566,988 could not be confirmed.

1100. Unsupported Fuel Expenditure

The statement of receipts and payments reflects use of goods amount of Kshs.90,827,590 as disclosed in Note 7 to the financial statements. This amount includes Kshs.14,818,675 in respect of fuel, oil and lubricants out of which Kshs.9,047,541 was incurred for the purchase of fuel. However, review of the vehicle work tickets and the fuel statement from the supplier revealed discrepancies with the fuel drawn by various vehicles.

Further, there were no records provided to show how the supplier's fuel was accounted for as supplier statements did not show when fuel was received and the balances at the end of the months could not be reconciled. This was contrary to Section 68 (2) (e) of the Public Finance Management Act, 2012 which provides that an accounting officer should ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services and that in the case of goods, adequate arrangements are made for their custody, safeguarding and maintenance.

In the circumstances, the accuracy, completeness fuel, oil and lubricants amount of Kshs.14,818,675 could not be confirmed.

1101. Lack of Acknowledgements for Grants and Transfers to Other Government Agencies

The statement of receipts and payments reflects grants and transfers to other Government Entities amounting to Kshs.17,211,860,462 as disclosed in Note 8 to the financial statements. The amount consists of Kshs.16,110,216,574 and Kshs.1,101,643,888 being capital and recurrent grants to Government Agencies and other levels of Governments respectively. However, these transfers were not supported with the relevant confirmations and acknowledgements from the receiving entities. Further, analysis of the payment details in IFMIS indicated that grants amounting to Kshs.13,173,428,172 were transferred to the self-reporting entities resulting to a variance of Kshs.4,038,432,290 which was not explained.

In the circumstances, the accuracy and completeness of the grants and transfers to other Government Entities amount of Kshs.17,211,860,462 could not be confirmed.

1102. IFMIS Data Analysis Report – Unexplained Voided Transactions

Analysis of the IFMIS payments indicated that one hundred and two (102) transactions amounting to Kshs.363,000,0000 were voided during the year under review. Available information indicated that the Controller of Budget (COB) had approved payments before the transactions were voided. Management did not explain why the payments were voided yet they had been approved.

In the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June, 2024 could not be confirmed.

Emphasis of Matter

1103. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.22,157,755,130 and Kshs.19,102,248,085 respectively resulting in an under-funding of Kshs.3,055,507,045 or 14% of the budget. Similarly, the statement reflects the final expenditure budget and actual amounts on comparable basis of Kshs.22,157,755,130 and Kshs.18,668,578,838 respectively, resulting in an under-expenditure of Kshs.3,489,176,292 or 16% of the budget.

The underfunding and under-performance affected implementation of the planned activities and programs and may have impacted negatively on service delivery to the public.

1104. Incomplete Ongoing Projects

Review of the projects' implementation status report as at 30 June, 2024 revealed that six (6) projects with a total contract sum of Kshs.1,158,542,292 and actual expenditure of Kshs.351,839,417 had not been completed and were on-going in various stage of completion.

The slow pace of the project's implementation may negatively affect service delivery to the residents of the respective Counties and the intended purpose of the projects may not be actualized.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1105. Non-Compliance with a Third Basic Pay Rule and Staff under Establishment

The statement of receipts and payments reflects compensation of employees amount of Kshs.210,212,117 as disclosed in Note 6 to the financial statements. However, analysis of payroll records revealed that twenty (20) employees earned a net pay below a third of their basic pay during the year under review. This was contrary to Section 19 (3) of the Employment Act, 2007 which provides that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

Further, human resource records provided for audit revealed that the State Department had a staff establishment of five hundred and one (501) staff against one hundred and sixty-five (165) staff members in post thus resulting in an overall under establishment of three hundred and thirty six (336) personnel. This was contrary to Section B.2 of the Public Service Commission Human Resource Policies and Procedures Manual for the Public Service, 2016 which provides that every Ministry/State Department shall prepare Human Resource Plans to support achievement of goals and objectives in their Strategic plans. The plans shall be based on comprehensive job analysis and shall be reviewed every year to address emerging issues and needs. Further, on the basis of these Human Resource plans, Ministries/State Departments shall be required to develop annual recruitment plans which will be forwarded to the Public Service Commission at the beginning of each financial year to enable its plan to fill the vacancies.

In the circumstances, the Management was in breach of the law and human resources policies.

1106. Acquisition of Assets

1106.1 Stalled Project – Anyiko - Ujwangá - Kathieno Irrigation Project in Siaya County

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,155,678,668 which, as disclosed in Note 9 to the financial statements, include construction and civil works amount of Kshs.944,826,731. The latter amount in turn includes Kshs.37,390,959 paid to a contractor for construction of Anyiko – Ujwangá - Kathieno Irrigation project in Siaya County. The contract agreement with a contract sum of Kshs.478,513,313 was signed on 8 August, 2022 and works commenced on 10 August, 2022 with an expected completion date of 08 August, 2024. The contractor was paid an advance payment of Kshs.95,702,666 out of which Kshs.72,587,869 had been recovered by 30 June, 2024.

Physical verification of the project in the month of September, 2024 revealed that only 20% of the project had been completed and the contractor was last on site in February, 2024 having abandoned the project. Further, performance security of Kshs.9,000,000 had expired and the works achieved were of poor quality including the canal walls and water intake points. In addition, two (2) 175cc motorcycles estimated to cost Kshs.400,000 had not been purchased as per the preliminary and general items requirements in the Bills of Quantity. The State Department did not explain measures taken to ensure that the project is completed as per the scope of works and contract.

In the circumstances, the project’s delay may result in escalated costs for completion and value for money on the money spent on the project could not be confirmed.

1106.2 Drilling and Equipping of Boreholes, Construction of Elevated Water Tanks and Drip Irrigation at Ganda Primary School in Kwale County

The State Department awarded a contract for drilling, equipping of boreholes, construction of elevated water tanks and drip irrigation at Ganda Primary School to a contractor at a contract sum of Kshs.7,374,000.

However, physical verification of the works in September, 2024 revealed that the contractor was not on site, the project was incomplete and the contract and performance bond had expired. Further, equipping of the bore hole, water testing, construction of elevated tanks and drip irrigation was not done. In addition, certificates of the contractor conducting hydrogeological survey, paying licences, water tests evidence of processing Water Regularity Authority borehole report and water abstraction permits were not provided for audit review.

In the circumstances, the value for money of Kshs.7,374,000 could not been confirmed.

1106.3 Drilling, Equipping of Boreholes, Construction of Elevated Water Tank and Greenhouses at Ndugamano Primary School in Muranga County

The State Department awarded a contract for the drilling, equipping of boreholes, construction of elevated water tank and greenhouses on 30 November, 2023 at a contract sum of Kshs.10,966,900. The project was implemented under the Micro Irrigation for Schools Programme in Ndugamano Primary School Muranga County. The project was completed and handed over to the school however anomalies leading to the loss of Kshs.1,232,780 were observed during the physical verification as follows:

i. Payment was made for a submersible pump to deliver 10 metre cublic per hour of water yet the installed pump was of a capacity to deliver 5 metre cublic per hour of water leading to a loss of Kshs.147,500.

ii. Monocrystalline solar module of cumulative power output of 15,000 watts were paid for at a cost of Kshs.80,000 yet only 16 solar modules of 360 watts each were installed translating to power output of 5,760 watts which would have cost Kshs.30,720 resulting to a loss of Kshs.49,280.

iii. A hybrid system to enable the use of solar mains and solar power was paid for at a cost of Kshs.190,000 yet this was never installed.

iv. DC PV disconnect switch 440VDC/40A paid for at a cost of Kshs.25,000 was not installed.

v. Solar structure of at least 4 metres above the ground was paid for at a cost of Kshs.200,000 and yet the structure was never constructed, and the panels were mounted on the roof of the classrooms.

vi. The float operated water level indicator paid for at a cost of Kshs.35,000 was not functioning.

vii. 20m cubic pressed steel tank was paid for at a cost of Kshs.950,000 yet the installed tank was 12 m cubic and thus Kshs.570,000 should have been paid leading to a loss of Kshs.380,000.

viii. Two entry porches were paid for at a cost of Kshs.60,000 but only one was installed leading to a loss of Kshs.30,000.

ix. Two Modern crop support systems paid for at a cost of Kshs.80,000 were not installed.

x. Binding wires and trellising twines paid for at a cost of Kshs.60,000 were not installed.

xi. Drip irrigation system to cover 0.25 acres of land that included installation of pipework for the mainline, sub mains, drip irrigation pipes, fittings, connectors, accessories and connectors were paid for at a cost of Kshs.150,000 yet the actual area where drip irrigation system was installed was 0.19 acres thus Kshs.114,000 should have been paid leading to a loss of Kshs.36,000.

xii. The water kiosks and school water points did not have water taps.

In the circumstances, the value for money of Kshs.10,938,175 spent on the project could not been confirmed.

1107. Failure to Publish and Publicize Awarded Tender

Procurement documents available indicated that the State Department procured works, goods and services through tenders but the tenders awarded were not publicized on the State Department's Websites, public notice boards or the public regulatory authority platforms. This was contrary to provisions of Regulation 131 (1)(a) of the Public Procurement and Asset Disposal Regulations, 2020 which requires an accounting officer of a procuring entity to publish and publicize all procurement contracts at its noticeboards and website.

In the circumstances, the Management was in breach of the law.

1108. Failure to Maintain an Up-to-Date Assets Register

Annex 2 to the financial statements reflect a summary of fixed asset register with historical cost balance of Kshs.1,182,017,165 as at 30 June, 2024. Review of fixed assets register provided for audit review revealed that thirteen (13) vehicles had been omitted from the asset register. Further, some assets in the register had their values captured as either zero, one or unknown and the State Department was unable to upload information on the assets in the system provided by The National Treasury as they had not been mapped.

In addition, two Toyota Prado motor vehicles had been categorized as one vehicle and no explanation was provided as to how one vehicle can have two registration numbers. Failure to maintain complete and up-to-date assets register is contrary to Regulation 143 (1) of Public Finance Management (National Government) Regulations, 2015 which prescribes that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

In the circumstances, the assets are not properly maintained, and the Management was in breach of the law.

1109. Lack of Preparedness for Transition to Accrual Basis of Accounting

The State Department did not prepare the financial statements for the first quarter of 2024/2025 financial year hence it could not be confirmed whether transitioning from cash to accrual basis of accounting is being adopted. This was contrary to Paragraph 4.2 part (a) of the Circular on Guidelines on year end closing procedures for Financial Year 2023/2024 dated 15 May, 2024 that provides that the National and County Governments and their respective entities shall apply IPSAS Accrual based standards with effect from 1 July, 2024.

In the circumstances, Management was in breach of the Circular.

1110. Failure to Dispose Unserviceable Assets

Physical inspection in October 2024 revealed that three (3) motor vehicles were grounded unserviceable, abandoned and kept in the open space in the State Department headquarters. Management did not explain why the assets had not been disposed of but were left exposed to effects of inclemental weather conditions. Failure to dispose of unserviceable assets is contrary to Section 53(4) of the Public Procurement and Asset Disposal Act, 2015 which provides that all asset disposals shall be planned by the accounting officer concerned through annual asset disposal plan in a format set out in the Regulations.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1111. Lack of Strategic Plan

Audit review revealed that the State Department operated without a strategic plan in the year under review. This was contrary to Section 68 (2) (g) of the Public Finance Management Act, 2012 which requires an accounting officer to prepare a strategic plan for the entity in uniformity with the medium-term fiscal framework and fiscal objectives of the National Government.

In the circumstances, Management was in breach of the law.

1112. Lack of an Audit Committee

The State Department did not provide for audit review evidence inform of minutes of an effective audit committee. Further, internal audit charter, audit work plans and audit reports were not availed for audit review. This was contrary to Section 73 (1) and (5) of the Public Finance Management Act, 2012 which provides that every national government entity shall ensure that it has appropriate arrangements in place for conducting internal audit according to the guidelines of the accounting standards board and that every national government public entity to establish an audit committee.

In the circumstances, the effectiveness of the internal controls and governance could not be confirmed.

1113. Lack of a Risk Management Policy

The State Department did not have a Risk Management Policy in place and the Management did not perform formal risk assessments on all key financial risk areas such as revenue, expenditure and cash. This was contrary to Regulation 165 (1) of the Public Finance Management (National government) Regulations, 2015 which provides that Accounting Officer shall ensure that the national government entity develops risk management strategies, which include fraud prevention mechanism and a system of risk management and internal control that builds robust business operations.

In the absence of a risk management policy, the management is not able to identify individual risks, the likelihood of identified risks, and the appropriate controls.

In the circumstances, the effectiveness of risk management strategies could not be confirmed.

1114. Lack of Information Communication Technologic (ICT) Policy

Review of the State Department's ICT environment revealed that there was no formal approved ICT policy, Security policy, Environmental policy, IT Continuity Plan and Disaster Recovery Plan in place as at 30 June 2024. This was contrary to Section 149(2)(c) of the Public Finance Management Act, 2012 which provides that a public entity should always ensure that all its records, financial or otherwise kept in electronic form, are adequately protected and backed up.

In the circumstances, the security and reliability of the State Department's data, including the finance management information system could not be confirmed

DONOR FUNDED PROJECT

KENYA WATER SECURITY AND CLIMATE RESILIENCE PROJECT (GRANT NO. TFOA0761A AND CREDIT NO.5268/5674/7423-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1115. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1116. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.3,346,000,000 and Kshs.1,778,917,777 respectively, resulting in underfunding by Kshs.1,567,082,223 or 47% of the budget.

Similarly, the project spent Kshs.1,472,975,025 against the budgeted amount of Kshs.3,346,000,000 resulting in under expenditure of Kshs.1,873,024,975 representing 56% of the estimated expenditure. Management attributed the low absorption to slow pace of release of counterpart funds by the Government.

The under-funding and under-expenditure is an indication that the project's objectives may not be achieved and may impact negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1117. Unresolved Prior Year Audit Matters

There were issues raised in the audit report for 2022/2023 financial year of which no report or recommendations from the Project Management and oversight bodies were submitted for audit verification and clearance. Further, the issues remain unresolved contrary to Section 68(2)(l) of the Public Finance Management Act, 2012 which require Accounting Officers designated for National Government entities to try to resolve any issues resulting from an audit that remain outstanding.

REPORT ONLAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1118. Payment of Claims

The statement of receipts and payments showed acquisition of non-financial assets of Kshs.1,398,366,928. Included in this amount is Kshs.697,327,832 paid for Construction and Civil Works as disclosed under Note 8 to the financial statement. Examination of payment vouchers provided for audit for Lot 1, Lower Nzoia Irrigation Project for the financial year 2023/2024 revealed that the project had paid a total accumulated amount of Kshs.214,801,258 as claims made by the contractor for idle time.

The Management in a letter dated 5 December, 2023 stated that the progress of works was hindered due to delayed land acquisition by the National Land Commission which occasioned additional costs from claims and extensions of time. It was however not clear why IDA approved the commencement of work when the compensation for land had not been completed. The Government therefore went at a loss of Kshs.214,801,258 through payment of claims.

In the circumstances, the Project's objectives may not be achieved due to delay in project completion resulting in increase in project costs and the value for money may not be realized.

1119. Interest on Late Payments

The statement of receipt and payments showed acquisition of non-financial assets of Kshs.1,398,366,928. Included in this amount is Kshs.697,327,832 paid for construction and civil works as disclosed under Note 8 to the financial statement.

Examination of records provided for audit revealed that by the end of the financial year under review, the project had made payments totalling Kshs.70,072,392 as interest on late payments.

The Management stated that payments were not made on time due to late release of funding from the Government, lack of KFW budget and inadequate IDA budget during the financial year under review.

In the circumstances, the Government has gone at a loss of Kshs.70,072,392 through payment of interest to the contractor resulting to increase in project costs and the value for money may not be realized.

1120. Cost Adjustments Due to Delay in Project Completion

The statement of receipt and payments showed acquisition of non-financial assets of Kshs.1,398,366,928. Included in this amount is Kshs.697,327,832 paid for construction and civil works as disclosed under Note 8 to the financial statement.

The contract for Lot 1 project was signed between the Ministry of Water, Sanitation and Irrigation and the contractor on 22 November, 2017 at a contract price of Kshs.3,873,317,854. The notice to commence works was issued by the engineer on 12 June, 2018 and the contractor commenced the work in lot 1 on 27 June, 2018. The original time for completion of work was 36 months bringing the completion date to 11 June, 2021.

The contract completion date was further extended to 27 September, 2023. This was again extended to 31 May, 2025. The project is therefore expected to be completed four years after the date of the intended original completion.

From the records provided for audit, it was noted that an accumulated sum of Kshs.494,222,305 had been incurred by the project due to cost adjustment in the payment certificates.

The taxpayers have therefore gone at a loss of Kshs.494,222,305 due to delay in completion of the project.

In the circumstances, the Project may not realize the intended objectives and may result in continuous price escalation above the approved budget.

1121. Delay in Resettlement of Project Affected Persons

The statement of receipt and payments shows acquisition of non-financial assets of Kshs.1,398,366,928. Included in this amount is Kshs.211,627,107 for acquisition of land as disclosed in Note 8 to the financial statement. Physical verification of the Project during the month of October, 2024, revealed that resettlement of the project affected persons had not been completed and there were unpaid claims totalling Kshs.140,872,646. This had led to delay in completion of the project. It was however not established why the claims had not been paid since National Land Commission had already transferred money for resettlement of the affected persons.

In the circumstances, delay in the settlement process has resulted in delayed completion of the project, high constructions cost and price variations.

1122. Failure by Kenya Power Company to Supply Transformer

The statement of receipt and payments shows acquisition of non-financial assets of Kshs.1,398,366,928. Included in this amount is Kshs.697,327,832 paid for construction and civil works as disclosed under Note 8 to the financial statement.

Examination of the Bill of Quantities under paragraph 7.2.505 showed provisional sum for KPLC charges for electricity and power charges of Kshs.3,500,000. Records provided for audit revealed that a total of Kshs.2,774,519 had already been paid to KPLC for supply of power and installation of transformer to Nyadorera Irrigation Management Facilities. Physical verification of the project in October 2024 revealed that KPLC had not supplied and installed the transformer.

In the circumstances, the project implementation and potential has not been fully realized.

1123. Stolen Motor Vehicles

The statement of receipt and payments reflect Kshs.73,234,362 for purchase of goods and services. Included in this amount is Kshs.2,937,770 for routine maintenance of motor vehicles and other transport equipment. Physical verification to the Contractors' office in October 2024 revealed that three double cabin motor vehicles purchased at a total cost of Kshs.23,267,982 registration numbers KCY 130D, KCW 137H and KCV 639H were missing.

The contractor explained that the vehicles were stolen on 9 April, 2024,12 May, 2024 and 17 June, 2024 respectively and the matter had been reported to the police and Police Abstract obtained. Further, claims for compensation had been made to the insurance but by the time of audit, no claim had been paid.

In the circumstances, value for Kshs.23,267,982 may never be achieved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1124. Lack of Assets Register

During physical verification, it was noted that the contractor had bought 25 motor vehicles of various makes, computers, office equipment’s and other assets from the funds paid for by the project. However, the contractor did not maintain assets register showing the type of asset, date of purchase, the supplier, amount, LPO or receipt number and serial number of the assets or chassis number of the vehicle. Without proper assets register, the existence of all the assets purchased could not be confirmed.

Further, the assets that were found in the office were not tagged. It could not be established if they were actually assets of that office.

In the circumstances, movement of the assets and handover after the end of project may not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1125. As required by Financing Agreement Financing Agreement Grant No. TFOA0761A and Credit No.5268/5674-KE, dated 7 September, 2015 between International Development Association (IDA) and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR IRRIGATION

BURA REHABILITATION DEVELOPMENT PROJECT LOAN NUMBERS BADEA 331, KUWAIT 752, OPEC 1154P - NATIONAL IRRIGATION AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1126. Unconfirmed Cash and Cash Equivalents

The statement of financial assets and liabilities reflects a bank balance of Kshs.917,808,096 as detailed in Note 11 to the financial statements. This amount includes a balance of Kshs.856,466,588 held in the Cooperative Bank and Kshs.61,341,508 held in Equity Bank account. However, the bank reconciliation statement for Cooperative Bank account submitted for audit reflected a balance of Kshs.39,394 resulting to unreconciled variance of Kshs.856,427,194.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.917,808,096 could not be confirmed.

Other Matter

1127. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under Other Matter and Report on Lawfulness and Effectiveness in Use of Public Resources. The matters remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1128. Slow Implementation of Project in Lot 2 - Construction of New Main Canal and Associated Civil Works from Korakora to Nanighi

National Irrigation Authority awarded a contract to a joint venture at a contract sum of Kshs.1,764,278,550 for construction of new main canal and associated civil works from Korakora to Nanighi which was funded by Government of Kenya (GOK) and Kuwait Fund for Arab Economic Development with an original construction period taking eighteen (18) months or 547 days.

Review of progress report number 40(21) for July, 2024 revealed that the original completion date was set on 7 October, 2022 but had since been revised as follows; first revised date 20 May, 2023, second revised date 20 October, 2023, third revised date 20 December, 2023 and a fourth completion revised date set on 17 June, 2024. Physical verification in the month of September, 2024 revealed that Lot 2 had not been completed and handover report had not been issued as per proposed completion date stated.

Further, progress report discloses that the total Interim Payment Certificates (IPCs) raised amounted to Kshs.1,028,196,837 or 58.3 % of the contract sum and the total value of Interim Payment Certificates (IPCs) paid to date was Kshs.904,884,495 or 88% of the IPCs raised. This was an indication of delayed payments of certificates.

In the circumstances, the slow implementation of the Project may lead to lack of value for money on the project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1129. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1130. As required by OPEC, KUWAIT and BADEA Loan Agreements between the OPEC Fund for International Development, Kuwait Fund for Arab Economic Development and The Arab Bank for Economic Development in Africa respectively and the Republic of Kenya, I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project’s financial statements are in agreement with the accounting records and returns.

MWEA IRRIGATION DEVELOPMENT PROJECT - LOAN AGREEMENT NO. KE-P27 - NATIONAL IRRIGATION AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1131. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1132. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final budget and actual on a comparable basis of Kshs.2,039,000,000 and Kshs.1,638,939,953 respectively resulting to an underfunding of Kshs.400,060,047 or 20% of the budget. Similarly, the Project spent an amount of Kshs.1,406,457,893 against actual receipts of Kshs.2,039,000,000 resulting to underutilization of Kshs.632,542,107 or 31% of actual receipts.

The underfunding and underutilization may affect the planned activities and negatively impact service delivery to the Mwea Irrigation Settlement Scheme farmers.

1133. Slow Absorption of Project Funds

As disclosed under Note 2.7 on the project information and overall performance, the Project was earmarked to close in December, 2023 but was restructured through an amended Loan Agreement extending the completion to 13 December, 2025. Further, the Projects' funding summary indicates that JICA Fund had made commitment amounting to Kshs.10,890,909,091 equivalent of JPY.13,178,000,000 as at 30 June, 2024. However, actual drawdowns during the Project life amounted to Kshs.10,678,315,717 equivalent to JPY.12,290,762,018 leaving out an amount totalling Kshs.21,593,374 or JPY.257,237,982 undrawn with one (1) year to the Project end date and subsequent final disbursement period for the loan. Management indicated that planned initiatives will be fully implemented and allocated funds fully utilized before closure of the Project.

However, considering the credit lapse period, the Project's planned deliverables earmarked for completion may not be realized.

My opinion is not modified in respect of these matters.

Other Matter

1134. Unresolved Prior Year Matters

In the audit of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1135. Avoidable Interest on Delayed Payment

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects acquisition of non-financial assets amounting to Kshs.856,824,318. Included in this amount is construction of civil works of Kshs.819,516,060 out of which review of Interim Certificate No.37 revealed that an amount of Kshs.265,827,608 had been certified for payment to a firm contracted for the construction of Thiba Dam. This amount further includes an accumulated interest of Kshs.43,122,375 paid due to penalty on late payment. The costs were avoidable and were attributed to delay in honoring payments when due by the Project Management.

In the circumstances, value for money amounting to Kshs.43,122,375 could not be confirmed.

1136. Slow Implementation of the Project

The Authority entered into a contract under Lot 1 for the construction and civil works for irrigation facilities with a local contractor at a contract sum of Kshs.851,961,000. The construction commenced on 22 March, 2021 and was expected to end on 03 October, 2023. However, the latest monthly progress report No.41 (of September, 2024) indicated that the completion status of the project was at 42.32% against a planned target of 88.11%. This was confirmed during physical inspection in the month of October, 2024. Although the Project completion date was extended to 15 September, 2024, the slow implementation casts doubt on timely completion of the project.

In addition, Lot 2 which involves civil works of drainage facilities and other works, was awarded to a local contractor at contract a sum of Kshs.648,789,983. The works commenced on 22 March, 2021 and were expected to be completed by 04 October, 2023. However, the latest monthly progress report No.42 (of September, 2024) indicated that the completion status of the Project was at 72.49% against a planned target of 90.97%. This was confirmed during physical verification in the month of October, 2024. Although the Project completion date was extended to 12 September, 2024, the slow implementation casts doubt on timely completion of the Project.

In the circumstances, the Project may fail to be completed on time casting doubt on whether the Mwea Irrigation Settlement Scheme farmers will obtain value for money.

1137. Unauthorized Reallocation of Funds

The statement of financial assets and liabilities reflects a bank balance of Kshs.337,872,662 which, as disclosed in Note 11 to the financial statements, includes an amount of Kshs.204,116,010 that relates to bank balance for Mwea Irrigation Development Project. The bank account balances relate to National Irrigation Authority (NIA) main development account which comprises of all bank balances for development programmes within the Authority. As previously reported, the Project did not have a separate bank account for the period between July, 2023 to March, 2024 and hence utilized NIA main development bank account for receipt of GoK counterpart funding for the Project. However, audit examination revealed an amount of Kshs.204,116,010 equivalents to the bank balance for the Project was reallocated and utilized for other development programmes without The National Treasury authorization as required by Section 43(2) of the Public Finance Management Act, 2012.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1138. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1139. As required by Loan Agreement No. KE-P27 between the Japan International Corporation Agency (JICA) and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

RWABURA IRRIGATION DEVELOPMENT PROJECT NO.1109118900 - NATIONAL IRRIGATION AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1140. Unsupported Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.35,570,602 as at 30 June, 2024. However, the cash book, board of survey report and bank reconciliation statements in support of the cash and cash equivalents balance were not provided for audit.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.35,570,602 could not be confirmed.

Emphasis of Matter

1141. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.753,000,000 and Kshs.495,461,702 respectively, resulting to an under-funding of Kshs.257,538,298 or 34% of the budget. However, the project spent an amount of Kshs.496,402,632 against actual receipts of

Kshs.495,461,702 resulting to over-utilization of Kshs.940,930 or 0.2% of actual receipts, which was not explained.

The under-funding affected the planned activities and may have impacted negatively on the Project completion and service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1142. Unresolved Prior Year Matters

In the report of the previous year, several issues were raised under Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury Circulars.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1143. Delay in Processing of Payment Certificates

The statement of receipts and payments and Note 8 to the financial statements reflects acquisition of non-financial assets cumulative to date balance of Kshs.859,383,784 (EUR 16,857,357) which includes Kshs.488,334,542 relating to the year under review. Audit of the Project progress report for the month of June, 2024 revealed that the Project was completed by April, 2024 after an extension of twenty (20) months.

However, it was noted that the contractor has to date claimed payments totalling Kshs.705,106,292 (EUR 5,128,747 @137.4812) out of which Kshs.654,935,278 (EUR 4,763,817) have been paid. Available information indicate that the Project was commissioned on April, 2024, however, interim payment certificates (IPCs) Nos 33-36 amounting to Kshs.51,122,447 (EUR 371,851) have not been processed for payment due to expiry of a bank guarantee and performance bond on 13 May, 2024. Further, interim payment certificates No.36 amounting to Kshs.38,362,011 (EUR 279,035) was submitted by the contractor on 26 April, 2024 but had not been certified for payment by 30 June, 2024.

In the circumstances, Management was in breach of the law.

1144. Project Implementation and Viability

The Project field inspection carried out along the Thiririka and Rwabura conveyance systems, in October, 2024 revealed that the Project was substantially complete and was currently under a defect liability period set to end in February, 2025. However, despite these advancements, it was noted that challenges still existed that required to be addressed to ensure the Project's long-term success and sustainability.

1144.1 Rwabura Irrigation Development Project Conveyance Systems

The Thiririka conveyance system water inlet was filled with waste deposits which partially blocked the sluice gate while twigs, trees, and soil deposits had accumulated inside the sedimentation basin. The air valve vent at the sedimentation basin was damaged potentially compromising the system functionality. Further, the base support of blocks and anchor blocks were damaged by scouring water and the steel pipes buried under debris from a landslide. The section and washout valve chamber was also damaged highlighting further vulnerabilities in the system. The audit inspection also revealed extensive scouring and loss of foundation support material for both pipe support blocks and PVC pipes from a landslide.

The Rwabura conveyance System water inlet was filled with twigs, trees, and soil deposits to the blocking the sluice gate. However, the fittings were not affected by the floodwaters and remained in good condition. Gabion boxes were wasting away and uPVC backfill material along the pipeline was also lost as a result of the landslide raising concerns on the stability and functionality of the conveyance system. These issues underscore the urgent need for remedial action to restore the system's operational capacity and prevent further deterioration.

In the circumstances, value of money incurred on the Project is doubtful.

1144.2 Theft of Irrigation Kits

Review of the police charge sheet OB Number 02/23/07/2024 revealed that apparatus valued at Kshs.1,162,000 had been stolen after the contractors completed their work. Details on the Police report on the scheme site theft were not included in both the periodic project status reports and the internal audit reports.

1144.3 Slow Uptake of Irrigation Kits by Beneficiaries

The audit identified slow uptake of irrigation kits by beneficiaries. To receive the kits, farmers were required to pay a registration fee of Kshs.1,800 and a monthly fee of Kshs.500. Interviews held with interim officials of the Irrigation Water Users Association (IWUA), revealed that only 1,284 or 45% out of the 2,904 irrigation kits had been issued to farmers and the balance of 1,620 or 55% of the kits remained unclaimed. However, there was no evidence to confirm that the 1,284 farmers were registered and had made the necessary payments. Further, the balance of 1,620 kits not issued were not in the custody of the Irrigation Water Users Association but were stored at a local Primary Project raising concerns on the terms of storage and security measures in place.

1144.4 Project Viability

The Project was commissioned in April, 2024. However, no remedial actions had been taken regarding the stolen irrigation kits and the identified defects caused by landslides in the irrigation system remain unaddressed, posing risks to the functionality and sustainability of the irrigation infrastructure.

In the circumstances, the Project's expected benefits which included bringing 1,500 acres under irrigation, supporting the production of horticultural crops and fruits, thereby enhancing food security and value for money may not have been obtained from the Project.

1145. Failure to Stipulate Draw Down Terms

Review of the credit facility agreement and the commercial contract agreement for construction works revealed that there were no stipulated key deliverables attached to loan draw downs. Further, in the year under review, a total of nineteen (19) Interim Payment Certificates (IPCs) were certified and paid amounting to EUR 3,094,846, equivalent to Kshs.487,961,702 translating to 45% of the contract price. Its therefore not clear on the specific project timelines and milestones achieved to trigger the 45% drawn down.

The absence of stipulated key deliverables in loan drawdowns poses significant risks that could affect financial management, compliance, operations, reputation, and future funding opportunities.

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

Conclusion

1146. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1147. As required by Credit Facility Agreement between the Government of Spain and the Republic of Kenya, I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records; and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR WATER AND SANITATION – VOTE 1109

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1148. Unsupported Exchange Rates

The statement of receipts and payments reflects proceeds from foreign borrowings of Kshs.12,832,572,140 and as disclosed in Note 3 to the financial statements. Included in amount of Kshs.8,821,836 or EUR 51,364.40 equivalent paid for consultancy services on the construction and supervision of Thika Githunguri Water and Sanitation project at an exchange rate of 1 EUR/Kshs.171.75. The payment was processed between 6 March, 2024 and 26 June, 2024. Notably, the Euro exchange rates between 6 March, 2024 and 26 June, 2024 revealed a low of 1 EUR/Kshs.154.9977 and a high of 1 EUR/Kshs.156.1078 respectively as per the CBK Bank rates, thus an average of 1 EUR/155.5489 for buyers and sellers, instead of an average of 1 EUR/Kshs.155.5489 occasioning an overpayment of Kshs.832,160 because of the differences in exchange rates.

In the circumstances, the accuracy and completeness of the proceeds from foreign borrowings of Kshs.12,832,572,140 could not be confirmed.

1149. Inaccurate Cash and Cash Equivalents Balance

The statement of financial assets and financial liabilities reflects cash and cash equivalents balance of Kshs.260,199,039 as disclosed in Note 11 to the financial statements. The balance excludes bank balances for Water and Sanitation Development project, Coastal Water Region Water and Climate Security Resilience project, Thwake Multipurpose Water Development program and Kenya Water Security and Climate Resilience project.

In the circumstances, the accuracy, completeness and validity of cash and cash equivalents balance of Kshs.260,199,039 could not be confirmed.

1150. Unconfirmed Third-Party Deposits and Retention Balance

The statement of financial assets and financial liabilities reflects third-party deposits and retention balance of Kshs.258,320,676 as disclosed in Note 13 to the financial statements. Review of deposits account bank statements for the year under review revealed payments of Kshs.8,935,289 which had not been disclosed in the prior year as payables to third parties. Further, an amount of Kshs.75,072,086 paid third-party was excluded.

In the circumstances, the accuracy and completeness of the third-party deposits and retention amount of Kshs.258,320,676 could not be confirmed.

Emphasis of Matter

1151. Budgetary Control and Performance

The statement of comparison of budget and actuals amounts reflects final budget of Kshs.50,369,562,624 and actual receipts on comparable basis of Kshs.37,021,421,993 resulting in an under funding of Kshs.13,348,140,631 or 27% of the budget, Similarly, the State Department spent Kshs.37,019,251,817 against actual receipts of Kshs.37,021,421,993 resulting in an under-absorption of Kshs.2,170,175 of the actual receipts.

The under-funding and under-absorption affected the planned activities of the State Department and may have impacted negatively on service delivery to the public.

1152. Long Outstanding Retention and Deposit

The statement of financial assets and financial liabilities reflects third-party deposits and retention balance of Kshs.258,320,676 as disclosed in Note 13 to the financial statements. Included in the balance was Kshs.169,850,125 or 66% which has been outstanding for over two (2) years.

Failure to settle bills in the year for which they relate adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge to that year's budget provision.

My opinion is not modified in respect of these matters.

Other Matter

1153. Unresolved Prior Years Matters

In the report of the Auditor-General for the previous years, several audit issues were raised under Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance sections. However, as indicated in the Progress on Follow Up on Prior Year Auditor's Recommendations section of the financial statements, all these issues had not been resolved as at 30 June, 2024. Management has not provided satisfactory reasons for the delay in resolving the prior year audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1154. Long Outstanding Imprests and Advances

The statement of financial assets and financial liabilities reflects imprests and advances balance of Kshs.919,512 as disclosed in Note 12 to the financial statements. However, included in the balance was Kshs.627,700 or 68% which has been outstanding since the year 2022/2023 and no recoveries have been made. This was contrary to Regulations 93(5) and (6) of the Public Finance Management (National Government), Regulations, 2015 which provides that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station.

In the circumstances, the Management was in breach of the law.

1155. Non-Compliance with Law on Gender Balance

Review of the payroll and personnel data provided for audit revealed that the State Department has a total of four hundred and nineteen (419) employees out of whom two hundred and eighty-eight (288) or 69% of the total members of staff were male. This was contrary to Section B.22(2) of the Public Service Commission Human Resource Policies of May, 2016 which requires positions in the establishment not to be filled by more than two-thirds of either gender.

In the circumstances, Management was in breach of the human resources policies.

1156. Unauthorized Reallocations on Grants and Transfers to Other Government Units

The statement of receipts and payments reflects grants and transfers to other government units amount of Kshs.36,369,594,956 as disclosed in Note 8 to the financial statements. Included in this amount are various expense items totaling Kshs.1,310,816,389 which were irregularly charged/paid from this vote and were not budgeted for under grants and transfers to other government units vote. Further, no authority from the Accounting Officer on the reallocation of funds and reasons for misclassification of the expenditure was provided. This was contrary to Regulation 99(1) and (2) of the Public Finance Management (National Government) Regulations, 2015 which provides that as a general rule, the classification of financial transactions in national government entity's accounts shall be based on the standard chart of accounts approved by The National Treasury and the approved estimates of expenditure shall form the basis of the accounts for the financial year.

In the circumstances, Management was in breach of the law.

1157. Delayed Completion of Boreholes Projects

The statement of receipts and payments reflects grants and transfers to other government units amount of Kshs.36,369,594,956 as disclosed in Note 8 to the financial statements which includes Kshs.49,703,413 for drilling of boreholes. The following anomalies were noted: -

i. Included in the amount is Kshs.5,000,000 for drilling, equipping and civil works for Kipchobet Primary School borehole at a contract sum of Kshs.10,120,000 contracted on 16 May 2023 for six (6) months with expected completion in November, 2023**.** Physical inspection in November, 2024, revealed that the works were not complete and were way behind schedule. The contract agreement had expired and there was no addendum to bind the two parties to project completion.

ii. The State Department contracted a local contractor for drilling, equipping and civil works in Olokyin borehole at a contract sum of Kshs.9,920,000 on 16 May, 2023 for six (6) months with expected completion in November, 2023. However, physical inspection in November, 2024 revealed that the contractor was not on site. The contract agreement had expired and there was no addendum to bind the two parties to project completion and contract had not been renewed.

iii. The State Department entered into a contract on 16 May, 2023 for drilling, equipping and civil works for borehole in Sasumua Primary at a contract sum of Kshs.10,119,356. The contract period was expected to be six (6) months with an expected completion date on 15 November, 2023. As at 30 June, 2024, Kshs.5,000,000 had been paid to the contractor whereas physical inspection in November 2024 revealed that the works were not complete and were way behind schedule. The contract agreement had expired and there was no addendum to bind the two parties to project completion and the contract had not been renewed.

iv. The State Department entered into a contract on 16 May, 2023 for drilling, equipping and civil works for borehole in Kwirindochei Primary at a contract sum of Kshs.9,980,000. The contract period was expected to be six (6) months with an expected completion date in November,2023. As at 30 June, 2024, the contractor had been paid an amount of Kshs.5,000,000 whereas physical inspection in November, 2024 revealed that the works were not complete and were way behind schedule. The contract agreement had expired and there was no addendum to bind the two parties to project completion and the contract had not been renewed.

v. The State Department entered into a contract on 16 May, 2023 for drilling, equipping and civil works for borehole in Kapsigot Primary at a contract sum of Kshs.10,020,370. The construction period was six (6) months with an expected completion date in November 2023. As at 30 June, 2024, the contractor had been paid an amount of Kshs.5,000,000 whereas physical inspection in November, 2024 revealed that the works were not complete and were way behind schedule. The contract agreement had expired and there was no addendum to bind the two parties to project completion and the contract had not been renewed.

In the circumstances, the delayed completion of the projects may increase contract costs and the value for money could not be confirmed.

1158. Completed Boreholes with Low or No Productivity

The State Department of Water and Sanitation entered into three (3) contracts for drilling, equipping and civil works for boreholes on 16 May, 2023. The following anomalies were noted:

i. The contract for drilling, equipping and civil works for a borehole in Limanet Primary in Narok North Constituency was awarded to a contractor at a contract sum of Kshs.9,881,276. As at 30 June, 2024, the contractor had been fully paid, completion and defects liability certificates all issued. However, as at the time of physical verification in November, 2024, the borehole had no water and it was reported that it only produced water for a short while after completion.

ii. The contract for drilling, equipping and civil works for a borehole in Masindoni Secondary School in Chepalungu Constituency was awarded to a contractor at a contract sum of Kshs.10,637,882. As at 30 June, 2024, the contractor had been fully paid and completion and defects liability certificates all issued. However, as at the time of physical verification in November, 2024, the borehole had no water and it was reported that it only produces a small quantity of water during morning hours.

iii. The contract for drilling, equipping and civil works for a borehole in Chebastuiye Secondary School in Chepalungu Constituency was awarded at a contract sum of Kshs.11,728,934. As at 30 June, 2024, the contractor had been fully paid and completion and defects liability certificates all issued. However, as at the time of physical verification in November, 2024, the borehole had no water and it was reported that that it only generated water for two months after completion.

In the circumstances, the intended purpose and value for money on the expenditure of Kshs.32,248,092 on drilling of boreholes could not be confirmed.

1159. Non-Productive Boreholes

The State Department of Water and Sanitation entered into contracts on 16 May, 2023 for drilling, equipping and civil works for boreholes in KMTC Trans-mara in Emurua Bikirr Constituency, Emurua Dikirr Secondary School and Kiptagei Primary School in Chapalungu Consistency at contract sums of Kshs.9,880,000; Kshs.9,880,000 and Kshs.12,753,913, respectively for the contracts period of six (6) months. As at 30 June, 2024, the contractor for each borehole had been paid an amount of Kshs.5,000,000 totalling Kshs.15,000,000. However, as at the time of physical audit verification in November, 2024, the three (3) boreholes had not yielded any water and an alternate sites were being sought for drilling. It could not be ascertained whether hydrogeological surveys had been done and what measures Management was putting in place to ensure the same does not occur. Further, the three (3) projects duration had lapsed and no contracts extension has been granted. In addition, the performance bonds had expired and had not been renewed.

In the circumstances, value for the money for Kshs.15,000,000 could not be confirmed.

1160. Lack of a Ministerial Performance Management Committee

The State Department of Water and Sanitation did not have a Ministerial Performance Management Committee during the year under review. This was contrary to Public Service Commission Human Resource Policies of May, 2016 Section A.13 (1) which provides that each Ministry/State Department shall constitute a Ministerial Human Resource Management Advisory Committee and a Ministerial Performance Management Committee to ensure effective human resource management.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1161. Lack of Stakeholders Communication Policy

Review of records revealed that the State Department did not have a Stakeholders Communication Policy in place during the year under review. This was contrary to Regulation 19 (1)(e) of the Public Finance Management (National Government) Regulation, 2015 which requires establishing and implementing of system that provides necessary information to the stakeholders including stakeholder communication policy for the entity in line with Article 35 of the Constitution.

In the circumstances, it could not be confirmed if there was effective communication with stakeholders.

1162. Lack of Risk Management Policy

The State Department had not developed a Risk Management Policy or documented strategies for identifying risks that may have potential effects on the operations of the State Department. Thus, the State Department may have challenges in identifying and mitigating instances of fraud and lapses in internal processes during operations

In the circumstances, Management was not in a position to identify individual risks, the likelihood of identified risks, and the appropriate controls.

1163. Lack of Approved Strategic Plan

The State Department did not have an approved Strategic Plan. It was not clear the basis on which the budget was prepared. Planning for the operations of the State Department and implementation of programmes may have been affected while preparation of budget estimates may not have been in line with the Departmental priorities.

In the circumstances, the effectiveness of budgeting process and budget implementation could not be confirmed.

DONOR FUNDED PROJECTS

COASTAL REGION WATER SECURITY AND CLIMATE RESILIENCE PROJECT CREDIT NO. 5543-KE/70040-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1164. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1165. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.3,100,000,000 and Kshs.2,538,550,709 respectively resulting to an under-funding of Kshs.561,449,291 or 18% of the budget. However, the Project spent Kshs.2,528,983,893 against actual receipts of Kshs.2,538,550,709 resulting to an under-utilization of Kshs.9,566,816 of the actual receipts.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1166. Unrecovered Funds from Terminated Contract

As previously reported, the Ministry, through the Project entered into a contract for construction of Rain Water Harvesting Facilities and Sanitation Blocks, for schools in Kwale County Phase 2 at a contract sum of Kshs.55,113,821. However, the contract was terminated on 09 June, 2020. A joint inspection team determined that the contractor was to pay the Ministry Kshs.27,752,838 as penalties on value of uncompleted work and unrecovered advances. Review of the progress made on the matter in October, 2024 revealed that the amount was yet to be received by the Ministry.

In the circumstances, the intended objectives may not have been achieved and there may be loss of funds.

1167. Construction and Civil Works

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.2,347,689,239 as disclosed in Note 8 to the financial statements. Included in this amount is Kshs.1,537,064,528 in respect of construction of civil works relating to construction of Mwache dam and other construction works. However, the following anomalies were noted:

1167.1 Costly Price Adjustments

The contract for the construction of Mwache Multi-Purpose Dam Construction Project was awarded to an international construction company at a contract sum of Kshs.13,752,164,330. Review of records provided revealed that payments totalling Kshs.4,276,950,506, have since been made to the contractor for certified works as at 30 June, 2024. However, included in these payments were claims totalling Kshs.356,383,892 on price/cost adjustment as contained in Section 13.8 of the contract specifications which provides that the amounts payable to the contractor shall be adjusted for rises or falls in the cost of labour, goods and other inputs to the works, by addition or deduction of the amounts determined by the formulae prescribed in the contract and schedule of adjustment data for the expenditure items. Further, the claims included in the amount paid on certified works of Kshs.1,145,399,178 exceeded a provision of 25% price adjustment for the certified works allowed in contract agreement and Section 139(4)(e) of the Public Procurement and Asset Disposal Act, 2015 of Kshs.286,349,794 by Kshs.70,034,097. This is contrary to the contract agreement that allows a maximum of 25% price adjustment on certified works and Section 139(4)e) of the Public Procurement and Asset Disposal Act, 2015.

Management did not explain measures being taken to forestall further cost adjustments over the remaining contract period and as a result of the price adjustments, the Project may incur cost overruns leading to wastage of public resources over the Project period.

1167.2 Avoidable Interest on Delayed or Late Payments

Note 8 to the financial statements reflects cumulative payments of construction of civil works of Kshs.4,710,379,529. Included in the amount is Kshs.4,276,950,506 relating to cumulative payments in respect of construction of Mwache Multipurpose dam. This amount included an amount of Kshs.178,636,076 in respect of cumulative interest charged on delayed payments to the contractor on certified works.

Out of which Kshs.104,329,330 was paid as interest charged on Interim Payment Certificates (IPC) during the year under review. Additionally, the interest was paid from IDA funds, whereas interest and penalties are not eligible for funding from IDA funds.

In the circumstances, the value for money on the avoidable interest and penalties paid could not be confirmed.

1167.3 Provisional Sums

The hydraulic model test and RCC dam inspections of Kshs.51,000,000 had reported Kshs.142,739,929 as claimed expenses on this item up to 30 June, 2024. This was an upward variation of Kshs.91,739,929 contrary to what is indicated in the Bill of Quantities (BQ) for the item.

In the circumstances, the value for money for the provisional sums of Kshs.142,739,929 could not be confirmed.

1168. Delayed Project Implementation

1168.1 Slow Implementation of Mwache Dam Construction Project

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.2,347,689,239 as disclosed in Note 8 to the financial statements. Included in this amount is Kshs.1,537,064,528 for construction of civil works which further includes Kshs.1,489,149,610 paid to a construction company for the construction of Mwache Multipurpose Dam Project. However, review of the project documents provided for audit revealed that the overall project progress as at 30 June, 2024 was at 13.2% with the planned completion date of 20 June, 2027. The works commenced in March, 2022 and in two and half years the progress is reported to be 13.2% with 86.8% remaining to be completed in two and half years as per the revised completion date.

Further, the project undertook engagements with project affected persons (PAPs) in Priority Area 3 (P3) in order to acquire land for the dam site. Further, the National Land Commission (NLC) was at the same time finalizing on the land valuation report for P3 which will be the basis of land compensation. Without timely compensation, access to critical areas required for impoundment and silt deposition will be delayed, which could significantly impact the overall completion timeline of the dam. This process may take long which may lead to several works not being completed within the set timelines which may lead to cost overruns.

In the circumstances, the stakeholders may not get value for money.

1168.2 Termination of Construction of Kwale Town Urban Water Supply Project

The amount of Kshs.1,537,064,528 for construction of civil works includes an amount of Kshs.39,229,463 inclusive of retention paid to a construction company for the construction of Kwale Town Urban Water Supply Project. However, review of the project documents provided for audit revealed that the Kwale Town Urban Water Supply Project that was awarded to a firm for a contract sum of Kshs.426,338,937 encountered delays primarily due to the COVID-19 pandemic, which affected the procurement of vital electro-mechanical equipment. The project officially commenced in July, 2020 and was expected to be completed by June, 2021. However, despite three contract extensions, the project was only 67% complete as of March, 2023, with no additional progress since.

As a result of the delays, the contractor was issued a 90-day notice for liquidated damages, which expired on 13 December, 2023. In addition, a notification of intention to terminate was sent on 24 November, 2023, due to the contractor's failure to meet the required completion date. Although the contractor agreed to finish local works and provide evidence of ordering the necessary electro-mechanical equipment, this was not achieved. During the audit, the contract had been terminated without any documentary evidence of recovering the liquidated damages as per the agreement. This situation raises concerns about the value for money for the Kshs.39,229,463 paid to the contractor, including retention. Furthermore, if the issues are not resolved, the project will likely experience further delays, denying the local community access to the expected water services.

In the circumstances, the value for money for the expenditure amount of Kshs.39,229,463 could not be confirmed.

1169. Commingling of Project Funds

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.2,347,689,239 as disclosed in Note 8 to the financial statements. Included in this amount is Kshs.493,482,309 in respect of research, studies, project preparation, design and supervision. However, review of supporting documents provided for audit revealed that foreign payments amounting to Kshs.224,528,488 for the project were paid to KWSCRP-1 in respect to consultancy services that were to be paid in foreign currencies to the Project resulting to commingling of project funds. This was contrary to

Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which states that, "for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at Central Bank of Kenya unless it is exempted by the Cabinet Secretary, in writing, into which all funds shall be kept and such 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."

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1170. Lack of Internal Audit Functions and Audit Committee

During the year under review, there was no evidence of the Project having been reviewed by the State Department internal audit function contrary to Section 73(1) of the Public Finance Management Act, 2012 which requires all Government entities to make appropriate arrangements for internal audit function. The Internal audit team explained that there was no Audit Committee to approve and/or sign the Internal Audit reports during the year under review.

In the circumstances, the Project did not benefit from the oversight role of the Internal Audit function.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1171. As required by the International Development Association (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

THWAKE MULTI-PURPOSE WATER DEVELOPMENT PROGRAM PHASE 1 (AfDB LOAN NO. 2100150029993, 2000200003351, AGTF NO. 5050200000501 AND AfDB GRANT NO. 2100155025973)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1172. There were no material issues noted during the audit of the financial statements of the Program.

Emphasis of Matter

1173. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.3,229,762,238 and Kshs.2,428,088,005 respectively, resulting to an under-funding of Kshs.801,674,233 or 25% of the budget. Similarly, the Project spent an amount of Kshs.2,428,371,111 against the actual receipts of Kshs.2,428,088,005 resulting to an over-utilization of Kshs.283,106. Management has attributed the low absorption to the slow pace of the release of counterpart funds by the Government.

The underfunding is an indication that the project's objectives may not be achieved and may impact negatively on service delivery to the public.

1174. Pending Bills

Annex 3 to the financial statements reflects an amount of Kshs.673,016,519 and Kshs.620,662,622 as the pending bills for the financial years ending 30 June, 2024 and 30 June, 2023 respectively. This indicates an increase in the pending bills by Kshs.52,353,897. Management did not provide explanation on why the amount had not been settled during the year. Further, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

In addition, Annex 3 to the financial statements reflects an amount of Kshs.673,016,519 as the pending bills for financial year ending 30 June, 2024 out of which an amount of Kshs.383,136,385 relates to interest on delayed payments due to the Contractor. Further, it was observed that the cumulative interest had increased by Kshs.147,125,283 from the previous financial year 2022/2023 amount of Kshs.236,011,102. These additional costs could have been avoided had all payments due to the contractor were made in time. There is possible loss of funds due to litigations as a result of unsettled pending bills.

My opinion is not modified in respect of these matters.

Other Matter

1175. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved some of the issues or given any explanation for failure to resolve them as at 30 June, 2024.

Basis for Conclusion

1176. Project Implementation

1176.1 Slow Implementation of the Project

The statement of receipts and payments reflects an amount of Kshs.2,233,782,769 in respect to acquisition of non-financial assets. The Government of Kenya entered into a contract with a company for construction of Thwake Multipurpose Water Development Program at a contract sum of Kshs.36,971,346,445. The Construction work started on 27 March, 2018 and was expected to be completed on 5 November, 2022 within 56 months (1,683 days) implementation period excluding defects liability period of one (1) year. However, the completion date was not achieved and therefore, the contractor was granted an extension to complete the contract by 5 February, 2024 and the end of the defect liability period on 5 February, 2025. This was later extended to 7 December, 2024 and the defect liability period to 7 December, 2025. The total payments made to the contractor as at 30 June, 2024 amounted to Kshs.32,780,015,385.

Physical verification carried out in the month of October, 2024 revealed that the Project had only minimal activities such as drilling and grouting on going. Further, it was observed that certain sections of the Dam had accumulated washed up waste that had stuck in the tunnels. Additionally, thirty (30) houses constructed in the workers' camp were found to be incomplete since toilets and bathrooms had not been done and electricity and water had not been connected. It was also observed that these houses had not been secured by a permanent perimeter but instead had a fence on only one side made of old iron sheets and the fence was loose.

In the circumstances, the Program may not be completed within the contract period and the advance payment may not be recovered.

1176.2 Increase in the Contract Price

The statement of receipts and payments, as disclosed in Note 13.7 to the financial statements, reflects works totalling Kshs.38,209,082,442. Included in the works is an amount of Kshs.31,255,178,956 being payments for civil works. However, it was noted that through a letter to The National Treasury, the State Department of Water and Sanitation requested additional funding of Kshs.9,285,150,952 for Thwake Dam Construction resulting to net additional cost of Kshs.10,331,132,256 and the initial contract sum net taxes was Kshs.31,871,850,475 resulting to an increase in the contract price by thirty two percent (32%). This was contrary to Section 139 (4 e) of the Public Procurement and Asset Disposal Act, 2015 which states that any variation of a contract shall only be considered after twelve months from the date of signing the contract and shall only be considered if the cumulative value of all contract variations does not result in an increment of the total contract price by more than twenty-five per cent (25%) of the original contract price.

Further, the letter requested for additional funding of Kshs.9,285,150,952 for Thwake Dam Construction, while the Technical and Financial Appraisal of Thwake Dam by SMEC resulted to an additional project's total cost of Kshs.9,284,952,377. Thus, resulting to an unexplained and an unreconciled variance of Kshs.198,575.

In the circumstances, Management was in breach of the law.

1176.3 Additional Project Cost

An Engineering Corporation prepared the initial design drawings for Thwake Multi-Purpose Dam and submitted it for tendering on 22 August, 2016 when Geo-technical investigations at the site and hydrologic studies had not been completed. The contract between the Ministry of Water and Irrigation and the Contractor for construction of Thwake Multipurpose Dam was subsequently signed on 15 November, 2017 and two months after construction began, an Engineering Company prepared the final design drawings which made changes to the initial drawings that was tendered after completion of geotechnical studies. The final designs were submitted on 31 May, 2018 and approved on 8 July, 2019. This resulted in additional request for funding of Kshs.9,284,952,377 due to variation orders and contract price adjustment of Kshs.4,014,677,115 and Kshs.5,270,275,261 respectively.

In addition, the change in design drawings for the Dam was done after contract signing and beginning of works.

In the circumstances, Management was in breach of the law.

1176.4 Irregular Payments to the Contractor

During the year under review, it was noted that payments amounting to Kshs.124,091,607 that had been recommended for deduction by the Contract Implementation Team were not deducted. It is unclear why the Contract Implementation Team abandoned their recommendation on deduction of the above amount without receiving an independent report on inspection of the deliverables contrary to the Act.

In the circumstances, the value for money spent on the Project could not be confirmed.

1177. Unremitted Value Added Tax

During the year under review, the contractor issued interim payments certificates No.06 that included Value Added Tax (VAT) of Kshs.203,979,306. Although Management indicated that it had reduced the outstanding VAT by clearing outstanding VAT for issued Interim Payments Certificates No.05, this tax had not been remitted to the Kenya Revenue Authority (KRA) by 30 June, 2024.

In the circumstances, the Project may attract penalties, which will result in avoidable and ineligible cost to the Project.

1178. Incomplete and Faulty Works for Community Social Responsibility Projects

A number of projects have been implemented to completion in the County Governments of Makueni and Kitui at a cost of Kshs.72,166,000 and put under the Management and use by the citizens of the respective counties over the years. Audit inspection of Thwake Multipurpose Water Development Program – Community Social Responsibility (CRS) Projects carried out in October, 2024 revealed the following anomalies:

1178.1 Construction Works at Health Facilities

Construction works done amounting to Kshs.13,710,000 at Mavindini Level 3 Hospital, Kanyangi Level 4 Hospital and Kathulumbi Health Center revealed that the projects had no signages indicating the project works done, the implementer of the project and the financial year the project was done. Further, defects such as ceiling boards that had been poorly done, major cracks on the walls, leaking that had damaged the ceiling boards, cracked tiles, paint works that had peeled off, faulty gutters, and floors with holes were noted.

1178.2 Construction and Renovations at Four (4) Primary Schools and Two (2) Secondary Schools

Management carried out construction and renovation works amounting to Kshs.12,200,000 at Kilisa, Kathithi, Mumbeeni, Kinyaau Primary School, Kathulumbi and Katito Secondary Schools which revealed major cracks on the walls and cracks and holes on the floor of the classrooms, broken windows, paint works that were peeling off, broken windows and missing window glasses from the window panes, damaged gutter and the pipes to the tanks, roofing that was not done and Grade 3 and Grade 4 classroom doors that had faulty hinges and handles (Kinyaau). Further, the signage indicating the works done, the project implementer and the financial year the project was implemented were missing (Kilisa).

1178.3 Drilling of Community Boreholes

The Project Management drilled and equipped six (6) community boreholes at a cost of Kshs.4,500,000 each which revealed the following:

1178.3.1 Kwa Kimoli Borehole

There was no sign of drilling of a bore hole on site and no sign of metallic head seal cover but instead only a pile of ballast had been put on site.

1178.3.2 Mukameni Borehole

Mukameni Borehole was drilled three times at three different sites, the third time water was found. However, the borehole had not been equipped and the water kiosk had not been constructed. In addition, the audit inspection could not confirm the existence of water in the borehole as it was not in operation.

1178.3.3 Kilisa Borehole

The drilling of Kilisa Borehole was found to be dry. Although Management indicated that it was awaiting replacement, this had not been done as at October, 2024.

In the circumstances, the community may not benefit from the CSR activities especially boreholes as water is a priority for household and livestock use and also due to poor workmanship.

1179. Lack of Ownership Documents - Title Deed

The statement of receipts and payments and as disclosed in Note 13.7 to the financial statements reflects works totalling Kshs.38,209,082,442. Included in the works is an amount of Kshs.31,255,178,956 out of which an amount of Kshs.3,576,424,050 was utilized towards compensation of land. Although Management indicated that the compensation exercise was concluded, there was no evidence provided to confirm that the ownership of the land had been transferred.

In the circumstances, ownership of the land could not be confirmed.

1180. Lack of National Program Steering Committee Meetings

Review of the financing agreement revealed that the Program Steering Committee should regularly conduct meetings on half yearly basis, the first meeting in September or October and the second meeting in March or April every year. However, no evidence was provided to confirm that the Program Steering Committee held a meeting during the financial year 2023/2024. This was contrary to Section 5.02 (a) of Article V of the additional loan financing agreement, 2019.

In the circumstances, Management was in breach of the financing Agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1181. Lack of Internal Audit Reports on the Program

As previously reported, the Internal Audit Unit did not carry out an audit of internal controls, risk management, financial reports and the implementation of the Project. As a result, the effectiveness of the internal controls and risk management put in place by Management, could not be confirmed.

WATER AND SANITATION DEVELOPMENT PROJECT (IDA CREDIT NO.60290 AND 60230-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified opinion

1182. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1183. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted final receipts of Kshs.9,125,000,000 and actual receipts on comparable basis of Kshs.9,340,298,608 resulting into excess receipts of Kshs.215,298,609. Similarly, the statement reflects actual expenditure of Kshs.5,851,989,869 against actual receipts of kshs.9,340,298,608 resulting to an under-absorption of Kshs.3,488,308,739 or 37% of the receipts.

The under-absorption affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1184. Unresolved Prior Year Audit Issues

In the audit report of the previous year, several issues were raised in the Report on Financial Statements, Report on Lawfulness and Effectiveness in the use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024. Further, the status of follow-up on the audit recommendations had not been included in the financial statements as required by the financial reporting template issued by the Public Sector Accounting Standards Board (PSASB).

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1185. Anomalies in Project Implementation

The statement of receipts and payments reflects an amount of Kshs.3,829,564,728 in respect of acquisition of non-financial assets which, as disclosed in Note 6 to the financial statements, includes an amount of Kshs.3,445,540,422 in respect of construction of civil works. However, the following unsatisfactory project implementation issues were observed.

1185.1 Kwale Water and Sewerage Company Limited

1185.1.1 Delay in Completion of the Construction of Collector and Transmission Lines, Borehole Drillings and Auxiliary Works

An amount of Kshs.37,175,233 was incurred on the construction of collector and transmission lines, borehole drillings and auxiliary works. The contract, valued at Kshs.688,606,878, was originally intended to run for one year, from 14 September, 2021, to 30 September, 2022. However, two extensions were granted, pushing the completion date to 30 March, 2025, with a defects liability period of 180 days. As at 30 June, 2024, payments to the contractor totaled Kshs.198,969,723, representing 29% of the contract sum. A subsequent project verification exercise in September, 2024 confirmed a corresponding 29% completion level, casting doubt on the 30 March 2025 projected completion date.

In the circumstances, the continued delay in the Project's completion may result to escalated costs and value for money already spent on the Project may not be obtained.

1185.1.2 Contract Overruns and use of an Expired Agreements

During the year under review, an amount of Kshs.3,920,900 was spent on a consultancy services based on a lapsed contract that was effective from 01 September, 2021 to 22 October, 2022. Further, Clause 3(A) of the contract stipulated a maximum payment of Kshs.7,150,000 to the consultant. However, as at 30 June, 2024, payments to the consultant totalled Kshs.18,150,000 (including VAT), exceeding the Kshs.7,150,000 limit by Kshs.11,000,000 or 154%.

In the circumstances, Management was in breach of the contract.

1185.2 Kilifi-Mariakani Water and Sewerage Company Limited

1185.2.1 Delay in Completion of Water Distribution Works for Mtwapa Town

An amount of Kshs.171,998,269 was spent on water distribution works in Mtwapa Town. The attendant contract of Kshs.850,001,993 for the works commenced on 25 June, 2021 with an expected completion date of 30 September, 2022 which was later revised to 30 May, 2025. As at 30 June, 2024, Kshs.433,935,883 had been paid to the contractor being 51% of the contract sum. Despite having only nine months remaining until the extended completion date, a physical inspection in September 2024 showed the project was only 64% complete. Further, although no work had commenced on the 10.3km water distribution system from Mtepeni Reservoir to Mtwapa Town, including pipe laying and chamber construction, the contractor was absent from the site. In addition, the performance security, insurance of works and contractor's equipment and third-party insurance were not provided for review.

In the circumstances, the value for money of the expenditure on the Project amounting to Kshs.171,998,269 could not be confirmed and the delays are likely to result in increased construction costs.

1185.2.2 Unjustified Increase in Consultancy Fees

An amount of Kshs.36,838,348 was spent on design and supervision services for water supply and sanitation works under a 31-month contract with a total price of Kshs.49,157,546. However, review of invoices supporting the payments revealed that the key expert and non-key expert had been paid total claims of ninety-five (95) and forty-six (46) days input against the contracted fifty-four (54) and twenty-two (22) days input for key expert and non-key expert, respectively resulting to an additional cost of Kshs.33,678,800 that Management did not justify.

In the circumstances, the value for money of the expenditure on Project's consultancy services amounting to Kshs.36,838,348 could not be confirmed.

1185.3 TAVEVO Water and Sewerage Water Company Limited

1185.3.1 Delay in Completion of Construction of Storage Warehouse

Included in this amount is Kshs.975,746 for the construction of a storage warehouse for pipes, fittings and portable equipment. The Kshs.32,884,390 contract, which began on August 18, 2021, was originally scheduled for completion on 17 August, 2022, but was subsequently extended to 31 July, 2024. However, physical verification of the Project conducted in September, 2024, revealed that works were still ongoing with an overall progress of 85%. The Project's delayed completion, coupled with the absence of documentation for the time extension, creates significant uncertainty regarding the final cost and completion date.

In the circumstances, the value for money spent on the Project could not be confirmed.

1185.3.2 Abandoned and Stalled Works for Construction of Ablution Blocks

TAVEVO Water and Sewerage Company Limited entered into a contract on 18 June, 2020 for the construction of eight (8) ablution blocks in Voi, Taveta, Wundanyi, Bura and Maungu towns at a contract price of Kshs.90,013,162. The contract period was eight (8) months commencing on 15 April, 2021 with an expected completion date of 15 December, 2021 but which was later extended to 31 December, 2023. However, the contract was terminated on 11 January, 2024 due to the abandonment of the works and non-performance by the contractor. The Company requested for retendering of the contract by the World Bank which had not yet been approved as at the time of the audit in September, 2024. Further, it was noted that the performance security expired on 14 July, 2023 prior to the termination of the contract and the Company could therefore not enforce it despite issuing demand notices to the underwriter on 15 December, 2023 and on 19 January, 2024. As of 30 June, 2024, the contractor had been paid Kshs.38,353,005 (43% of the contract sum), while a subsequent audit inspection in September 2024 revealed only 54% project completion.

In the circumstances, the value for money for the total expenditure of Kshs.38,353,005 could not be confirmed.

1185.3.3 Delay in Completion of the Upgrade of Water Distribution Systems

An amount of Kshs.54,237,626 was incurred on the upgrade of water distribution systems in Voi, Taveta, Mwatate and Wundanyi towns. The Kshs.859,714,132 contract commenced on 25 March, 2021 with an expected completion date of 25 December, 2023 which was revised to 31 October, 2024. Physical inspection in the month of September, 2024, revealed that the percentage of completion of the Project was at 73% and major works of construction of chambers had not started casting doubt on the project being completed by the extended completion date.

In the circumstances, the value for money of Kshs.54,237,626 incurred on the project could not be confirmed.

1185.3.4 Unrealistic Prime and Provisional Costs: Water/Wastewater Laboratory

An amount of Kshs.20,436,685 was spent on the construction and equipping of a combined water and waste water quality testing laboratory at Voi. The Company entered into a nine (9) months contract of Kshs.47,187,165 which commenced on 6 January, 2023 with an initial contract completion date of 25 March, 2024 but was extended to 30 July, 2024. However, the bill of quantities included the excessive prime and provisional costs of Kshs.28,840,000 or 61% of the contract sum despite but the equipment not being included in the bill of quantities. The project was at 89% completion as at the time of audit verification in September, 2024 with remaining pending external works worth Kshs.1,074,000. However, tendering for the laboratory equipment had not been done.

In the circumstances, value for money spent on the project may not be obtained and the continued project delays may result to escalated costs.

1185.3.5 Abandoned Construction of Office Block at Voi Town

An amount of Kshs.1,840,279 was incurred on the construction of an office block at Voi Town. The contract price was Kshs.78,236,141 with an initial project completion date of 18 August, 2022. However, the contract was terminated on 25 January, 2024 after expiry of the extension on 31 December, 2023. Further, the performance guarantee of Kshs.7,823,614 expired on 01 December, 2023 before being credited in favour of the Company due. In addition, the retendering of pending works yet to be done as at September, 2024.

In the circumstances, the delay in project completion may result in escalated costs for completion and value for money spent on the project may not be obtained.

1185.4 Malindi Water and Sewerage Company Limited

1185.4.1 Un-Approved Extension of the Contract for Water Distribution Works

An amount of Kshs.48,339,334 was incurred on water distribution works for in Watamu Town. The contract was valued at Kshs.215,114,669 with a contract period of 18 months commencing on 10 February, 2021 with a completion date of 09 August, 2022. As per the status report, the contract was extended to 31 October, 2023 with a defects liability period running 02 December, 2024. However, the addendum extending the original contract period was not provided for audit review.

In the circumstances, the value for money incurred on the project may not be obtained.

1185.4.2 Delay in Completion of a Faecal Sludge Treatment Plant in Watamu

An amount of Kshs.37,133,825 was incurred during the year for the construction of a faecal sludge treatment plant in Watamu Town. The contract of Kshs.226,017,054 commenced on 27 October, 2021 and was extended from twelve (12) months to thirty-six (36) months from 17 November, 2022 to 17 November, 2024. As the time of audit in

September, 2024, the project's overall progress was estimated at 50.8% casting doubt on the project being completed by 17 November, 2024.

In the circumstances, the value for money of Kshs.37,133,825 incurred on the project could not be confirmed.

1185.4.3 Delay in Completion of a Faecal Sludge Treatment Plant in Malindi

During the year under review, an amount of Kshs.32,203,377 was incurred on the construction of a waste to value faecal sludge treatment in Malindi Town. The Kshs.587,480,229 contract was to run for twelve (12) months however, following two extensions, the completion date was revised to 31 December, 2024. As at 30 June, 2024, an amount of Kshs.127,316,653 had been paid to the contractor being 21.7% of the contract sum. Physical verification carried out in September, 2024 revealed that the project was at 30% completion casting doubt on the project being completed by 31 December, 2024.

In the circumstances, the value for money incurred on the project may not be obtained and the project delays may result to escalated construction costs.

1185.4.4 Irregular Variation of Contract Sum

An amount of Kshs.29,519,035 was incurred during the year under review with respect to a Kshs.76,959,355 contract for provision of consultancy services for design review, implementation of ESIA/RAP and construction supervision of water and sanitation works. However, the contract sum was revised upwards to Kshs.177,739,431 resulting to an increment of Kshs.100,780,076 or 131% which exceeds 25%. This is contrary to Section 139(1)(a), 4(d) and (e), 5 and 6 of the Public Procurement and Asset Disposal Act, 2015 which states, *inter alia,* that any variation of a contract shall only be considered if the cumulative value of all contract variations for goods do not result in an increment of the total contract price by more than twenty five percent (25%) of the original contract price and the cumulative value of professional services does not result in an increment of the total contract price by more than twenty-five per cent of the original contract price.

In the circumstances, Management was in breach of the law.

1185.5 Mombasa Water and Sewerage Company

1185.5.1 Delay in Construction of Ablution Blocks in Mombasa County

An amount of Kshs.27,476,077 was incurred for the construction of fifteen (15) ablution blocks in Mombasa County. The respective contract of Kshs.196,530,589 commenced on 21 October, 2021 and was supposed to be completed on 20 April, 2022 but was later extended to 31 December, 2023 through an addendum to the contract. On 15 April, 2024, the contractor requested for extension of time due to variation orders and delayed payments, hence the completion date was revised to 30 September, 2024 as per the signed addendum no.2. However, physical verification of the project in September, 2024 revealed that the progress of the Project was at 78.46%.

In the circumstances, the project delays may result to escalated construction costs and value for money for Kshs.27,476,077 incurred on the project may not be obtained.

1185.5.2 Delays in Mombasa Stormwater Drainage Improvements

During the year under review, an amount of Kshs.56,027,767 was spent on improvement of storm water outlets and combined sewer overflows in Mombasa Island. The respective contract of Kshs.459,091,414 commenced on 11 May, 2021 and it was supposed to be completed on 11 November, 2022 but was extended to 31 December, 2023 through addendum 1. On 11 April, 2024, the contractor requested for extension of time due to delay in possession of sites, delay in provision of information and delayed payments, hence the completion date was revised to 30 September, 2024 as per addendum 2. As at the time of physical verification in September, 2024 it was noted that Tudor Moroto and Tudor Burukenge outfalls had no access road for vehicles to the site. The progress of the project was at 66.2%.

In the circumstances, the project delays may result to escalated construction costs and value for money for Kshs.56,027,767 incurred on the project may not be obtained.

1185.5.3 Delay in Rehabilitation and Extension of Water Supply Distribution Works

The Company awarded a contract for the rehabilitation and extension of Mombasa water supply distribution works at a contract sum of Kshs.749,200,538. The contract commenced on 11 May, 2021 and was expected to be completed by 11 November, 2022 but was later extended to 29 December, 2024. Further, the amendment increased the scope of works and contract price was revised upwards from Kshs.749,200,538 to Kshs.815,229,180. However, the overall percentage of completion of the Project was at 75% as at the time audit verification carried out in September, 2024. In addition, pipeline installation and miscellaneous works were still pending as some sites were not available to the contractor. It could not be established why the contracted sites were still not available causing delays in implementation of the project.

In the circumstances, the project delays may result to escalated construction costs and value for money for Kshs.254,768,446 incurred on the project may not be obtained.

1185.5.4 Additional Costs Occasioned by Delay in Completion of Kipevu Waste Water Treatment Plant

During the year, an amount of Kshs.28,652,709 was incurred for the rehabilitation of Kipevu Waste Water Treatment Plant and pumping stations. However, the initial contract sum of Kshs.240,623,534 did not include Kshs.7,800,000 for purchase of twelve (12) new 45kW aeration ditches motors which was approved on 22 February, 2022 varying the contract sum upwards to Kshs.243,217,752. The project commenced on 11 May, 2021 with the original completion date expected to be 16 August, 2023, but was later extended to 30 December, 2024 with additional costs of Kshs.5,806,408 in respect to the project manager costs. However, it was noted that a secondary assessment of all previously recommended repairs was carried out in addition to other works at Kipevu Water Waste Treatment Plant and pumping stations with a proposed financial cost implication of Kshs.105,350,656 revising the original contract price to Kshs.346,091,690.

In addition, it was noted that asbestos roof removal and Portrietz road rehabilitation and assessed works were yet to be approved by the World Bank since the works were omitted from the scope of works availed to the contractor. At the time of audit verification in September, 2024, the overall work progress was at 65.15%.

In the circumstances, delay in project implementation may result to incremental costs and intended purpose of the project may not be achieved.

1185.6 Coastal Water Works Development Agency

1185.6.1 Delay in Construction of Short-Term Water Distribution System

An amount of Kshs.155,805,920 was incurred for the construction of Mombasa North Mainland Short-Term Water Distribution System Lot 1A. The Agency entered into a contract of Kshs.516,433,325 on 3 May, 2021 with an expected completion date of 25 October, 2022. However, four extensions moved the project completion date to 31 December, 2024. The contract price was also revised to Kshs.781,423,747. As at 30 June, 2024, the contractor had been paid an amount of Kshs.571,765,209 equivalent to 64.3% of the contract price. As at September, 2024, the original scope of work was at 93% and the additional scope was at 46.2%.

In the circumstances, the project delays may result to escalated construction costs and value for money for Kshs.571,765,209 incurred on the project may not be obtained

1186. Avoidable Interest Charged on Delayed Payments

During the year under review, an amount of Kshs.22,472,734 was incurred on avoidable interest on delayed payments for water distribution works for Malindi, Gongoni and Mambrui, 2nd Baricho- Kakuyuni Water Supply Project and water distribution works in Watamu projects which Could have been avoided if payments to contractors were made in time.

In the circumstances, there was no value for money obtained from the Kshs.22,472,734 expenditure.

1187. Non-Compliance with Remittance to Escrow Accounts

The Water Sector Trust Fund remitted Kshs.729,056,043 to various Water Service Providers (WSP) across the Country as conditional grants which were to be repaid through daily build up amounts deposited to an escrow account as stipulated in the agreements between Water Sector Trust Fund, County Governments and Water Service Providers namely Mandera Water, Eldoret Water and Machakos Water. As at 30 June, 2024, it was observed that the listed Water Service Providers were not in conformity with this contractual directive and as such, the water service providers had an outstanding failed remittance to escrow accounts totalling Kshs.14,377,339.

In the circumstances, the service providers were in breach of the contract agreement.

1188. Misapplication of Projects Funds

The statement of receipts and payments and, as disclosed in Note 7 to the financial statements, reflects Kshs.819,276,533 in respect to other grants and transfers which includes Kshs.1,043,000 borrowed from Project account to support a reconnaissance visit to proposed small projects for climate resilience in Narok County. The activity was to be supported by GOK financing under local travel budget. However, the activity was funded by conditional liquidity support grant. Further, the transfer was not approved by The National Treasury contrary to Section 48 (1) (2) of the Public Finance Management Act, 2012. In addition, there was no explanation or evidence provided to confirm if the amount spent was to be reimbursed to conditional liquidity support grant on Water and Sanitation Development Project account.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1189. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1190. As required by International Development Association (IDA), I report, based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records and, the Project's financial statements are in agreement with the accounting records and returns.

DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER STATE DEPARTMENT FOR WATER AND SANITATION

LAKE VICTORIA WATER SUPPLY AND SANITATION PROGRAMME PHASE II PROJECT NO. P-Z1-EAO-004 (ADF GRANT NO.2100155019967) – LAKE VICTORIA SOUTH WATERWORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1191. Unsupported Bank Balances

The statement of financial assets and as disclosed in Note. 5 to the financial statements reflects bank balances of Kshs.39,257,440. This includes an amount of Kshs.39,257,283 held at Kenya Commercial Bank, which was unsupported by cash books, bank reconciliation statements, and certificate of bank balance.

In the circumstances, the accuracy and completeness of bank balance of Kshs.39,257,440 as at 30 June, 2024 could not be confirmed.

1192. Unsupported Pending Bills

Note 8 to the financial statements on other important disclosures and as analyzed in Annex 3 to the financial statements reflects an amount of Kshs.140,187,852 in respect of accounts payable for the construction of civil works in Kericho. However, the pending bills were not supported by pending bills register, pending bills schedule and ageing analysis.

In the circumstances, the accuracy and validity of the pending bills amount of Kshs.140,187,852 could not be confirmed.

Other Matter

1193. In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance which have remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1194. Failure to Close the Project

The Lake Victoria Water Supply and Sanitation Phase II Project was completed in September, 2018 and a completion report was prepared. During the year under review, the Project did not receive any funding and there were no activities carried out by the Project. In a letter dated 28 August, 2024, Management indicated that the Project was closed. However, it was not clear why Management had not formally handed over the Project to the agency.

The continued failure to close the Project exposes it to incurring avoidable expenditures.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1195. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1196. As required by African Development Fund, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

LAKE VICTORIA WATER AND SANITATION PROJECT GRANT NO. CKE 1093 02 M, CREDIT NO. CKE1093 01 L AND EIB NO. FI $N^0$83890 Serapis N^0 2011-0619 – LAKE VICTORIA SOUTH WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1197. Unsupported Expenditure and Unrecovered Overpayments on Works

As previously reported, the statement of receipts and payments reflect comparative expenditure of Kshs.497,703,818 relating to purchase of goods and services as disclosed in Note 4 to the financial statements. The amount includes an advance payment of Kshs.259,300,355 to a contractor in relation to payment for works package. However, review of the Interim Payment Certificate (IPC No.1) in support of the payment reflected an amount of Kshs.241,450,879, resulting to an unsupported overpayment of Kshs.17,849,476. This amount is yet to be recovered from the contractor.

In the circumstances, the accuracy of the comparative expenditure on purchase of goods and services of Kshs.497,703,818 could not be confirmed.

Emphasis of Matter

1198. Budgetary Control and Performance

The statement of comparison of budget and actual receipts amounts reflects final budget of Kshs.3,517,500,000 and actual on comparable basis of Kshs.255,107,917 resulting in underfunding of Kshs.3,262,392,083 or 93% of the budget.

The underfunding affected the Project planned activities and may have negatively on service delivery to the public.

My opinion is not qualified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1199. Late Remittance of Statutory Deduction

Review of the payroll records revealed that the Project Management did not remit statutory payments on time as required by Section 37(1) of the Income Tax Act which require that an employer should deduct pay as you earn (PAYE) from employees' salaries and wages at the prevailing rates and remit the same to Kenya Revenue Authority on or before the 9th of the following month on three occasions during the year, resulting to arrears amounting to Kshs.338,932, which could lead to avoidable penalties.

In the circumstances, Management was in breach of the law.

1200. Long Outstanding Pending Payables

Annex 3(c) to the financial statements reflects an analysis of pending bills amounting to Kshs.10,732,715 in respect to staff salaries and Project Management Unit expenses. However, these pending bills have been outstanding for over one (1) year contrary to Regulation 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which require that debt service payments shall be a first charge and the Accounting Officer shall ensure this is done to the extent possible that the government does not default on debt obligations.

Further, the Management did not provide documents to support these pending bills and no explanation was provided as to why the bills were not settled in the year ended 30 June, 2024.

In the circumstances, the pending bills are likely to attract interest and penalties while Management was in breach of the law.

1201. Delay in Project Completion

The statement of receipts and payments reflects an amount of Kshs.541,353,586 in respect of purchase of goods and services and as disclosed in Note 4 to the financial statements. The amount includes expenditure of Kshs.34,321,622 incurred on project management consultancy services. Review of contract records revealed that Management entered into the contract for consultancy at a sum of Kshs.68,345,002 or EUR 1,209,318. The contract commenced on 14 August, 2018 for a period of forty-five (45) months and was expected to be completed by 14 May, 2022 but later extended to 31 October, 2022 and 31 July, 2023. However, as at the time of audit in October, 2024, the Project had not been completed while no further extension of contract had been granted.

In the circumstances, value for money has not been realized with the continued delay in completion of the Project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1202. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1203. As required by the French Development Agency (AFD), I report based on my audit that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

WATER SECTOR DEVELOPMENT PROGRAMME – LAKE VICTORIA SOUTH (KERICHO, KISII, NYAMIRA AND LITEIN) LOAN NO. BMZ 2010 65 861 AND GRANT NO. BMZ 2010 70 457 – LAKE VICTORIA SOUTH WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1204. Unsupported Bank Balances

The statement of financial assets and liabilities reflects bank balance of Kshs.46,343,881 as disclosed in Note 7 to the financial statements. However, the balance is not supported by way of bank statement, certificate of bank balance, cash book and bank reconciliation statement.

Further, review of the Project's records indicate that the Management used the Implementing Agency's bank account and cash book to process receipts and payments relating to the Project. This is contrary to Section 6.1(d) of the Financing Agreement which require that for the receipt of the funds, the Project shall maintain separate books and reports showing all costs incurred in connection with the expert services and clearly identifying the services financed from the financial contribution.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.46,343,881 could not be confirmed while Management was in breach of the law.

1205. Lack of Land Ownership Documents

As previously reported, the statement of receipts and payments reflect comparative amount on the acquisition of non- financial assets (rehabilitation of civil works) of Kshs.196,477,340 as disclosed in Note 5 to the financial statements. This amount was paid to a foreign contractor at a contract sum of Kshs.1,189,805,385 in respect of the expansion of Kericho Water Supply systems.

Review of engineer's progress report indicated that works were deemed substantially complete on 30 September, 2022 and that the project was currently under defect liability period which expired on 30 September, 2023. Physical verification of the project in the month of October, 2024 revealed that the project has been commissioned and operational. However, no ownership documents have been provided for the land on which the treatment plant stands.

In the circumstances, the ownership of the parcel of land on which the treatment plant stands could not be confirmed.

Emphasis of Matter

1206. Budgetary Control and Performance

The statement of comparison of budget and actual amount reflects final receipts budget and actual on comparable basis of Kshs.393,000,000 and Kshs.49,500,000 respectively resulting in underfunding of Kshs.343,500,000 or 87% of the budget.

The under underfunding may have impacted negatively achievement of the Project's objectives and service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1207. Unresolved Prior Year Matters

In the audit report of the previous year, issues were raised under the Report on the Financial Statements. However, the Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1208. There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

Conclusion

1209. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1210. As required by KFW Development Bank, I report based on my audit that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. In my opinion, information given in the Management report is consistent with the financial statements. Further, adequate accounting records have been kept by the Project, so far as it appears from the examination of those records, and the Project's financial statements are in agreement with the accounting records and returns.

KENYA TOWNS SUSTAINABLE WATER SUPPLY AND SANITATION PROGRAM - CREDIT NO. P-KE-E00-011 (AfDB LOAN NO.200200000501) – ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1211. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1212. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2024 reflects a final receipts budget of Kshs.1,416,700,335 and actual on comparable basis of Kshs.1,696,393,480 resulting to a budgetary increase of Kshs.279,693,145 or about 20% of the Budget. Similarly, the Project spent Kshs.1,523,212,830 out of the approved expenditure budget of Kshs.1,416,700,335.

In the circumstances, Management prepared an unrealistic budget and ended up incurring an over expenditure of Kshs.106,512,495 which was not budgeted for.

1213. Inadequate Budgetary Allocation for Land Acquisition for Works-Gatundu Water Supply and Sewerage Project

The total amount earmarked for the land acquisition was Kshs.701, 974,375. However, Kshs.344,512,247 has already been disbursed to various land owners who have then granted access to the contractor and works are ongoing. The outstanding balance of Kshs.357,462,128 is yet to be remitted to the project as part of GOK Counterparts funding for the year.

In the circumstances, the project might be delayed owing to non-acquisition of land and hence the public might not get benefits from the project on time.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1214. Inconsistency in the Valuation of Assets

The financial statements reflect an amount of Kshs.7,396,121,019 for fixed assets under summary of fixed assets as disclosed in Annex 5. The asset register provided for audit review confirmed that all fixed assets were recorded on an accrual basis of accounting. However, it was noted that assets funded by the donors were reported using the cash basis of accounting, making it difficult to determine their exact value in the financial statements of the project.

In the circumstances, the correct value of the Project's fixed assets could not be confirmed.

1215. Delayed Payment of Consultancy Services

The Project signed a contract to provide consulting services for baseline and customer identification survey at a contract sum of Kshs.11, 990,115 on the 13 October, 2022 for a period 12 months. An extension was given from 13 October, 2023 to 13 June, 2024 at no additional cost. However, it was noted that a balance payment of Kshs.3,594,035 had not been paid at the time of the audit.

In the circumstances, failure to make timely payments is a violation of the contract terms and the consultant could take legal action for breach of contract.

1216. Commitment Charges Payable on Undrawn Amounts

The Republic of Kenya entered into a loan agreement with African Development Bank (AfDB) for Kenya Towns Sustainable Water Supply and Sanitation Program whose original completion date was 31 December 2021. The AfDB agreed to finance a total of Kshs.12,469,205,010 to AWWDA, TAWWDA and CWWDA being Kshs.6,119,577,734, Kshs.5,211,725,247 and Kshs.1,137,902,029 respectively. As a result of delays in project completion due to various factors such as delays in processing payments, delay in approving tax exemption certificates and delays in acquisition of land parcels and wayleaves among others, the project's completion date was revised to 31 December, 2025, as indicated in the project status report, leading to accrual of higher amounts of commitment charges. As at 30 June, 2024, a total of Kshs.7,652,878,756 had been received, and Kshs.4,816,326,255 was the undrawn amount for a period of about 7 years, leading to accrual of commitment charges amounting to Kshs.85,940,287.

In the circumstances, had the project been completed on time, the commitment charges would have been avoided.

1217. Delayed Completion of Projects

Reference to the signed contractual agreement indicate that the borrower is supposed to repay the principal of the loan following eight (8) years grace period commencing from the date of signature of the agreement, which was signed on 09 January, 2017, meaning the principal will become payable as from 09 January, 2025.

Review of project status showed that the projects are at various levels of completion, with the overall project completion status being 67.9% as at 30 June, 2024. It was not clear whether the bank had granted additional time in the contract to allow the entity to complete the projects that were yet to be completed, and if not, the Country may find itself repaying loan amounts that have not been received for the outstanding projects.

In the circumstances, public did not receive value for money that was budgeted for the specific projects and which have not yet been completed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1218. There were no material issues relating to the effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1219. As required by the provisions of the Financing Agreement, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Program, so far as appears from the examination of those records and, the Program's financial statements agree with the accounting records and returns.

SUPPORT TO WATER AND SANITATION SERVICES IN PERI URBAN AREAS (KFW LOAN NO. BMZ 2013.6543.6) PROJECT - ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1220. There were no material issues noted during the audit of the financial statements for the Project.

Other Matter

1221. Pending Bills

Annex 4 to the financial statements reflects Project pending bills totalling Kshs.38,708,784 as at 30 June, 2024. Management did not explain why the bills were not settled during the year when they occurred. Consequently, the Project risks incurring significant interest costs and penalties with continued delay in payment.

Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1222. Unsatisfactory Implementation of Projects

The statement of receipts and payments reflects acquisition of non-financial assets amounting to Kshs.853,302,936. As disclosed in Note 8 to the financial statements, the payments were in respect of construction and supervision of two Projects. However, review of the Project records revealed a number of shortcomings in the implementation of the projects as detailed below;

1222.1 Construction for Greater Githurai/Ruiru-Juja Water Supply Project – Lot 1

Athi Water Works Development Agency (Agency) entered into a contract with a construction company for the construction of Greater Githurai/Ruiru-Juja Water Supply System - Lot 1. The contract was signed on 19 July, 2019 and works were to be executed within eighteen (18) months, from 11 May, 2020 to 11 November, 2021. The works were not completed as scheduled leading to the extension of time with the latest extension setting the completion date on 20 September, 2024. Despite this, review of the Project records and physical verification in August, 2024 revealed incomplete works and defects at the two project locations: eleven (11) unaddressed areas in the raw water pump house and twenty-seven (27) unaddressed areas at the treatment plant.

1222.2 Construction Kiserian-Ongata Rongai Water Supply Project -Lot 2

The Agency entered into a contact with a construction company for the construction of Kiserian-Ongata Rongai Water Supply System - Lot 2. The contract was entered on 19 July, 2019 and Addendum No.1 was signed on 27 October, 2023. The works were to be executed within eighteen (18) months from 6 October, 2020 to 6 April, 2022. However, the works were not completed as scheduled leading to the five (5) extensions with the latest extension setting the completion date on 1 November, 2024.

As at the time of audit in September, 2024, the overall progress of works done was estimated at 95% against 98% of the contract time. The Project was behind schedule and may not be completed within the remaining one (1) month period.

1222.3 Construction of Mwihoko Water Supply Project – Lot 4

The Agency entered into a contract with a construction company for the construction of Mwihoko Water Supply Project - Lot 4. The contract was entered on 23 October, 2023 and works were to be executed within twelve (12) months, from 4 January, 2024 to 4 January, 2025.

As at the time of audit in September, 2024, the overall progress of works done was estimated at 40% against 75% of the contract time. The Project was behind schedule and may not be completed within the remaining three (3) months period.

In the circumstances, the delay may result in delayed realization of the project objectives and may result to the Project cost overruns.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1223. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1224. As required by Financing Agreement Number (BMZ No. 2013 6543.6) dated 28 September, 2015 between the KfW, Frankfurt am Main and the Republic of Kenya, I report based on my audit that I have obtained all the information and explanation which, to the best of my knowledge and belief were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project Management and the Project's financial statements agree with the accounting records and returns.

NORTHERN COLLECTOR PHASE 1 AND ADDITIONAL REHABILITATION AND DEVELOPMENT OF THE NETWORK PROJECT (CREDIT NO. CKE 1074 01 K) - ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1225. Inaccuracy in the Financial Statements

The statement of receipts and payments reflects a comparative amount of Kshs.2,958,437,322 in respect to acquisition of non-financial assets. However, the corresponding Note 8 to the financial statements reflects an amount of Kshs.2,957,535,110 resulting to an unexplained variance of Kshs.902,212.

In the circumstances, the accuracy of the comparative amount of Kshs.2,958,437,322 in respect to acquisition of non-financial assets could not be confirmed.

Other Matter

1226. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public

Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management has indicated that the issues have been resolved, evidence on how the issues were resolved was not provided.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1227. Compliance with Loan Guidelines in Disbursement of Loan/GOK Transfers

1227.1 Failure to Make Provision for Loan Repayment

Athi Water Works Development Agency, the implementing Agency of the Network project, did not provide evidence indicating how the Nairobi City Water and Sewerage Company; the final beneficiary of the water made an annual provision for repayment of the loan advanced towards improved and reliable water supply to the City. This was contrary to Clause 11.14 (other undertakings) of the AFD Credit Facility Agreement No. CKE 1074 01 K, which requires the borrower to ensure that an annual provision is maintained for repayment of the loan.

In the circumstances, the Agency is in breach of contractual obligations. The project financier and Agency may not meet the loan repayment obligations on maturity.

1227.2 Finance Charges and Penalties on Delayed Payments

The Project incurred finance charges amounting to EUR 17,084 and Kshs.348,970 as a result of delay in settlement of certified and invoiced works. The charges were levied in accordance with Clause 14.8 of the contract for the construction of the Kigoro Water Treatment Plant dated September 2016 which stated that, if the contractor does not receive payment in accordance with Sub clause 14.7 the contractor shall be entitled to receive financing charges compounded monthly on the amount and paid during the period of delay.

In the circumstances, Management was in breach of the law. In addition, there was no value for money on the avoidable finance charges amounting to EUR 17,084.36 and Kshs.348,970.

1228. Delay in Compensation of Persons Affected by the Project

Review of documents provided for audit revealed that thirteen (13) land owners were yet to be fully compensated, twelve (12) persons were compensated at 75% and one (1) affected person was not yet compensated for land acquired by the Agency for the development of the Project. Further, twenty-five (25) land owners were yet to be compensated for wayleaves. This was contrary to Section 111 of the Land Act, 2012 which provides that, if land is acquired compulsorily under this Act, just compensation shall be paid promptly in full to all persons whose interests in the land have been determined. Although Management attributes delay to succession issues and land ownership disputes, no evidence was provided for audit.

In the circumstances, Management was in breach of the law and delay in land compensation may result in delay in project implementation.

1229. Failure to Remitted Value Added Tax Deductions

The Agency made payments of Kshs.934,499,969 to a construction company for laying, joining, testing and commissioning water pipeline. An additional amount of Kshs.7,774,972 was paid to a joint venture for the construction of Kigoro Water Treatment Plant (Muranga County). However, the Agency did not remit Value Added Tax (VAT) totalling to Kshs.516,658,649 to the Kenya Revenue Authority. This was contrary to Section 23(2)(a) of the Public Finance Management (National Government) Regulations, 2015, which requires Accounting Officers to comply with all tax obligations, levies, duties, pension commitments, and audit requirements as stipulated by legislation.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1230. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1231. As required by Agence Francaise Development (AFD), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records and, the Project's financial statements agree with the accounting records and returns.

NAIROBI RIVERS BASIN REHABILITATION AND RESTORATION PROGRAM P-KE-EBO-010: SEWERAGE IMPROVEMENT PROJECT PHASE II – ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1232. There were no material issues noted during the audit of the financial statements of the Program.

Emphasis of Matter

1233. Long Outstanding Pending Accounts Payables

Note 18 on other important disclosures to the financial statements reflects pending accounts payable balance of Kshs.866,317,400 carried forward for financial year ending

30 June, 2024. The amount includes payables totalling Kshs.171,351,830 brought forward from prior years.

Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provision of the subsequent year as they should form a first charge.

1234. Delayed Disbursement of Government Counterpart Funding

The statement of receipts and payments reflects a loan amount from the African Development Bank of Kshs.1,489,019,767 and Kshs.25,000,000 as counterpart funding from the Government of Kenya. The total cumulative counterpart funding from the Government of Kenya as at 30 June, 2024 stood at Kshs.421,363,774. This represents 45% of the total counterpart financing projection of Kshs.926,396,782 as disclosed in Paragraph 2.7 on funding summary of the financial statements. The expected closing date of the project is set on December 2025 and it is doubtful that the counterpart financing balance of Kshs.505,033,008 representing 55% will be disbursed to the project activities before the closure date.

My opinion is not modified in respect of these matters.

Other Matter

1235. Unpaid Value Added Tax

The financial statements under Note 18 makes disclosure of pending accounts payables balance of Kshs.866,317,400. A schedule of the payables provided for audit review revealed pending accounts payables in respect to unpaid VAT amounting to Kshs.399,165,508. The amount is payable to a contractor by the Government of Kenya. The Athi Water Works Development Agency has not been able honor the payment and this has led to delay in various projects because of cashflow challenges.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1236. Delay in Completion of Projects

The statement of receipts and payments for the year ended 30 June, 2024 reflects total payments of Kshs.1,490,610,593. Included in the payments is acquisition of non-financial assets of Kshs.1,452,445,493. As is further explained under Note 8 to the financial statement, the amount is in respect to payments for consultancies and construction services for ten (10) projects. Review of the payments revealed delays in project completion due to various reasons. Delay in project completion is contrary to Section 151(2a) of the Public Procurement and Asset Disposal Act, 2015, which provides that for the purpose of managing complex and specialized procurement contracts, the contract implementation team shall be responsible for monitoring the performance of the contractor to ensure that all delivery or performance obligations are met or appropriate action taken by the procuring entity in the event of obligations not being met.

1236.1 Construction of Dandora Estate Waste Water Treatment Plant Rehabilitation and Duplication Plant Inlet Works

The contract for construction of Dandora Estate Waste Water Treatment Plant Rehabilitation and Duplication Plant inlet works was awarded at a contract sum of Kshs.1,531,934,112. The commencement date for the works was 21 February, 2023 and was envisaged to be complete on 21 August, 2024.

However, a site visit at Ruai revealed works on desludging of ponds and desilting of the 3.7km of the trunk sewer were yet to start. The works delayed due to reasons of pending approvals of the methodology and machinery to be used and handling of the sludge material. Delay in the works is likely to cause the implementing agency to extend the project completion date.

Further, it was also observed that a section of the perimeter wall was vandalized by the community hence encroaching the project. This is likely to escalate the project cost since the contractor would be required to redo the vandalized walls.

Review of payment documents in respect of the expenditure revealed that on 7 August, 2023, the implementing agency instructed consultants for the project to make payments amounting to Kshs.507,085 for supply and installation of a sliding gate at the Athi Water Works Plaza. This expenditure is not part of the Dandora Estate Water Treatment Plant scope of works and was charged to the item of expenditure on Dandora Estate Waste Water Treatment Plant irregularly.

In the circumstances, Management was in breach of the law.

1236.2 Lot 2 - Construction of Kahawa West, Githurai 44 and 45 and Kahawa Sukari Reticulation Sewers- Contract No. AWWDA/NARSIP II/W-02/2020

The Agency entered into a contract on 3 February, 2021 for construction of Kahawa West, Githurai 44 and 45 and Kahawa Sukari reticulation Sewers at a contract sum/price of Kshs.2,154,077,998 (inclusive of VAT). The completion date was to be 14 September, 2022. The contract was, however, extended through Extension of Time No.1-Addendum No. 1 to 29 September, 2023 and later extended through Extension of Time No. 2 to 11 July, 2024. Records available show that the contractor was further granted an extension of time for a period of 158 days to complete outstanding contract deliverables and ensure targets were met at no additional costs to the contractor. This revised the contract completion date from 11 July, 2024 to 16 December, 2024.

Project verification done in October, 2024, revealed the project works completion was at 89%. The contract had utilized 39.5 months or 98.7% of the contract period. The project works are incomplete as some work components such as Kamiti Prison, Ruiru WWTP, 4,519 Household connections and Githurai 45 manholes construction were still pending. In the monthly and quarterly progress reports for the year, the contractor was accused of delay in execution of works and showed no commitment to meet the set deadlines. No action was however taken by Management to sanction the contractor as per the terms of the contract.

In the circumstances, Management was in breach of the contract provisions/agreement.

1236.3 Construction of Mwiki and Clayworks Reticulation Sewers

The contract was signed on 19 March, 2021 at a contract sum of Kshs.1,794,140,606 (inclusive of VAT). The original completion date was 21 October, 2022 which was later extended to 22 December, 2023 and again extended to 23 August, 2024. Project verification done in October, 2024 revealed the Project works were at 89% completion. The works were behind schedule by two (2) months.

It was unclear when the project would be completed as some work components such as theta river trunk sewer, construction of 4,000 Nr. household sewer connections, drilling and equipping of 10Nr. boreholes, construction of 10Nr. 24m^3 elevated water tank and reticulation, construction of 10Nr. standard water kiosk as per WASREB standards complete with plumbing and 3 Nr. water drawing points, construction of 2Nr. sludge disposal facilities and ancillary each point including administration building, staff houses (2Nr. one-bedroom houses), ablution block and gate house, Embakasi North Sewers-administration building, sludge disposal and Dandora dumpsite TS were still pending.

In the circumstances, Management was in breach of the contract provisions/agreements.

1236.4 Variation of Contract Sum for Lot 4: Construction of East and West of Nairobi Reticulation Sewers

The contract for Lot 4 for construction of East and West of Nairobi Reticulation Sewers was agreed at a contract sum of Kshs.1,278,465,431 with commencement date of 3 September, 2021 and completion date of 3 March, 2023. The projection completion date was later extended to 3 December, 2023. A second extension was granted to 3 March, 2024 while a third extension was granted to 3 December, 2024.

Records available show that Athi Water Works Agency undertook an environmental impact assessment of the project as part of the preliminary requirements before implementation of the project. However, project implementation could not proceed as planned following objection by community environment activists that the proposed sewer line project passed through a forest reserve. The Bank advised during supervision mission that an alternative route be considered away from the forest reserve. Additional costs incurred due to the change of route of the sewer line amounted to Kshs.133,407,256 after the original cost of the project of Kshs.1,278,465,431 was revised to a contract sum of Kshs.1,411,872,687.

1236.5 Failure to Claim Refund from Kenya Forest Service for Special User License Payment

The Agency paid Kshs.12,405,380 to Kenya Forest Service (KFS) in IPC 8 for a special User License to allow the passage of the 8.78km Motoine Trunk sewer line through Ngong forest. The license was granted but due to complaints from stakeholder's, works were halted and alternative routes proposed to African Development Bank for approval. The Agency has not claimed for refund of the amount of Kshs.12,405,380.

1236.6 Failure to Claim Refundable Deposit for Micro-Tunneling of Kangundo Road

The Agency deposited refundable deposit with KeNHA of Kshs.480,000 for micro-tunneling across Kangundo road. The said amount had not been claimed and evidence of refund was not provided during the audit. In addition, the Agency also approved payment of Kshs.560,000 to be paid to KeNHA to undertake works across southern by-pass and Kangundo road. The amount was refundable thirty (30) days after completion and reinstatement of the works. The Kangundo road works were completed but the Agency had not claimed the amount of Kshs.560,000.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1237. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1238. As required by African Development Fund, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

NAIROBI INCLUSIVE SANITATION IMPROVEMENT PROJECT - GRANT NO.5600155005153 – ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1239. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1240. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.178,792,870 and Kshs.161,205,921 respectively resulting to a budget under-funding of Kshs.17,586,949 or 10% of the budget. Similarly, Management spent an amount of Kshs.99,946,533 against actual receipts of

Kshs.161,205,921 resulting to under-utilization of Kshs.61,259,388 or 38% of the actual receipts.

The under-funding and under-utilization of funds affected the planned activities and have impacted negatively on service delivery to the public

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1241. Failure to Implement Part of the Contract Deliverables

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.99,946,533 as disclosed in Note 6 to the financial statements. Included in the expenditure is an amount of Kshs.83,413,051 in respect of payments made to third parties for consultancy services. However, review of a consultancy contract for feasibility study, detailed design, tender documentation, ESIA and connections strategy for the Project revealed that the final deliverable on investment forum which had a cost allocation of Kshs.7,303,362 (€ 42,294.20) or five (5) percent of the contract sum to be funded by the African Development Bank was not implemented though the Project had closed on 31 May, 2024.

In the circumstances, Management was in breach of the Financing Agreement.

1242. Idle Funds in the Bank Account

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.61,259,388 as disclosed in Note 11A to the financial statements. However, review of the Project documents revealed that the Project closed on 31 May, 2024 yet the bank account is still open and holding unutilized funds. This is contrary to Regulation 83(2)(c) of the Public Finance Management (National Government) Regulations, 2015 which requires Accounting Officers to ensure sound cash management.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1243. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1244. As required by the provisions of the African Water Facility Special Fund Grant Agreement No.5600155005153 dated 30 July, 2020 between the African Development Bank and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project, so far as appears from the examination of those records and the Project's financial statements agree with the accounting records and returns.

NAIROBI WATER AND SANITATION PROJECT (CREDIT NO. CKE113501H) – ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1245. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1246. Slow Absorption of Project Funds

The Project Information and Overall Performance, under Paragraph 2, indicate that the Project duration is five (5) years from 2 March, 2020 to 14 December, 2025, with approved budget from bilateral donor of Kshs.11,242,000,000 (EUR 100,000,000). However, the actual amount received as at 30 June, 2024 amounted to Kshs.1,965,988,114 (EUR 14,483,583), or 14.48% leaving out Kshs.9,276,011,886 (EUR 85,516,417) not disbursed. Further, out of the amount received, Kshs.1,161,519,486, or 60% had been paid into the Project, leaving an unutilized balance of Kshs.804,468,628 (EUR 5,778,560).

In the circumstances, the low disbursement and slow absorption of funds may have affected the planned activities and impacted negatively on the service delivery to the stakeholders.

My opinion is not modified in respect of this matter.

Other Matter

1247. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. Although Management indicated the status of the issues as resolved as at 30 June, 2024, no evidence was provided to support that position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1248. Construction of Eastern Nairobi Water and Sewerage Network Intensification Project

The statement of receipts and payments reflects acquisition of non-financial assets of Kshs.940,908,622. Included in this amount is Construction of Eastern Nairobi Water and Sewerage Network Project expenditure of Kshs.875,987,985. The implementing agency, Athi Water Works Development Agency (AWWDA) awarded contract for the Project at a contract sum of Kshs.2,653,347,427. The contract was signed on 10 May, 2023 for a twenty-four (24) months period, with expected completion date of 24 April, 2025. As at 30 June, 2024, payments on the contract amounted to Kshs.875,987,993, or 33% of the contract sum, while the status of the works done was reported at 38%. Review of the contract procurement and implementation revealed the following unsatisfactory matters:

a) International competitive bidding was applied to procure the contractor as per the Procurement Guidelines issued by the Agence Française de Développement (AFD). However, the Invitation for Bids (IFB) was published at Athi Water Works Development Agency (AWWDA) website, MyGov and http://afd.dgmarket.com on 25 October, 2022 with deadline of 9 December, 2022, a period of six and half (6.5) weeks. This was contrary to clause 2.1.2 c of the Guidelines for the Procurement of AFD-Financed Contracts in Foreign Countries which states that the time for the preparation of a bid for works, goods/plant (from date of the latest publication of the bid invitation notice to the deadline for the submission of bids) to be 8 weeks.

b) Value Added Tax (VAT) amounting to Kshs.140,158,079 had not been remitted to the Kenya Revenue Authority on the payments made on the Project as at 30 June, 2024. This was to be paid from GOK counterpart funds as per schedule 3 of the Credit Financing Agreement (CFA) which states that all tax expenses, except for VAT on consultancy services and withholding tax, were not eligible expenses and would be fully covered by the borrower's own budget.

In the circumstances, Management was in breach of the law.

1249. Undelivered Motor Vehicle

The statement of receipts and payments reflects acquisition of non-financial assets of Kshs.940,908,622. Included in this amount is purchase of vehicles and other transport equipment expenditure of Kshs.15,501,034. Athi Water Works Development Agency contracted for the supply and delivery of a motor vehicle under contract dated 29 September, 2023 at contract sum of Kshs.4,644,828 and for a period of six (6) months. However, the contract expired on 28 March, 2024 and there was no evidence of extension but, as at the time of audit on September, 2024 the vehicle was yet to be delivered.

In the circumstances, Management was in breach of the law.

1250. Unsatisfactory Implementation of Project

Review of the Eastern Nairobi Water and Sewerage Network Intensification Project identified several anomalies: open inspection chambers and trenches in Utawala and Maili Saba posed significant safety and health risks, with raw sewerage spilling in some areas. In addition, excavations along a river bank in Utawala lacked safety measures like railguards endangering pedestrians and motorists. The Project also caused disruptions along Kangundo Road, where demolitions and business interference led to socioeconomic challenges.

Further, there was no evidence on budgetary initiatives taken to address or mitigate on the environmental sustainability to the ongoing project as presented in Annex 7 of the Financial Statements on Reporting of Climate Relevant Expenditures.

In the circumstances, value for money for the funds spent by the Project and its environmental sustainability could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1251. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA TOWNS SUSTAINABLE WATER SUPPLY AND SANITATION PROGRAMME (AfDB LOAN NO.2000200000501) - TANA WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1252. There were no material issues noted during the audit of the financial statements of the Programme.

Emphasis of Matter

1253. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,756,000,000 and Kshs.1,379,683,557, respectively, resulting in under-funding of Kshs.376,316,443 or 21% of the budget.

In the circumstances, the underfunding affected implementation of the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect to this matter.

Other Matter

1254. Unresolved Prior Year Matter

In the audit report of the previous year, several matters were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. However, the prior year audit issues remained unresolved as at 30 June, 2024 and Management did not provide reasons for the delay in resolving the prior year audit issues. It was further noted that the matter had been outstanding for a long period and no progress had been achieved from the prior years.

1255. Outstanding Pending Bills

Annex 4a of other important disclosures to the financial statements reflects pending account payables balance of Kshs.129,870,252 as at 30 June, 2024. However, at the time of audit in the Month of October 2024, Kshs.73,933,423 had been paid leaving a pending balance of Kshs.55,936,829. Further, annex 4c reflects land acquisition and legal fees pending payables balance of Kshs.111,099,685 that had been outstanding for a period of more than three (3) years.

Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge as stipulated by Regulation 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015.

1256. Long Outstanding Payables – Project Affected Persons (PAPs)

Annex 4c to the financial statements reflects pending account payables balance of Kshs.315,021,639 as at 30 June, 2024 which includes Kshs.309,730,215 in respect of outstanding land compensation to various Project Affected Persons (PAPs). The amount ought to have been settled before the project commencement as per the conditions set out in the Loan Agreement, Section 5.04 (ii) of loan agreement between the republic of Kenya and the Africa Development Bank which states that the borrower undertakes, in form and substance satisfactory to the bank to ensure that all Projects Affected Population("PAP") are compensated in accordance with the Sub-project`s Resettlement Action Plan , prior to the commencement of any construction on affected parts of the projects.

In the circumstances, the Project was at risk of incurring significant interest costs and penalties due to the continued delay in payment.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1257. Delayed Completion of Projects

During the year under review, eighteen (18) projects with a contract sum of Kshs.8,421,064,639 were reviewed. Physical verification in the month of October, 2024 revealed that 10 (ten) projects with a contract sum of Kshs3,806,741 were complete and in use. However, unsatisfactory observations were made on eight (8) projects with a contract sum of Kshs.4,614,332, 242 whose completion had been delayed; The Chuka Water Supply Project and the Chuka Sewerage Project were both reported to be 94% complete. Similarly, the Marsabit Sewerage Project had achieved 94% completion. The Mandera Sewerage Project was at 76% completion, while the Meru Sewerage Project also stood at 76%. The Construction of the Decentralized Treatment Facility for Kiawara Town had reached 72% completion. The Construction of Othaya Sewerage Infrastructure – Last Mile Connectivity was significantly behind, with an overall completion of only 17%. Lastly, the Construction of Biogas Production Domes for 3 No. Secondary Schools had not yet started.

The main reasons for the non-completion of the projects, based on audit observations, included delays in wayleaves acquisition, expired contract timelines, incomplete installations, contractor absence, delays in necessary approvals and dispute in court.

In the circumstances, there was risk of the projects not being completed thereby denying the public the benefits that were to arise from the usage.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1258. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1259. As required by African Development Bank Loan Agreement, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

KENYA TOWNS SUSTAINABLE WATER SUPPLY AND SANITATION PROGRAM CR.NO. P-KE-E00-011 (AFDB LOAN NO.2000200000501) – CENTRAL RIFT VALLEY WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1260. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1261. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis amounts of Kshs.2,622,000,000 and Kshs.1,671,981,681 resulting to an under-funding of Kshs.950,018,319 or 36% of the budget. Further, the Project spent an amount of Kshs.1,746,698,267 against the actual receipts of Kshs.1,671,981,681 resulting to an over-utilization of Kshs.74,716,586.

The under-funding affected the planned activities of the Project and may have negatively affected service delivery to the public.

1262. Low Absorption of Project Funding

The Program was advanced loans and grants for a duration of five (5) years with effect from 9 January, 2017 to 31 December, 2021 but subsequently extended to 31 December, 2025.

Out of the total donor commitment of Kshs.15,953,306,157, an amount of Kshs.11,248,073,683 or 71% has been disbursed and out of the GOK counterpart funding of Kshs.2,073,227,699 an amount of Kshs.756,559,620 or 36% has been issued thereby resulting to delayed Project implementation and higher payment of interest and commitment fee on undrawn loan balances.

1263. Failure to Settle Pending Bills

Note 18 and 19 to the financial statements on other important disclosures and Annex 4a and 4c to the financial statements reflects pending accounts payable and land compensation balance of Kshs.674,615,396 and Kshs.18,984,632 respectively as at 30 June, 2024. The balances of Kshs.674,615,396 includes amounts of Kshs.474,071,809 and Kshs.200,543,587 for construction of roads and for supply of goods and services respectively.

Review of documents and schedules provided for audit in support of land compensation revealed that there is a long delay in compensating of Persons Affected by the Project (PAPs).

Failure to clear pending bills in the year to which they relate distorts the budget of the following year as they constitute a first charge on that budget.

My report is not modified in respect of these matters.

Other Matter

1264. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1265. Lack of a Project Designated Bank Account

The statement of financial assets and liabilities reflects a negative balance of Kshs.74,716,586 in respect to cash and cash equivalents. However, as reported in previous years, the Program does not maintain a designated bank account and its activities funded by GOK are undertaken through the implementing Agency (Central Rift Valley Water Works Development Agency) bank account. This is contrary to Clause 1.2(j) and (h) of the subsidiary Loan Agreement between the Government of Kenya and the Agency which provides that a local and foreign currency bank account shall be opened for the purpose of receiving the portion of loan from the Government and development partners.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1266. Delayed Projects Implementation

Review of records provided on six (6) projects being implemented at a total cost of Kshs.5,037,586,618 revealed that one (1) project had stalled while the other five (5) projects were behind schedule as detailed below:

S/No	Contractor	Project Name	Contract Amount (Kshs.)	Contract End Date	Contract Duration (Months)	Estimated Completion Date	Current Status
1	Weihai Construction Company Ltd	Kapenguria Town Sewerage Project	837,626,342	01/11/2024	18	01/11/2024	63%
2	China Railway No 10 Engineering Group	Eldoret Town Last Mile Connectivity	504,201,143	15/04/2022	12	30/06/2024	90%
3	Machiri Ltd	Kipkaren Dam water Supply Project	1,185,758,691	13/12/2018	20		Stalled
4	Toddy Engineering Limited	Kakamega Town Last Mile Connectivity Project	129,833,440	31/01/2023	12	29/08/2024	82%
5	China State Construction Eng Co Ltd	Kilgoris-Lolgorian Water Supply Project	596,906,195	05/07/2022	18	30/12/2024	94%
6	China Railway No 10 Engineering Group	Bomet-Mulot Water Supply and Sewerage Project	1,783,260,807	02/07/2023	18	07/07/2025	43%
	Sub Total		**5,037,586,618**				

In the circumstances, failure to implement projects as planned negatively impacts delivery of goods and services to the public.

1267. Delayed Implementation of the Bomet – Longisa - Mulot Project

Physical verification done on 16 October, 2024 on Bomet – Longisa - Mulot Water Supply and Sewerage Project revealed that physical progress was at 43% indicating that the Project may not be completed within the extended period of 30 June, 2025. Further, other works including the construction of a new run-off river intake at River Nyangores in Mau Forest had not commenced. In addition, the construction of approximately 5.3 Km long, DN600/500 PN16 steel raw water gravity main from the proposed intake works to the proposed Masese water treatment works site was not completed.

In the circumstances, the Project may not obtain value for money and the expected benefits from the projects to the residents may not be realized.

1268. Delay in Programme Funding

The Programme was advanced loans and grants for a duration of five years with effect from 9 January, 2017 to 31 December, 2021 but subsequently extended to 31 December, 2025. However, out of the total donor commitments of Kshs.15,953,306,157 an amount of Kshs.11,248,073,683 (or 70%) has been disbursed leaving an undrawn balance of Kshs.4,705,232,474 or 30% of the donor commitments. Similarly, out of the total Government of Kenya counterpart funding commitment of Kshs.2,073,227,699 an amount of Kshs.756,559,620 (or 36%) has been funded leaving undrawn balance of Kshs.1,316,668,079 or 64%.

In the circumstances, the delay in funding will negatively affect the implementation and overall achievement of the Program objectives considering the limited period remaining before its closure.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1269. As required by African Development Fund (ADF) and African Development Bank (AfDB), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have not been kept by Management of the Project, so far as it appears from the examination of those records and the Project's financial statements are not in agreement with the accounting records and returns.

LAKE NAKURU BIODIVERSITY CONSERVATION PROJECT GRANT NO. 201567916 AND LOAN No. 2016 65 116 (KFW-GERMAN FINANCIAL COOPERATION) - CENTRAL RIFT VALLEY WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1270. Unconfirmed Comparative Balances

The statement of receipts and payments reflects cumulative comparative receipts and payments amounting to Kshs.428,496,554 and Kshs.261,291,433 respectively. Additionally, the statement of financial assets reflects comparative net financial assets balance of Kshs.167,205,121. Review of the financial statements including the preamble information section 2.2 and 2.7 in respect of project information and funding summary and application revealed that the project was started in the year 2016 and funds receipts and applications of Kshs.428,496,554 and Kshs.261,291,451 respectively. However, no financial statements had been prepared and submitted for audit since inception until 2023/2024.

In the circumstance, the accuracy and completeness of the comparative balance in the financial statements could not be confirmed.

1271. Unsupported Cash and Cash Equivalents

The statement of financial assets reflects balance of Kshs.167,205,121 in respect of cash and cash equivalents and as disclosed in Note 11 to the financial statements. However, the cash and cash equivalent balances was not supported by cash book, bank certificates and bank reconciliation statements. Further, Note 11 to the financial statements on cash and cash equivalents did not include the bank name and account number as required by the approved reporting template.

In the circumstances, the accuracy, completeness, existence of cash and cash equivalents balance of Kshs.167,205,121 could not be confirmed.

1272. Inaccuracies in the Statement of Comparison of Budget and Actual Amounts

The statement of comparison of budget and actual amounts reflects final income budget and actual on a comparable basis of Kshs.1,040,000,000 and Kshs.25,883,201 resulting to underfunding of Kshs.668,117,999. The statement also reflects final expenditure budget and actual on a comparable basis of Kshs.1,040,000,000 and Kshs.25,883,201 resulting to under expenditure of an amount of Kshs.1,014,207,814. However, recasting of the statement revealed underfunding and under expenditure of Kshs.1,014,116,799 resulting to unexplained and unreconciled variances of Kshs.346,000,000 and Kshs.91,015 respectively. Further, the actual receipt amount of Kshs.25,883,201 differed with the corresponding amount of Kshs.42,484,754 reflected in the statement of receipts and payments. The resulting variance of Kshs.16,601,553 had not been explained.

In the circumstances, the accuracy and completeness of the amounts in the statement of comparison of budget and actual amounts could not be confirmed.

1273. Payments not Related to the Projects

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.18,398,447 and as disclosed in Note 6 to the financial statements. However, review of the payment vouchers in respect of utilities, supplies services, hospitality and travelling of Kshs.18,398,447, revealed that the payments related to the activities of the implementing Agency - Central Rift Valley Water Works Development Agency which are budgeted for separately.

In the circumstances, the accuracy and completeness of the purchase of goods and services amount of Kshs.18,398,447 could not be confirmed.

Emphasis of Matter

1274. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis amounts of Kshs.1,040,000,000 and Kshs.25,883,201 resulting to an under-funding of re-computed amount of Kshs.1,014,116,799 or 98% of the budget.

Further, the statement does not include the itemized budget for the various expenditure codes under purchase of goods and services to enable proper budgetary controls. Therefore, the comparison between the budgeted and actual expenditure codes could not be determined.

The underfunding affected the planned activities of the Project and may have negatively affected service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1275. Delay in Design and Implementation of the Project

The statement of receipts and payments reflects consultancy services amount of Kshs.7,484,754 and as disclosed in Note 8 to the financial statements. The expenditure was in respect of preparation of detailed design and tender documents, assistance to Project Executing Agency (PEA) in tendering process and contracting, construction, supervision and management of the Lake Nakuru biodiversity conservation project.

However, review of the contract and the loan agreement documents revealed the following;

(i) The detailed designs, tender for contract of works and construction phase were behind schedule as detailed in annex 2 to the loan agreement putting the project implementation behind schedule.

(ii) The procurement process for the identification of the contractor was still on-going and behind schedule.

(iii) The first repayment of the loan is due 15 May 2026. As per the time schedule in the annex 2 of the contract document, the repayment of the first installment will be due when defect liability period is ending. The Government of Kenya will be repaying the loan when the construction phase will be in progress with the current state of procurement process still ongoing and behind schedule.

Failure to implement projects as planned may have negatively impacted on delivery of goods and services to the residents of Kenya.

1276. Lack of a Project Designated Bank Account

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.167,205,121. However, the project did not maintain a designated bank account, and its activities funded by GOK are undertaken through the implementing Agency (Central Rift Valley Water Works Development Agency) bank account. This was contrary to Clauses 1.2(j) and (h) of the subsidiary loan agreement between the Government of Kenya and the agency which provides that a local and foreign currency bank accounts shall be opened for the purpose of receiving the portion of loan from the government and development partners.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1277. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1278. As required by German Financial Cooperation (KFW) dated 30 December, 2019 between German Financial Cooperation (KFW) and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project, so far as it appears from the examination of those records and the Project's financial statements agree with the accounting records and returns.

IMPROVEMENT OF DRINKING WATER AND SANITATION SYSTEMS IN MOMBASA: MWACHE PROJECT (CREDIT NO. AFD LOAN NO.CKE 1103 01 C) – COAST WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1279. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1280. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,070,000,000 and Kshs.572,901,341 respectively resulting to an under-funding of Kshs.1,497,098,659 or 72% of the budget. Similarly, the Project incurred an amount of Kshs.423,644,169 against actual receipts of Kshs.572,901,341, resulting to an under-utilization of Kshs.149,257,172 or 26% of the actual receipts.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1281. Prior Year Matters

In the audit report of the previous financial year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. Although Management has indicated the status of the issues as resolved, no evidence was provided to support that position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1282. Slow Implementation of the Project

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects an amount of Kshs.408,040,992 as acquisition of non - financial assets which includes an amount of Kshs.316,959,737 in respect of research, studies, project preparation, design and supervision. The Project incurred a total of Kshs.34,980,371 for consultancy services for preparation of detailed designs, tender documents, safeguards (ESIA AND RAP) reports and construction supervision of Mwache dam transmission pipelines and associated terminal reservoirs in the year under review. However, as previously reported, the water treatment plant and the transmission pipelines had delayed and may not be completed within the contract deadline of 19 December, 2025 and 30 September, 2024 respectively. The delay was explained to have been necessitated to allow the completion of the dam to avoid running the water treatment plant when there is no production.

In the circumstances, delays in project implementation may lead to cost overruns.

1283. Delay in Project Completion – Emergency Works for Increasing Water Availability in Likoni

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects acquisition of non-financial assets amount of Kshs.408,040,992, which includes an amount of Kshs.91,081,225 for construction of civil works - emergency works for increasing water availability in Likoni under contract No. CWSBA/AFD/W1/2019. The contract commenced on 16 July, 2018 for a period of eighteen (18) months, ending on 9 February, 2023. An extension was granted for a period of twelve (12) months, ending on 2 January, 2024 and further extended to 19 August, 2024. However, as previously reported, physical verification carried out on 27 August, 2024 revealed that there was slow progress in Project implementation as works were still ongoing without a valid contract.

In the circumstances, the Project may not have achieved value for money for the funds spent on the construction of civil works.

1284. Failure to Purchase Survey Equipment

The contract signed between the Project Management and the contractor for the construction of civil works - emergency works for increasing water availability in Likoni provided for purchase of survey equipment at a cost of Kshs.3,000,000. However, the contractor had not purchased the survey equipment as at the time of audit, in August, 2024. No satisfactory explanation was provided for the omission.

In the circumstances, the contractor was in breach of the contract agreement and implementation and surveying of the Project may be compromised.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1285. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MALINDI INTEGRATED SOCIAL HEALTH DEVELOPMENT PROGRAMME PHASE II (MISHDP-II), 2024 – COAST DEVELOPMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1286. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1287. Contingent Liabilities

Review of project records and physical verification during the month of September, 2024 shows that Ngomeni an area owned by Kenya Space Agency (KSA), a Department under Kenya Defence Forces is a beneficiary of several MISHDP projects. Information provided by the Management indicate that the ownership documents are under KSA and that the area is under occupation by locals under the name Ngomeni Squatter Settlement Scheme/1860. Further, an upcoming privately-owned building is being done within the compound of the Assistant Chiefs Office and the proposed Mjanaheri-Ngomeni Road. Management did not disclose potential liabilities and risks.

In the circumstances, there is the risk of potential liabilities arising from compensations, future conflicts and litigations.

1288. Slow Absorption of Project Funds

As previously reported, under Paragraph 2.7 on Project Information and Overall Performance, indicate that the Project is for a duration of three (3) years from May, 2022 to May, 2025, with approved budget of Kshs.856,979,832 (Euros 6,395,373). However, the actual amount received as at 30 June, 2024 amounted to Kshs.271,535,110 or 32% of the budget, leaving out Kshs.585,444,722 as undisbursed. Out of the amount received, Kshs.112,980,786 or 42% has been paid into the Project, leaving an unutilized balance of Kshs.158,591,804.

The slow absorption of funds may have affected the planned activities which may have a negative impact on service delivery to the public.

My opinion is not modified in respect of these matters.

Other Matter

1289. Unresolved Prior Year Audit issues

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not resolved the issues or given any explanation as to why the issues have not been addressed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1290. Inadequacies in Project Implementation

Review of the project implementation status revealed the following anomalies;

i. Renovation of Coast Development Authority Headquarters

The statement of receipts and payments reflects acquisition of non-financial assets of Kshs.89,621,339. Included in this amount is refurbishment of buildings of Kshs.4,933,166, under which the Project awarded tender reference number CDA T 011/2023-2024 to a contractor for renovation of CDA Headquarters at contract price of Kshs.4,928,980 on 21 August, 2023 with the expected completion date of 30 June, 2024. However, as at the time of audit on 27 August, 2024, the project was not complete although Kshs.4,894,466 or 99.3% of the original contract price had been settled, leaving a balance of Kshs.34,514 unpaid. Physical verification of the project established that renovations were complete and in use, but works on the parking shade valued at Kshs.93,790 had not commenced.

ii. Proposed Construction of Laboratory Block at Midodoni Primary School,Midodoni Village, Magarini Sub-County, Kilifi County

The statement of receipts and payments reflects acquisition of non-financial assets of Kshs.89,621,339. Included in this amount is construction of buildings of Kshs.68,419,970, under which the Project awarded a contract to a firm for the proposed construction of laboratory block at Midodoni Primary School, Magarini Sub-County at contract sum of Kshs.5,980,005 and for a contract period of ten months, from 21 August, 2023 to 30 June, 2024. As at 30 June, 2024, the contractor had been paid Kshs.4,752,914 or 79.4% of the contract sum against completion rate of 96.48%. However, physical verification during the month of September,2024 revealed that the contractor had used 30-gauge pre-painted roofing sheets instead of the 28-gauge as per the bills of quantities at a unit price of Kshs.1,500, resulting to quality and cost variation of Kshs.367,500 for two hundred and forty-five (245) pieces.

In the circumstances, value for money from the project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1291. There were no material issues relating to effectiveness of internal controls, risk management and governance.

BUSIA-PORT VICTORIA HOUSEHOLD SANITATION PROJECT GRANT/CREDIT NO.02HS/LVNWWDA/BUSIA/054 - BUSIA WATER AND SEWERAGE SERVICES COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1292. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1293. Failure to Close the Project

Records available indicate that the life of the Project was to commence on 25 September, 2020 and end on 31 December, 2021. However, as at 30 June, 2024, the Project had not been closed. No explanation was provided for the failure to close the Project in accordance to the provisions of the Financing Contract.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1294. 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

1295. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NAMBALE-MJINI-MAYENJE WATER PROJECT GRANT/CREDIT NUMBER 08W/BUSIA/BUSIA/97 - BUSIA WATER AND SEWERAGE SERVICES COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1296. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1297. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts of Kshs.18,640,493 against actual receipts of Kshs.8,067,758 resulting to an under-funding of Kshs.10,572,735 or 57% of the budget. The statement further reflects budgeted expenditure of Kshs.18,640,493 against actual expenditure of Kshs.7,802,271 resulting to an under-expenditure of Kshs.10,838,222 or 58% of the budget.

In the circumstances, the under-funding and under-expenditure may have affected implementation of planned activities and impacted negatively on service delivery to the public.

My opinion is not modified with respect to this matter.

Other Matter

1298. Unresolved Prior Year Matters

In the audit report of the previous year, several matters were raised under the Report on Financial Statements, Other Matter and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the prior year audit issues remained unresolved as at 30 June, 2024 and Management did not provide reasons for the delay in resolving the prior year audit issues. Further, all the prior year issues were 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 template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1299. Incomplete Project Implementation

The statement of receipts and payments reflects acquisition of non-financial assets amounting to Kshs.1,793,340 and as disclosed in Note 8 to the financial statements. However, physical verification of the project conducted in October 2024 revealed that the contractor had supplied and delivered eight hundred (800) meter boxes and seven hundred and twenty (720) cold water meters, but these had not yet been installed. In addition, the bills of quantities for the solarization of the 11KW showground borehole indicated that thirty-two (32) solar panels were required; however, only thirty (30) panels had been installed and were operational. Further, verification of the planned extension of the ten (10) kilometer pipeline revealed that approximately seven (7) kilometers of the pipeline extension had been completed.

In the circumstances, the citizens may not have received value for money and effectiveness of the project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1300. There were no material issues relating to effectiveness of internal controls, risk management and governance.

HORN OF AFRICA GROUNDWATER FOR RESILIENCE PROJECT - KENYA CREDIT NO. 7082-KE - WATER SECTOR TRUST FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1301. Unsupported Fuel Expenses

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects operating expenditure amount of Kshs.47,744,907 out of which an amount of Kshs.1,500,000 was paid out to fuel oil and lubricant suppliers for purchase of fuel. However, it was noted that Management did not maintain a fuel register and hence did not carry out reconciliations between the vendors statement and their own generated statement.

In the circumstances, the accuracy and completeness of the expenditure on fuel of Kshs.1,500,000 could not be confirmed.

1302. Consultancy Costs

The statement of receipts and payments reflects consultancy amount of Kshs.31,422,176 and as disclosed in Note 3 to the financial statements. However, the following observations were made: -

1302.1 Unapproved Expenditure on Consultancy Services

Included in this expenditure is an amount of Kshs.1,584,656 paid to a consultant. Review of the approved workplan indicated that the budget for the consultant to support Water Sector Trust Fund and Sub-Project Implementation Units for the year was Kshs.700,000 resulting to an unexplained over expenditure of Kshs.884,656.

1302.2 Unsupported Payments for Project Pre-inception Activities

The expenditure includes an amount of Kshs.29,837,520 being payment to Water and Sanitation Development Project (WSDP) for a refund of an amount incurred on a consultancy to undertake an inventory of existing rural water supply systems, operation and maintenance institutional capacity and community water vulnerability and need assessment in five (5) ASAL counties of Kenya covered by the Project. Examination of the contract document provided for audit revealed that the contract was made on 25 June, 2022 which was before the financing agreement date of 1 September, 2022. Therefore, it was not clear how the Project was refunding WSDP for services rendered before the financing agreement date. Management explained that the engagement of the consultant was a pre-inception activity for the Project and that the output of the consultancy was a critical input to the design and formulation of the Project thus justifying the procurement under the WSDP. However, no evidence of approval for engaging the consultant before the project financing agreement and effectiveness was provided for audit.

In the circumstances, the regularity of the consultancy amount of Kshs.31,422,176 could not be confirmed.

Emphasis of Matter

1303. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.600,000,000 and Kshs.443,572,322 respectively, resulting to an under funding of Kshs.156,427,678 or 26% of the budget. Similarly, the statement reflects total actual receipts and expenditure of Kshs.443,572,322 and Kshs.217,228,513 respectively resulting in an underutilization of Kshs.226,343,809 or 51% of the actual receipts.

The under-funding and under-utilization may have affected planned activities and impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1304. Avoidable Expenditure

The statement of receipts and payments as disclosed in Note 6 to the financial statements reflects operating expenditure amount of Kshs.47,744,907 which includes an expenditure Kshs.37,134,671 on domestic travel and subsistence. However, the supporting documents provided for audit verification revealed that the Project Management incurred a total of Kshs.2,687,200 consisting of an amount of Kshs.2,211,200 and Kshs.476,000 for daily subsistence allowances and conference cost respectively, during evaluation of tender for consultancy services for Institutional Systems for Sustainable Operation and Maintenance of Rural Water Supply Infrastructure, performance-based Grants Independent Verification and Development and implementation of web-based Management Information System and Decision Support System in Naivasha. In addition, the Project Management incurred a total of Kshs.832,000 on daily subsistence allowances during evaluation of tender for consultancy services to support County Water Sector Drought Contingency Plan in Naivasha. Tender evaluation, being a normal activity of the procurement function, should have been carried out within the premises of the Project. The expenditure was therefore wasteful and avoidable and there was no evidence of attendance by the participants.
In the circumstances, the Project Management was not prudent in the use of public resources which might have led to failure to implement other critical projects.

1305. Non-Compliance with the Public Sector Accounting Standards Board Reporting Framework

Review of annual reports and financial statements revealed the various relevant annexures which were omitted from the financial statements. This was contrary to Section 81(3) of the Public Finance Management Act, 2012 which requires that the accounting officer shall 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).

In the circumstances, Management did not comply with the PSASB requirements.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1306. Lack of Internal Audit Strategic Plan

Review of internal audit documents submitted for audit revealed that the function did not have a three-year Strategic Plan on which to anchor its detailed audit planning and to set priorities, focus energy and resources, strengthen operations, ensure that employees and other stakeholders are working toward common goals, establish agreement around intended outcomes and assess and adjust the organization's direction in response to a changing audit environment. Further, the Strategic Plan provides a long-range overview of budgetary needs and ensure the audit function is adequately resourced to undertake its mandate.

In the circumstances, the effectiveness of internal controls and governance could not be confirmed.

1307. Failure to Tag Assets

The statement of receipt and payment as disclosed in Note 4 to the financial statement reflects purchase of goods and services of Kshs.15,326,994. This amount was for the acquisition of sixty-six (66) computers. Examination of the supporting documents and physical verification of the computers revealed that all the newly acquired computers for the Project were not tagged, hence they could not be identified to belong to the Project.

In the circumstances, the existence of effective controls on management of computers could not be confirmed.

HORN OF AFRICA GROUNDWATER FOR RESILIENCE PROJECT (IDA CREDIT NO.70820-KE AND GRANT NO.P174867) - WATER RESOURCES AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1308. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1309. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a budgeted final receipt of Kshs.550,000,000 and actual receipt on comparable basis of Kshs.208,885,831 resulting into under funding of Kshs.341,114,169 or 62%. Further, the Fund spent Kshs.135,572,989 against actual receipts of Kshs.208,885,831 resulting in an under absorption of Kshs.73,312,842 or 35% of actual receipts.

The under-funding and under-absorption affected the planned activities of the project and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1310. Late Submission of the Annual Report and Financial Statements

The Authority submitted the financial statements for Horn of Africa Groundwater for Resilience Project to the Office of the Auditor-General on 2 December, 2024 two (2) months after the deadline of 30 September, 2024. This was contrary to Section 47(1) of the Public Audit Act, 2015 which requires public entities to submit their financial statements to the Auditor-General three (3) months after the closure of the fiscal year to which accounts relate.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1311. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR LANDS AND PHYSICAL PLANNING – VOTE 1112

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1312. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1313. Long Outstanding Pending Accounts Payable

Note 17.2 to the financial statements on other important disclosures reflects pending accounts payable balance of Kshs.137,028,454. However, these were historical pending accounts payable that had been outstanding for a long time. The delay in settling historical pending bills may attract additional costs in form of interest and penalties.

1314. Long Outstanding Contingent Liabilities

Note 17.3 to the financial statements on other important disclosures reflects contingent liabilities balance of Kshs.12,734,815,074. The balance was in respect of legal cases lost by the State Department. However, legal costs amounting to Kshs.12,679,953,378 had not been paid for a period of over three financial years. Delayed payment of legal costs may attract additional costs in form of interest and penalties.

My opinion is not modified in respect of these matters.

Other Matter

1315. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. These issues remained unresolved contrary to the provisions of Section 149(2) of the Public Finance Management Act, 2012 which require the Accounting Officers designated to try to solve any issues resulting from an audit that remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1316. Non-Compliance with One-Third Rule on Basic Salary

Review of the State Department's payroll for the month of June, 2024 revealed that eight (8) employees were earning salaries below the recommended one-third of their basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 (Revised 2012) which states 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 which under the provisions of Sub-Section (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amounts as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class employers or employees or any trade or industry. This may expose the staff to pecuniary embarrassment.

In the circumstances, Management was in breach of the law.

1317. Delayed Completion of Land Registries/Offices

The State Department entered into various development contracts for the construction of land offices across the Counties within the Country. Physical inspection carried out in the month of October, 2024 revealed that the construction of five (5) regional registries/offices at a total contract sum of Kshs.198,664,726 had projects completion dates revised severally and their contractual period had lapsed by 30 June, 2022. This was an indication that the Projects were significantly behind schedule. Further, there was delay in payments thus affecting the completion of the Projects and resulting to stalling of the Projects.

Delayed implementation and payment of the Project may attract additional costs in form of variations of contract sum due to inflation, litigation costs and interest and penalties for breach of contract. Further, delayed completion of the Project may negatively impact on service delivery to the public.

In the circumstances, value for money incurred on the Project may not be obtained.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1318. Incomplete Fixed Assets Register

Annex 1 to the financial statements on summary of fixed asset register reflects fixed asset balance of Kshs.6,758,209,845. Review of the fixed asset register revealed that the register was incomplete. The register did not indicate details of the names of the assets owned, the date of acquisition, the cost of the assets, the asset's location and the current status.

Further, the summary of the fixed assets register reflects land balance of Kshs.1,297,261,745. However, the asset register revealed various parcels of land that had not been valued or had no corresponding value/cost.

In addition, review of the motor vehicle inventory revealed that two (2) motor vehicles had ownership documents under the Ministry of Transport and Communication, and the Ministry of Housing respectively. The process of transferring the ownership documents to the Ministry of Lands and Physical Planning had not been initiated.

In the circumstances, the effectiveness of internal controls on assets management could not be confirmed.

1319. Failure to Comply with the Approved Staff Establishment

Review of the Human Resource records revealed that the State Department has an approved staff establishment of four thousand five hundred and ninety (4,590) against the in-post staff of two thousand five hundred and sixty-eight (2,568) resulting in understaffing of two thousand and twenty-two (2,022) thus affecting key operations. The State Department's key technical services were understaffed by one thousand, five hundred and eighty-six (1,586) employees.

In the circumstances, the operations of the State Department may be hindered due to understaffing thus affecting the effective and efficient delivery of service to the public.

1320. Non-Enhancement of Governance Systems for Security Related Expenditures

During the year under review, the State Department for Lands and Physical Planning transferred some funds to a Government Agency for confidential security operations. A certificate of confidential expenditure was issued, supported by a declaration from the Accounting Officer affirming the proper use of funds in compliance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015.

There is need, however, to enhance accountability of confidential expenditures through review of the Regulations to clearly define entities eligible for confidential security-related expenditures and to specify what constitutes security-related operations. Further, entities should establish internal oversight mechanisms and processes that include detailed budget projections and post-operation financial summaries to address risks and ensure responsible use and accountability of the funds, beyond the certificate. The measures will strengthen governance, foster trust, and ensure funds are utilised responsibly without compromising State security.

In the circumstances, the effectiveness of governance systems in relation to confidential security related expenditures could not be confirmed.

RECEIVER OF REVENUE STATEMENTS – STATE DEPARTMENT FOR LANDS AND PHYSICAL PLANNING

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

1321. There were no material issues noted during the audit of the revenue statements of the State Department.

Other Matter

1322. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the issues still remained unresolved as at 30 June 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1323. 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

1324. Delayed Implementation of Land Management Information System/Digital Platform

The State Department for Lands and Physical Planning launched the digital platform on 27 April, 2021 in a bid to integrate Information Communication Technology (ICT) for efficiency and effective management of the land administration. The digital platform integrates all datasets from all the technical Departments in the State Department for Lands and Physical Planning. Automation of services had been done for most processes within the State Department's different modules.

Review of records revealed that the State Department operates eighty – three (83) land registries in the Country. The stations are supposed to be on the digital platform for operations. However, only Nairobi and Murang'a stations were fully digitized and migrated to the digital platform.

In the circumstances, the effectiveness and efficiency of the digital system on management of land administration could not be confirmed.

1325. Lack of Land Valuation Index

Review of the State Department records revealed that Management did not have an approved valuation index/valuation zonal rate to guide in the valuation and formulating policies in respect of budgeting of land for public purpose projects. In the absence of a valuation index, the State Department has continued relying on estimated rates in land valuation and formulation of policies.

STATE DEPARTMENT FOR INFORMATION COMMUNICATION TECHNOLOGY AND DIGITAL ECONOMY – VOTE 1122

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1326. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1327. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total receipts budget and actual on a comparable basis of Kshs.19,378,501,611 and Kshs.15,893,866,254 respectively, resulting to an under-funding of Kshs.3,484,635,357 or approximately 18% of the approved budget. Similarly, the State Department spent an amount of Kshs.15,891,299,783 against actual receipts of Kshs.15,893,866,254 resulting in an under-utilization of Kshs.2,566,471 of the actual receipts.

The under-funding and under-utilization affected the State Department's planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1328. Pending Accounts Payable

Note 17.2 and Note 17.3 to the financial statements reflects pending accounts payable balance of Kshs.412,880,884 and other pending payables balance of Kshs.1,838,976 respectively, as at 30 June, 2024. Out of this amount, a balance of Kshs.3,489,780 had been outstanding for more than one year while the balance of Kshs.409,391,104 was incurred during the year under review. Management explained that the outstanding accounts payable for the current year under review was as a result of lack of funding to settle the bills.

Failure to settle bills during the year to which they relate adversely affects the budgetary provisions for the subsequent year as they form a first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1329. 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

1330. Staffing

1330.1 Lack of Optimal Staffing Levels

Review of the State Department staff establishment revealed a total of one hundred and ninety-six (196) employees, with eighty (80) assigned to the ICT and Digital Economy Departments. Further, the current technical staffing level is only eighty (80) or 41% employees which is significantly below the recommended ratio of 70% or one hundred and thirty-seven (137) staff.

1330.2 Failure to Carry Out Staff Appraisals

Review of the employee personal files during the audit indicated that staff performance appraisal was not carried out. According to the Human Resource policy, appraisees are required to discuss and agree on a work plan with their immediate supervisors. Performance targets should be established based on the discussions by 31 July of each year, and each target must include specific performance indicators. However, there was no documentation to confirm that performance appraisals were conducted in accordance with these policies.

In the circumstances, the core mandate of the State Department to provide policy direction on digital infrastructure and communication services, leveraging technology and innovation for socio – economic transformation and global competitiveness may not be achieved.

DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER STATE DEPARTMENT FOR INFORMATION COMMUNICATION TECHNOLOGY AND DIGITAL ECONOMY

EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT IDA CREDIT NO. 5638-KE - INFORMATION AND COMMUNICATION TECHNOLOGY (ICT) AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1331. Unsupported Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.14,963,210. The balance includes a bank balance of Kshs.7,991,980 as disclosed in Note 10 to the financial statements. The balance of Kshs.7,991,980 was in relation to Government of Kenya (GoK) counterpart funds held in a bank account operated by ICT Authority. However, review of the account's bank statement revealed that the account had a balance of Kshs.231,325,878 as at 30 June, 2024 which included funds from other activities which were not related to the project.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.14,963,210 could not be confirmed.

Emphasis of Matter

1332. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,635,201,611 and Kshs.1,349,876,092 respectively, resulting to an under-funding of Kshs.285,325,519 or 17 % of the budget. However, the project spent Kshs.1,348,713,658 against actual receipts of Kshs.1,349,876,092, resulting to an under-utilization of Kshs.1,162,434 of the actual receipts.

Further, the funding summary under project information and overall performance revealed that the donor commitment was USD 25,500,000 an equivalent of Kshs.2,575,755,000. However, the project received USD 22,378,527, an equivalent of Kshs.2,776,943,763 resulting to an underfunding of the project by USD 3,121,473 or 12% of the total commitment. Similarly, the Government of Kenya counterpart funding commitment was Kshs.404,040,000 however, the project received Kshs.105,000,000 hence underfunding of Kshs.299,040,000 which is 74% of the total commitment.

Failure to receive funds budgeted for and underutilization of funds received may hinder the project from achieving its objectives. In addition, these anomalies indicate noncompliance with the 2023/2024 approved annual work plan and are contrary to regulation 52(1)(b) of the Public Finance Management (National Governments) Regulations, 2015 which states that 'AIE holders shall be made to understand that the limit to which they may spend is that prescribed by the Authority and not their expectations, however justified this may seem.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1333. Underutilization of Wireless Solution

The statement of receipts and payments reflects Kshs.18,111,594 in respect of purchase of goods and services as disclosed in Note 5 to the financial statements. Included in this amount is Kshs.4,340,504 relating to other operating expenses. The expenses relate to provision of collocation services for wireless solution for the project that was signed on 24 May, 2023 for a duration of one (1) year between the Authority and a service provider. However, audit verification revealed that the contract expired on 23 May, 2024 and had not been renewed or entered into a new contract with the provider and hence the wireless collocation services between Eldoret and Nadapal were not operating. No justification was provided as to why the investment was idle.

In addition, the wireless connection envisaged to provide redundancy when the fiber network is down, had not been configured to connect automatically leading to down times of connections to clients.

In the circumstances, the value for money from the project could not be confirmed.

1334. Underutilization of the Aggregation Sites

During the audit, it was noted that the supply, installation, testing, commissioning, training, warranty and maintenance of two (2) optical fiber networks (Backbone and Access) along the Eldoret- Nadapal/Nakodok road had 14 aggregation sites, with each aggregation site having 288 optical data frames and therefore a total of 4,032 optical data frames to connect the last miles. However, audit verification revealed that only 193 connections had been done representing 4.8% utilization or 95.2% underutilization.

In the circumstances, the value for money from the project could not be confirmed.

1335. Implementation of New Subscribed Sites not on Original Targets

Physical verification revealed that the implementation of the project specifically the core and aggregated sites were not done as per the original targeted list with some initially target sites being omitted from the list. Further, some of the completed projects were also not in the prior survey and it was not clear how they were included in the implementation.

In the circumstances, the value for money from the project could not be confirmed.

1336. Failure to Execute the Project's Objectives

The objectives of the project included supplying, installation, testing, commissioning, training, warranty and maintenance of two (2) optical fiber networks (Backbone and Access) along the Eldoret- Nadapal/Nakodok road. The project was to be implemented at a contract price of USD 6,791,104.91 (equivalent to Kshs.354,488,351). The contract began on 1 July, 2020 and was to take a period of eighteen (18) months and therefore end on 31 December, 2021. The contract price was adjusted on 7 June, 2021 through contract addendum 1 to USD 6,949,914.85 (equivalent to Kshs.378,117,131). The contract period was extended through contract addendum 2 for a period of forty-two (42) months commencing on 1 July, 2020 to 31 December, 2023. This contract extension was signed on 14 January, 2022.

The implementation of the project was not on time and another price adjustment was done through contract addendum 3 which was signed on 2 February, 2023 adjusting the contract price to USD 8,957,605.87 (equivalent to Kshs.527,458,051). The works was still incomplete, and a further extension was sought which was made through addendum 4 with price adjustment of USD 2,898,998.70 (or approximately Kshs.375,652,251) and the work was finally certified complete on 28 August, 2024.

Physical verification of the project in the month of September, 2024 revealed that the fibre connection reached a place called Nadapal as the final destination instead of Nakodok as originally intended leaving a distance of about 11Km not done.

In the circumstances, the objective of commercializing the internet up to the neighboring country of South Sudan has not been realized four years after commencement of the project and several costs variations from the original cost.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1337. Contingent Liabilities

Disclosed in the financial statements under Annex 6 is contingent liabilities of Kshs.91,552,170. The ICT Authority on behalf of the project, entered into contracts for consulting services with four consultants whose contracts were signed as follows: -

i. Contract 1 signed on 2nd April, 2018 for Kshs.13,912,040 and was to run for thirty-six (36) months up to 2 April, 2021.

ii. Contract 2 signed on 1 July, 2019 for Kshs.20,407,270 and was to run for the same period of 36 months from 1 July, 2019 terminating on 30 June, 2021.

iii. Contract 3 signed on 1 July, 2018 was to run for thirty-six (36) months up to 30 June, 2021. The contractual sum is stated as Kshs.25,446,070.

iv. Contract 4 signed on 1 July, 2017 was for the period starting from 1 July, 2017 up to 30 June, 2020. The contractual sum is indicated as Kshs.31,786,790

The source of the dispute was termination of the contracts on 3 September, 2019 by the Authority. The Authority filed an application to set aside a judgement entered against it on 21 July, 2022 awarding damages for termination of contract to the four (4) consultants. The project is coming to a closure in December, 2024. However, these damages are yet to be paid and the way forward for plans to settle this obligation was not provided for audit.

In the circumstances, it is not clear how the Project Coordinator will settle the liability in the event the appeal is not ruled in favor of ICT Authority, the implementing agency.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1338. As required by the International Development Association (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT IDA - P161305 CREDIT NO. 6768–KE – INFORMATION AND COMMUNICATION TECHNOLOGY (ICT) AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1339. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1340. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflect final receipts budget and actual on a comparable basis of Kshs.130,000,000 and Kshs.59,035,541 respectively, resulting to an under-funding of Kshs.70,964,459 or 55% of the budget. However, the project spent an amount of Kshs.49,884,961 against actual receipts of Kshs.59,035,541, resulting to an under-utilization of Kshs.9,150,580 or 16% of the actual receipts.

In the circumstances, the underfunding may lead to delays in project completion while low absorption of funds may affect implementation of the Project's planned programmes and activities.

My report is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1341. Single Sourcing of Training Consultants

Review of the tender process revealed that the Project Management, through single sourcing, engaged two (2) training consultants towards the end of the year under review at a total cost of Kshs.9,798,562.

However, Management did not report the direct procurement to Public Procurement Regulatory Authority as required by Regulation 90(1)(b) of the Public Procurement and Asset Disposal Regulations, 2020. This regulation provides that an accounting officer shall, within fourteen (14) days after the notification of the award of the contract, report any direct procurement of a value exceeding five hundred thousand shillings to the Authority.

In the circumstance, Management was in breach of the law and the value of money on the procurement could not be confirmed.

1342. Delayed Project Implementation

A physical visit to the project site revealed that nothing much had been done as at 30 June, 2024 as the actual works of laying internet cables had not started. The management attributed the delay to incomplete construction of the road along which the cables are to be laid. The project component of constructing the road is being implemented by Kenya National Highways Authority (KeNHA).

In the circumstances, delayed implementation may result to the objectives of the Project not being achieved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1343. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1344. As required by International Development Association (IDA) and financing agreements, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project, so far as appears from the examination of those records and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR BROADCASTING AND TELECOMMUNICATIONS – VOTE 1123

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1345. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1346. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total receipts budget and actual on comparable basis of Kshs.7,450,828,269 and Kshs.6,097,433,984 respectively, resulting in underfunding of Kshs.1,353,394,285 or 18% of the approved budget.

The underfunding affected the State Department's planned activities and may have impacted negatively on service delivery to the public.

My report is not modified in respect of this matter.

Other Matter

1347. Pending Accounts Payable

Note 17.2 to the financial statements reflects pending accounts payable balance of Kshs.1,455,603,747 which were not settled during the year under review and instead carried forward to the subsequent financial year. Management explained that the outstanding accounts payable for the current year under review was as a result of lack of funding to settle the bills.

Failure to settle bills during the year to which they relate adversely affects the budgetary provisions for the subsequent year as they form a first charge.

1348. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. However, the issues were yet to be deliberated on by the Public Accounts Committee (PAC).

Basis for Conclusion

1349. Failure to Hold Regular Committee Meetings

Review of human resource records revealed that the State Department's Human Resource Management Advisory Committee (HRMAC) held eight meetings in the year under review as opposed to twelve (12) as per the requirements of Section A.13(2) of the Human Resource Policies and Procedures Manual for the Public Service, 2016. Further, the minutes of Employee Performance Management Committee (EPMC) were not provided for audit.

In the circumstances, Management was in breach of the law and the effectiveness of the human resource management could not be confirmed.

1350. Non-Compliance With the One-Third of Basic Salary Rule

The statement of receipts and payments reflects compensation of employees' payments totalling Kshs.447,967,509 as disclosed in Note 5 to the financial statements. However, review of the payroll revealed that thirty-six (36) employees earned a net salary of less than one-third (1/3) of their basic salary. This was contrary to the provisions of Section C. 1(3) of the Human Resources Policies and Procedures Manual for Public Service, May 2016 issued by the Public Service Commission which provides that public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries and Heads of Human Resource Units should ensure compliance.

Further, this was in contravention of Section 19(3) of the Employment Act, 2007 which provides that the total amount of deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

In the circumstances, Management was in breach of the law.

1351. Staff Over-Establishment

Review of the approved staff establishment and staff in post at the State Department revealed that one hundred and sixty-nine (169) members of staff were in post against an approved staff establishment of sixty-nine (69), resulting to an over-establishment of one hundred (100) members of staff. This was contrary to Section A.15 of the Human Resource Policies and Procedures Manual for Public Service, May 16, which states that the functions of Ministerial Human Resource Management Advisory Committees (MHRMAC) entail making recommendations to the Authorized Officer regarding – inter alia (viii) establishment and complement control.

In the circumstances, Management was in breach of the law.

Basis for Conclusion

1352. Insufficient Policy Guidelines for Collection of Appropriations-In-Aid

Review of documents provided for collection of Appropriations-In-Aid (A.I.A) for the State Department revealed that an amount of Kshs.1,839,606,296 was collected as total receipts during the financial year 2023/2024. However, Management did not provide for review total receipts, policies and guidelines in form of contracts, charge out rates and price list on the sale of portraits, rent collection and content from different regions listed as revenue sources in News and Information Department.

In the circumstances, without adequate policy guidelines on revenue collection, adequacy of the internal controls on revenue collection could not be confirmed.

1353. Non-Tagging of Assets

Annex 3 to the financial statements reflects total historical cost carried forward of Kshs.320,331,476. However, physical verification at the regional branches revealed that the assets were not tagged for ease of identification.

This was contrary to the provisions of Regulations 143(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting officer shall be responsible for maintaining a register of assets under his or her control or possession.

In the circumstances, the existence of effective measures to safeguard assets could not be confirmed.

STATE DEPARTMENT FOR SPORTS – VOTE 1132

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1354. Long Outstanding Pending Accounts Payable

Note 17.2 and Annex 1 to the financial statements reflects pending accounts payable totalling to Kshs.331,992,227 which includes bills totalling Kshs.152,517,828 brought forward from the previous year. Further, the pending bills unsettled rent arrears for office spaces in various buildings totaling Kshs.108,504,939. However, Management did not explain why the bills were not settled in the financial year they occurred.

In the circumstances, the completeness and accuracy of the pending accounts payable totalling Kshs.331,992,227 could not be confirmed.

Emphasis of Matter

1355. Budgetary Control and Performance

The statement of budget and actual amounts reflects final receipts budget and on actual and comparable basis of Kshs.17,611,958,254 and Kshs.15,919,524,416 respectively, resulting to an underfunding of Kshs.1,692,433,838 or 10% of the approved budget. Similarly, the State Department spent an amount of Kshs.15,913,905,588 against the actual receipts of Kshs.15,919,524,416 resulting to an under absorption of Kshs.5,618,828.

The under-funding and under performance affected the planned activities and may have impacted negatively on service delivery to the public.

1356. Contingent Liability

Review of legal documents revealed that the State Department for Sports was involved in a legal dispute with Telcom Kenya Limited who was claiming Kshs.317,015,000 as at 30 June, 2024. The Court case was in regard to ownership of land parcels situated along Ngong Road where Jamuhuri Sports Ground is located. The case was pending in Court and the outcome had not been determined.

My opinion is not modified in respect of these matters.

Other Matter

1357. Unresolved Prior Year Matters

In the audit report of the previous year, a number of issues were raised. However, Management had not resolved the prior year matters and had not explained the delay in resolving the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1358. Anomaly in Construction of Jamuhuri Posta Sports Ground

Review of documents revealed that the State Department awarded three (3) contracts totalling Kshs.1,200,290,692 for the construction of proposed Jamuhuri Posta Sports Ground in Nairobi County. The construction was undertaken in two (2) phases at a cost of Kshs.609,610,710 for phase I and Kshs.406,361,187 for phase II and additional works of Kshs.184,318,795. The scope of works included the construction of three (3) football fields, one (1) rugby pitch, as well as access roads and landscaping.

However, physical audit verification conducted in September, 2024 revealed that Talanta Stadium, which will host the AFCON 2027 championships, was under construction on the same grounds. The ongoing construction works resulted in the demolition of two football pitches, two restrooms, and access roads which had been constructed earlier. In addition, the street lights erected were not functioning and the chain link fence built around the property had been vandalized.

In the circumstances, the value for money to be realized from the expenditure of Kshs.1,200,290,692 could not be confirmed.

1359. Unoccupied Office Space at Maktaba Kuu Building

The State Department signed a contract with a contractor on 20 April, 2022 for partition of first, second, and third floors of the Maktaba Kuu Building in Nairobi to house the State Department's offices. The contract amount was Kshs.98,912,315 with the expected contract duration of twenty-four (24) weeks. The work was completed in the month of August, 2023.

However, physical verification done in September, 2024 revealed that the State Department had not occupied the offices, instead the Cabinet Secretary and Permanent Secretary relocated to Talanta Plaza. Further, Kshs.63,923,644 was billed to the State Department as rent arrears for the unoccupied space. No satisfactory explanation was given for the State Department's failure to utilize the office space.

In the circumstances, the regularity and value for money to be realized from the expenditure of Kshs.98,912,315 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1360. Lack of an Audit Committee

Review of internal audit documents revealed that the State Department had not established an audit committee. This was contrary to the provisions of the Regulation

174(1) of the Public Finance Management (National Government) Regulations, 2015 which provides for the establishment of an Audit Committee. As such the State Department did not benefit from the internal audit function as well as oversight from the Audit Committee.

In the circumstances, the existence of an effective mechanism to ensure vibrant internal controls system to oversight over financial oversight, risk management and internal controls could not be confirmed.

1361. Lack of an Offsite Data Storage Facility, Continuity Plan and Disaster Recovery Plan

Review of the Information Communication Technology (ICT) Systems revealed that the State Department did not have a secure offsite storage facility for its data, an ICT Continuity Plan and a Disaster Recovery Plan. This may lead to loss of data confidentiality integrity and accessibility in case of a disaster.

In the circumstances, the effectiveness, existence of data confidentiality, integrity and availability could not be ascertained.

STATE DEPARTMENT FOR CULTURE, THE ARTS AND HERITAGE - VOTE 1134

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1362. Long Outstanding Accounts Payables

The statement of financial assets and liabilities reflects accounts payables balance of Kshs.103,573,269 as disclosed in Note 10 to the financial statements. However, included in the balance is amount totalling Kshs.1,526,114 which had been outstanding for more than two (2) years.

In the circumstances, the accuracy and completeness of the balance of Kshs.1,526,114 could not be confirmed.

1363. Lack of Land Ownership Documents

Review of documents revealed that the State Department owns two parcels of land, that is Permanent Presidential Music Commission (PPMC) grounds and Kenya National Archives and Documentation Department (KNADS) Headquarters whose values had not been determined for inclusion in the financial statements. Further, the ownership documents were not provided for audit review.

In the circumstances, the completeness, accuracy and ownership of the land and buildings could not be confirmed.

1364. Incomplete Fixed Asset Register

Annex 2 of the financial statements reflects total assets balance of Kshs.189,651,574 which indicated Nil values of land and buildings. No explanation was provided for the delay in updating the fixed assets register to include value of land and buildings.

In the circumstances, the accuracy and completeness of fixed assets balance of Kshs.189,651,574 could not be confirmed.

Other Matter

1365. Unresolved Prior Year Matters

In the audit report of the previous year, a number of paragraphs were raised. However, management has not resolved the prior year matters and has not explained the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1366. Failure to Maintain a Separate Accounting Record for United Nations Educational Scientific and Cultural Organization (UNESCO) Grant

The statement of financial assets and liabilities and Note 10 to the financial statements reflects accounts payables balance of Kshs.103,573,269. Included in the balance was Kshs.61,070,914 for deposits which further includes US Dollar 45,000 (approximately Kshs.6,750,000) received form UNESCO through a funding contract agreement. Review of the financial records maintained such as the bank statements, cash book, payment vouchers and revealed that no cash book and separate bank account were maintained for the fund deposit. Instead, receipts and payments in respect to the Fund Deposit were recorded and accounted for in the deposits/retention's cash book and bank account. This was contrary to article 11,2.1(h), (i), of the agreement between the State Department and UNESCO which required a separate accounting record to be maintained for activities supported with the grant.

In the circumstances, Management was in breach of the funding agreement.

1367. Construction of Wundanyi Youth Resource Centre Without Ownership Documents

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.50,003,295 as disclosed in Note 7 to the financial statements. Included in the balance was Kshs.34,297,045 incurred as part payment for the Construction of Wundanyi Youth Resources Centre. The State Department had entered into a contract with a contractor at a contract sum of Kshs.140,989,860 during the year under review. However, review of the project file and physical verification revealed that the ownership of the parcel of land on which the project stands was not provided for audit review.

In the circumstances, the rights and obligations of the project and value for money on resources already utilized amounting to Kshs.34,297,045 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1368. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR YOUTH AFFAIRS AND CREATIVE ECONOMY – VOTE 1135

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1369. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1370. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts and actual on comparable basis of Kshs.4,212,209,983 and Kshs.3,746,351,391 respectively resulting in a budget under-funding of Kshs.465,858,592 or 11% of the budget.

In the circumstances, the budget under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1371. 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

1372. Understaffing of the State Department

Review of the human resource records revealed that the Department had an approved staff establishment of one thousand, four hundred and thirteen (1413), members of staff. However, the Department had six hundred and twenty-five (625) staff in post resulting in a deficit of seven hundred and eighty-eight (788) employees. This was contrary to Section A.15(viii) of the Human Resource Policies and Procedures Manual for Public Service, May, 2016, which states that the functions of Ministerial Human Resource Management Advisory Committees (MHRMAC) entail making recommendations to the Authorized Officer regarding establishment and complement control. Management explained that they had requested the Public Service Commission for approval to recruit additional staff and the approval was obtained vide a letter dated 16 August, 2024 to recruit one hundred and fifty-three (153) Youth Development Officers I (CSG 11) at entry levels. However, the concurrence from The National Treasury on the availability of funds had not been granted.

In the circumstances, the Department may not achieve its goals due to inadequate human capacity and capabilities.

DONOR FUNDED PROJECTS

KENYA YOUTH EMPLOYMENT AND OPPORTUNITIES PROJECT (IDA CREDIT NO. 5812 – KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1373. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1374. Budgetary Control and Performance

The statement of comparison of budget and actual amounts indicates that the Project's receipts budget for the year under review amounted to Kshs.404,877,390 and actual receipts amounted to Kshs.253,933,148 resulting in under-funding of Kshs.150,944,242 or 37% of the budget.

The under-funding affected implementation of the planned activities and may have impacted negatively on service delivery to the public

My opinion is not modified in respect of this matter.

Other Matter

1375. Prior Year Audit Matters

In the audit report of the previous years, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

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

Conclusion

1377. There were no material issues relating to effectiveness of internal controls, risk management and governance.

VIJANA VUKA NA AFYA PROGRAMME PROJECT NO. 201367465

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1378. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1379. Budgetary control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts and actual on comparable basis amounting to Kshs.393,222,610 and Kshs.177,564,173 respectively resulting in a revenue shortfall of Kshs.215,658,437 or 55% of the budget. Similarly, the Project expended Kshs.177,869,160 against an approved budget of Kshs.221,700,510 resulting to an under expenditure of Kshs.43,831,350 (20%). Management has attributed the under absorption to delay by the consultants in submission of invoices and supportive evidence as per the milestones in the contract.

The under-funding and under-expenditure imply that some of the planned activities were not implemented which could impact negatively on the achievement of the overall Programme's goals and objectives.

My opinion is not modified in respect of this matter.

Other Matter

1380. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues or given any explanation for the failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and the National Treasury's Circulars.

REPORT ON THE LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1381. There were no material issues relating to the lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1382. There were no material issues relating to effectiveness of internal controls, risk management and governance.

GOK/UNFPA 10TH COUNTRY PROGRAMME (PROJECT GRANT NO.B4210)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1383. 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

Conclusion

1384. 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

1385. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1386. As required by the United Nations Population Fund, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Programme and the Programme's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR ENERGY – VOTE 1152

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1387. Inaccuracies in Wages of Temporary Employees

The statement of receipts and payments reflects expenditure of Kshs.321,908,189 in respect of compensation of employees. As disclosed in Note 6 to the financial statements, the amount includes an amount of Kshs.1,737,103 incurred on basic wages of temporary employees. However, review of payments to casuals and muster rolls revealed expenditure of casual employees amounting to Kshs.4,295,608 resulting in an unexplained variance of Kshs.2,558,505.

In addition, review of records at the State Department revealed that during the year, Management engaged sixty-seven (67) casual employees on both full-time and on need basis. The casual employees were deployed to the Geo-Exploration Directorate to undertake coal appraisal drilling in Kitui and Kwale Counties. Although the State Department was granted authority to engage the employees by the Public Service Commission on 4 October, 2023, no written contracts were provided to support their engagement.

In the circumstances, the accuracy and completeness of basic wages of temporary employees amounting to Kshs.1,737,103 could not be confirmed.

Emphasis of the Matter

1388. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.55,208,324,568 and Kshs.25,578,973,372 respectively, resulting in an under-funding of Kshs.29,629,351,196 or 54% of the budget. Similarly, the Department spent an amount of Kshs.23,394,620,984 against the actual receipts of Kshs.25,578,973,372 resulting in an under-utilization of Kshs.2,184,352,388.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

Other Matter

1389. Unresolved Prior Year Issues

In the audit of the previous year, several matters were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, although Management has indicated as having resolved/not resolved those matters in progress on follow-up of prior year Auditor-General's recommendations, no evidence was provided to support that status.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1390. Non-Compliance with Approved Establishment

As previously reported, the State Department had exceeded its establishment by forty-nine (49) members of staff. Whereas the approved establishment had a provision of a total of two hundred and thirteen (213) members of staff (Comprising of one hundred and thirty seven (137) technical staff and seventy six (76) support staff), the State Department had as at 30 June 2024, a total of two hundred and sixty -two (262) members of staff (comprising of sixty-five (65) technical staff and one hundred and ninety-seven (197) support staff). Section A.15 of the of the manual of Human Resource Policies and Procedures Manual for the Public Service 2016 outlines the functions of the of Ministerial Human Resource Management Advisory Committees (MHRMAC) which entail among others, making recommendations to the Authorized Officer regarding Establishment and Complement control.

The variance between the in post and the approved establishment was occasioned by a review of the State Department's organizational structure and Staff Establishment by the Public Service Commission in 2024, where a decision on the optimal staff establishment of 213 members was communicated vide a letter Ref. PSC/EMCS/14/19/(5)dated 24 February, 2024.

In the circumstances, Management was in breach of the law.

1391. Non-Compliance with Data Protection Requirements

During the year under review, the State Department did not have an appointed data protection officer as required by Section 24 of the Data Protection Act, 2019. Further, Management was yet to register the State Department as a data controller or data staff processor or both with the Data Protection Commissioner's Office in Line with Section 18(1) which stipulates that a data subject may request a data controller or data processor to restrict use or disclosure of their personal data, to a third party, for the purpose of facilitating direct marketing.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1392. Use of Private Emails for Official Government Business

During the year under review, several employees of the State Department of Energy transacted official business using their personal email accounts, despite the State Department having an official email domain and system dedicated for official government business. This was contrary to the Head of the Public Service Circular issued on

14 June, 2022 instructing that no government official will be allowed to use personal email internet addresses for official government communication.

In the circumstances, Management was in breach of Government rules and regulations.

1393. Incomplete Assets Tagging

Annex 2 to the financial statements on summary of the fixed assets register reflects assets with a historical cost of Kshs.322,110,407,723. However, physical verification of the assets in November, 2024 revealed several assets which had not been tagged or assigned serial numbers for ease of identification and management.

In the circumstances, the sufficiency and effectiveness of controls on the Department's fixed assets could not be ascertained.

DONOR FUNDED PROJECTS

KENYA ELECTRICITY MODERNISATION PROJECT (KEMP) (IDA CR. NO.5587 KE)

Unmodified Opinion

1394. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1395. Long Outstanding Pending Bills

Note 7 to the financial statements and annex 3a on analysis of pending bills reflects Kshs.73,137,418 in respect of pending accounts payable. Review of the analysis and supporting schedules revealed that some of the bills dated back to 2022. Further, the State Department did not allocate a budget during the year to clear these bills despite the requirement of it forming the first charge in the subsequent period budget.

Failure to settle bills during the year to which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1396. Failure to Transfer Unutilized Project Funds to the Consolidated Fund

The statement of financial assets and liabilities reflect cash and cash equivalents amounting to Kshs.75,777,583. The balance comprises of Kshs.9,530,607 carried forward from the prior year and Kshs.66,246,976 received during the year. However, the amounts were held and received into the project accounts despite the project closing on 31 October, 2023. This was contrary to Regulation 74(6)(d) of the Public Finance Management (National Government) Regulations, 2015 which provides that an Accounting Officer of a National Government entity shall in the absence of any instructions to the contrary, ensure that any unexpended balance standing in the credit of the project account is paid into the Consolidated Fund.

In the circumstances, Management was in breach of the law.

1397. Non-Execution of the Consultancy Contract

Review of the Implementation, Completion and Results Reports dated 23 October, 2023 revealed that some of the activities which were to be carried out under Part D of the financing agreement were contracted to an International Firm at a contract sum of USD 448,931.60 (inclusive of taxes) and a contract agreement signed on 26 January, 2022. The contract period was nine (9) months with a commencement date of 15 days from the date of the contract. However, no works had been executed as at the close of the project period and at the end of the year under review.

In the circumstances, Management was in breach of the Financing Agreement.

1398. Unpaid Taxes to Kenya Revenue Authority

During the year under review, the Project made two payments to an international firm amounting Kshs.3,795,484 and Kshs.10,348,897 respectively. The payments attracted 16% Value Added Tax (VAT) and 20% Withholding tax respectively. However, there was no documentary evidence to indicate that taxes were remitted to the Kenya Revenue Authority (KRA).

In addition, Note 7 to the financial statements reflects Kshs.73,137,418 in respect of pending accounts payables. The payables further includes a balance of Kshs.11,103,358 due to KRA arising from taxes withheld by the State Department for Energy on payments to various consultants. This is contrary to Section 35 of the Income Tax Act, Cap 470 which require withholding tax deducted be remitted to KRA by the 20th day of the month following the month in which the tax was deducted.

In the circumstances, Management was in breach of the law.

1399. Irregular Overpayment to a Consultant

In the prior year, a consultancy firm was paid Kshs.10,348,897 being 25% final settlement of phase one of consultancy services contract for the development of a national technical specifications and standardization framework for electricity service. According to the contract, the phase which involved preparation of a national electrification strategy for achievement of universal access to electricity services, amounted to 35% of the contract sum paid in three milestones comprising of 10% on submission of an inception report, 20% on submission of the interim report and 5% upon conducting stakeholder consultations.

Review of documents relating to the payment made in February, 2023 revealed the consultant was paid Kshs.10,348,897 equivalent to 25% of the contract in addition to the 10% paid initially on submission of an inception report. However, in a memo dated 22 June, 2023 to the Accounting Officer, it was indicated that stakeholder consultations had not been conducted despite a payment of full contract sum for the phase. As a result, the consultant was overpaid Kshs.2,069,779 or 5% in respect of stakeholder consultations. As at time of conclusion of the audit in October, 2024, the consultant was yet to conduct the stakeholder consultants despite payment for the services.

In the circumstances, the value for money spent on the consultancy services could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1400. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA OFF-GRID SOLAR ACCESS PROJECT (KOSAP) CREDIT NUMBER 6135-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1401. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1402. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final budgeted receipts and actual on comparable basis of Kshs.800,000,000 and Kshs.2,480,419,041 resulting to an unbudgeted receipt of Kshs.1,680,819,041 or 310% of the budget. The amount relates to monies refunded which was initially on account of ineligible expenditures. Similarly, the Project spent an amount of Kshs.376,857,282 against actual receipts of Kshs.2,480,819,041 resulting to underutilizations of Kshs.2,103,961,759 or 85% of actual receipts.

The under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

1403. Long Outstanding Pending Bills

Notes 10 to the financial statements on pending accounts payable indicates that the project had long outstanding bills amounting to Kshs.258,825,377. This is contrary to Regulation 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which states that debt service payments shall be a first charge in the Consolidated Fund and the Accounting Officer shall ensure this is done to the extent possible that the Government does not default on debt obligations. Further, the State Department did not allocate a budget during the year to clear these bills.

In the circumstances, Management was in breach of the law.

My opinion is not modified in respect of these matters.

Other Matter

1404. Unresolved Prior Year Audit Issues

In the audit of the previous year, several matters were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1405. Slow Absorption of Project Funds

As disclosed under Paragraph 2.2 of the Project information, the Project was earmarked to close on 31 May, 2025 following an extension from the initial date of 30 June, 2023. Further, Paragraph 2.7 on funding summary indicates that the Donor had made commitment EUR 133,800,000 equivalent to Kshs.15,000,000,000. However, actual drawdowns as at 30 June, 2024 amounted to EUR 38,582,629 equivalent to Kshs.4,473,686,269 leaving out an amount of Kshs.10,526,313,731 or 70% undrawn. As the Project was set to close in eleven (11) months' time, Management did not indicate measures taken to absorb the undrawn amount or secure an extension to the project financing agreement.

In the circumstances, the effectiveness in implementation of the Project, and value for money from the loan obtained for financing Project could not be confirmed.

1406. Delayed Implementation of Training Needs Assessment

The statement of receipts and payments reflects expenditure on purchase of goods and services amounting to Kshs.376,857,282. As disclosed in Note 3 of the financial statements, the amount includes other operating payments of Kshs.363,805,559. Review of the expenditure on other operating payments revealed a payment of Kshs.12,491,744 to a consultancy firm. According to documents supporting the payment, the Consultant was to identify key training needs and develop a training plan for four (4) years for the

Project staff. The final report was to be submitted in the month of March, 2021. However, the Training Assessment Report was submitted in September, 2023, more than two and half years later which was also less than two years to closure of the project. It was not clear whether the remaining period was sufficient for implementation of the plan for the benefit of the project before closure.

In the circumstances, the value for money incurred on developing the training plan could not be confirmed.

1407. Delayed Verification and Payments to Recipients

Management engaged a consultancy firm to verify solar and cooking solution projects. Due to late engagement of the consultant, projects claims submitted in the previous years were not verified until March, 2024. In addition, despite the completion of the verification process, payments to the recipients had not been processed by close of the year under review. The long period taken to verify the recipients' activities and the delayed payments even on verification contributed to slow implementation of the project.

In the circumstances, the project Management's ability to manage contracts could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1408. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA OFF-GRID SOLAR ACCESS PROJECT (KOSAP-SNV) CREDIT NUMBER 6135-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1409. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1410. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.494,649,869 and Kshs.50,513,155 respectively resulting in an underperformance of Kshs.444,136,714 or 90% of the budget. In addition, the Project spent Kshs.2,279,551,069 against an approved budget of Kshs.494,649,869 resulting in an over expenditure of Kshs.1,784,901,200 or 361%. However, no approval was provided for the additional expenditure.

The underperformance of the budget revenue and expenditure indicates poor budget preparation and execution which affects implementation of Project activities and service delivery to the public.

My opinion is not modified in respect of these matter.

Other Matter

1411. Unresolved Prior Year Issues

In the audit of the previous year, several matters were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, although Management has indicated as having resolved several of those matters in Annex 1 to the financial statements, no evidence was provided to support that status.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for conclusion

1412. Outstanding Pending Bills

Notes 13 to the financial statements on pending accounts payable and as disclosed in Annex 3 the project had outstanding bills amounting to Kshs.145,972,955**.** This is contrary to Regulation 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which states that debt service payments shall be a first charge in the Consolidated Fund and the Accounting Officer shall ensure this is done to the extent possible that the Government does not default on debt obligations. Further, the State Department did not allocate a budget during the year to clear these bills.

In the circumstances, Management was in breach of the law.

1413. Low Absorption of Project Funds

As disclosed under paragraph 2.2 of the project information, the Project was earmarked to close on 22 April, 2025 following an extension from the initial date of 30 June, 2023. In addition, Paragraph 2.7 on funding summary indicates that the Donor had made commitment USD47,000,000 equivalent to Kshs.4,700,000,000. However actual drawdowns as of 30 June, 2024 amounted to USD22,234,660 equivalent to Kshs.2,223,466,000 leaving out Kshs.2,476,534,000 or 53% undrawn.

Further, of the drawn amount only Kshs.294,689,196 or 13% had been utilized in project activities. The credit was set to lapse on 31 May, 2025 which was 11 months away while the Project's planned activities earmarked for implementation using the funding not yet realized.

In the circumstances, the effectiveness in implementations of the project, and value for money on the loan obtained for financing Project could not be ascertained.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1414. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER STATE DEPARTMENT FOR ENERGY

BOGORIA SILALI GEOTHERMAL PROJECT (LOAN NO. 2013.66.103) – GEOTHERMAL DEVELOPMENT COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1415. Inaccuracies in the Cash and Cash Equivalents

The statement of financial assets and liabilities as indicated in Note 12.70 to the financial statements reflect bank balances totalling to Kshs.3,363,530,000. However, examination of the cash book balances and the reported bank balances revealed discrepancies between financial statements balances as highlighted below:

Bank	Reported Amount (Kshs.)	Cash Book Balance (Kshs.)	Variance (Kshs.)
KCB	3,832,000	2,603,120	1,228,880
KCB	8,781,000	7,478,312	1,302,688
Coop Bank	120,804,000	18,934,022	101,869,978
Coop Bank	45,519,000	85,009,736	39,490,736
ABSA Bank	3,023,000	73,143	2,949,857

In the circumstances, the accuracy and completeness of bank balances of Kshs.3,363,530,000 could not be confirmed.

Emphasis of Mater

1416. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.4,647,922,000 and Kshs.6,828,729,000 respectively, resulting to an overfunding of Kshs.2,180,807,000 or 47% of the budget. Similarly, the Project spent an amount of Kshs.3,651,558,000 against actual receipts of Kshs.6,828,729,000 resulting to an under-utilization of Kshs.3,177,171,000 or 47% of the actual receipts.

The under-utilization may have affected the implementation of planned activities for the Project and this may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1417. Unresolved Prior Year Issues

In the audit of the previous year, several matters were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. However, the issues remained unresolved as at the end of the year under review.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1418. Unaccounted for Strategic Fuel Stock

In the financial year 2022/2023, Management contracted two Oil Marketing Companies to supply bulk diesel fuel to Bogoria Silali Geothermal Project for a period of fifteen months at a cost of Kshs.1,590,253,750 and Kshs.1,105,592,000 respectively. Payments made to the two companies during the period amounted to Kshs.535,616,034 and Kshs.445,295,643 respectively. However, quantities of fuel delivered and consumed were not provided for review.

In the circumstances, the value for the funds incurred on purchase of automotive gas oil bulk fuel of Kshs.980,911,677 could not be ascertained.

1419. Commingling of Funds

The statement of financial assets and liabilities reflects Kshs.3,363,530,000 in respect of bank balances as disclosed in Note 12.70 to the financial statements. However, review of cash books and bank statements revealed that project funds were commingled in several bank accounts maintained by the Geothermal Development Company Limited for all projects. This was contrary to Regulation 76(1) of the Public Financial Management (National Government) Regulations, 2015 which provides that for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at the Central Bank of Kenya unless it is exempted by the Cabinet Secretary in writing.

In the circumstances, Management was in breach of the law.

1420. Long Outstanding Pending Bills

Notes 12.11 and 12.12 to the financial statements on pending accounts payable and pending staff payables indicates that the Project had long outstanding bills amounting to Kshs.286,448,000 and Kshs.22,495,000 respectively translating to a total of Kshs.308,943,000**.** This is contrary to Regulation 42(1)(a) of the Public Finance

Management (National Government) Regulations, 2015 which states that debt service payments shall be a first charge in the Consolidated Fund and the Accounting Officer shall ensure this is done to the extent possible that the Government does not default on debt obligations. Further, the State Department did not allocate a budget during the year to clear these bills.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis of Conclusion

1421. Weaknesses in Motor Vehicle Repairs and Spares Expenditure

Review of expenditure on routine maintenance of vehicles and other transport equipment revealed there were neither entries in the work tickets for the motor vehicles repaired indicating defects or malfunctions that have been noticed by drivers nor Pre-Inspection Report done on vehicles to evaluate the extent of repairs required, spares required and estimated cost of the repairs. In addition, reports of the repair works done on the vehicles, post repair inspection report and requisition from User Departments were not provided for review.

In the circumstances, the existence and effectiveness of controls over expenditure on maintenance of vehicles and other transport equipment could not be confirmed.

MENENGAI GEOTHERMAL PROJECT (AGREEMENT NO. 1038.01K) - GEOTHERMAL DEVELOPMENT COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1422. Inaccuracies in Cash and Cash Equivalents

The statement of financial assets and liabilities reflects bank balances of Kshs.246,949,000 as disclosed in Note 12.12A to the financial statements. However, review of bank reconciliation records for a local bank revealed a cash book balance of Kshs.1,593,605,200 (USD 10,125,122.63) which differed with the bank balance disclosed in Note 12.12A to the financial statements of Kshs.237,752,000 resulting to an unexplained variance of Kshs.1,355,863,200. Further, it was noted that the bank reconciliation statement for the account was prepared in foreign currency hence it could not be matched or linked to the figure disclosed in the financial statements. In addition, the statement of cash flows reflects cash and cash equivalents balance at end of the year of Kshs.248,125,000 while statement of financial assets and liabilities indicates cash and cash equivalents balance of Kshs.246,949,000 resulting to an unreconciled variance of Kshs.1,176,000.

In the circumstances, the accuracy and completeness of bank balances of Kshs.246,949,000 could not be confirmed.

1423. Long Outstanding Imprests

The statement of financial assets and liabilities reflects imprests and advances balance of Kshs.1,176,000 as disclosed in Note 12.13A to the financial statements. However, review of imprest and advance records revealed that some imprests had been outstanding for more than six (6) years. Management explained that some of the officers had since left the Company and hence legal action for recovery was being considered. It was noted that some of the officers had been issued with demand letters. However, no documentary evidence of legal action /or otherwise was provided to recover the amounts.

In the circumstances, recoverability of the outstanding imprests and advances amount of Kshs.1,176,000 could not be confirmed.

Emphasis of Mater

1424. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,634,000,000 and Kshs.2,218,688,000 respectively, resulting to an over-funding of Kshs.584,688,000 or 36% of the budget. Similarly, the Project spent an amount of Kshs.1,978,565,000 against actual receipts of Kshs.2,218,688,000 resulting to an under-utilization of Kshs.240,123,000 or 10% of the actual receipts.

The under-utilization may have affected the implementation of planned activities for the Project and this may be a pointer to inadequate budgeting process.

My opinion is not modified in respect of this matter.

Other Matter

1425. Unresolved Prior Year Issues

In the audit of the previous year, several matters were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues and no explanation was provided for failure to implement the recommendations.

1426. Long Outstanding Pending Bills

Note 12.15 and Note 12.16 to the financial statements reflect pending accounts payable and pending staff payables of Kshs.284,791,000 and Kshs.30,798,000 respectively, which have been long outstanding. This was contrary to Regulation 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which states that debt service payments shall be a first charge in the Consolidated Fund and the Accounting Officer shall ensure this is done to the extent possible that the Government does not default on debt obligations. Further, the Project did not allocate a budget during the year to clear these bills.

In the circumstances, Management was in breach of the law.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1427. Unaccounted for Monitoring of Strategic Stock

The Company entered into two (2) contracts with two independent local companies for supply of Automotive Gas Oil bulk fuel to Menengai Geothermal Project for a period of fifteen (15) months each effective 16 November, 2022 at a cost of Kshs.1,590,253,750 and effective 25 September, 2023 at a maximum ceiling price of Kshs.1,105,592,000 respectively. Review of payment records revealed that the two (2) local companies were paid an amount of Kshs.535,616,034 and Kshs.445,295,643 respectively totalling Kshs.980,911,677. However, the payment records did not indicate the total fuel delivered and consumed as per the schedule.

In the circumstances, the value for money spent on purchase of automotive gas oil bulk fuel totalling Kshs.980,911,677 could not be confirmed.

1428. Commingling of Funds

The statement of financial assets and liabilities reflects bank balances of Kshs.246,949,000 as disclosed in Note 12.12A to the financial statements. However, review of the project records revealed that cash and bank balances in respect of the project were commingled in several bank accounts maintained by the Company for all projects. This was contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at the Central Bank of Kenya unless it is exempted by the Cabinet Secretary in writing.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1429. Delay in Project Completion

The Strategic Plan 2018-2023 envisaged that Geothermal Development Company (GDC) would provide enough steam to produce power equivalent to 195 MW for addition to the national grid by June, 2023. It was expected that Phases I and II would supply steam to the power plants that would generate105 MW and 60 MW respectively and an additional 30MW would be provided to the national grid from the Wellheads.

To achieve this objective, GDC engaged three (3) Independent Power Producers (IPPs) in 2014 through competitive bidding. The IPPs were meant to design, construct, install, build and operate a plant that would produce 35MW of power each. Review of the status done during the month of October, 2022 revealed that only one power plant; Sosian Energy plant was existing and operational. It is not clear when the other two IPPs would become operational.

In the circumstances, the objectives of the project may not be realized in a timely manner which will impact negatively on service delivery to the public.

MULTINATIONAL KENYA-TANZANIA POWER INTERCONNECTION PROJECT (KENYAN COMPONENT) (ADF LOAN NO.2100150032846) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1430. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1431. Budget and Budgetary Control

The statement of comparative budget and actual amounts reflects total receipt budget of Kshs.1,418,337,662 against actual receipts of Kshs.791,994,786, resulting to under-funding of Kshs.626,342,876 or approximately 46%.

Further, the statement reflects actual transfer from KETRACO receipt on comparable basis amounting to Kshs.44,191,638 which was not budgeted for.

The underfunding could have impacted negatively in the service delivery and completion of budgeted activities outlined in the project program.

1432. Long Outstanding Pending Bills

Annex 4 to the financial statements reflects other pending bills totaling Kshs.117,564,684. Review of records available revealed that the amount includes Kshs.32,533,652 which had been approved and certified for payment in the previous year but was not paid. No explanation was provided for the failure to pay. This is contrary to Regulation 42 (1)(a) of the Public Finance Management (National Government) Regulations, 2015 which states that debt service payments shall be a first charge on the consolidated fund and the Accounting Officer shall ensure this is done to the extent possible that the government does not default on debt obligations. Management attributed failure to pay the amount to lack of budgetary allocation and disbursement from The National Treasury.

Further, Note 2 as disclosed under other important disclosures to the financial statements reflects other pending payables totaling Kshs.32,533,652. However, the amount differs with the other pending payables totaling Kshs.117,564,684 reflected in Annex 4 to the financial statements resulting in a variance of Kshs.85,031,032. Management explained that the variance relates to wayleave compensations which had not been certified.

Failure to settle bills during the year they relate to distorts the financial statements and adversely affects the budgetary provision of the subsequent year as they form the first charge.

Other Matter

1433. Unresolved Prior Year Matters

In the audit report of the previous year, eight (8) issues were raised under Other Matter, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management indicated that some of the issues had been resolved under progress on follow-up of the auditor's recommendation section of the financial statements, the matters remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1434. Irregular Wayleave Compensation

The statements of receipts and payments reflects acquisition of non-financial assets totalling to Kshs.719,241,072. The amount includes wayleaves amounting to Kshs.1,800,000 as reflected in Note 5 to the financial statements. Review of records revealed that the wayleaves totalling Kshs.1,750,457 was paid for three (3) parcels of land which were not affected. This was attributed to wrong initial survey based on Geo-referenced Registry Index (RIMs) which recorded wrong parcel numbers as affected by wayleave. However, no evidence of the refund of the erroneous payments was provided for audit.

In the circumstances, value for money for the funds spent on the Project may not have been achieved.

1435. Failure to Operate Bank Account for the Project

The statement of financial Assets and liabilities reflects NIL cash and cash equivalents as further disclosed in Note 6 to the financial statements. However, as reported in the previous year, a separate bank account for the project was not maintained. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at Central Bank of Kenya.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1436. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1437. As required by the African Development Fund (ADF), I report based on the audit that have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from examination of those records and, the Project's financial statements are in agreement with accounting records and returns.

FUND FOR AFRICA PRIVATE SECTOR ASSISTANCE PROJECT (FAPA) AFDB GRANT NO.5700155003553 - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1438. 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

Conclusion

1439. 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

1440. 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

Unmodified Opinion

1441. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1442. Long Outstanding Pending Accounts Payables

Note 8 and Note 9 to the financial statements reflect pending accounts payable and other pending payables balances of Kshs.102,560,882 and Kshs.247,614,324 respectively. Review of pending bills documents revealed that out of the certified pending accounts payable totalling Kshs.47,929,083,321, an amount of Kshs.47,826,522,439 had cumulatively been paid leaving a balance of Kshs.102,560,882 as pending bills. Further, certified compensation to landowners for wayleaves since project inception amounted to Kshs.2,930,141,274. Management had cumulatively paid an amount of Kshs.2,640,823,058 resulting to an unpaid amount of Kshs.289,318,216. The unpaid amount of Kshs.289,318,216 comprises of Kshs.247,614,324 which relates to liabilities based on accepted offers and Kshs.41,703,892 which relates to offers not yet accepted.

Failure to settle bills during the year in which they relate to adversely affects the budgetary provisions in the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

Other Matter

1443. Unresolved Prior Year Matters

The financial statements submitted for audit in respect of the Project do not include disclosure on progress made to implement prior year Auditor-General's recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1444. Failure to Open and Maintain Separate Project Bank Account

The statement of financial assets and liabilities and as disclosed in Note 6 to the financial statements reflects a bank balance of Kshs.385,220,976 which represents funds held in three (3) bank accounts operated by the implementing agency as at 30 June, 2024. However, Management did not maintain a Project bank account at the Central Bank of

Kenya and funds received for the Project were all credited to the Kenya Electricity Transmission Company bank accounts. This was contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at the Central Bank of Kenya.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1445. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1446. As required by International Development Association (IDA) – Credit No. 5148-KE, Agence Francaise De Development (AFD)-Loan No.CKE 1030 01B and African Development Fund (ADF)-Loan No.2100150027845 financing agreements, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

OLKARIA-LESSOS-KISUMU TRANSMISSION LINES CONSTRUCTION PROJECT (JICA LOAN NO. KE-P28) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1447. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1448. Absorption of Project Funds

Records available together with Paragraph 2.7 of the project information revealed that the donor had committed an amount of Kshs.18,208,029,490 for the project which was closed on 31 March, 2022. However, actual drawdowns during the project life amounted to Kshs.18,137,886,490 leaving an undrawn balance of Kshs.65,481,961 before completion of the project's planned deliverables which may not now be realized.

1449. Wayleave Compensation

The statement of receipts and payments reflects acquisition of non-financial assets amounting to Kshs.331,475,377. The amount includes wayleaves compensation totalling Kshs.207,513,658 as disclosed in Note 6 to the financial statements. The compensation was paid to one hundred and seventy-two (172) Project Affected Persons during the year under review. However, review of documents revealed that the project commenced in February, 2016 and was successfully completed in June, 2021. Further, previous year audited financial statements reflected outstanding wayleaves totalling to Kshs.27,347,743 resulting to unexplained variance of Kshs.180,165,915 paid as wayleave compensation in the under review. Management explained that the outstanding wayleaves totalling Kshs.27,347,743 was based on allocated budget at the end of the previous financial year.

Failure to record all the pending payables balance distorts accounting records.

1450. Long Outstanding Pending Bills

Other Important Disclosures Note 1 to the financial statements reflects pending accounts payable totalling Kshs.988,541,473 which has been outstanding for more than one year. This was contrary to Regulation 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which states that debt service payments shall be a first charge on the consolidated fund and the Accounting Officer shall ensure this is done to the extent possible that the government does not default on debt obligations.

Management attributed failure to pay the amount to lack of budgetary allocation and disbursement from The National Treasury. Non-payment of the long outstanding bills exposes the project to the effect of incurring significant unquantified interest costs and penalties with the continued delay in payment.

Further, Other important disclosures under Note 2 to the financial statements reflects other pending accounts payables totalling Kshs.1,177,258,836. The amount is an increase of Kshs.1,149,911,093 or 4205% from Kshs.27,347,743 reported in the previous year. Management explained that the prior year pending payables were based on allocated budget at the end of the previous financial year. All the accepted offers were recognised in the year under review regardless of the budget allocation. Offers totalling Kshs.1,015,842,233 as disclosed in Annex 3B to the financial statements have not been accepted.

Failure to settle bills during the year they relate to distorts the financial statements and adversely affects the budgetary provision of the subsequent year as they form the first charge.

1451. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects transfers from Government entities amounting to Kshs.433,000,000 against actual receipts of Kshs.221,000,000 resulting to underfunding of Kshs.212,000,000 or 49% of the budget. Similarly, the statement reflects total final budgeted expenditure amounting to

Kshs.433,000,000 against actual expenditure of Kshs.336,036,958 resulting to under absorption of Kshs.96,963,042 or 22% of the budget.

The under-funding and under-expenditure is an indication that the Project may not have achieved the planned objectives which may have a negative impact on service delivery to the public.

My opinion is not modified in respect of these matters.

Other Matter

1452. Unresolved Prior Year Matters

In the audit report of the previous year, six (6) issues were raised under Other Matter, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. The matters remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1453. Unauthorized Transfers from KETRACO

The statement of receipts and payments reflects transfer from Kenya Electricity Transmission Company Limited (KETRACO) of Kshs.4,661,039 relating to a borrowing as disclosed in Note 2 to the financial statements. However, the transfers were not included in the approved budget for the year and had not been refunded by the end of the year. This was contrary to Section 43(1)(a) of the Public Finance Management Act, 2012 which provides that an Accounting Officer shall not authorize the transfer of an amount that is appropriated to another government entity or person.

Further, the approval by Board of Directors, loan agreement and approval by the Cabinet Secretary were not provided for audit review. This was contrary to Section 51(2) of the Public Finance Management Act, 2012 which states that a national government entity shall obtain the approval of the Cabinet Secretary for its intended program of borrowing, refinancing and repayment of loans.

In the circumstances, Management was in breach of the law.

1454. Failure to Open and Maintain a Project Bank Account

The statement of financial assets reflects cash and cash equivalents balance of Kshs.5,198,764. The balance differs with the cash book balance of Kshs.653,981,016 resulting to a variance of Kshs.648,782,252. The variance was attributed to the Company maintaining one bank account for all donor projects. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at Central Bank of Kenya.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1455. Failure to Automate the Financial Reporting Process

As previously reported, review of the financial reporting process revealed significant manual interventions. Whereas the sub-ledgers are extracted from SAP System through the Business Intelligent Reporting Module, the processing of trial balance and financial statements is done manually on excel.

In the circumstances, the manual intervention may result in errors in the Project financial statements.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1456. As required by the state of expenditure procedure for Japan ODA Loans, Guidelines for borrowers, under Japan International Cooperation Agency (JICA), I report based on the audit that each expenditure listed under the Statement of Expenditure (SOE) is appropriate and conforms to the objectives of the project under the loan agreement and complies with the provisions of the agreement. Further, the Project expenditure does not include non-eligible items and the Project's statement of expenditure is in agreement with the underlying records and returns.

220 KV AND 132 KV TRANSMISSION LINES AND SUB-STATIONS (EXIM BANK OF INDIA FUNDED) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1457. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1458. Unsupported Wayleave Compensation

The statement of receipts and payments reflects the acquisition of non-financial assets amounting to Kshs.519,169,127. The amount includes wayleaves compensation totalling Kshs.117,681,997 as disclosed in Note 5 to the financial statements. Review of records revealed that the compensation relates to payables for the financial year 2022/2023 and earlier years. However, the previous year's audited financial statements reflected outstanding wayleaves totalling Kshs.73,501,859. Management explained that the outstanding wayleaves amounting to Kshs.324,606,257 were outstanding as at 30 June, 2023 but the amount of Kshs.73,501,859 was disclosed based on the allocated budget.

Failure to record all the pending payables balances distorted the payables.

1459. Long Outstanding Pending Accounts Payables

Other important disclosures as per Note 1 to the financial statements reflect pending accounts payable amounting to Kshs.239,213,767 as also disclosed in Annex 3A to the financial statements. The amount includes payables totalling Kshs.13,450,260 which have been outstanding since June, 2018. This is contrary to Regulation 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which states that debt service payments shall be a first charge on the Consolidated Fund and the Accounting Officer shall ensure this is done to the extent possible that the government does not default on debt obligations.

Further, other important disclosures as per Note 2 to the financial statements reflects other pending accounts payables totalling Kshs.110,509,858. This is further disclosed in Annex 3B to the financial statements relating to wayleaves compensation since the inception of the Project. The amount is an increase of Kshs.37,007,999 or 50% of Kshs.73,501,859 reported in the previous year which was not explained. Management explained that the prior year's pending payables were based on the allocated budget at the end of the previous financial year. All the accepted offers were recognized in the year under review regardless of the budget allocation. Offers totalling Kshs.236,432,654 as disclosed in Annex 3B to the financial statements were not accepted.

Failure to settle bills during the year they relate to distorts the financial statements and adversely affects the budgetary provision of the subsequent year as they form the first charge.

My opinion is not modified in respect of these matters.

Other Matter

1460. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under Other Matter, and Report on Lawfulness and Effectiveness in Use of Public Resources. Although Management has indicated that some of the issues have been resolved under progress on follow-up of the auditor’s recommendation section of the financial statements, the matters remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1461. Failure to Open and Maintain a Project Bank Account

The statement of financial assets reflects cash and cash equivalents totalling Kshs.177,745,468. However, the amount differs from the cash book balance of Kshs.653,981,016. The variance was attributed to the Company maintaining one bank account for all donor-funded Projects. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that for disbursement of project funds, there shall be opened and maintained a project account for every project at the Central Bank of Kenya.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1462. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1463. As required by the state of expenditure procedure for Japan ODA Loans, Guidelines for borrowers, under Japan International Cooperation Agency (JICA), I report based on the audit that:

i. Each expenditure listed under the statement of expenditure (SOE) is appropriate and conforms to the objectives of the project under the loan agreement and complies the provisions of the agreement.

ii. That the Project expenditure does not include non-eligible items.

iii. The Project's statement of expenditure is in agreement with the underlying records and returns.

iv. In my opinion, the statement of expenditure is eligible for JICA financing under the loan agreement and is supported by sufficient and appropriate supporting documents under the loan agreement.

ETHIOPIA - KENYA ELECTRICITY HIGHWAY PROJECT (ADB LOAN NO. 2100150027845 - MARIAKANI SUBSTATION PROJECT ID NO:P-Z1-FA0-044) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1464. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1465. Pending Bills

Annex 3a to the financial statements reflects pending bills totalling Kshs.7,090,155 which were not paid during the year under review but carried forward to 2024/2025 financial year.

Failure to settle bills during the year in which they relate distorts the financial statements and may adversely affect the budgetary provisions for the subsequent year.

My opinion is not modified in respect of this matter.

Other Matter

1466. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, Management had not resolved all the prior year matters as at 30 June, 2024 as prescribed in the reporting requirements set by the Public Sector` Accounting Standards Board. Further, Management did not provide satisfactory explanation for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1467. Cancellation of Financing Agreement

Review of Loan Agreement records between the Republic of Kenya and the African Development Fund revealed that an agreement was entered into on 6 December, 2012. The Fund as disclosed in Section 2.01 under Article II of the Agreement agreed to lend to the Borrower, an amount not exceeding an equivalent of Seventy-Five Million Units of Account (UA 75,000,000). However, the financing agreement was cancelled as per the statement dated 31 December, 2023. The funding summary in Note 2.7 to the financial statements indicates that as at the time of cancellation, a total amount of UA 5,572,721 equivalent to Kshs.1,049,735,167 had been drawn during the year under review while undrawn balance was UA 2,925,873 equivalent to Kshs.504,329,888. The circumstances under which the Bank withdrew from the Project and how the financing agreement was terminated were not clear.

In the circumstances, the overall objectives of the Project may not be met therefore denying the public the expected benefits from the Project.

1468. Delay in Project Deliverables

As previously reported, review of Project deliverables revealed that the Project was behind schedule with respect to the completion of procurement at 98%, construction at 97% and testing and commissioning at 70%. During the year under review, the activities executed were valued at Kshs.1,049,735,167 compared to the donor commitment of Kshs.1,495,197,114 or 70% and with undrawn balance of Kshs.504,329,888. This was the situation despite having the completion date reviewed to December, 2024.

In the circumstances, delays in completion of the Project may result in escalation of project costs or lapse and withdrawal of funding by Project financiers.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1469. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NAIROBI RING TRANSMISSION LINE PROJECT (AFD CREDIT NO. CKE 1068 01 N, AFD CREDIT NO. CKE6012.01, AFD CREDIT NO. CKE 1030 01 B, EIB CREDIT NO. 25.367/KE AND GOK) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1470. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1471. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.119,000,000 and Kshs.59,539,105 respectively resulting to an underfunding of Kshs.59,460,895 or 50% of the budget.

The under-funding affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

1472. Pending Bills

Annex 2A to the financial statements reflects pending bills balance of Kshs.71,898,306 owed to various suppliers that had not been paid at the close of the year. Management did not indicate the reason for non-payment of the bills.

Failure to settle bills in the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of these matters.

Other Matter

1473. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, Management had not resolved all the prior year matters as at 30 June, 2024 as prescribed in the reporting requirements set by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1474. Delay in Project Implementation

Review of contract documents revealed that the site for the Malaa Sub-station was handed over to the contractor on 12 July, 2018 and it was to be commissioned on 30 November, 2024. However, during physical verification in the month of October, 2024, the Project had stalled and the contractor was not on site and the progress report indicated that the work was 90.6 % complete. This was despite having the completion date of 30 November, 2024.

In the circumstances, the delays in completion of the Project may result in escalation of project costs and value for money obtained from the project could not be confirmed.

1475. Long Outstanding Wayleave Compensation

As reported in the previous year, the expected compensation to landowners for the wayleave acquired since inception of the project in October, 2012, amounted to Kshs.2,524,757,331 as disclosed in Annex 2B to the financial statements. However, out of the balance, Kshs.2,408,253,991 has been paid leaving an outstanding balance of Kshs.116,503,340 remaining unpaid. Management has attributed failure to pay the amount due to lack of budgetary allocation from The National Treasury and lack of sufficient documentation for compensation from land owners.

In the circumstances, it is not clear when way leave acquisitions shall be completed to facilitate the project implementation to its successful completion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1476. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1477. As required by the Agence Française de Développement (AFD), I report based on my audit, that: I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

LAST MILE CONNECTIVITY PROJECT I LOAN NO. 2100150032195 – KENYA POWER AND LIGHTING COMPANY PLC

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1478. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1479. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total receipts budget and actual on comparable basis of Kshs.508,419,000 and Kshs.377,852,000 respectively, resulting to an under-funding of Kshs.130,567,000 or 26% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.508,419,000 and Kshs.377,852,000 respectively, resulting to an under-absorption of Kshs.130,567,000 or 26 % of the budget.

The under-funding and under-absorption affected the planned activities and may have impacted negatively on service delivery to the public.

1480. Pending Accounts Payable

Note 11.1 to the financial statements reflects pending accounts payable of Kshs.110,967,000. Review of pending bills documents revealed that an amount of Kshs.89,064,000 had been outstanding since 2019. Management indicated that the bills relate to contracts which were terminated due to non-performance. The matter was referred to Arbitration for determination of final settlement including the pending invoices. However, the outcome or status of the arbitration was not provided for review.

Failure to settle bills during the year in which they relate to adversely affects the budgetary provision for the subsequent year as they form a first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1481. Delay in Completion of Works

Paragraph 1.7 of the project information and overall performance containing the funding summary revealed that the project was expected to end in December, 2024. According to the project financing agreement, the total funding commitment for the project was Kshs.15,733,785,000 which targeted to connect 314,200 customers to power supply. As at 30 June, 2024, the project had utilized a total of Kshs.13,655,643,000, equivalent to 87% of the overall budget. However, the total number of customers connected was 215,966 or 69% of the targeted connections.

In addition, the contracts between the Company and the private contractors signed on 10 December, 2015 provided for an eighteen (18) months implementation period after signing, which has since lapsed. The project Management indicated that the contracts for the two lots were terminated due to nonperformance, and the respective guarantees cashed out. The matter is currently under arbitration.

In the circumstances, the project objectives were yet to be realized and value for money spent on incomplete connections could not be obtained.

1482. Unsupported Government of Kenya Counterpart Funds

Paragraph 1.7 of project information containing the funding summary reflects Government of Kenya (GOK) counterpart funding of Unit of Account (UA)16,951,017 or Kshs.2,505,423,000 during the year under review. However, the Project Appraisal Report reflects GOK counterpart funding of Unit of Account (UA)9,200,000 or Kshs.1,359,794,000 to cover the costs associated to compensation of Project Affected People (PAP) as well as the construction of the Low Voltage (LV) network. As at 30 June, 2024, the project received and utilized a total amount of (UA)13,643,984 equivalent to Kshs.2,036,866,000 against the GOK counterpart funding commitment of Unit of Account (UA)9,200,000 or Kshs.1,359,794,000 provided for in the Project Appraisal Report. In addition, no amendment to the Financing Agreement and the Project Appraisal Report was provided to indicate an increase in the GOK counterpart funding.

In the circumstances, the validity of disclosures in the project information could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1483. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1484. As required by the African Development Bank, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

HYBRID GENERATION OF OFF-GRID POWER SYSTEMS CREDIT NO. CKE 1066 01 L - KENYA POWER AND LIGHTING COMPANY PLC

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1485. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1486. Budgetary Control and Performance

The comparative budget and actual amounts reflect final receipts budget and actual on a comparative basis of Kshs.1,500,000,000 and Kshs.969,359,000 respectively resulting in an underfunding of Kshs.530,641,000 or 35% of the budget. Similarly, the project spent a total of Kshs.969,359,000 against the budgeted expenditure of Kshs.1,500,000,000 resulting in an underutilization of Kshs.530,641,000.

The underfunding affected the planned activities and may have impacted negatively on the service delivery to the public.

1487. Slow Absorptions of Project Funds

As disclosed under Paragraph 1.6 of the project information, the Project was earmarked to close on 30 June, 2026. The funding summary indicates that the Donor had committed EUR 33,000,000 (equivalent to Kshs.3,733,501,000) as at 30 June,2024. However, actual drawdowns during the project life amounted to EUR 8,123,055 (equivalent to Kshs.1,241,580,000) leaving out Euro 24,876,945 (equivalent to Kshs.24,919,210,000) or 67% undrawn. The credit was set to lapse in June, 2026 which was in two (2) years, while implementation of the project was at 17%, with works ongoing at only four (4) out of the twenty-three (23) off-grid stations despite the project being eight (8) years into its implementation.

In the circumstances, the Project's ability to utilize the remaining funding commitment of 67% within the remaining two years was in doubt.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1488. Delays in Completion of Works

Management awarded a contract for the design, supply, installation and commissioning of diesel - solar photovoltaic hybrid plants for four (4) off-grid stations to a contractor on 14 March, 2023 at a contract sum of approximately Kshs.1,768,699,771. The contract was to be implemented for eighteen (18) months. As at 30 June, 2024 a total of Kshs.1,077,944,493 had been paid representing 61% of the contract amount. However, review of the progress reports as at 30 June, 2024 revealed that the contractor was behind schedule with estimated progress of 90% at the Merti station, 60% at the Elwak station, 50% at the Habaswein station and 20% at the Eldas station with the contract remaining with three (3) months to expiry on 14 September, 2024. Further, the progress report indicated that Eldas site was closed with no works going on while minimum works were going on at the Elwak site due to delayed valuation of site works.

In addition, the Projects lacked a consultant to supervise works and ensure that the executed works meet the requirements of the contract. According to Management, the consultant who had been engaged earlier exited after the lapse of the contract.

In the circumstances, completion of the works and realization of project objectives was in doubt hence lack of value for money paid in respect of the Project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1489. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1490. As required by the Agence Française De Development Bank (AFD), I report, based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, and the Project's financial statements are in agreement with the accounting records and returns.

EAST AFRICA SKILLS FOR TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (IDA CREDIT NO. 6334-KE) - KENYA ELECTRICITY GENERATING COMPANY PLC

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1491. Presentation and Disclosure Omissions in the Financial Statements

Review of the financial statements of the Project revealed presentation errors and omissions as detailed below;

i. The financial statements did not include a statement of comparison of budget and actual amount as required in Paragraph 1.3.27 of International Public Sector Accounting Standard (Cash Basis) which provides that an entity that makes publicly its approved budget shall present a comparison of the budget amounts for which it is held publicly accountable and actual amounts either as a separate financial statements or as additional columns in the statements of cash receipts and payments.

ii. The financial statements did not include notes to the financial statements in support of amounts reflected in the financial statements. This was contrary to Paragraph 1.3.4 (c) of International Public Sector Accounting Standard Cash Basis which provides that an entity prepare and present financial statements which include accounting policies and explanatory notes to the financial statements.

iii. The financial statements did include a statement of performance against predetermined objectives, environmental and sustainability reporting, significant accounting policies and annexes as required by financial reporting guidelines and templates issued by the Public Sector Accounting Standards Board (PSASB).

iv. The statement of financial assets and liabilities is indicated as statement of assets and liabilities (balance sheet) which deviates from the financial reporting template.

v. The statement of receipts and payment reflects nil balance in respect of IDA Credits for the comparative year. However, the financial statements for the 2022/2023 financial year reflects IDA credits amounting to Kshs.252,533,267.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1492. 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

1493. There were no material issues relating to effectiveness of internal controls, risk management and governance.

RURAL ELECTRIFICATION IN FIVE REGIONS PROJECT (CREDIT NO.11/597, CREDIT NO.1407P) – RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1494. Inaccuracies in Acquisition of Non-Financial Assets

The statement of receipts and payments reflects acquisition of non-financial assets cumulative amount of Kshs.4,001,827,868 and as disclosed in Note 8 to the financial statements. Included in the amount is Kshs.3,707,219,534 for acquisition of project materials. However, review of project materials costs revealed that some of the materials which had been returned by one of the contractors to the Corporation for the West region office in Kisumu had been reissued to another project without re-valuation to confirm the current value and efficiency.

In the circumstances, the accuracy and valuation of acquisition of project materials amounting to Kshs.3,707,219,534 could not be confirmed.

1495. Unsupported Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.831,173 (USD 6,416.99) being call deposit placement as disclosed in Note 11 to the financial statements. The amount includes a principal amount of Kshs.463,573 and interests of Kshs.367,600. Review of records revealed that a Donor erroneously released funds to the accounts of two (2) contractors amounting to USD 926,377.55 and USD 734,192.58. The funds were released without certificate of works done instead of the financier issuing special commitment letters as instructed in the application. To safeguard the project funds one of the contractors remitted the funds to the Corporation's account until a certificate of works was issued as suggested by The National Treasury. The funds were placed in a call deposit on 1 September, 2020 which matured on 2 February, 2022 with a balance of Kshs.728,819.

However, the call deposit statement from 1 September, 2020 to 30 June, 2024 in support of the cash and cash equivalents balance of Kshs.831,173, Board approval for opening the call deposit, documents submitted to request for the special commitment from the

Donor and the approval on how to manage the funds after the erroneous transaction were not provided for audit.

In the circumstances, the occurrence and accuracy of cash and cash equivalents balance of Kshs.831,173 could not be confirmed.

1496. Unsupported Prior Year Adjustments

Note 15 to the financial statements reflects adjustments amounting to Kshs.81,152,961. The explanation given under the Note indicates that the variances were as a result of foreign exchange differences and discrepancies from reconciliation and misstatement errors. However, audit of prior year adjustments revealed that the consultant and contractors had fixed exchange rates hence no adjustments were expected to arise from foreign exchange differences. Further, the adjustment reflected in Note 15 to the financial statements was not reflected in the statement of financial assets and liabilities as at 30 June, 2024.

In the circumstances, the accuracy of the prior year adjustments amounting to Kshs.81,152,961 could not be confirmed.

Emphasis of Matter

1497. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.417,430,497 and Kshs.280,211,399 respectively resulting to an under-funding of Kshs.137,219,098 or 33 % of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1498. Non-Compliance with Loan Guidelines on Disbursement

Review of schedule three (3) of the loan agreement for one of the donor's amortization schedule revealed that the borrower (GOK) should have repaid the loan advanced up-to an amount of USD 8,000,000. However, the loan repayment statement was not provided for audit hence the amount of loan repaid could not be confirmed.

In the circumstances, the Corporation was in breach of the conditions of loan agreement as provided for in the schedule.

1499. Non-Compliance with Contract Management

1499.1 Delayed Project Implementation

Review of the contract agreements signed on 1 July, 2016 with contract period of eighteen (18) months, revealed that a total commitment of Kshs.5,828,101,800 was meant to undertake four hundred and two (402) schemes while the tender documents indicated that there were three hundred and fifty-nine (359) schemes. The Progress Report for September 2024 indicated that one hundred and seventy (170) schemes or 42% had been completed and commissioned. Further, an interview with the contractors during physical visits to the co-owned warehouses in the five (5) regions revealed that four hundred and thirty-nine (439) schemes were handed over to five (5) contractors and one hundred and ninety (190) schemes had been completed. Thus, the tender documents, contract agreement and information from the contractors indicated discrepancies. Therefore, the project Status and scheme to be executed could not be confirmed.

Further, the factory acceptance tests and delivery of materials had been performed at 100% for lot 1, lot 3 and lot 4 while lot 2 and lot 5 were at 92% and 91% respectively as per progress report dated 30 June, 2024. However, the installation Component of the project was at 42%.

In addition, interviews with the five contractors highlighted several challenges: a contractor undertook the construction of 103 kilometers in Tana River County, which was beyond the original project scope and was unpaid, contributing to pending bills. Another contractor experienced significant changes to their project scope, with eighteen (18) schemes dropped early on and twelve (12) new schemes added that were not part of the initial design. Additionally, the Corporation initially handed sixty-eight (68) schemes to a contractor, but six (6) had already been completed by Kenya Power, reducing the number to sixty-two (62). Further complications with wayleaves and designs limited the scope to forty-nine (49) implementable schemes. Ultimately, only twenty-three (23) of these were completed due to mismatched materials and design issues, rendering the remainder unfeasible.

In the circumstances, the Project may not be completed in time, hence the Corporation may not realise value for money. Further the scope of work to be carried out could not be confirmed.

1499.2 Payments for Consultancy Services

The Corporation contracted a consultant to provide consultancy services as per the contract agreement dated 13 August, 2014 at a contract sum of Kshs.137,928,528. As at the time of audit in October, 2024, an amount of Kshs.113,822,110 (83%) had been paid to the consultant while the Project implementation Status was at 42%. Further, as per a letter dated 19 June, 2023, the consultant communicated its intention to terminate consulting obligation with the Corporation due to death of its Project Manager. However, the consultant terminated services after being paid a total sum of Kshs.113,822,110 or 83% of the contract sum against implementation status at 42%. In addition, there was a lot of mismatch between the designs and materials acquired by the contractors for the five regions' projects.

In the circumstances, the Corporation may not have realized value for money from the consultancy services.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1500. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA ELECTRICITY MODERNIZATION PROJECT (IDA GRANT NUMBER TFA059 AND CREDIT NUMBER 55870KE) – RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1501. 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

1502. Accrued Commitment Fees on Undrawn Financing Amount

Paragraph 2.7 of the Project information and Overall Performance discloses that the Project was earmarked to close on 30 December, 2023. Additionally, the funding summary indicates that the Donor had made a total loan and grant commitment totalling USD 10,000,000 equivalent to Kshs.1,013,000,000. However, actual drawdowns during the project life of over eight (8) years amounted to USD 5,934,834 equivalent to Kshs.702,805,994 leaving out Kshs.310,194,006 or 31% of committed funds undrawn after closure of the project on 31 December, 2024. Management did not provide for audit review, mitigation measures taken to absorb the remaining funds or secure an extension of the project from the Donor.

In addition, the financing agreement provides that undrawn loan balance will attract a commitment charge of 0.5%. As at 30 June, 2024, an equivalent of Kshs.124,166,024 or 49% of the loan commitment was undrawn, attracting a minimum of Kshs.620,830 commitment fee on undrawn amount during the year.

In the circumstances, value for money in implementation of the financing agreement could not be confirmed.

1503. Irregular Variation Contract Term

Management contracted a foreign company on 9 October, 2019 to design, supply and install a Solar Voltaic Power Generation Plant (SPGP) with associated power distribution network, and operation and maintenance services to consumers. The contract was to be implemented in twelve (12) months. On 14 July, 2023 the parties to the contract signed an addendum IV to change facilities terms contained in the original contract. Review of the addendum revealed the following inconsistencies and anomalies: Addendum IV was signed on 14 July, 2023 which was after the financing agreement had lapsed on 30 June, 2023. It was not clear how the changes were to be implemented after the project period. Further, Clause VIII of the addendum provided that the parties had agreed to the change in facilities terms in the original contract to facilitate completion of the project at a cost of Kshs.132,463,587 drawn from the Corporation’s internal funding since the project implementation period had lapsed. In addition, Management budgeted for Kshs.332,000,000 in the budget of the subsequent year, 2024/2025. However, the change of facilities according to the addendum was Kshs.132,463,585 resulting in unexplained variance of Kshs.177,730,421.

In the circumstances, the legality of the contract variation through the addendum and the value for money in respect of the contract could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1504. There were no material issues relating to effectiveness of internal controls, risk management and governance.

50MW SOLAR POWER PLANT IN GARISSA PROJECT (GCL NO.2015(10) – RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1505. 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

1506. Failure to Adhere to Loan Conditions

Review of the concessional loan agreement for the Solar Power Plant in Garissa Project revealed that all principal amounts drawn under the agreement were to be repaid to the lender in twenty-six (26) equal installments as per Article 4(4.3) of the loan agreement. In addition, the entire proceeds of the facility were to be applied by the Borrower for the sole purpose of the payment of approximately one hundred percent (100%) of the commercial contract amount. Further, an Escrow Account was to be established and maintained by the End-User (REREC), to collect the revenues generated by the End-User and in which monies held was to secure the repayment of the loan.

However, audit review of an Escrow Account maintained at a Commercial Bank revealed that on 1 July, 2023 it had an opening balance of USD 17,721,464.69 (Kshs.2,490,282,243) and a closing balance of USD 17,721,457.20 (Kshs.2,295,407,187) on 30 June, 2024. The funds were held in a non-interest-bearing escrow account and were not utilized to repay the loan as required by the financing agreement. In addition, a loan statement to show the current status of the loan was not provided for audit review. As at the time of the audit in September 2024, the escrow account had a balance of Kshs.2,295,407,187 lying idle contrary to Regulation 83 (2) (c) of the Public Finance Management (National Government) Regulations, 2015 on principles for sound cash management.

In the circumstances, Management was in breach of conditions of the donor loan agreement and there was poor cash management.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1507. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA OFF-GRID SOLAR ACCESS PROJECT FOR UNDESERVED COUNTIES (IDA CR.NO.6135-KE) – RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1508. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1509. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final expenditure budget and actual on comparable basis of Kshs.400,000,000 and Kshs.24,692,155 respectively, resulting to an under-expenditure of Kshs.375,307,845 or 94% of the budget.

The under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1510. Unresolved Prior Year Issues

In the audit of the previous year, several matters were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. The matters remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1511. Delay In Acquisition of Land for Project Sites

Note 13.8 to the financial statements on land ownership indicates that the Corporation was in the process of securing thirty-one (31) project sites for development of mini-grids for the project. The Note further indicates that the responsibility for land acquisition was placed under the Ministry of Energy and Petroleum, which had so far secured gazettement of the project sites. However, with the project having been implemented for over seven years and set to expire within a year, in May, 2025. It was not clear how the Corporation intends to secure the sites and implement the project within the remaining period. In addition, Management did not provide a comprehensive progress report on land acquisition.

In the circumstances, successful implementation of the project as intended could not be confirmed.

1512. Slow Absorption of Project Funds

As disclosed under Paragraph 2.7 of the Project information, the Project was earmarked to close on 31 May, 2025. The paragraph, further in the funding summary indicates that the Donor had made commitment of EUR 28,000,000 equivalent to Kshs.3,500,000,000 as at 30 June, 2024. However, with eleven (11) months remaining on projects duration, actual drawdowns during the project life amounted to EUR 870,000 equivalent to Kshs.27,130,000 leaving out Kshs.3,389,131,028 or 97% undrawn. Management indicated that a request had been made to The National Treasury to request for an extension of the credit to 30 September, 2026. However, the response to the request was not provided for review.

In addition, Management indicated that the continued delay of the project implementation had necessitated downscaling of the envisaged project target of setting up fifty-seven (57) mini grids to thirty-one (31). The scaling down of mini grids implies that the targeted number of households and community amenities will not be achieved thus affecting service delivery to the public.

In the circumstances, the effectiveness in implementation of the project and value for money obtained for financing project activities could not be confirmed.

1513. Delays in Procurement Processes

Review of tenders issued during the year under review revealed delays in procurement processes causing implementation challenges as detailed below:

i. Management advertised for a tender for design, supply, installation and maintenance of solar PV pumping systems for community facilities in Garissa, Mandera, Wajir, Lamu, Kilifi, Kwale, Isiolo, Samburu, West Pokot, Turkana, Tana River, Marsabit, Taita Taveta and Narok with 3 years after sales service. Review of the tender documents revealed that the approval for the procurement was granted on 28 June, 2022, advertisement done on 5 July, 2022, tenders opened on 31 August, 2022, followed by evaluation of bids in September, 2022 and due diligence process concluded on 29 June, 2023. However, the tender was terminated in July, 2023 due to expiry of bid validity period prior to the clearance of the evaluation report by the World Bank. Management did not provide a way forward on how the works were to be executed since a retender was likely to experience similar delays thus affecting implementation of the project.

ii. A tender for design, supply, installation and commissioning of solar photovoltaic generation plants with associated power distribution network (mini-grids) in Turkana, Marsabit, Samburu and Isiolo Counties for a seven (7) year operations and maintenance services were advertised on 29 August, 2023. Evaluation of bids was completed on 29 February, 2024 and a report submitted to the World Bank for comments and approval. The Bank gave feedback on 31 July, 2024 which was incorporated in the resubmitted report of 9 August, 2024. However, the prolonged procurement process extended beyond the tender validity period and the tender was likely to be terminated.

In the circumstances, effective and timely implementation of contracts for the project could not be confirmed. Therefore, the value for money incurred on procurement processes may not be achieved, and opportunity cost associated with delays in procurement may negatively impact operations.

1514. Commitment Fees on Undrawn Financing Amount

Paragraph 2.7 of the Project information indicates that the Project was earmarked to close on 31 May, 2025. In addition, it indicates the funding summary of which the Donor had made a loan commitment totalling EUR 28,000,000 equivalent to Kshs.3,500,000,000 as at 30 June, 2024. However, actual drawdowns during the project life of over seven and a half (7½) years amounted to EUR 870,000 equivalent to Kshs.110,868,972 leaving out Kshs.3,389,131,028 or 97% of committed funds undrawn with less than a year to closure of the project on 31 May, 2025. Management did not provide mitigation measures taken to absorb the remaining funds.

Further, the financing agreement provides that undrawn loan balance will attract a commitment charge of 0.5%. As at 30 June, 2024, an equivalent of Kshs.3,389,131,028 or 97% of the loan commitment was undrawn, attracting a minimum of Kshs.16,945,655 commitment fee on undrawn amount during the year.

In the circumstances, the value for money may not be achieved as the Project costs may continue escalating as a result of penalty payments.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1515. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA ELECTRICITY EXPANSION PROJECT (CR NO. 1487P) - RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1516. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1517. Low Budget Absorption

As disclosed under Paragraph 2.7 of the Project information, the Donor had made commitment of USD 15,000,000 equivalent to Kshs.1,500,000,000 for the Project which was set to close on 31 December, 2024. However, actual drawdowns during the Project life amounted to USD 8,701,846 equivalent to Kshs.1,030,016,643 leaving an amount of Kshs.469,983,357 or 31% undrawn. The credit was set to lapse in six (6) months without being fully utilized as planned. In addition, there was no expenditure incurred during the year under review which further contributed to underutilization of Project funds.

The National Treasury in a letter dated 30 August, 2024 granted additional funding of Kshs.243,755,082 to the Project from the Donor Funding. However, no assurances were provided on the utilization of the additional funding before expiry of the credit on 31 December, 2024.

In the circumstances, the effectiveness in implementation of the project, and value for money obtained for financing Project activities could not be confirmed.

1518. Unresolved Prior Year Matters

In the audit report of the previous year, several matters were raised the Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the matters in the year under review citing challenges of lack of budgetary provision resulting in delay in implementation of the project. In addition, Management did not indicate steps taken to implement recommendation arising from those prior matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1519. Delay in Project Implementation

The statement of receipts and payments reflects cumulative payments amounting to Kshs.1,109,159,289 in respect of acquisition of non-financial assets. The payment represented 82% of the total contracted works amounting to Kshs.1,352,914,371 for the three (3) lots under the Project. The contracts were signed in June, 2020 and were expected to be completed by 31 December, 2024. However, the progress provided indicated an overall progress of works as 82% comprising of 94% of delivered materials and 72% of executed works. This implies that over 18% of the contract had not been executed.

In addition, no payments were made on verified contracted works during the year under review which Management attributed to lack of budget allocation in supplementary estimates I and II as was recommended by The National Treasury. The lack of budget impacted negatively on contractors' cash flows which further delayed execution of works. In the circumstances, the value for money realized from the Project could not be confirmed as the credit agreement was set to lapse with substantial works not executed.

1520. Unconfirmed Project Implementation

Annex 4(a) to the financial statements reflects an amount of Kshs.75,231,232 in respect to pending bills relating to activities carried out in Lot 1 and Lot 3 by two local contractors. Review of the Project Progress Report revealed that activities under Lot 2 undertaken in Mandera, Isiolo, Wajir and Marsabit counties had two (2) commissioned projects, four (4) projects set for commissioning and three (3) projects awaiting transformer installation. However, it was not confirmed whether any works were carried out during the year since documents in respect of works executed such as invoices, delivery notes, and detailed inspection reports were not provided for review.

In the circumstances, the value for money incurred on the works executed under the two lots could not be confirmed.

1521. Reconciliation of Retention Funds

As disclosed in annex 4c to the financial statements, analysis of other pending payables, an amount of Kshs.39,775,445 was outstanding in respect of retention monies. Review of payment schedules supporting the amount revealed that the total amount paid to the contractors as at 30 June, 2024 was Kshs.1,109,159,928 with an expected retention of

Kshs.123,239,921. However, the financial statements reflect retained amount of Kshs.39,775,445 during the year resulting in an unexplained and unreconciled variance of Kshs.83,464,476.

In addition, the retention monies were awaiting issuance of completion certificate and lapse of the defect's liability period as per the contractual guidelines. However, an amount of Kshs.30,952,470 relates to previous years, which exceeded the one (1) year retention period stipulated in the contract. No evidence was provided to indicate that the Corporation had made efforts to have the amount paid. In the event that these payments will not be made by 31 December, 2024 when the credit period lapses, the Corporation may be compelled to incur the cost from own funds since the financier had indicated that unutilized loan balance would automatically be cancelled upon expiry of the agreement on 31 December, 2024.

In the circumstances, effectiveness in the implementation of the Project by Management could not be confirmed.

1522. Misallocation of Funds

Note 15 to the financial statements reflects a balance of Kshs.1,109,159,289 (USD 9,373,500) in respect to prior year adjustments for OPEC Fund for International Development (OFID) funding. However, review of the loan schedule revealed that the actual amount received from OFID was amounted to Kshs.1,030,016,643 (USD 8,701,846) resulting in a variance of Kshs.79,142,646 (USD 671,654). The variance relates to payments for Lot 3 works paid to a local company from the Corporation's Bank account instead of the Project fund yet the Project was fully funded by the financier (OFID). This is contrary to Regulation 4 (c) of the Public Finance Management (National Government) Regulations, 2015 which provides that a standardized financial management system be in place capable of producing accurate and reliable accounts free from errors, fraud and which will be useful in management decisions and statutory reporting.

Even though Management acknowledged these payments as erroneously paid, the errors remained uncorrected for over eleven (11) months.

In the circumstances, Management was in breach of the law.

1523. Material Discrepancies in Targeted Customer Connectivity

Review of the Financing Agreement revealed that the targeted number of new customers was 300,000. However, the Progress Reports as at 30 June, 2024 revealed that only 896 or approximately 0.3% of the targeted customers had been connected despite an amount of Kshs.1,109,159,289 or 82% of the Project funds having been paid to contractors, and the Project set to close on 31 December, 2024.

Further, review of the project description and scope of works contained in the contract agreements revealed a contradiction of the above data. While agreement indicated that customers ranging between 4,000 to 4,398 would be connected, the Financing Agreement indicated 300,000 customers resulting in a variance of 296,000 customers. Management admitted that at the time of signing of the Financing Agreement on

4 February, 2013, survey and Project designs had not been done and, therefore, the targeted number of customers was overestimated. This casts doubt on whether the donor funds were adequately planned for and whether it was necessary to commit public funds on the loan.

In the circumstances, realization of value for money secured from the donor funds for the Project could not be confirmed.

1524. Lack of Project Designs and Drawings during Bidding

An Internal Audit Report on implementation of Donor Funded Projects issued on 2 October, 2023 revealed that none of the bidders were issued with Project Design and Drawings. This was contrary to Section 60(1) of the Public Procurement and Asset Disposal Act, 2015 which requires the procuring entity to furnish the bidders with all specific requirements relating to the goods, works and services being procured.

In addition, lack of the designs and drawing resulted in variation of a contract issued to a local contractor by a total of Kshs.38,181,354 on materials procured for the projects occasioned by changes in prices and quantities in the estimates.

Further, during a site handover to a local contractor for Lot 3 in Kirimon, Laresoro and Morijo it was established that the projects had already been constructed by Kenya Power and Lighting Company Limited (KPLC), thus necessitating a replacement with seven (7) other projects. However, the change led to a difference in specifications and materials quantities causing further delays in project's completion.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1525. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR LIVESTOCK DEVELOPMENT – VOTE 1162

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1526. Unsupported Proceeds from Sales of Assets

The statement of receipts and payments reflects receipts of Kshs.16,380,004 from proceeds from sale of assets as disclosed in Note 3 to the financial statements. However, the revenue collected was not supported with relevant documents such as order forms, invoices, miscellaneous receipts or cash sale receipts indicating the description of assets sold, quantities of assets sold and the rates used.

Further, the proceeds from sale of assets of Kshs.16,380,004 excludes Appropriations In Aid collected in various training institutes amounting to Kshs.65,956,400.

In the circumstance, the accuracy and completeness of the proceeds from sales of assets of Kshs.16,380,004 could not be confirmed.

1527. Unconfirmed Distribution of Certified Seeds, Breeding Stock and Live Animals

The statement of receipts and payments reflects acquisition of assets balance of Kshs.806,814,831 which includes purchase of certified seeds, breeding stock and live animals totalling Kshs.260,700,299 as disclosed in Note 8 to the financial statements. Review of procurement documents revealed that the purchase was done using request for quotation from various suppliers listed in the list of registered suppliers. However, the details of the beneficiaries and mode of distribution were not provided for audit review.

In the circumstance, the accuracy and occurrence of the expenditure of Kshs.260,700,299 could not be confirmed.

1528. Unaccounted for Long Outstanding Imprests

The statement of financial assets and financial liabilities reflects imprest and advances balance of Kshs.4,171,201 as disclosed in Note 10 to the financial statements. The balance includes Government imprests of Kshs.2,062,058 that had remained outstanding from the previous year and which no recovery had been effected.

In the circumstances, accuracy and completeness of the imprests balance of Kshs.2,062,058 could not be confirmed.

1529. Lack of Work in Progress Registers for Constructions and Refurbishment of Buildings

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.806,814,831 as disclosed in Note 8 to the financial statements. The balance includes expenditure on construction of buildings, refurbishment of buildings and construction of civil works of Kshs.11,380,880, Kshs.19,603,670 and Kshs.326,744,842 respectively. However, the balances were not supported with a work in progress register for each category of assets as required by The National Treasury Guidelines on Assets and Liability Management in the Public Sector, issued in March 2020.

In the circumstances, accuracy and completeness of the acquisition of assets expenditure of Kshs.806,814,831 could not be confirmed.

1530. Lack of Assets Ownership Documents

Review of the asset register provided revealed that it lacked key details such as the acquisition cost, depreciation rate and the date of acquisition. Further, the register provided indicated that the State Department owned one hundred and six (106) motor vehicles out of which seventy-seven (77) vehicles had no logbooks. In addition, ownership documents for all parcels of land acquired over the years by the State Department were not provided for audit review. Review of the land status report as at the time of audit revealed that, the size and ownership of fifteen (15) parcels of land reserved for tsetse fly control was not clear and ten (10) parcels of land under outspans and Training Institutions had not been secured with fences and were at risk of being encroached.

In addition, a training institute in Nyahururu was allocated one hundred (100) acres of land by the Kenya Agricultural and Livestock Research Organization in the year 2004. However, as at the time of audit the Institute had not obtained ownership documents for the land.

In the circumstances, the ownership of the various parcels lands and motor vehicles could not be confirmed.

1531. Un-updated Biological Assets Register

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.806,814,831 which includes purchase of certified seeds, breeding stock and live animals totalling Kshs.260,700,299 as disclosed in Note 8 to the financial statements. However, review of the biological assets register maintained revealed that biological assets from Animal Health Industry Training Institutes (AHITIs) had not been included.

In the circumstances, the accuracy and completeness of the biological assets register could not be confirmed.

1532. Unexplained Voided Transactions

Review of the Integrated Financial Management Information System (IFMIS) system payments indicated that three hundred and forty-seven (347) transactions amounting to Kshs.105,049,169 were voided. Available information indicates that the Controller of Budget (CoB) had approved payments of the voided transactions. However, Management did not satisfactorily explain why the payments were voided yet they had been approved.

In the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June, 2024 could not be confirmed.

Emphasis of Matter

1533. Long Outstanding Third-Party Deposits and Retention

The statement of assets and liabilities reflects third party deposits and retention balance of Kshs.31,214,526 as disclosed in Note 11 to the financial statements. Included in the balance is retention balance of Kshs.29,889,524 out of which Kshs.9,233,005 which had been outstanding since 2019. No explanation was provided on why the deposits had not been transferred to the Consolidated Fund as required by Regulation 106 of the Public Finance Management (National Government) Regulations, 2015 which, inter alia, provides that any deposit which has remained unclaimed for five (5) years may, with the approval of the Cabinet Secretary, be paid into Consolidated Fund.

1534. Long Outstanding Accounts Payables

Note 17.2 to the financial statements reflected pending bills totalling Kshs.481,158,476 as at 30 June, 2024. Review of the aging analysis provided revealed that an amount totalling Kshs.68,347,300 had been outstanding from the previous financial year. No explanation on why the amounts were not settled during the year under review was provided. Further, review of records revealed that the State Department declared and submitted to The National Treasury in 24 July, 2023, pending bills amounting to Kshs.244,417,341 against the amount of Kshs.196,150,451 reported in the previous year's financial statements resulting to a variance of Kshs.48,266,890 which was not be explained or reconciled.

1535. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.11,628,565,348 and Kshs.8,183,412,098 respectively resulting to an under-funding of Kshs.3,445,153,250 or 30% of the budget. Similarly, the State Department spent Kshs.8,045,002,893 against total receipts of Kshs.8,183,412,098 resulting to an under-absorption of Kshs.138,409,205

The underfunding and under-absorption affected the planned activities and may have impacted negatively on delivery of goods and services to the public.

My opinion is not modified in respect of these matters.

Other Matter

1536. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. Management had not provided satisfactory reasons for the delay in resolving the prior year audit issues.

1537. Status on Implementation of the National Assembly Recommendations

The National Assembly adopted and made recommendations on the report of Auditor-General on the financial statements for the National Government Ministries, Departments and Agencies for the year ended 30 June, 2021 on the 20 February, 2024. However, as the time of this report, Management had not provided a status report on the implementation of the recommendations as required by section 53(1) of the Public Audit Act, 2015.

1538. Delayed Exchequer Releases

Note 1 to the financial statement reflects Exchequer releases of Kshs.5,967,032,094 which includes recurrent and development of Kshs.3,016,046,300 and Kshs.2,950,985,780 respectively. Review of documents presented for audit revealed that Exchequer funding amounting to Kshs.553,622,591 was received in the month of June, 2024 less than a month before the end of financial year.

Late Exchequer releases could have adverse effects on the implementation of the planned activities and projects.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1539. Irregular Engagement of Temporary Employees

The statement of receipts and payments reflects compensation of employee's expenditure of Kshs.1,513,669,167 which as disclosed in Note 4 to the financial statements includes basic wages to temporary employees of Kshs.423,939,651. Review of records revealed that casual labourers had been engaged for periods of more than three months contrary to Section 37 of the Employment Act, 2007 which requires conversion of casual employment to term contract. Further, the temporary staff worked consecutively without leave days during their engagement period. This was contrary to the requirements of Section 27(2) of the Employment Act, 2007 that allows for one leave day per week for temporary staff.

In the circumstances, Management was in breach of the law.

1540. Employees in Acting Capacity Beyond the Statutory Period

Review of the Integrated Payroll and Personnel Database (IPPD) and related records revealed that six (6) out of the eight (8) Principals of training institutes under the State Department had been on acting capacity for one and a half years and did not receive any allowance for the duties. This was contrary to Section 34(3) of the Public Service Commission Act, 2017 which provides that an officer maybe appointed in acting capacity for a period of at least thirty days and not exceeding six (6) months.

In the circumstances, Management was in breach of the law.

1541. Non-Compliance with One-Third of Basic Salary Rule

Review of the monthly payrolls revealed that fifty-two (52) employees had salary deductions that exceeded two-thirds of their basic salaries for the sampled months of July, 2023, December, 2023, February, 2024 and June, 2024. This was contrary to Section 19(3) of the Employment Act, 2007 which inter alia, 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 employee at any one time shall not exceed two-thirds of such wages.

In the circumstances, Management was in breach of the law.

1542. Irregularities in the Construction of Rabbit Breeding Block at National Rabbit Breeding and Training Institute

The statement of receipts and payments statement reflects an expenditure of Kshs.806,814,831 under acquisition of assets as disclosed in Note 8 to the financial statements. Included in the expenditure is an amount of Kshs.11,380,880 for construction of buildings which further includes Kshs.7,348,206 for erection and completion of rabbit breeding block at National Rabbit Breeding and Training Institute. Review of records revealed that a contract was awarded using restricted tendering process on 25 September, 2023 at a contract sum of Kshs.7,348,206 to complete Phase II of the rabbit breeding block which had stalled. The initial works had been awarded to two contractors in the year 2022 at contract sums of Kshs.4,855,360 and Kshs.4,897,620 respectively and the entire contract sums paid as at June 2022 yet the works had stalled.

Physical inspection in September, 2024 revealed that although the construction of the rabbit breeding block had been completed, major cracks had developed on the floor shortly after installation of terrazzo and uneven finish of the painting work indicating substandard work and poor workmanship.

In the circumstances, the value for money on the total expenditure of Kshs.17,101,186 already incurred on the project to date could not be confirmed.

1543. Irregular Contract Variation and Poor Workmanship

The statement of receipts and payments statement reflects an expenditure of Kshs.806,814,831 under acquisition of assets as disclosed in Note 8 to the financial statements. Included in the expenditure is an amount of Kshs.326,744,842 for construction of civil works which further includes Kshs.23,309,527 in respect of construction of classrooms and renovation of workshop at National Beekeeping Institute Ngong. Review of procurement records revealed that a contract was awarded in March 2019 to a local contractor at a contract sum of Kshs.14,533,710 for the construction of classrooms and renovation of workshop at the National Beekeeping Institute for a contract period of twenty-four (24) weeks. A variation of the contract was made in March,2022 thus increasing the contract sum by Kshs.8,775,817 or sixty per cent of the contract sum and was made before the lapse of twelve (12) months period.

Physical verification of the project in September, 2024 revealed that the classrooms and workshop walls had developed cracks, window panels were improperly secured and paint had peeled, indicating poor workmanship. Further, slippery tiles were used instead of the approved non-slip ceramic tiles, while standard ceiling materials were installed instead of gypsum plasterboard finishers provided in bill of quantities.

This was contrary to Section 139 (3)(4) of the Public Procurement Asset Disposal Act, 2015 which, inter alia, require that no contract price shall be varied upwards within twelve months and the cumulative value of all contract variations do not result in an increment of the total contract price by more than twenty-five per cent of the original contract price.

In the circumstances, the value for money on the expenditure of Kshs.23,309,527 already utilized in the project could not be confirmed.

1544. Delayed Commissioning of the Kibiru Beef Feedlot

The statement of receipts and payments and Note 8 to the financial statements reflects an expenditure of Kshs.806,814,831 under acquisition of assets. Included in the expenditure is Kshs.326,744,842 for construction and civil works which further includes Kshs.84,940,691 paid towards the construction of Kibiru beef feedlot and auxiliary works in Meru County. Review of records revealed that a contract was awarded on 23 October, 2023 at construct sum of Kshs.84,940,691 through restricted tendering method to a local contractor. Physical inspection in September, 2024 revealed that the project was complete but had not been commissioned three (3) months after issuance of the certificate of practical completion and payment of the entire contract sum.

In the circumstances, the value for money on the expenditure of Kshs.84,940,691 could not be confirmed.

1545. Unsupported Utilization of Provisional Sums

The statement of receipts and payments reflects an expenditure of Kshs.806,814,831 under acquisition of assets which includes Kshs.326,744,842 for the construction of civil works as disclosed in Note 8 to the financial statements. The expenditure of construction of civil works further included Kshs.123,217,816 paid for six (6) contractors in respect of construction works in various projects within the Country out of which Kshs.6,294,795 was in respect of provisional sums in the contracts. However, no requests from contractors accompanied by certificates of justification of such costs were provided for audit review. Further, no evidence was provided to confirm that the expenditures were incurred with approval of the Accounting Officer as required by Section 139(2) of Public Procurement and Asset Disposal Act, 2015, which requires an Accounting Officer to approve use of prime costs on recommendation of the Evaluation Committee.

In the circumstances, the value for money and regularity of the expenditure of Kshs.6,294,795 could not be confirmed.

1546. Stalled Construction of Training Block-Narok Regional Pastoral Training Center

Records provided indicate that Management awarded a contract on 30 May, 2022 to a contractor at a contract sum of Kshs.21,880,012 for the construction of training block at the Narok regional pastoral training center for a contract period of 4 months. Review of status report as at 30 June, 2024 revealed that an amount of Kshs.7,550,695 had been paid but the works stalled at the sub-structure level, the contract period had since expired and the contractor had abandoned the site.

In the circumstances, the value for money on the expenditure of Kshs.7,550,695 already spent on the project could not be confirmed.

1547. Avoidable Legal Costs-Delay in Payment of Court Awards

As previously reported, Note 17.4 to the financial statements reflects contingent liabilities amounting to Kshs.4,000,000,000. Review of legal files revealed that a litigant had been awarded a decretal amount of Kshs.5,025,950,000 against the State Department which was reduced to Kshs.4,000,000,000 with a cap on interest applied after negotiations. However, the amount had not been settled as directed by the Attorney-General on 2 August, 2018 and no explanation was provided for the failure to honour the agreement and no budgetary allocation had been provided for the payment.

In the circumstances, the State Department risks incurring addition charges on interest for non-payment of the amount.

1548. Undelivered Motor Vehicle

Note 17.2 to the financial statements reflects Kshs.481,158,476 for pending bills which includes supply of goods of Kshs.257,560,633 out of which Kshs.7,610,000 was for the supply and delivery of a motor vehicle. However, physical inspection and review of procurement documents revealed that the motor vehicle had not been delivered and the advance payment guarantee for Kshs.7,610,000 from a local bank had expired by the time of the audit.

In the circumstances, the value for money and regularity of the expenditure of Kshs.7,610,000 could not be confirmed.

1549. Malfunctional and Under-Utilized Bulk Milk Coolers

The State Department procured 350 bulk milk coolers in the financial year 2018/2019, each with a capacity of 3,000 litres at a total cost of Kshs.2,343,250,000. Physical inspection in September, 2024 of thirty (30) bulk milk coolers Cooperatives in twelve (12) Counties revealed that the sixteen (16) coolers were either not functional or being underutilized. In some cases, the coolers had been vandalized while others had not been fully installed or were not being utilized at all. It was not clear whether key stakeholders including the County Governments, the Kenya Dairy Board, Cooperatives, among others had been fully involved and sensitized in the conception of the project.

In the circumstances, and the value for money on the expenditure incurred on the coolers could not be confirmed

1550. Non-Compliance with Public Health Law on Asbestos

Physical inspection in the month of September, 2024 revealed that buildings at AHITI Ndomba (Kirinyaga), AHITI Ngong (Kajiado North), Regional Pastoral Training Center Narok and Directorate of Veterinary Services Kabete had asbestos roofing. This was contrary to Section 3(1) of the Public Health Act, Cap 247 which requires protection of persons against risks of poisoning by poisonous substances arising from the use of poisonous materials.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1551. Shared Bank Accounts

Review of documents and physical inspection to various training institutions under the State Department for Livestock revealed that eight (8) institutions shared the same Accounts in their daily operations as shown below;

A/C Number	Branch	Institutions Sharing the Account
1147447136	Kajiado	Ngong Farm shares with Rabbit Breeding Centre
7700012539	Narok	Narok Pastoral Training Centre shares with Narok Sheep and Goat
1147454566	Machakos	Meat Training Institute shares with Machakos Farm
1147482071	Naivasha	DTI Naivasha, Sheep and Goat shares with National Livestock Recoding Centre in Naivasha

The sharing of bank accounts undermines accountability and makes it hard to reconcile the revenue (A.I.A) and its related expenditure for each individual institution.

In the circumstances, the effectiveness of adequate controls over revenues collected in the institutions could not be confirmed.

1552. Under Staffing in Staff Establishment

The State Department has an approved staff establishment of one thousand seven hundred and ninety-four (1794) while the filled positions are eight hundred and ninety-one (891) leaving unfilled positions of eight hundred and ninety-six (896).

In the circumstances, the understaffing may have impacted negatively on the Department ability to meet its target objectives.

1553. Lack of Approved Strategic Plan

The State Department did not have an approved Strategic Plan which was essential for directing the Department's long-term goals, guiding resource allocation, and measuring performance effectively during the year under review.

In the circumstances, the effectiveness of the State Department ability manage its resources efficiently and achieve its strategic goals could not be confirmed.

1554. Lack of Service Level Agreements

The State Department outsourced information technology infrastructure from Kenya Agriculture and Livestock Research Organization (KALRO). However, no formal agreements stipulating the terms of service including access rights, backups, service level agreement and data security was provided for audit. Further, the State Department for Livestock Development had not developed and maintained information technology security Policy to secure data confidentiality and integrity.

In the circumstances, effectiveness of controls over outsourced information technology infrastructure could not be confirmed.

1555. Failure to Dispose Obsolete and Unserviceable Assets

Annex 4 to the financial statements discloses a summary of fixed assets with a total historical cost of Kshs.6,555,576,263. Review of the asset register included one hundred and seventy (170) office equipment, furniture and fittings, laboratory items that were either obsolete, unserviceable, or expired items, and twenty-two (22) grounded motor vehicles. Management did not explain why these items have were boarded for disposal. In addition, no evidence to confirm that a comprehensive verification and condition assessment of all assets controlled or used by the entity had been carried out was provided.

In the circumstances, the effectiveness of the assets management systems could not be confirmed.

DONOR FUNDED PROJECTS

KENYA LIVESTOCK COMMERCIALIZATION PROJECT NO.2000002339 LOAN NO.2000003565 AND 2000003566

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1556. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1557. Budgetary Control and Performance

The statement of comparison of the budget and actual amounts reflects final budgeted revenue of Kshs.1,541,000,000 against the actual revenue received of Kshs.1,194,613,867, resulting in an underfunding of 22%. Additionally, the actual expenditure amounted to Kshs.941,937,100, against actual receipts of Kshs.1,194,613,867 leading to an under-expenditure of Kshs.252,676,767, which also represents 21% of the actual revenue received.

The Project commenced on 05 March, 2021 and is scheduled for completion on 31 March, 2027. According to the funding summary, total commitments for the Project amounts to Kshs.7,458,933,600, while actual funds received to date amounts to Kshs.2,057,590,115. This leaves an undrawn balance of Kshs.5,401,343,485, indicating a slow absorption rate of the Project funds.

The underfunding and underperformance affected the planned activities and may have impacted negatively on the delivery of services to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1558. Purchase of Certified Seeds, Breeding Stock and Live Animals

The statement of receipts and payments reflects acquisition of non-financial assets balance of Kshs.164,112,695 as disclosed in Note 8 to the financial statements. However, audit of this expenditure revealed the following unsatisfactory matters:

1558.1 Supply and Delivery of Goat Meat

The balance of Kshs.164,112,695 includes purchase of certified seeds, breeding stock and live animals amount of Kshs.18,826,000 out of which, an amount of Kshs.3,780,000 paid to a supplier in respect of supply and delivery of goat meat at a contract sum of Kshs.12,240,000 as per local service order No.4161891 of 23 April, 2024. Review of the Inspection and Acceptance Report dated 27 June, 2024 revealed that a total of sixty-three (63) out of two hundred and four (204) goats were accepted. The balance of one hundred and forty-one (141) goats had not been delivered by the time of the audit.

In the circumstances, the value for money of Kshs.3,780,000 could not be confirmed.

1558.2 Supply and Delivery of Breeding Dorper Sheep

The balance of Kshs.164,112,695 includes purchase of certified seeds, breeding stock and live animals amount of Kshs.18,826,000 out of which, an amount of Kshs.4,140,000 was paid to a supplier in respect of supply and delivery of two hundred (200) breeding Dorper sheep for meat at a contract sum of Kshs.12,000,000 as per local service order No.4161884 of 13 March, 2024. Review of the Inspection and Acceptance Report dated

27 June, 2024 revealed that a total of sixty-nine (69) out of two hundred (200) Dorper sheep were accepted. The balance of one hundred and thirty-one (131) sheep had not been delivered by the time of the audit.

In the circumstances, the value for money of Kshs.4,140,000 expenditure could not be confirmed.

1559. Renewal of Comprehensive Insurance Cover

The statement of receipts and payments reflects purchase of goods and services balance of Kshs.472,146,439 as disclosed in Note 6 to the financial statements that includes insurance costs of Kshs.14,852,376 awarded to an insurance company through tender No.MOA and LD/SDL/KELCOP/NCB/02/2022/2023. The tender was for three (3) years commencing 1 April, 2023 and was renewable every year subject to satisfactory performance. Review of documents presented for audit revealed that a survey was conducted by the Contract Implementation Team on 14 December, 2023 to ascertain the performance and satisfaction of the services offered by the insurer to the assured and the results indicated dissatisfaction from the assured at over fifty percent. Despite non-performance by the insurer, Management renewed the contract for the second year, thereby compromising the health of the assured.

In the circumstances, the value for money of Kshs.14,852,376 expenditure could not be confirmed.

1560. Gender Composition

Review of the staff bio data revealed that staff comprises of 29% female and 71% male. This was contrary to the 2/3 gender rule and Part B.22(2) of the Public Service Commission Human Resources (PSC HR) Policies, 2016 which states that the Government will endeavor to have a gender-balanced civil service by ensuring 2/3 of positions in its establishment are filled by either gender.

In the circumstances, Management was in breach of the PSC HR Policy.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1561. Lack of Risk Management Policy and Disaster Recovery Plan

Engagement with Management revealed that the State Department did not have a Risk Management Policy and Disaster Recovery Plan. This was contrary to Regulation 65(1) of Public Finance Management (National Government) Regulations, 2015, which states that the accounting officer shall ensure that the national government entity develops risk management strategies that include fraud prevention mechanisms and a system of risk management and internal control that build robust business operations Losses due to untimely responses to risks and inability to recover in case of disaster.
In the circumstances, existence of effective risk and disaster management measures could not be confirmed.

1562. Non-Maintenance of Retention Monies Register

Review of records for the construction of an Apiary House revealed that an amount totalling Kshs.4,045,432 had been paid. However, the Retention Money Register had not been maintained for this Project. As a result, retention totalling 10% of the contract value, or Kshs.404,543, had not been deducted from the Interim Payment Certificates. There was no evidence indicating that provisions had been made to address contractors' liabilities within the defect liability period.

Further, Management could not accurately track the total retention monies deducted, affecting financial transparency and accountability. This was contrary to Section 151 (h) of Public Procurement and Asset Disposal Act, 2015 which provides one to ensure that the contract is complete, prior to closing the contract file, including all handover procedures, transfers of title if need be and that the final retention payment has been made;

In the circumstances, existence of effective measures on management of retention monies could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1563. As required by Financing Agreement Loan Number 2000003565 and 2000003566 between International Fund for Agricultural Development (IFAD) and the Republic of Kenya dated 16 February, 2021, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of these records and the Project's financial statements are in agreement with accounting records and returns.

TOWARDS ENDING DROUGHT EMERGENCIES (TWENDE): ECOSYSTEM BASED ADAPTATION IN KENYA'S ARID AND SEMI-ARID RANGELANDS PROJECT (IUCN GRANT NO. P02886)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1564. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1565. Budgetary Control and performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.318,000,000 and Kshs.309,139,922 respectively, resulting in under-funding of Kshs.8,860,078 or 3% of the budget. Similarly, the project spent Kshs.299,867,834 against actual receipts of Kshs.309,139,922 resulting to under-utilization of Kshs.9,272,088 or 3% of actual receipts. In addition, the statement of comparison of budget and actual amounts shows an under-expenditure of 21% and 11% in compensation of employees and purchase of goods and services respectively.

The under-funding and under-utilization affected planned activities and may have impacted negatively on delivery of goods and services to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1566. Commingling of Project Funds

The statement of receipts and payments reflect Kshs.74,373,281 in respect of transfers from government entities. However, the funds were operated from the State Department's bank account which is separate from the Project's bank account at Central Bank of Kenya. This implies that the Project sourced funds from two accounts contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which requires Project bank account to be at the Central Bank of Kenya.

In the circumstances, Management was in breach of the law and there is a risk of inadequate accountability over the funds received.

1567. Delay in Funding and Implementation of Project Workplans

The project prepared a budget, work plans and operational plans for various activities to be undertaken to completion in specific counties during the financial year under review. The activities were to be funded under Green Climate Fund (GCF) and Government Counterpart Funds as per a pre-arranged funding model. However, none of the Organizations adhered to the funding arrangement resulting to under-funding and incomplete project activities as detailed in the table below: -

1. Grass Bulking Project – Garissa, Kajiando, Kitui, Makueni, Meru and Marsabit Counties				
Total Budget – USD 185,000				
Entity	**Budget Portion (USD)**	**Received (USD)**	**Variance (USD)**	**Under-Funding**
GCF	114,700	80,575	34,125	30%
GOK	70,300	0	70,300	100%
2. Strengthening and Establishment of 33 Tree Nurseries – 3 Wards per County				
Total Budget – USD 148600				
Entity	**Budget Portion (USD)**	**Received (USD)**	**Variance (USD)**	**Under-Funding**
GCF	92,132	75,525	35,664	40%
GOK	56,468	0	56,468	100%
3. Provision of live Fencing – Isiolo, Meru, Marsabit, Kitui and Kajiado Counties				
Total Budget – USD 260,000				

1. Grass Bulking Project – Garissa, Kajiando, Kitui, Makueni, Meru and Marsabit Counties				
Entity	**Budget Portion (USD)**	**Received (USD)**	**Variance (USD)**	**Under-Funding**
GCF	161200	0	161,200	100%
GOK	98,800	65,792	33,008	33%

In the circumstances, the delayed funding results to incomplete project activities and may impact negatively on the realization of the overall project objectives.

1568. Lack of Monitoring and Evaluation of Project Activities

An audit inspection of the field reports revealed that adequate monitoring and evaluation of project activities was not carried out during the financial year despite having a project technical team responsible for the project's Monitoring and Evaluation. As a result, some of the activities implemented, such as tree seedlings nursery failed since the farmers did not take up their roles of watering them as initially agreed with the project team.

Further, the project technical team also failed to offer capacity building to the farmers on how to handle the projects and also enlighten them on the projects overall benefit to the community.

In the circumstances, effective strategies to ensure that the project success and expected results are realized in an effective and efficient manner could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1569. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1570. As required by International Union for Conservation of Nature and Natural Resources, except for the matters discussed in the Basis for Lawfulness and Effective Use of Public Resources section of my report, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by Management of the Project, so far as appears from the examination of those records and the Project's financial statements are in agreement with the accounting records and returns.

DE-RISKING, INCLUSION AND VALUE ENHANCEMENT OF PASTORAL ECONOMIES (DRIVE) IN THE HORN OF AFRICA PROJECT (CREDIT NO. 7139-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1571. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1572. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,314,000,000 and Kshs.2,297,647,361 respectively resulting to an under-funding of Kshs.16,352,639. Similarly, the Project spent Kshs.2,421,997,409 against actual receipts of Kshs.2,297,647,361 resulting to an over-expenditure of Kshs.124,350,048.

Further, the statement of comparison of budget and actual amounts reflects final expenditure budget for purchase of goods and services and acquisition of non-financial assets of Kshs.86,845,600 and Kshs.13,154,400 respectively and actual on comparable basis for purchase of goods and services and acquisition of non-financial assets of Kshs.193,092,365 and Kshs.28,905,044 respectively. This resulted to an over expenditure of Kshs.106,246,765 or 122% and Kshs.15,750,644 or 120% for purchase of goods and services and acquisition of non-financial assets respectively. However, approval for the over expenditure totalling Kshs.121,997,409 was not provided for audit.

1573. Unresolved Prior Year Issues

In the audit report of the previous year, one issue was raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. Although Management indicated that the issue was responded to, the matter remained unresolved as the Public Accounts Committee had not met to deliberate on the same.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1574. Delay in Release of GOK Counterpart Funding to the Project

According to section 2.01 of the financing agreement, the total project loan is EUR 132,600,000 equivalent to Kshs.16,082,000,000. However, the Government of Kenya, as at the time of audit, had not remitted Kshs.441,443,563 of counterpart funding as stipulated in the Project Finance Management Manual, 2023. Lack of the counterpart funding poses implementation challenges and thus negatively affects the project's performance since some important project activities may not be implemented.

In the circumstances, Management was in breach of the Financing Agreement and delay in remitting of counterpart funding may affect project implementation.

1575. Pending Bills

Note 7 and Annex 4a to the financial statements reflects pending accounts payable balance of Kshs.139,512,284 as at 30 June, 2024. However, Management did not provide reasons for the non-payment of the bills.

Failure to settle bills in the year to which they relate adversely affects the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge to subsequent year budget provision.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1576. Failure to Conduct Half Yearly Internal Audit

Review of reports provided for audit revealed that the internal audit department did not conduct the half yearly audit and issue reports to the Project Implementing Partners and the Donor contrary to the Project Finance Management Manual, 2023. Further, it was noted that the internal audit department lacked adequate staff during the year under review.

In the circumstances, the effectiveness of internal controls could not be confirmed.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AN AGENCY UNDER STATE DEPARTMENT FOR LIVESTOCK DEVELOPMENT

DE-RISKING, INCLUSION AND VALUE ENHANCEMENT OF PASTORAL ECONOMIES (DRIVE) IN THE HORN OF AFRICA PROJECT (CREDIT NO. 7139-KE) - KENYA DEVELOPMENT CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1577. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1578. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.800,000,000 and Kshs.444,921,300 respectively resulting to an under-funding of Kshs.355,078,700 or 44% of the budget. Similarly, the Project spent Kshs.195,186,976 against actual receipts of Kshs.444,921,300 resulting to an underutilization of Kshs.249,734,324 or 56 % of the actual receipts.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1579. Delay in Project Implementation

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount Kshs.185,840,961 in respect to disbursements to livestock value chains out of which Kshs.24,294,080 relates to loan disbursed to a private company. The approved loan amount was Kshs.66,985,080. It was observed that the request for first disbursement of Kshs.17,964,580 by the borrower was done on 11 January, 2024 and was disbursed by the Corporation on 25 January, 2024. However, the call report dated 15 February, 2024 following a visit undertaken to confirm implementation status following the disbursement of the first tranche on 25 January, 2024 revealed that there was no progress towards implementation of the project as the two hundred and fifty (250) cattle, animal feeds for two hundred and fifty (250) cattle, and laboratory equipment had not been purchased.

Further, the Corporation granted a three-month timeline to have the project implemented. However, as at the time of the audit in the month of October, 2024, no evidence had been provided to show the progress towards implementation of the project.

In the circumstances, the beneficiary failed to comply with the conditions set out in the project financing agreement, project implementation manuals and the letter of offer. This may negatively affect the project implementation, and repayment of principal and interest amount, resulting to loss of public funds.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1580. Non-Disclosure of Loan Repayments - Principal and Interest

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount Kshs.185,840,961 in respect to disbursements to livestock value chains. The Corporation disbursed loans totalling Kshs.185,840,961. However, loan repayments, comprising of principal and interest, were being deposited into the Corporation's operations bank account, which was unrelated to the Project, raising concerns about the accuracy and transparency of financial reporting.

In the circumstances, the effectiveness of internal controls relating to loan repayment for both principal and interest could not be confirmed.

STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES – VOTE 1166

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1581. Unsupported Accounts Payables – Third Party Deposits

The statement of financial assets and financial liabilities reflects accounts payables-third party deposits balance of Kshs.61,606,266 as disclosed in Note 11 to the financial statements. However, the payables were not supported by Local Purchase Orders (LPOs)/Local Service Orders (LSOs), requisition memos, invoices, inspection and acceptance reports, certificates of executed works, and an ageing analysis.

In the circumstances, the accuracy and completeness of pending accounts payables-third party deposits balance of Kshs.61,606,266 could not be confirmed.

1582. Lack of Land Ownership Documents

The summary of fixed assets disclosed in Annex 1 to the financial statements reflects total assets valued at Kshs.8,054,878,381 on historical cost which included land valued at Kshs.8,500,000. However, the State Department owned 393 parcels of land whose ownership documents such as title deeds, lease titles and allotment letters were not provided for audit. Further, the asset register lacked key information such as land description and location, fair value, acquisition and registration date, and ownership document number.

In the circumstances, the accuracy, completeness and ownership of the fixed assets balance of Kshs.8,054,878,381 could not be confirmed.

Emphasis of Matter

1583. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.10,757,025,845 and Kshs.10,091,406,592 respectively, resulting in an underfunding of Kshs.665,619,253 or 6% of the budget. Similarly, the Department spent an amount of Kshs.10,041,290,340 against actual receipts of Kshs.10,091,406,592 resulting in an under absorption of Kshs.50,116,252 of the actual receipts.

The underfunding and under absorption affected implementation of planned activities during the year under review which may have negatively impacted on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1584. Unresolved Prior Year Issues

In the audit of the previous year, several matters were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, although Management indicated as having resolved those matters no evidence was provided to support that status.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1585. Delays in Implementation of Projects

1585.1 Kabonyo Regional Fisheries and Aquaculture Service and Training Centre of Excellence

The Government of the Republic of Kenya signed a framework agreement with the Government of Hungary on 28 May, 2020 for designing, building and equipping a Fisheries and Aquaculture Training Centre of Excellence at Kabonyo Regional Office, financed through a tied aid credit from Hungarian Exim Bank.

The State Department, which was implementing the contract, awarded a contract for Phase I construction works to an International Company on 4 April, 2023 at a cost of USD 9,997,000 (Kshs.1,329,601,000). Review of documents provided in respect to the project revealed that construction works had not started as at 30 June, 2024. Further, The National Treasury only allowed execution of the project on 20 May, 2024, more than a year after the contract was signed. The delay in implementation of the contract beyond one year was contrary to Section 151(2) of the Public Procurement Asset and Disposal Act, 2015 which provides that, for the purpose of managing complex and specialized procurement contracts the contract implementation team shall be responsible for monitoring the performance of the contractor, to ensure that all delivery or performance obligations are met or appropriate action is taken by the procuring entity in the event of obligations not being met.

In the circumstances, the value for the loan obtained to finance the project could not be confirmed.

1585.2 Hazard Analysis Critical Control Point Compliant Ultra-Modern Tuna Fish Hub at Liwatoni

Management contracted a local Construction Company to undertake Phase 1 construction of a Hazard Analysis Critical Control Point (HACCP) compliant ultra-modern tuna fish hub at Liwatoni in Mombasa County, on 7 April, 2022, at a contract sum of Kshs.1,434,559,682. The works were scheduled to be completed within a period of 26 weeks ending 10 November, 2022.

Review of documents provided in respect of the project revealed that the initial completion date lapsed before completion of the project. The contractor subsequently requested for an extension to 31 December, 2023 which was granted. However, no works were undertaken during the extension period, and on 8 December, 2023, another extension application was made by the contractor, which Management declined.

The contractor subsequently petitioned the High Court and successfully obtained an order stopping handover of the site to a new contractor until the matter is determined.

In the circumstances, the value for the money paid in respect of the contract could not be confirmed.

1586. Penalties on Delayed Contractor Claims

During the year under review, an amount of Kshs.14,605,981 was paid to three local firms in respect of penalties on late payment of contractor claims. According to Management, the delay in making the payments was occasioned by unavailability of funds. This was contrary to Regulation 150(1) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that subject to the availability of funds and after proper certification of the goods, services or works have been done, a procuring entity shall make prompt payments for all performed contracts including enterprises owned by youth, women or persons with disabilities and shall make payment within sixty days from the date of receipt of the invoice.

In the circumstances, Management was in breach of the law.

1587. Non-Compliance with the One-Third of Basic Salary Rule

Analysis of the payroll data revealed five (5) employees were paid a net salary which was less than a third (1/3) of their basic pay. This was contrary to Section19(3) of the Employment Act, 2007 (Revised 2012) which provides that the total amount of all deductions that may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds (2/3) 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.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1588. Unimplemented Internal Audit Workplan

During the year under review, the Internal Audit Department of the State Department planned to undertake seven (7) audit assignments as per the approved annual work plan. However, only two (2) assignments were carried out during the year. Further, the State Department did not establish an Audit Committee. This was contrary to Section 73 (5) of the Public Finance Management Act, 2012 which requires every National Government public entity to establish an audit committee whose composition and functions are prescribed in the Public Finance Management Regulations.

In the circumstances, the effectiveness of internal controls, risk management and governance of the state Department could not be ascertained.

REVENUE STATEMENTS - STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

1589. Unsupported E-Citizen Revenue Collections

The statement of receipts and disbursements reflect total non-tax receipts amounting to Kshs.34,921,093. As disclosed in Note 1 to the revenue statements, the receipts were in respect of issuance of health, food handling and compliance certificates, and was collected by Kenya Trade Network Agency (KENTRADE) on behalf of the State Department through e-citizen platform. However, the revenue was not supported by a listing of revenue collected in each stream, but was instead lumped together. In addition, it was not possible to confirm whether the revenue received through the platform represented actual receipts during the year.

In the circumstances, the accuracy and completeness of non-tax receipts amounting to Kshs.34,921,093 collected through the e-citizen platform could not be confirmed.

Emphasis of Mater

1590. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.70,000,000 and Kshs.34,921,093 respectively, resulting to an under collection of Kshs.35,078,907 or 50% of the budget.

The under collection affected budget financing from the Receiver of Revenue which may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1591. Unresolved Prior Year Issues

In the audit of the previous year, several matters were raised under the Report on Financial Statements. However, the matters remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1592. Late Submission of Financial Statements

The revenue statements for the State Department for Blue Economy and Fisheries were submitted to the Auditor-General on 31 October, 2024, instead of the statutory deadline of 30 September, 2024. This was contrary to Section 81(4) of the Public Finance Management Act, 2012 which require financial statements to be submitted to the Auditor-General, not later than three months after the end of each financial year.

In the circumstances, Management was in breach of the law.

DONOR FUNDED PROJECTS

KENYA MARINE FISHERIES AND SOCIO-ECONOMIC DEVELOPMENT PROJECT (CREDIT NO. 6540-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1593. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1594. Slow Absorption of Project Funds

As disclosed under Paragraph 1.7 of project information, the Project was earmarked to close on 31 March, 2025. Further, the funding summary indicates that the Donor had made commitment USD 100,000,000 equivalent to Kshs.10,000,000,000. However, actual drawdowns as at 30 June, 2024 amounted to USD 33,593,472 equivalent to Kshs.4,703,086,032 leaving out Kshs.5,296,913,968 or 53% undrawn.

The credit was set to lapse on 31 March, 2025 which was 9 months away implying that the Project's planned activities earmarked for implementation may not be completed within the remaining period denying the beneficiaries the expected benefits from the Project.

REPORT ON THE LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1595. Delay in Completion of Uvuvi House Office Block

During the year under review, Management engaged a local firm to undertake construction of Uvuvi House Office Block in Nairobi for a contract sum of Kshs.1,027,891,776 funded by the Project. The construction work commenced on 3 September, 2023 and was expected to be completed on 25 September, 2025. However, the completion period was beyond the grant expiry date of 31 March, 2025. Management did not indicate how the works were to be funded after expiry of the project implementation period. This was contrary to Section 53(8) of the Public Procurement and Asset Disposal Act, 2015 which requires an Accounting Officer not to commence any procurement proceedings until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in approved budget estimates.

In the circumstances, Management was in breach of the law**.**

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

Conclusion

1596. There were no material issues relating to the effectiveness of internal controls, risk management and governance.

AQUACULTURE BUSINESS DEVELOPMENT PROGRAMME (IFAD LOAN NO. 20000052 AND 2000002614)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1597. There were no material issues noted during the audit of the financial statements of the Programme.

Emphasis of Matter

1598. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.3,689,865,849 and Kshs.1,920,062,240 respectively resulting to an underfunding of Kshs.1,769,803,609 or 48% of the budget. Similarly, the Project spent an amount of Kshs.1,856,713,310 against final receipts of Kshs.1,920,062,240 resulting to an underutilization of Kshs.63,348,930 or 3% of the actual receipts.

In the circumstances, the under-funding affected the planned activities which may have a negative impact on service delivery to the public.

1599. Outstanding Pending Bills

Notes 18 and 19 to the financial statements on pending accounts payable and pending staff payables indicates that the Project had outstanding bills amounting to Kshs.316,558,934 and Kshs.425,188 respectively totalling Kshs.316,984,122. This was contrary to Regulation 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which states that debt service payments shall be a first charge in the Consolidated Fund and the Accounting Officer shall ensure this is done to the extent possible that the Government does not default on debt obligations. Further, the State Department did not allocate a budget during the year to clear these bills.

In the circumstances, Management was in breach of the law.

My opinion is not modified in respect of these matters.

Other Matter

1600. Unresolved Prior Year Issues

In the audit of the previous year, several matters were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. The matters remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1601. 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

1602. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR AGRICULTURE – VOTE 1169

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1603. Unsupported Receipts from Sale of Certified Seeds and Breeding Stock

The statement of receipts and payments reflects proceeds from sale of assets of Kshs.6,069,294,606 which, as disclosed in Note 4 to the financial statements, includes an amount of Kshs.110,000,000 in respect of receipts from sale of certified seeds and breeding stock whose supporting documents were not provided for review.

In the circumstances, the accuracy, completeness and validity of receipts from sale of certified seeds and breeding stock amounting to Kshs.110,000,000 could not be confirmed.

1604. Variance between Vote Book and Financial Statements Amounts on Proceeds from Foreign Borrowings

The statement of receipts and payments reflects proceeds from foreign borrowings amount of Kshs.1,017,794,422 which, as disclosed in Note 3 to the financial statements, includes an amount of Kshs.1,637,920 in respect of proceeds from foreign borrowings for Enable Youth Kenya Program. Examination of the vote book for the program revealed borrowings from international organizations of Kshs.4,094,800 resulting to an unexplained variance of Kshs.2,456,880.

In the circumstances, the accuracy of the proceeds from foreign borrowings amount of Kshs.1,637,920 could not be confirmed.

1605. Variances between Financial Statements Amounts and IFMIS Report

The statement of receipts and payments reflects grants and transfers to other government units of Kshs.43,471,092,649 which, as disclosed in Note 9 to the financial statements, includes current grants to Government Agencies and other level of Government grants and capital grants to semi-autonomous Government Agencies and Other levels of Government of Kshs.16,611,561,313 and Kshs.26,859,531,336 respectively. However, analysis of IFMIS payment details indicates that current grants to Government Agencies and other level of Government grants and capital grants to semi-autonomous Government Agencies and Other levels of Government of Kshs.10,196,985,125 and Kshs.25,570,226,026 respectively, totalling Kshs.35,767,211,151 were transferred to other entities. The resultant variances of Kshs.6,414,576,188 and Kshs.1,289,305,310 respectively, totalling Kshs.7,703,881,498 were not reconciled or explained.

In the circumstances, the accuracy and completeness of grants and transfers to other Government units of Kshs.43,471,092,649 could not be confirmed.

Emphasis of Matter

1606. Long Outstanding Maize Subsidy and Other Pending Bills

Note 20.2 to the financial statements which, as disclosed in Annex I reflects pending accounts payable balance of Kshs.13,630,778,276 includes an amount of Kshs.3,437,388,772 in respect to Fertilizer Subsidy which had been outstanding since the financial year 2017/2018. Further, the balance includes Maize subsidy pending bills of Kshs.198,104,635 payable to a miller and Kshs.712,244,568 payable to National Cereals and Produce Board which have been outstanding since 2017/2018 financial year.

In addition, the balance includes pending bills of Kshs.2,733,422,968 in respect to supply of goods and services other than fertilizer and maize subsidy which have been long outstanding for over eight (8) years.

In the circumstances, failure to settle bills in the year to which they relate adversely affects the subsequent year' provisions to which they have to be charged.

My opinion is not modified in respect of this matter.

Other Matter

1607. Unresolved Prior Year Matters

In the audit report of the previous years, various audit issues were raised under Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, as indicated in the Progress on Follow Up on Prior Year Auditors' Recommendations section of the financial statements, all these issues had not been resolved as at 30 June, 2024. Management did not provide satisfactory reasons for the delay in resolving the prior year audit issues.

1608. Failure to Implement Recommendations as Directed by Parliament

Parliament had directed the State Department to resolve eleven (11) issues which were listed in the Auditor-General's report for the financial year 2020/2021. Review of records revealed that there was no implementation report provided by the State Department for the implementation of prior years' Auditors' recommendations by both the internal and external auditors. This was contrary to Section 31(1) of the Public Audit Act, 2015 which requires that within three months after Parliament has debated and considered the final report of the Auditor-General and made recommendations, a state organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1609. Use of Goods and Services

1609.1 Crop Insurance

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects use of goods and services amount of Kshs.6,256,000,502 which includes insurance costs of Kshs.300,351,220. Included in the amount is an expenditure of Kshs.249,262,922 in respect to administration of crop insurance. The Government developed a range of insurance products to encourage farmers to invest in their farms and improve agricultural yields. The primary objective was providing a safety net for farmers through compensation and premiums were to be subsidized with the farmers paying 50% and the State Department 50%. However, the following unsatisfactory matters were noted; -

1609.1.1 Failure to Compensate Farmers

Examination of documents revealed that farmers had paid a total of Kshs.12,019,890 in premiums, covering 50% of the insurance costs, but no compensation had been made despite ongoing climatic losses, such as floods. The objective of providing a safety net for farmers through compensation has not been met. Additionally, no evidence was provided that the Government had paid the corresponding 50% subsidy to match the farmers' contributions. As a result, the administrative costs of the insurance scheme so far incurred have not yielded the expected benefits.

1609.1.2 Lost Achievements Due to Delayed Payments and Inadequate Sensitization

Over the years, the Government developed a range of insurance products to encourage farmers to invest in their farms and improve agricultural yields. This led to an increase in insured farmers, from 900 in 2016 to 411,876 in 2020. However, since 2021, there has been a sharp decline, with only 56,000 farmers covered in 2023 due to the Government's failure to compensate farmers who incurred losses, leading to a loss of confidence in the scheme. The achievements and investments made in the initiative seem to have been undermined.

1609.1.3 Lack of Specific Legislation on Crop Insurance

It was observed that while crop insurance involves a wide range of stakeholders, there is no formulated Crop Insurance Act in place. The absence of specific legislation has hindered the establishment of a robust legal framework necessary to support and regulate crop insurance in Kenya.

In the circumstances, value for money on the expenditure totalling Kshs.249,262,922 incurred in respect to administration of crop insurance could not be confirmed.

1609.2 Suppliers not on the List of Registered Suppliers

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects use of goods and services amount of Kshs.6,256,000,502 which includes routine maintenance and other assets amounting to Kshs.205,174,408, out of which Kshs.7,456,000 was incurred on items procured from suppliers who were not on the list of prequalified suppliers. This was contrary to Regulation 91(5) of the Public Procurement and Asset Disposal Regulations, 2020 which states that an Accounting Officer shall ensure a fair and equitable rotation amongst the persons on the list under Section 57 of the Act which states that the Head of the Procurement Function of a procuring entity shall maintain and update lists of registered suppliers, contractors and consultants in the categories of goods, works or services according to its procurement needs. Further, procurement documents for these transactions were not provided for audit.

In the circumstances, Management was in breach of the law.

1609.3 Failure to Notify Unsuccessful Bidders for Fumigation Services

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects use of goods and services amount of Kshs.6,256,000,502 which includes an amount of Kshs.791,033,387 in respect of specialized materials and services, out of which an amount of Kshs 3,466,400 was paid to the successful bidder for fumigation services at Kilimo House and Agricultural Information Resource Centre offices. However, it was noted that three (3) unsuccessful bidders were not notified of the outcome of the tender process and the reasons for their non-selection. This was contrary to Regulation 82(1) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that the notification to the unsuccessful bidder under Section 87(3) of the Act shall be in writing and shall be made at the same time the successful bidder is notified.

In the circumstances, Management was in breach of the law.

1610. Acquisition of Assets

1610.1 Purchase of Certified Seeds, Breeding Stock and Live Animals

1610.1.1 Irregularities in the Procurement of Certified Seedlings

Review of contract documents revealed that an amount of Kshs.31,400,000 was paid for the procurement of assorted fruit seedlings through restricted tendering and eight (8) suppliers were invited to tender. However, they were not included in the list of prequalified suppliers. This was contrary to Regulation 89(5) of the Public Procurement and Asset Disposal Regulations, 2020 which states that where restricted tendering is used pursuant to section 102(1)(b) of the Act, the procuring entity shall invite tenders from at least ten persons selected from the list maintained as provided under Sections 57 and 71 of the Act or otherwise as permitted under Section 56 of the Act.

Further, notification letters to the unsuccessful bidders were not sent contrary to Regulation 82 (1) of the Public Procurement and Asset Disposal Regulations, 2020. In addition, review of the professional opinion revealed that procurement was done using restricted tendering. However, no evidence was provided to confirm that the tender documents were delivered to the restricted tenderers since the dispatch book for the bid documents was not provided for audit.

In the circumstances, Management was in the breach of the law.

1610.1.2 Irregularities in the Delivery of Certified Seeds

Review of procurement documents revealed that an amount of Kshs.35,499,000 was paid for the supply of 130 tonnes of maize, 40 tonnes of sorghum and 1.9 tonnes of rice seeds. However, review of the distribution report for seeds from March to May, 2024 revealed that 1.9 tonnes of rice and 220.8 tonnes of maize were delivered but there were no sorghum seeds delivered during that period. Further, Management did not provide evidence of delivery of the seeds to the various counties to confirm the quantities received at each delivery point.

In the circumstances, the regularity and value for money of the expenditure of Kshs.35,499,000 on purchase of certified seeds could not be confirmed.

1610.2 Irregularities in the Supply and Delivery of Tree Seedlings to Counties

During the year under review, an expenditure of Kshs.449,395,000 was incurred for procurement of tree seedlings to be issued to various Counties. However, the following unsatisfactory issues were observed;

1610.2.1 Supply and Delivery of Tree Seedlings to Bungoma County

The State Department procured and delivered 10,000 avocado seedlings, 2,000 mango seedlings and 2,000 macadamia seedlings at a cost of Kshs.10,490,000 to Bungoma County. However, physical inspection of the tree seedlings in September, 2024 revealed the following anomalies: -

i. The tree seedlings supplied were received by the County Commissioner's office and handed over to the Office of the Senator for Bungoma County instead of being distributed through the Kenya Climate Smart Agriculture Project County office as intended. No detailed documentation of the distribution of the seedlings to various beneficiaries was provided for audit .

ii. A total of 14,000 seedlings were indicated to have been delivered in May 2024. However, a report from the Senator's office indicated that 5,833 out of the 14,000 seedlings were yet to be distributed.

iii. The seedlings report provided for audit was dated 24 September, 2024 nearly five months after the seedlings were delivered hence its accuracy and authenticity could not be confirmed.

iv. Needs assessment and feasibility studies were not done since several of the grafted seedlings supplied to the County had dried up and several seedlings were damaged during delivery an indication that the seedlings were not of the required standard. Further, macadamia seedlings most dried up, and needs assessment and feasibility studies to establish that macadamia can grow in the region was not provided for review.

v. Musikoma Primary School did not maintain the tree seedlings, therefore, most seedlings had dried up.

In the circumstances, the regularity and value for money of the expenditure of Kshs.10,490,000 on purchase of seedlings could not be confirmed.

1610.2.2 Supply and Delivery of Tree Seedlings to Matayos in Busia County

The State Department awarded contracts to two (2) suppliers to deliver avocado and mango seedlings at a cost of Kshs.13,600,000 and Kshs.8,400,000 respectively to Kisumu, Busia and Homabay Counties. Six thousand (6,000) avocado seedlings and three thousand (3,000) mango seedlings were reported to have been delivered to Matayos in Busia County. However, physical inspection of deliveries made could not be conducted as the said responsible officers at the Matayos NG-CDF office were not available and the required documents were not provided for audit. It was therefore not possible to assess whether the expenditure on the seedlings provided value for money to the intended beneficiaries and whether any needs assessment was conducted.

In the circumstances, the value for money of the expenditure of Kshs.22,000,000 on purchase of seedlings could not be confirmed.

1610.3 Purchase of Specialized Plant, Equipment and Machinery

1610.3.1 Procurement of Maize Dryers

The statement of receipts and payments and as disclosed in Note 12 to the financial statements reflects acquisition of assets amount of Kshs.5,750,747,997 which include specialized plant, equipment and machinery expenditure of Kshs.2,000,070,765 for the supply, delivery, installation, commissioning and testing of grain dryers and storage facilities for 60 mobile 10 ton and 40 mobile seven (7) ton dryers respectively through restricted tender. Review of the procurement records and related records as well as physical verification in September, 2024 revealed the following unsatisfactory issues;

1610.3.1.1 Drying Capacity Beyond Average Farmer Harvest

The specifications for the maize dryers did not indicate the minimum number of bags required for optimal operation. However, discussions with the technical teams revealed that the dryers can handle a range of 80 to 100 bags effectively excluding the majority of farmers who produce below this threshold. In addition, farmers faced challenges in aggregating their maize due to variations in quality and moisture content. As a result, the dryers may not be suitable for the majority of farmers which indicates that proper needs assessment was not conducted prior to the implementation of the initiative.

1610.3.1.2 Lack of Power Capacity at the Recommended Sites

The site appraisal report for the Grain Drying for Sustainable Post-Harvest Management Project (October, 2023) indicated that out of one hundred (100) appraised sites, including National Cereals and Produce Board (NCPB) depots and Farmers' Cooperatives/Community-Based Organizations, only sixty-seven (67) sites were confirmed to have the necessary three-phase power connection to operate the grain dryers. However, no evidence was provided for audit to verify whether the remaining forty-three (43) sites, had installed the required three-phase power connection.

1610.3.1.3 Operational Challenges

Physical inspection of the dryers in the month of September, 2024 to various Counties revealed that there was underutilization, operational inefficiencies of grain dryers due to lack of on-site personnel, delays in maintenance and operation and low uptake of dryer services. Further, twelve (12) sites appraised and recommended for support with grain dryers did not have security arrangements.

In the circumstances, the listed beneficiaries may not have received the desired services from the maize dryers and the value for money of Kshs.2,000,070,765 could not be confirmed.

1610.4 Grain Drying and Storage Facilities

1610.4.1 Irregularities on Construction of Grain Storage and Drying Facility at Mogogosiek in Bomet County

Review of contract documents revealed that an amount of Kshs. 33,521,611 was paid on 28 June, 2024 as per the first payment certificate for the construction of Mogogosiek Grain Drying and Storage Facility in Bomet County, at a contract sum of Kshs.52,561,655. Although the project was scheduled for completion by 6 September, 2025, the project status indicated that the project was 100% complete.

Physical inspection carried out in the month of September 2024 revealed that there was an element of poor workmanship since the office block's paint was peeling off , there were loose fittings on the windows and the rain gutter pipe at the office block had broken. Further, ownership of the land could not be verified and the aflatoxin rapid testing kit, digital stainless weighing machine and portable grain moisture meter were not provided for review and no evidence was provided to confirm whether the associated training for beneficiaries was done. In addition, a section of the perimeter fence was incomplete and only one of the two installed gates was usable, as the other one was blocked by electric poles. It was further noted that the facility was designed to have six (6) double doors, but only four (4) were installed.

In the circumstances, value for money of Kshs.33,521,611 spent on the Facility may not be obtained.

1610.4.2 Delayed Construction of Mwendi Urithi Lailuba Drying and Storage Facilityin Meru County

The State Department entered into a contract on 31 January, 2022 for the construction of Proposed Mwendi Urithi Lailuba drying and storage facility in Meru County at a contract sum of Kshs.53,075,680. Review of site meeting minutes and the first payment certificate dated 11 April, 2023 revealed that the project experienced significant delays and was set to commence on 9 September, 2021 with a planned completion date of 1 April, 2022. However, the completion date was revised to 1 August, 2023. Despite the extended timeline, the project was 35% complete with certified works to date totalling Kshs.8,771,722 as per the first payment certificate raised on 11 April, 2023. No evidence of contract extension was provided for audit.

In the circumstances, the value for money of Kshs.8,771,722 spent on the incomplete project may not be obtained.

1610.5 Rehabilitation of Civil Works

1610.5.1 Delay in Drilling and Equipping of Laare Ultra-Modern Market Borehole in Meru County

During the year under review, an amount of Kshs.9,865,420 was paid for drilling and equipping the Laare Ultra-Modern Market Borehole in Meru County. The contract was signed on 23 February, 2024 for a contract period of 16 weeks, and the site was handed over on 7 March, 2024 with an expected completion date of 7 July, 2024. Physical inspection carried out in September, 2024 revealed that drilling or equipping activities had not commenced, and the contractor was not on site. Further, no evidence was provided to justify the delay, such as contract extensions or formal communication regarding the delay. The delay denies the community access to water for irrigating the Miraa crops and other domestic uses.

In the circumstances, the value for money on the expenditure of Kshs.9,865,420 spent on the Project could not be confirmed.

1610.5.2 Completed BAT Siakago Miraa Market Shed Not in Use in Embu County

During the year under review, an amount of Kshs.10,573,806 was paid for the construction of the BAT Siakago Miraa Market Shed in Embu County. Review of project documents revealed that, site was handed over on 7 March, 2024 with the expected completion date of 15 September, 2024. However, review of the completion certificate revealed that the project was completed on 15 May, 2024. Physical inspection carried out in the month of September, 2024 revealed that although the market shed was complete, it had not been officially handed over to the community and was not in use.

In the circumstances, the value for money on the expenditure of Kshs.10,573,806 spent on the Project could not be confirmed.

1610.6 Delay in Completion of Homa-Bay ATDC Office Block

During the year under review, an amount of Kshs.26,210,755 was paid to the contractor for the construction of the Homa-Bay Agricultural Technology Development Centre (ATDC) office block. Review of project records revealed that the contract was awarded on 8 March, 2022 at a contract sum of Kshs.32,080,302 and was scheduled for a period of eight months, from 24 March, 2022 to 24 November, 2022.

Physical inspection carried out in September, 2024 revealed that the project was approximately 90% complete, with certified works of Kshs.26,210,755 which had been paid, an indication of delay in completion of the project. Further, the ownership of the land where the office block is constructed could not be confirmed which poses a risk of eviction.

In the circumstances, the value for money of Kshs.26,210,755 spent on the incomplete Project could not be confirmed.

1611. Avoidable Expenditure

Note 20.2 to the financial statements reflects pending accounts payable balance of Kshs.13,630,778,277 which includes an amount of Kshs.1,393,039,106 in respect to debts owed to a Company that arose from a contract between the Ministry of Agriculture and the Company to supply GOK subsidized fertilizer and assigned to National Cereals and Produce Board for implementation. However, supplier went to Court on the matter against National Cereals and Produce Board, Ministry of Agriculture, Livestock and Fisheries and Attorney General where the supplier was awarded the unpaid debt of Kshs.1,393,039,106. In addition, the Government is required to pay the Company Kshs.29,165,499 being legal costs incurred. Further, the outstanding debt would also attract simple interest at the rate of 12% per annum from the date of the award until final payment.

In the circumstances, the interest expenses and legal fees would have been avoided had the Government settled debts on time.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1612. Control Weaknesses at the Pesticides Stores

The State Department for Agriculture, through the Plant Protection Directorate, procured various agricultural materials and pesticides worth Kshs.287,169,958 that were stored in a designated store at Upper Kabete together with items of unknown value procured in previous years. Physical inspection of the items in the store revealed the following issues:

i. The design, layout, and capacity of the store were found to be inadequate for the safe storage of hazardous pesticides. The store was disorganized, with items haphazardly arranged. This lack of order made it challenging to access various items and hindered the ability to carry out regular checks, which are critical for proper pesticide management.

ii. Pesticides were stored directly on the floor, with no clearly labeled shelves or designated sections to separate hazardous pesticides from other items. This lack of organization increases the risk of accidents and mishandling.

iii. Several agricultural materials were piled in a corner, making it difficult to accurately assess stock levels, identify expired items, or detect any damages or spillages. This disorganized storage poses a risk to inventory management and safety.

iv. The store was being used as a general-purpose storage facility rather than a dedicated pesticide store. In addition to pesticides, it contained other non-pesticide items, such as machinery, tyres, promotional materials, and containers. This improper use of the facility increases the risk of contamination and health hazards.

v. The store was lacking adequate waste disposal facilities and did not have sufficient water or other resources necessary to ensure both environmental and human safety during pesticide handling.

In the circumstances, the effectiveness of internal controls in relation to stores management could not be confirmed.

1613. Performance Information

1613.1 Failure to Achieve the Set Objectives

Review of the progress on attainment of strategic objectives through performance contracting as disclosed under the statement of performance against predetermined objectives for the FY 2023/2024 revealed that the State Department did not achieve some objectives as detailed below:

Program	Indicator	Performance	Target as Per Strategic Plan	Variance
Crop insurance	No. of farmers purchasing insurance policies	54,000	400,000	(346,000)
Prioritized Crops Production	MT of rice produced	151,856	280,000	(128,144)
Involve Youth in Modern Agriculture	No. of Pupils and youth trained.	326	400	(74)
Improved Agricultural Mechanization	No. of aggregation centres and stores	1	20	(19)

Program	Indicator	Performance	Target as Per Strategic Plan	Variance
Support to Agricultural engineering technology development	No of technologies /innovations developed and promoted	6	10	(4)
Miraa Farmers Livelihood Improvement	No. of market sheds Constructed	2	5	(3)
Prioritized Crops Production	MT of ware potato produced (million) annually	2	3	(1)

Further, the reported performance indicators lacked supporting data, with no source data provided to support the stated achievements.

In addition, review of the Strategic Plan implementation matrix, which outlines an action plan comprising strategic issues, goals, key result areas, outcomes, and strategic objectives, against the status report as of June, 2024, revealed that several strategic goals and objectives were not achieved.

In the circumstances, the State Department may not achieve its strategic objectives and it was not possible to verify whether the performance indicators were met.

1614. Overstaffing

Review of the staff establishment and payroll data for the year under review revealed that the approved staff establishment for the State Department for Agriculture was six hundred and six (606) positions. However, the actual number of in-post was six hundred and fifty-nine (659) resulting in an overstaffing by fifty-three (53) positions.

In the circumstances, the existence of effective mechanisms for human resource management could not be confirmed.

1615. Lack of an Audit Committee

The State Department did not have an Audit Committee which was contrary to Section 7(5) of the Public Finance Management Act, 2012 which requires every National Government public entity establish an Audit Committee, with its composition and functions as prescribed by the relevant regulations. As a result, the Department did not benefit from the critical oversight provided by an Audit Committee.

In the absence of an 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 could not be confirmed.

1616. Lack of an Internal Audit 3-Years Strategic Plan

During the year under review, examination of internal audit documents submitted for audit and a discussion with the internal audit function revealed that the function did not have a three-year Strategic Plan. This was contrary to Regulation 170 of the Public Finance Management (National Government) Regulations, 2015 which provides that internal audit planning shall be carried out on the basis of risk assessment and shall be set out in a three-year Strategic Plan, on the basis of which an Annual Internal Audit Unit Plan shall be developed on which to anchor its detailed audit planning and to set priorities, focus energy and resources, strengthen operations, ensure that employees and other stakeholders are working toward common goals, establish agreement around intended outcomes and assess and adjust the organization's direction in response to a changing audit environment.

In the circumstances, the State Department lacked a Strategic Plan to provide a long-range overview of budgetary needs that will ensure the audit function is adequately resourced to undertake its mandate.

1617. Lack of an Action Plan for Implementation of Internal Audit Recommendations

Review of internal audit documents and discussions with the Internal Audit Function revealed that, while the State Department provides responses to audit reports, it does not have a formal action plan to implement the recommendations contained in those reports. An action plan is essential as it outlines a proposed strategy and course of action, ensuring that audit findings are addressed and acted upon.

In the circumstances, the existence of effective governance mechanisms on implementation of internal audit recommendations could not be confirmed.

1618. Lack of Financial Policies and Procedures Manual

During the year under review, discussions with Management revealed that the State Department did not have a Financial Manual. A Financial Manual is essential as it outlines an organization's financial systems and procedures, helping the finance function understand its responsibilities for financial management. It also ensures that finance systems and procedures are documented, supporting the overall financial management system and ensuring the accuracy, efficiency, completeness, and transparency of financial operations. The manual would also ensure that financial statements conform to generally accepted accounting principles, safeguard assets, and ensure compliance with applicable guidelines.

In addition, it is a requirement of the Financial Policies and Procedures Manual that the Internal Audit Function appraises the internal control systems, periodically checking for compliance with these policies and procedures. The absence of such a manual therefore undermines the ability to assess and strengthen financial controls and operations effectively.

In the circumstances, the effectiveness of internal controls on financial management could not be confirmed.

1619. Lack of a Risk Management Policy

During the year under review, the State Department did not have an approved Risk Management Policy in place. Further, there was no evidence provided to confirm that the State Department had identified, assessed, or documented risks, or developed controls to address the identified risks. This was contrary to Regulation 165 of the Public Finance Management (National Government) Regulations, 2015, which mandates the Accounting Officer to ensure that the National Government entity develops risk management strategies, including fraud prevention mechanisms, and establishes a system of risk management and internal controls that promote robust business operations.

In the circumstances, the effectiveness of mechanisms put in place to assess, identify, measure, prioritize and mitigate risks in the State Department could not be confirmed.

DONOR FUNDED PROJECTS

KENYA CEREAL ENHANCEMENT PROGRAMME - CLIMATE RESILIENT AGRICULTURAL LIVELIHOOD WINDOW (KCEP-CRAL) EU GRANT NO.2000000623, GRANT NO.2000001522, GRANT NO.2000003493, GRANT NO.2000001122 AND IFAD LOAN 2000001121

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1620. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1621. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final total receipts budget of Kshs.2,075,500,000 against actual receipts of Kshs.1,923,848,167 resulting in an under-funding of Kshs.151,651,833 or 7% of the budget. However, the Project spent an amount of Kshs.2,060,049,135 against actual receipts of Kshs.1,923,848,167 resulting in an over-utilization of Kshs.136,200,968 of the receipts. This was an over-expenditure that might result to pending bills.

1622. Delayed Disbursement of Donor Funds

During the financial year under review an amount of USD 3,725,901.40 (Kshs.447,108,168) for IFAD Loan Number 3000001121 and USD 8000 IFAD Grant

No.2000001122 disbursed by the donor during the year had not been transferred to the project as at 30 June, 2024.

The delayed disbursement of funds affected the planned activities and may have impacted negatively on delivery of goods and services to the public.

1623. Delayed Absorption of Funds

International Fund for Agriculture Development (IFAD) Granted a No cost extension and Reallocation for IFAD financing of KCEP CRAL – Loan No.2000001121 and Grant No.2000001122 on 07 September, 2022. The new project completion and closing date were 30 September, 2024 and 31 March, 2025 respectively, applicable to both the IFAD loan and ASAP (Adaption for Smallholder Agricultural Programme Trust Fund) grant financing. However, as at 30 June, 2024 unutilized IFAD loan and ASAP Grant balance was Kshs.769,413,323 and Kshs.558,005,683 respectively, totalling to Kshs.1,327,419,006.

In the circumstances, the delay in commissioning of the projects is negatively affecting delivery of goods and services to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1624. Non-Remittance of Counterpart Funds

The statement of receipts and payments as disclosed in Note 1 to the financial statements reflects transfer from Government entities - National Government amounting to Kshs.100,000,000. Review of the records revealed that the Government was expected to transfer a total Euro 2,395,400.00 (Kshs.323,379,000) under EU Grant No.2000000623 and 2000001522 and USD 1,500,000.00 (Kshs.180,000,000) under Loan No.2000001121 and ASAP Grant No.2000001122 all amounting to Kshs.503,379,000. However, as at 30 June, 2024 the GoK had transferred a total of Kshs.397,943,218 thus unremitted balance of Kshs.105,435,782, contrary to the Financing Agreement for KCEP Programme.

In the circumstances, the non-remittance of the counterpart funding may have impacted negatively on the implementation and development of the Programmes hence affecting delivery of goods and services to the public.

1625. Construction of Civil Works

The statement of receipts and payments reflects acquisition of non-financial assets balance of Kshs.848,680,455 as disclosed in Note 8 to the financial statements. However, audit of this expenditure revealed the following unsatisfactory matters:

1625.1 Construction of Bikasombe Water Pan in Kilifi County

The balance of Kshs.848,680,455 includes construction of civil works amount of Kshs.757,896,512 out of which, an amount of Kshs.22,817,050 was for the Construction of Bikasombe Water Pan in Kilifi County signed on 31 October, 2023 with a contract period of 4 months.

Physical audit verification revealed several works outlined in the Bill of Quantities were not completed. These included the installation of a solar submersible multistage centrifugal pump and motor set, valued at Kshs.265,900, and a 0.75 KW sub-motor, worth Kshs.145,000. Additionally, a 1.5 KW control module AC/DC inverter for solar-powered AC motors, costing Kshs.76,000, and a sun switch light sensor, valued at Kshs.34,000, were also not installed. The supply, assembly, and testing of a floating pontoon system, including mounting the pump, amounting to Kshs. 30,000, remained undone as well.

In the circumstances, the value for money on the disbursements amounting to Kshs.22,817,050 towards the projects could not be ascertained.

1625.2 Construction of Kauti Earth Dam in Machakos County

The balance of Kshs.848,680,455 includes construction of civil works amount of Kshs.757,896,512 out of which, an amount of Kshs.11,843,749 was for the Construction of Kauti Earth Dam in Machakos County vide Contract No. MOALD/SDCD/KECEP-CRAL/PROC/201/2023-2024 signed on 31 October, 2023 with a contract period of 4 months.

Physical verification revealed that several works specified in the Bill of Quantities were yet to be completed. These included the installation of a solar submersible multistage centrifugal pump and motor set, valued at Kshs.200,000, the installation of a 0.75 KW sub-motor costing Kshs.125,000, and pipe work for raising mains, amounting to Kshs.226,800. Failure to install the above items may result to beneficiaries not receiving the intended benefits as expected.

In the circumstances, the value for money on the disbursements amounting to Kshs.11,843,749 towards the projects could not be ascertained.

1626. Lack of Ownership Documents

The Food and Agriculture Organization of United Nations surrendered four (4) vehicles to KCEP - CRAL on 09 July, 2023 as per the Financing Agreement for KCEP Programme Grant No.2000001064. The transfer of ownership of motor vehicle (Traffic Act Cap 403, Section 9) to the Ministry of Agriculture and Livestock Development was initiated on 21 July, 2023 as highlighted in the transfer documents. However, as at August, 2024 no new registration certificate had been issued for the vehicles.

In the circumstances, the ownership documents could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1627. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1628. As required by the International Fund for Agricultural Development (IFAD) and the financing agreement, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and, the Project's financial statements are in agreement with the accounting records and returns.

MULTI-NATIONAL DROUGHT RESILIENCE AND SUSTAINABLE LIVELIHOODS PROGRAMME (DRSLP) IN THE HORN OF AFRICA (ADF LOAN NO.2100150028345)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1629. 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

1630. Failure to Transfer GOK Counterpart Funds through the Project Bank Account

The statement of receipts and payments reflects receipts amounting to Kshs.661,182,835. Included in the receipts is an amount of Kshs.80,276,063 in respect of transfers from Government entities as disclosed in Note 1 to the financial statements. Review of the supporting documents revealed that the amount was the GOK counterpart funding through the State Department for Agriculture which was supported by direct payment made by the State Department on behalf of the Project. This was contrary to Regulation 74(5) of the Public Finance Management (National Government) Regulations, 2015 which require that Monies received for specified projects which have been paid into the Consolidated Fund be released when required to the appropriate project bank account. Hence, it was not possible to confirm whether Management had full control of the amount.

In the circumstances, Management was in breach of the law.

1631. Delayed Absorption of Funds

African Development Bank Granted a No-cost-extension for DRSLP – Kenya on 6 September, 2023 through Memo No. AFDB/RDGE/LTR/2023/09/011. The Bank had no objection extending the last disbursement date of the Project from 30 June, 2023 to 31 December, 2023. However, as at 31 December, 2023 unutilized African Development Bank loan balance was Kshs.13,288,246. No clear explanations were given as regards to the delayed absorption of funds.

In the circumstances, the delays in absorptions may result in costs overruns and stakeholders may not get value for their resources in these projects.

1632. Construction of Livestock Sale Yard at Kampi Nyasi in Baringo County

The Management awarded a Contract for construction of Kampi Nyasi Livestock Market - Sale yard in Baringo amounting to Kshs.12,193,417 which was completed and handed over to the community. Physical verification in the month of October, 2024 revealed that the yard had been run down yet the County Government of Baringo was collecting livestock cess fees of Kshs.300 and Kshs.100 per cow and goat/sheep respectively. The County Government was not remitting any funds back to the community, for operations and maintenance of the sale yard.

In the circumstances, public resources may have gone to waste on these projects.

1633. Incomplete Works for the Construction of Kaptiony – Kiboi Foot Bridge Dam in Baringo County

The statement of receipts and payments as disclosed in Note 8 to the financial statements reflects acquisition of non-financial assets of Kshs.544,000,942 which includes an amount of Kshs.359,553,498 in respect of construction of Kaptiony – Kiboi Foot Bridge Dam in Baringo County through a Contract dated 31 October, 2021 at a contract sum of Kshs.586,191,092. Physical verification in the month of October, 2024 revealed that the Project was 80% complete as per the Project and Resident Engineers Reports. The Project had unspent balance of Kshs.59,064,773.

However, several works listed in the bill of quantities remained incomplete. The Kaptioni-Kiboi Foot Bridge Main Dam, valued at Kshs.232,576,226, was 88% complete, while intake works for the Kaptiny Main Dam, worth Kshs.1,938,300, were 90% complete. The conveyance system for the Kaptiony Main Dam, estimated at Kshs.97,981,900, had reached 97% completion. However, the Tulwongoi (Big Rock) concrete gravity check dam, costing Kshs.201,325,320, and the spillway check dam, valued at Kshs.5,993,000, were both only 55% complete. Notably, the intake works for the check dam, worth Kshs.1,938,300, had not yet begun.

In addition, debris was washed back to the main and check dams. This was occasioned by heavy rains experienced in the region in the months of April to June, 2024 and August - September, 2024.

In the circumstances, the stakeholders may not obtain value for money for the resources already spent on the projects.

1634. Terminated Contracts

Project Management implemented projects on boreholes, cattle yard and irrigation scheme in participating Counties (Baringo, West Pokot, Marsabit, Turkana, Samburu,) amounting to Kshs.391,354,450 in respect of sixteen (16) contract agreements which were later terminated for non-performance. Of the total contract sum of Kshs.391,354,450, the Project had paid for works undertaken amounting to Kshs.120,010,095 at the point of termination. The reasons for termination ranged from insecurity issues, non-performance and in one instance, request from a contractor.

Although**,** Management explained that some of the works had been re-advertised and new sites identified to replace the dried-up boreholes and shallow wells in the participating Counties with the intention of ensuring that the beneficiary communities received value for the investments, the costs incurred did not translate to benefits to the public.

In the circumstances, public resources may have gone to waste on these projects.

1635. Drilling and Equipping of Boreholes

1635.1 Drilling of Boreholes in Three (3) Counties Turn Salty

Project Management engaged contractors to drill and equip six (6) boreholes in three (3) participating counties at a contract sum of Kshs.52,081,906 with Kshs.19,319,246 already disbursed for works undertaken in drilling the boreholes. However, the boreholes in Isiolo County (Delbege, Waldiri, Hawaye, Qone Daaba), Turkana County (Katilu) and Samburu County (Lowobane) were found salty and not fit for human or domestic use.

In the circumstances, public resources may have gone to waste on these projects.

1635.2 Unproductive (Dry) Drilled Boreholes

Project Management engaged contractors to drill and equip four (4) boreholes in three (3) participating Counties at a contract sum of Kshs.27,046,767 and paid an amount of Kshs.7,803,540. However, the boreholes in Marsabit County (Soito), West Pokot (Kishaunet, Munyan Masol) and Baringo County (Kapkiamo) were drilled but were found unproductive (dry) with no water.

In the circumstances, stakeholders and target beneficiaries have not obtained value for money from the resources spent on this project.

1636. Completed Community Projects not Commissioned

Management implemented twenty-eight (28) Community projects in the five (5) participating County regions namely; Samburu County, Marsabit County, Isiolo County, Baringo County, West Pokot County and Turkana County. However, Community Investments amounting to Kshs.908,753,413 were completed but not yet commissioned and handed over to the community by the respective Counties.

No clear explanations were provided for audit review on why the projects were not commissioned and handed over to the communities.

In the circumstances, the value for money of resources spent on the Projects could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1637. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1638. As required by African Development Bank and African Development Fund, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I report based on my audit, that:

i. The Programme`s funds have been used in accordance with the conditions of Protocol of Grant Agreement with due attention to economy, efficiency and effectiveness for the purposes for which they were provided;

ii. Goods and services financed have been procured in accordance with the Protocol of Grant Agreement and the Bank’s and Fund`s rules and procedures;

iii. Necessary supporting documents, records and accounts have been kept in respect of all Programme activities;

iv. Adequate internal control to monitor expenditure and other financial transactions and ensure safe custody of assets exist;

v. Ledgers and fixed assets register for the Programme’s assets have been maintained as required.

vi. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit;

vii. In my opinion, adequate accounting records have been kept by the Programme, so far as appears from the examination of those records; and,

viii. The Programme’s financial statements are in agreement with the accounting records and returns.

SMALL-SCALE IRRIGATION AND VALUE ADDITION PROJECT - ADF LOAN NO. 2000130014530 AND GRANT NO 5570155000751

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1639. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1640. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final budgeted and actual receipts of Kshs.718,700,000 and Kshs.1,138,416,830 respectively resulting to an un budgeted funding of Kshs.419,716,830. Similarly, the statement of comparison of budget and actual amounts reflects final budget and actual payments of Kshs.718,700,000, and Kshs.1,150,666,860 respectively resulting to an over-expenditure of Kshs.431,966,860 or 60% of the budgeted amount.

The over-expenditure on some budget lines may have affected some of the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1641. Project Implementation Status

The project objectives of Loan Agreement No:2000130014530 states that the Small-Scale Irrigation and Value Addition Project (SIVAP) is designed to focus on eleven counties within a few arid and mostly semi-arid lands, namely; Kitui, Makueni, Machakos, Tana-River, Bomet, Meru, Tharaka-Nithi, Nyandarua, Muranga, Kajiado and Nyeri counties. The broad objective of SIVAP is to contribute to poverty reduction by enhancing agricultural productivity and income and food security among beneficiaries of these 11 Counties. However, during the field verification in September, 2024, it was observed that various projects are in different stages of implementation, other projects have stalled and several are behind schedule.

In the circumstances, the objective of the project may not be realized fully by the close of the Project in June, 2025.

Basis for Conclusion

1642. Performance Against Predetermined Objectives

The Project was financed through a grant and a loan. The grant period ended in June, 2023 while the Loan period will end on 30 June, 2025. The project's objectives were divided into four (4) components listed below under Grant and loan;

i. Irrigation infrastructure and water resources development

ii. Access to markets and strengthening value chains

iii. Institutional strengthening and capacity development

iv. Project coordination and management

Verification of project documents provided for audit revealed that while the grant period lapsed and the loan period is almost coming to an end some activities under these components were yet to be completed as detailed in the table below;-

Component 1 - Outstanding Activities	Component 2 - Outstanding Activities
71 Micro-Irrigations Schemes not yet done	2 Post-Harvest handling facilities not completed
5 Harvesting Structures not yet done	7 Livestock Yards not yet done.
25 Ground Water Development Structures not done	

The activities that were outstanding by the closure of grant component were rolled out under loan component. These include;

i. 3 New grading/marketing sheds for Meru, Tharaka-Nithi and Kitui which were ongoing.

ii. New Livestock sale yards rolled out under loan component and were at different stages of implementation.

iii. Construction of additional 45.9 Km access roads (Meru 33.9 Km and Kitui-12Km) on-going under loan component.

iv. Construction for Ndiriti Aguthi irrigation scheme and grading/marketing shed re-advertised and awarded under loan component was still ongoing.

Further, it was noted that there were activities under loan components which is closing in June, 2025 which were in different stages of completion.

In the circumstances, some activities under loan may not be completed by closure of the loan component due to slow pace of implementation meaning that all objectives of the project may not be achieved.

1643. Failure to Transfer GOK Counterpart Funds through the Project Account

The statement of receipts and payments reflects receipts amounting to Kshs.1,138,416,830. Included in the amount is an expenditure of Kshs.99,031,523 in respect of transfers from Government entities as disclosed in Note 1 to the financial statements. Review of the supporting documents revealed that the amount was the GOK counterpart funding through the State Department for Agriculture. This was supported by direct payment made by the State Department on behalf of the project which is contrary to regulation 74(5) of the Public Finance Management (National Government) regulations, 2015 which require that Monies received for specified projects which have been paid into the Consolidated Fund be released when required to the appropriate project bank account.

In the circumstances, it was not possible to confirm whether the project coordination unit had full control of the project funds.

1644. Unutilized Grant Balance

The project commenced on July, 2016 following an agreement with the African Development Bank on 04 February, 2016 with an expected closing date of 30 June, 2022. The project management sought for a no-cost extension on 21 September, 2021 for one year up to 30 June, 2023 and further to that another extension to June, 2024 for which no objection was granted. Review of the financial statement revealed an undrawn grant balance of Kshs.617,181,052 as at June, 2024.

Further Note 11 of the financial statements reflects Project bank accounts balances as at 30 June, 2024 totaling to 232,825. Included in this is a project account with a grant balance amounting to Kshs.108,402 which ended on 30 June, 2024. No explanation was given for failure to close the accounts and transfer the unutilized balances to the special deposit account as required in the loan agreement.

In the circumstances, the Project Management was in contravention of the requirements of the financing Agreement.

1645. Slow Implementation of Projects and Delay in Overall Project Completion

The Government of Kenya entered into the agreement with the African Development Bank for the implementation of the Small-Scale Irrigation and Value Addition Project (SIVAP) which commenced on 01 July, 2016 with an expected closing date of 30 June, 2022. The Project Management sought for a one year No-cost extension to 30 June, 2023 and a further extension to 30 June, 2025 for which a no objection was granted. However, as at the time of audit in the month of September, 2024, several projects had not been concluded and about 35% of the loan amount had not been absorbed.

The delay in completion and the slow rate of absorption of funds implies that some activities may not be implemented, and this might negatively impact on achievement of the goals of the project.

1646. Terminated and Abandoned Projects

Review of construction contracts and payment records revealed that the Project Management awarded contracts for various civil works to various contractors. However, review of the Projects' status reports and physical inspection of the works in the month of September, 2024 revealed that seventeen (17) contracts with combined contract sums totalling Kshs.391,072,333 out of which Kshs.263,651,215 had been paid as at 30 June, 2024 had been terminated and some abandoned for various reasons.

Management explained that some of the works were re-advertised and new sites identified to replace the dried-up boreholes and shallow wells in Tana River region. This was with the intention of ensuring that the beneficiary communities received value for the investments. However, the costs already incurred did not translate to benefits to the public.

In the circumstances, value for money on the expenditure of Kshs.263,651,215 incurred on the terminated and abandoned projects could not be confirmed.

1647. Delay in the Implementation of Rubiru Irrigation Scheme

A contract for the construction of Rubiru Irrigation Scheme in Murang'a County was awarded to a contractor on 04 January, 2022 at a contract sum of Kshs.538,793,797. The contract was for an initial contract period of one year which was extended to 30 June, 2023. However, review of records and physical inspection of the project in the month of September, 2024 revealed that the project was incomplete and was at an estimated 80% level of completion and a total of Kshs.284,775,327 had been paid towards the project. Management explained that the delay was occasioned by denied wayleave for water pipes. However, the correspondences provided indicate that the wayleaves were sought by the Management on 30 October, 2023 long after the commencement of the works and expiry of the contract period and evidence that the intended recipient received the request was not provided for audit verification.

In the circumstances, stakeholders may not obtain value for money on the expenditure incurred on the project.

1648. Failure to Operationalize Honey Refineries

The statement of receipts and payments reflects total payments of Kshs.871,665,870 Included in the amount is an expenditure of Kshs.606,176,933 in respect of acquisition of non-financial assets as reported in Note 8 of the financial statement. Included in the expenditure are payments totalling to Kshs.48,405,699 in respect of honey refineries among beneficiary counties. A physical verification of sampled refineries in the month of August, revealed that none of the refineries was equipped and operational, therefore not serving the intended purpose.

In the circumstances, value for money for this expenditure of Kshs.48,405,699 incurred on the non-operational refineries could not be confirmed.

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

Basis for Conclusion

1649. Lack of Risk Management Policy

During the year under review the project under the State Department for Agriculture did not have an approved Risk Management Policy and a Risk Register to document risks emanating from the users and the mitigation factors in place to minimize the risks.

In the circumstances, the risk management strategies, which includes fraud prevention mechanism and a system of risk management and internal control that builds robust business operations could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1650. As required by African Development Bank and African Development Fund, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I report based on my audit, that:

i. The Project`s funds have been used in accordance with the conditions of Protocol of Grant Agreement with due attention to economy, efficiency and effectiveness for the purposes for which they were provided;

ii. Goods and services financed have been procured in accordance with the Protocol of Grant Agreement and the Bank's and Fund`s rules and procedures;

iii. Necessary supporting documents, records and accounts have been kept in respect of all Project activities;

iv. Adequate internal control to monitor expenditure and other financial transactions and ensure safe custody of assets exist;

v. Ledgers and fixed assets register for the Project's assets are maintained as required.

vi. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit;

vii. In my opinion, adequate accounting records have been kept by the Project, so far as appears from the examination of those records; and,

viii. The Project financial statements are in agreement with the accounting records and returns.

CAPACITY DEVELOPMENT PROJECT FOR ENHANCEMENT OF RICE PRODUCTION IN IRRIGATION SCHEMES IN KENYA (CADPERP) (PROJECT NUMBER 1161001009)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1651. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1652. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts amounting to Kshs.35,000,000 against actual receipts amounting to Kshs.30,316,434 resulting to a shortfall of Kshs.4,683,566 or 13% of the budget.

The shortfall in receipts resulted in delayed implementation of the planned project activities.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1653. 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

1654. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1655. As required by Japan International Cooperation Agency and GoK agreement No.1161001009 dated 29 April, 2004, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Programme, so far as it appears from the examination of those records; and the Programme's financial statements agree with the accounting records and returns.

NATIONAL AGRICULTURAL VALUE CHAIN DEVELOPMENT PROJECT (CREDIT NO. IDA-7064-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1656. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1657. Under Absorption of Funds by County Government of Kwale

The statement of receipts and payments reflects transfers to the county governments of Kshs.6,683,510,933 as disclosed in Note 12.6 to the financial statements. Included in this amount is Kshs.199,781,175 sent to Kwale County and whose project cash book reflected a balance of Kshs.182,525,640 implying that the funds were unspent as at the close of the financial year. Further, review of the County Revenue Fund revealed that the amount of Kshs.195,079,224 was received on 30 May, 2024 and paid to the project account on 14 June, 2024.

In the circumstances, delayed disbursement of funds by the National Government denied the project the opportunity to achieve its objectives.

My opinion is not modified in respect of this matter.

Other Matter

1658. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues or given any explanation for the failure to resolve them as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1659. Counterpart Funding

1659.1 Failure to Disburse County Counterpart Funds

The approved annual workplan and project budget for the financial year 2023-2024 indicated that, each of the counties benefiting from the Project were required to remit Kshs.5,000,000 during the year as counterpart funding. However, sixteen (16) or 48% of the thirty-three (33) beneficiary counties of Kilifi, Meru, Kitui, Machakos, Makueni, Muranga, Kiambu, Trans Nzoia, Uasin Gishu, Nandi, Nakuru, Kajiado, Bomet, Kakamega, Kisumu and Homa Bay did not transfer any funds to the project at the county government level.

In the circumstances, the Project was underfunded by Kshs.80,000,000 county counterpart funds which were not paid to the Project as per the Project plan.

1659.2 Delays in Counterpart Funding by the County Government

Analysis of the Project's Central Bank statement revealed that county counterpart funding of Kshs.5,000,000 was received into the account on 8 July, 2024 after the closure of the financial year.

In the circumstances, delays in disbursement may delay implementation of project activities.

1660. Failure to Transfer Money to the Commercial Bank

Analysis of the Central Bank Special Purpose Account statement for the period ending 9 June, 2024 revealed a bank balance of Kshs.9,701,951 which includes transfers from County Government of Kshs.5,000,000 and transfers of donor funding of Kshs.4,701,951 received on 8 July, 2024 and 3 September, 2024 respectively. However, there was no evidence of transfers of the monies to the operations account as at the time of audit.

In the circumstances, delayed transfer of funds to the operations account implies that the Project may not have been able to meet its strategic objectives.

1661. Staff Changes in the County Project Coordination Unit-Kilifi County

Verification of project staff at the county in comparison to the list of project staff provided from the project head office in Nairobi revealed that there were changes in the County Project Coordination Unit for Kilifi County. It was noted that the County Agricultural Development Officer was changed and no documentation was provided to support the regularity of the changes in staff.

In the circumstances, the regularity of the change in the County Project Coordination Unit for Kilifi County could not be confirmed.

1662. Low Implementation of Component 2 on Climate Smart Value Chain Ecosystem Investments

The National Value Chain Development Project is funded through a loan from International Development Association (IDA) and the Government of Kenya. Its overall objective is increasing market participation and value addition for target farmers in select value chains in project areas, an objective to be achieved through implementation of four component areas. Review of the expenditure for the year revealed that, component 2 that focuses on supporting enabling climate-smart value chain ecosystem investments identified at community, county, and regional levels (spanning several counties) and national value chain development plans on Climate Smart Value Chain Ecosystem Investments is at 17% implementation with the project being almost mid-way of its duration.

In the circumstances, the community might not benefit from the investments that are aimed at improving irrigation infrastructure availability, boosting market participation of small-scale farmers and catalyzing higher level value addition.

1663. Idle Assets

1663.1 Procurement of Tablets

The statement of receipts and payments reflects transfers to County Government balance of Kshs.6,683,510,933 as disclosed in Note 12.6 to the financial statements. The amount includes Kshs.204,781,175 transferred to County Government of Kwale which in turn includes Kshs.2,454,734 for the purchased one hundred (100) tablets. The tablets which were delivered on 14 June, 2024 and an inspection and acceptance report done on 21 June, 2024 were for the purposes of training farmers to collect farming data under Agriprenuers. However, physical verification of the assets on 13 September, 2014 established that all the 100 tablets were yet to be distributed and were stored at the County Project Coordinating Units offices.

In the circumstances, value for money may not be realized for the money spent on procurement of tablets and the intended benefits may not have been achieved by the community.

1663.2 Procurement of Motorbikes and Helmets

Further, the Kshs.204,781,175 transferred to County Government of Kwale includes Kshs.7,798,200 for the purchase of motorbikes and helmets. Review of respective payment vouchers and the supporting documents revealed that 15 motorbikes and helmets were delivered on 24 June, 2024 and inspection and acceptance done on 25 June, 2024. However, as at the time of audit on 13 September, 2014, the motor bikes and helmets were yet to be distributed to the intended beneficiaries.

In the circumstances, value for money may not have been realized for the money spent on procurement of motorbikes and helmets and the intended benefits may not have been achieved by the community.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1664. Lack of a 3-Year Internal Audit Strategic Plan

Review of internal audit documents submitted for audit revealed that the function did not have a three-year strategic plan on which to anchor its detailed audit planning and to set priorities, focus energy and resources, strengthen operations, ensure that employees and other stakeholders are working toward common goals, establish agreement around intended outcomes and assess and adjust the organization’s direction in response to a changing audit environment. Further, the strategic plan would provide a long-range overview of budgetary needs that would ensure the audit function is adequately resourced to undertake its mandate.

In the circumstances, the effectiveness of internal controls and governance could not be confirmed.

1665. Lack of a Risk Management Policy

The Project did not have a risk management policy contrary to Regulation 165(1) of the Public Finance Management (National Government) Regulations, 2015 which requires each National Government entity to develop risk management strategies and a system of risk management to enable the county to identify and develop appropriate risk strategies in order to improve on effective and efficient management of public resources. In light of this, therefore, risk assessments were not conducted.

In circumstances, the effectiveness of the Project's risk management measures could not be confirmed.

1666. Lack of Internal Audit Charter

During the year under review, scrutiny of Internal Audit documents provided for audit revealed that the project did not have an internal audit charter that provided for an independent, objective assurance and consulting activity to improve the operations of the Project. The charter defines the nature of assurances and guide the day-to-day appraisals of performance and internal controls. Further, it assists the project in accomplishing its objectives by bringing a systematic and disciplined approach to evaluate and improve the effectiveness of the organization's governance, risk management and internal control.

In the circumstances, the effectiveness of internal controls and governance could not be confirmed.

NATIONAL AGRICULTURAL AND RURAL INCLUSIVE GROWTH PROJECT (IDA CREDIT NO. 5900-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1667. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1668. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.638,947,150 and Kshs.997,228,799 respectively resulting to an overfunding of Kshs.358,281,649 or 56% of the budget.

Similarly, the statement of comparison of budget and actual amounts reflects final payments budget and actual on comparable basis of Kshs.638,947,150 and Kshs.1,176,608,139 respectively resulting to an over-expenditure of Kshs.537,660,989 or 84% of the budget.

In the circumstances, the excess receipts and over-expenditure was not supported by approval from the Parent Ministry.

My opinion is not modified in respect of this matter.

Other Matter

1669. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues or given any explanation for the failure to resolve them.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1670. Non-Remittance of Counterpart Funding by Counties

Analysis of funds remitted by Counties revealed that five (5) Counties of Kitui, Makueni, Turkana, Migori and Kwale did not remit any funds towards the Project during the financial year under audit. These Counties received funds from the donor and the National Government. This was contrary to the Project Appraisal Document (PAD) which outlines the various Project components and indicates the total component cost is made up of the portion to be funded by the donor and the County Governments are expected to provide the remaining funding to ensure achievement of project objectives. As per the Subcomponent 3.2: County Investment and Employment Programs was estimated at US$62 million out of which IDA funding was US$55 million while the remaining US$7 million was to be provided through counterpart funding by the Counties. Non-remittance of counterpart funding reduces the ownership of the Project by the Counties and hinders proper execution of Project activities due to insufficient funds.

In the circumstances, the County Governments were in breach of the Financing Agreement.

1671. Anomalies on the Contract for Rehabilitation of Nyalani Irrigation Scheme in Kwale County

The County Government of Kwale entered into a contract with a local contractor for the rehabilitation of Nyalani Irrigation Scheme at a total contract sum of Kshs.48,109,834. Physical verification carried out in September, 2024 and a discussion with farmers revealed the following:

i. The Nyalani Irrigation Water Users Association is yet to receive its registration certificate despite the association paying its society registration fee of Kshs.5,300.

ii. The farmers have a challenge of accessing markets due to lack of transport, this leads to loss of produce.

iii. The farmers do not have proper storage of the produce before they are taken to the market and farmers just lay their produce on the floor despite producing perishable produce like tomatoes leading to loss of the produce.

iv. Nyalani irrigation scheme does not have a title deed and the total acreage where the project is located could not be confirmed.

In the circumstances, the above anomalies may deny the public the opportunity to benefit fully from the activities that would have been undertaken with the investment in the scheme.

1672. Construction of Avocado Aggregation Centre at Riakiania Market in Kirinyaga County

The County Government of Kirinyaga entered into a contract for the construction of Avocado Aggregation Centre at Riakiania Market at a contract sum of Kshs.17,760,457. Physical verification carried out in October, 2024 revealed that the contractor was not on site and the works were complete and handed over to Farmers Producer Organization yet the Centre had not been operationalized or put to use.

In the circumstances, value for money may not be realized from the expenditure incurred on the establishment of Avocado Aggregation Centre at Riakiania Market.

1673. Construction of Togonye Tomato Market in Kirinyaga County

The County Government of Kirinyaga entered into a contract for the establishment of tomato market at a contract sum of Kshs.17,977,803. However, physical verification carried out in October, 2024 revealed that the market was completed but had not been put into use as traders continue to sell their produce outside the market, citing lack of water in the market as the key reason.

Further, the Bio-Eco toilet block costing Kshs.2,358,120 was constructed but had never been put to use due to lack of water.

In the circumstances, value for money may not be realized from the expenditure incurred on the establishment of Togonye Tomato Market.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1674. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1675. As required by Financing Agreement No.5900-KE between International Development Association and the Republic of Kenya dated 14 October, 2016, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

KENYA CLIMATE SMART AGRICULTURE PROJECT (IDA CREDIT NO. 5945-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1676. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1677. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.470,520,164 and Kshs.183,968,587 respectively resulting in an under-funding of Kshs.286,551,577 or 61% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1678. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues or given any explanation for the failure to resolve them.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1679. Expiry and Non-Renewal of Rent Lease

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects the purchase of goods and services of Kshs.301,325,329. Included in the balance is other operating expenses of Kshs.93,494,336 out of which an amount of Kshs.10,564,620 is in respect of rent for the third-floor office, Capitol Hill Building. The State Department for Crop Development in the Ministry of Agriculture and Irrigation entered into a contract to rent the office space of 3,000 square feet on 12 March, 2018 and 16 January, 2019 for the right and left wings of third floor respectively for six (6) years running from 01 October, 2017 and 01 July, 2018 respectively, which was at the rent rate of Kshs.85 per square feet and a service charge of Kshs.20 per square feet exclusive of VAT. This translates to Kshs.365,400 per month inclusive of VAT. The contracts for the rent payment expired in October, 2023 and June, 2024 for the right and left wing respectively. However, as at the time of the audit, these contracts had not been renewed.

In the circumstances, the effectiveness and value for money on assets management could be confirmed.

1680. Delayed Completion of Isiolo Abattoir

The statement of receipts and payments and as disclosed in Note 1 to the financial statements reflects transfer from County Governments of Kshs.170,520,164. Included in this amount is Kshs.90,000,000 to Isiolo County for payment of various contractors at Isiolo abattoir. The contracts for the abattoir amounted to Kshs.748,095,161. Review of the Project implementation report for the abattoir reveals that the projected current cost to completion of the Project is Kshs.1,000,546,760 against the tender sum of Kshs.748,095,161 leading to cost escalation by Kshs.252,451,599 attributable to various variations and delays in completion. In this respect, the public may not receive value for money due to continued delay in completion and cost overruns despite the project having spent a total of Kshs.451,230,000 during the year under review.

In the circumstances, the project may not get value for money and delay on implementation will lead to cost escalation on the Project.

1681. Rehabilitation and Upgrade of Wajir Livestock Training Institute

Verification of the Project documents provided for audit revealed that Management through Wajir Livestock Training Institute engaged two contractors to rehabilitate and upgrade Wajir Livestock Training Institute at a total tender sum of Kshs.97,240,810.

Physical verification carried out in October, 2024 revealed that the first contractor was contracted to carry out construction of the leather unit, ablution blocks, beekeeping unit and post-mortem unit which were substantially completed but they had not been put to use several months after completion begging questions of whether the expenditure was justified. Also noted is that the ablution block did not have water and therefore could not be used yet a borehole had been drilled and equipped to serve the Institute.

Further, the second contract was for among other things to drill, equip and pipe the borehole water to the institute. This contractor did not complete the works and another contractor, was engaged to complete the water reticulation at a tender sum of Kshs.9,000,000 and payment made. Despite the expenditure, the Institute does not own the land where the borehole and the tanks are erected and therefore does not have any ownership document which therefore poses risk of loss of public funds if a dispute arise.

In the circumstances, value for money on expenditure on these rehabilitations and upgrade of Wajir Livestock Training Institute could not be confirmed.

1682. Delayed Upgrading of Biricha Irrigation Water Project and Construction of Water Storage Tanks in Mugunda Ward

As previously reported, the County Government of Nyeri entered into a contract on 26 July, 2021 for the upgrading of Biricha Irrigation Water Project and the Construction of Water Storage Tanks in Mugunda Ward. Review of documents revealed that the contractor was paid an amount of Kshs.18,321,908. However, the contract was terminated on 19 January, 2024 due to a fundamental breach of the contract by the contractor and Management has not initiated modalities of completing the remaining works.

In the circumstances, value for money may not be achieved from the Water Project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1683. There were no material issues relating to effectiveness of internal controls, risk management and governance.

ENABLE YOUTH KENYA PROGRAM (ADF LOAN NO.2100150038895)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1684. There were no material issues noted during the audit of the financial statements of the Program.

Emphasis of Matter

1685. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.255,000,000 and Kshs.144,896,289 respectively resulting to an underfunding of Kshs.110,103,711 or 43% of the budget.

Although the Management explained that the under-funding was as a result of budget cuts during the supplementary budget II, this affected the overall planned activities of the Program.

Further, Management spent an amount of Kshs.123,886,019 out of actual receipts of Kshs.144,896,289 resulting to an underutilization of Kshs.21,010,270 or 15% of the actual receipts.

The under-funding, underutilization and slow absorption of funds affected the planned activities and may have impacted negatively on delivery of goods and services to the public.

1686. Slow Absorption of Project Funds

As disclosed under Note 2.2 of the project information, the program is expected to close on 30 June, 2025. Additionally, Note 2.7 on funding summary indicates commitment made towards the Program amounting to Kshs.3,751,072,500 (USD 36,330,000). However, actual drawdowns as at 30 June, 2024 amounted to Kshs.1,080,051,253 (USD 10,460,545) leaving a balance of Kshs.2,671,021,247 (USD 25,869,455) undrawn with nine (9) months to the Program end date.

In the circumstances, the Program slow absorption of the funds may affect the planned activities.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1687. Non-Adherence to the Provisions of the Loan Agreement

Review of the activities relating to the Program revealed that Management had substituted one of the Program's geographical locations from the original list of eight (8) identified in the agreement. Management substituted Laikipia University (Samburu) for Regional Pastoral Training Center in Narok. No documentation was provided to support the change of scope of the Program.

Further, the incubation activities were to be conducted under two categories namely standard incubation for unemployed, graduated and acceleration for those youths already engaged in agribusiness but lack access to finance and market linkages, with a youth target of 60% and 40% of the categories respectively. Review of documents in support of the youths trained revealed that the incubation was being offered to the acceleration category only.

In the circumstances, Management was in breach of the Loan Agreement.

1688. Delayed Disbursements and Project Implementation

The Program Funding Summary indicates that African Development Bank had contributed Kshs.862,800,762 equivalent to 27.9% of the Banks committed funds and the Government of Kenya had contributed an amount of Kshs.164,065,719 equivalent to 25% of the GoK committed funds for the Program. However, no funds had so far been received from Agricultural Finance Corporation (AFC).

Although Management indicated that the subsidiary agreement for Risk Guarantee Fund Facility was finally signed on 8 March, 2023, payment for service charge, commitment charges and interest were ongoing with no commitment from the financiers as to when the outstanding funds would be disbursed to the Project.

In the circumstances, there may be loss of funds through payment of commitment fees, services charge and interest.

1689. Delay in Training and Empowering of Youths

The Project targeted to train a total of two thousand and eighty (2,080) youths in four (4) cohorts each comprising of five hundred and twenty (520) youths. Review of documents however revealed only four hundred and thirty-two (432) youths in the first two (2) cohorts or 21% of the total targeted youths had been trained and successfully incubated. Cohort three (3) training was ongoing while cohort four (4) training had not started. Management attributed the slow progress to a dispute with the Service Provider who under-performed on the contract.

Although Management claimed to have invoked the termination clause, no evidence was provided to support termination of the Project neither was there evidence of continuous implementation of the Project by the Service Provider. The donor had, however, extended the closing date of the financing agreement to June, 2025 to allow finalization of the pending activities.

In the circumstances, with no new strategies put in place, it was highly likely that the set outcome of training and incubating two thousand and eighty (2,080) youths may not be achieved with the remaining ten (10) months to the closure of the Project.

1690. Failure to Observe Gender Equality in Recruitment, Training and Incubation and Financing Process

Review of documents provided in support of the four hundred and thirty-two (432) youths who were successfully recruited, trained, incubated and financed revealed that three hundred and twenty-six (326) or 75% were male with the remainder one hundred and six (106) or 25% female. This was contrary to part 3.2.4 of the Program Appraisal Report that emphasized on the need to observe gender equality.

In the circumstances, Management was in breach of the Program Agreement.

1691. Delayed Implementation of Projects

1691.1 Stalled Works at the Regional Pastoral Center-Narok

The Management awarded a contract for renovation and rehabilitation of the incubation center at a cost of Kshs.8,318,517 to a contractor. At the time of physical verification, renovation works for classrooms had not yet commenced while the retention center was done to roofing level only and the internal finishing, electrical works, plumbing works, window panes and painting had not been done. In addition, the contract included installation of ground level and elevated water tanks which had not been done. The contractor had terminated the contract having been paid an amount of Kshs.1,024,353. No satisfactory explanation was offered by Management on measures it intended to take to ensure the Project was completed and in use within the remaining eight (8) months before the closure of the Project.

1691.2 Idle Equipment

Review of expenditure records revealed a payment of Kshs.3,739,500 in respect of equipment procured and delivered to two (2) institutions namely; Naivasha DTI (Prefabricated Cold-room at Kshs.2,610,000) and RIAT University Kisumu (Horizontal Feed Mixed at Kshs.195,000, Pelleting Machine at Kshs.499,500 and Tomato Pulper/Extractor Machine at Kshs.435,000).

However, physical verification of the equipment in the month of September, 2024 revealed that the equipment had not been installed or commissioned. Management explained that the reason for lack of utilization of some equipment was due to undergoing renovations of the buildings in which they were to be installed while others were waiting installation of a three-phase power.

In the circumstances, the stakeholders may not obtain value for money on the resources already spent on the Project.

1692. Delays in Delivery of Goods by Suppliers

1692.1 Supply of Various Items to the Incubation Centers

Review of procurement documents provided for audit revealed that the Program Management awarded contracts to various suppliers to supply various items to the incubation centers. The contract agreements to supply the items were signed in the financial year 2020/2021. However, some of the items have never been supplied five (5) years since the signing of the contract agreement. It was not clear whether the items would be supplied within the ten (10) months period left before the closure of the Program.

The Management did not give an explanation as to why the items had not been supplied up to date as detailed below:

1692.1.1 Supply, Delivery, Installation and Training for Mushroom and Vegetable Equipment

The Project Management awarded contract to a company at a contract sum of Kshs.31,977,170 for supply, delivery, installation and training for mushroom and vegetable equipment. However, all Mushroom value chain equipment and 50% of contracted vegetables value chain equipment totalling Kshs.7,011,920 had not been delivered as per the contractual obligations.

1692.1.2 Supply, Delivery, Installation and Training for Dairy Value Equipment

The Project Management awarded a contract to a contractor for supply, delivery, installation and training for dairy value equipment at a contract sum of Kshs.41,599,600. However, equipment totalling Kshs.12,868,000 had not been delivered to date and the system cannot therefore function to deliver its expected utility**.**

1692.1.3 Supply, Delivery, Installation and Training for Fishery Equipment

The Project Management awarded a contract to a contractor for a total sum of Kshs.16,636,225 for supply, delivery, installation and training for fishery equipment. However, some of the equipment totalling Kshs.13,971,375 had not been delivered to date as per the contractual terms.

1692.1.4 Supply, Delivery, Installation and Training for Poultry Equipment

The Project Management awarded contract to a Limited Company for supply, delivery, installation and training for poultry equipment at a contract sum of Kshs.13,498,800. However, equipment with a total cost of Kshs.1,194,400 was not delivered as per the contractual agreement.

In the circumstances, Management was in breach of the law as no explanation were provided for non-compliance with the contract agreements.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1693. Lack of Internal Audit Report

During the year under review, it was noted that there was no internal audit review of the Program's activities contrary to Section 73(3)(b) of the Public Finance Management Act, 2012 which requires that the Internal Auditor shall conduct internal auditing which includes risk-based, value-for-money and systems audits aimed at strengthening internal control mechanisms that could have an impact on achievement of the strategic objectives of the entity.

In the circumstances, effectiveness of internal controls could not be confirmed.

1694. Dormant Program Steering Committee

Review of the work plan for the year under review noted that the Program Steering Committee had planned to hold two meetings. However, there was no evidence in form of Steering Committee attendance Register and Minutes to confirm that the committee undertook its responsibility as stated in the Program Appraisal Report.

In the circumstances, effectiveness of the governance structure of the Program could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1695. As required by African Development Fund (ADF), I report based on my audit, that that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Programme and, the Programme's financial statements are in agreement with the accounting records and returns.

AGRICULTURAL SECTOR DEVELOPMENT SUPPORT PROGRAMME II (SIDA GRANT NO: 51110109)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1696. There were no material issues noted during the audit of the financial statements of the Programme.

Emphasis of Matter

1697. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.600,000,000 and Kshs.564,318,432 respectively, resulting to an under-funding of Kshs.35,681,568 or 6% of the budget. However, the Project spent Kshs.1,310,167,465 against actual receipts of Kshs.564,318,432 resulting to an over-utilization of Kshs.745,849,033 or 132% of actual receipts.

The over-utilization may result in the Project incurring expenditure not within the approved budget.

1698. Variance on Funds Disbursed to Counties

The Project Management disbursed donor funds and GOK funds of Kshs.176,179,206 and Kshs.35,800,000 respectively, to four (4) Counties. However, the Counties records revealed that Donor funds and GOK funds of Kshs.168,200,683 and Kshs.32,141,231 respectively, were received resulting to variances of Kshs.7,978,523 and Kshs.3,658,769, respectively. Although the Project Management provided evidence showing the funds were disbursed to the Counties, no evidence was provided from the Counties to show the records were adjusted to reflect the amounts disbursed.

My opinion is not modified in respect of these matters.

Other Matter

1699. Unutilized Funds

County Government of Machakos recorded available funds in its operations cash book totalling Kshs.20,185,000. This amount comprised of balance brought forward from the previous year of Kshs.14,685,000 and receipt during the year amounting to Kshs.5,500,000. However, the County was only able to spend Kshs.11,885,000, constituting 59% of the funds disbursed to the County.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1700. Non-Adherence to Cut Off Period for Receipts

The statement of receipts and payments reflects an amount of Kshs.564,318,432 in respect to total receipts. However, review of the bank statements revealed transfers from Exchequer totalling Kshs.12,523,470 received on 5 June, 2024. This was after the Programme end period of 30 May, 2024 as indicated in the ASDSP II Financing Agreement. Management explained that the funds were requested in February, 2024 and commitments made but the funds were received in June, 2024. Subsequently, the receipt and utilization of the funds received was contrary to the Programme activity extension period that lapsed on 30 May, 2024.

In the circumstances, Management was in breach of the financing agreement.

1701. Non-Compliance with Disbursement Guidelines

Management provided an approved memo reference dated 2 October, 2023 for the transfer of Kshs.26,000,000 to forty-seven (47) County Revenue Fund (CRF) accounts being disbursement of GOK counterpart funds. However, review of supporting schedules indicated total GOK disbursement of Kshs.26,800,000 resulting to an unexplained over-disbursement of Kshs.800,000. This was attributed to two Counties, Bungoma and Bomet receiving Kshs.1,000,000 each contrary to the expected disbursement amount of Kshs.500,000 from the National Government. This resulted in Samburu County getting Kshs.200,000 less than the required GOK contribution.

Further, review of data provided as at 30 June, 2024 showed Bungoma County had utilized excess funds disbursed to them and closed its operational account while Bomet County had closed the operational account but did not transfer Kshs.1,000,000 from CRF to Special Purpose Account and the operational account.

In the circumstances, Management was in breach of the financing agreement.

1702. Failure to Close Bank Account after Lapse of the Project Period

The statement of financial assets reflects a balance of Kshs.37,772,122 in respect of cash and cash equivalents as disclosed in Note 8A to the financial statements. Included in the balance is Kshs.33,497,010 received from 47 counties' operational project accounts.

However, Machakos and Samburu Counties which had a balance of Kshs.13,672,120 and Kshs.4,343,208 respectively, had neither closed their bank accounts nor returned their balances to the special program account as required in the agreement despite the agreement validity period expiring on 30 May, 2024.

Further, included in the balance is Kshs.4,159,391 from two accounts; Local Bank Account for Donor (Kshs.3,962,787) and Local Bank Account for GOK (Kshs.196,604), operated by the National Programme Secretariat. However, as at the time of audit, the bank accounts had not been closed and were still incurring bank charges despite the lapse of agreement validity period of 30 May, 2024. Further, review of bank statements revealed that the transactions took place past expiry of validity of the agreement. It was not clear why the Programme had not returned the outstanding balances as required in the agreement.

In addition, analysis of the movement schedule indicated that Kshs.13,342,427 transferred to nine (9) Counties as at 30 June, 2024 had their operational accounts closed upon completion of the Project. However, the Counties had a total of Kshs.13,342,427 in respect of project fund transferred to them either at County Revenue Fund, special project account and project account that were not accounted for since no returns on expenditure were provided.

In the circumstances, Management was in breach of the financing agreement.

1703. Non-Compliance with Asset Hand-Over Timelines

Management did not submit assets handover reports at the close of the programme period as required in the financing agreement. The assets handover reports were yet to be discussed and validated by the Donor and both levels of Government.

In the circumstances, Management was in breach of the financing agreement.

1704. Amount Withdrawn and not Claimed on Special Account for the Project

Review of the reconciliation statements of Special Account (Designated) for Agriculture Sector Development Support Programme II revealed that an amount of EUR 39,341,061 was withdrawn and not claimed as at 30 June, 2024. This was attributed to failure by Management to provide returns to The National Treasury on how the funds withdrawn were expensed and accounted for in the Programme's financial statements.

In the circumstances, Management was in breach of the financing agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1705. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1706. As required by Credit Facility Agreement between the Government of Spain and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Programme and the Programme's financial statements are in agreement with the accounting records and returns.

EMERGENCY LOCUST RESPONSE PROJECT (IDA CREDIT NO. 6648 AND 70530 - KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1707. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1708. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a budgeted final receipt and actual receipts on comparable basis of Kshs.3,600,000,000 and Kshs.2,928,308,531 respectively, resulting into an under-funding of Kshs.671,691,469 or 19% of the budget. Similarly, the project spent an amount of Kshs.2,519,888,820 against the actual receipts of Kshs.2,928,308,531 resulting to an under absorption of Kshs.408,419,711 or 14% of the budget.

The under-funding and under-absorption affected the planned activities of the project and may have impacted negatively on service delivery to the public.

1709. Unutilized Project Funds

The statement of financial assets and as disclosed in Notes 7b and 5b to the financial statements reflect Kshs.1,520,612,080 and Kshs.318,718,734 in respect to Counties and the County Driven Development Committees (CDDCs) cash balances respectively all totalling to Kshs.1,839,330,814. This represents un-utilized project's funds at close of the year attributed to delay in releasing of funds to the Counties and the beneficiaries accounts which may result to delayed project implementation.

In the circumstances, it could not be ascertained if the funds would be effectively utilized by the closure of the Project on 31 December, 2024.

1710. Lack of Counterpart Funding in the Financing Agreement

The financial statements reflect under expenditure by County Governments amount of Kshs.2,294,859,287 being total amount disbursed to the fifteen (15) Counties implementing the Project during the year under review. Review of the expenditure returns provided for audit, revealed that the funds were disbursed in two tranches of Kshs.1,645,180,405 and Kshs.639,678,881 totalling Kshs.2,284,859,287 resulting to a variance of Kshs.10,000,000. The Project Management explained that the Kshs.10,000,000 was deposited by the County Government of West Pokot as counterpart funds to expand the scope and enhance the funds allocated for SACCO mobilization. However, the Financing Agreement of ELRP had not provided for Counterpart contribution.

My opinion is not modified in respect of these matters.

Other Matter

1711. Unresolved Prior Years Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources and Report on the Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues as at 30 June, 2024.

REPORT ON THE LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1712. Lack of Budget Approvals

The statement of comparison of budget and actual amounts reflects total revenue and total expenditure original and final budget of Kshs.2,835,500,000 and Kshs.3,600,000,000 respectively. However, the approval by the Project's National Technical Advisory Committee, Ministry of Agriculture and Livestock Development - State Department for Agriculture and The National Treasury and Planning were not provided for audit. This is contrary to Section 43(2) (b)(c) of the Public Finance Management Act, 2012 which states that an accounting officer for a national government entity, other than a state corporation, may reallocate funds between programs, or between Sub-Votes, in the budget for a financial year if a request for the reallocation has been made to The National Treasury explaining the reasons for the reallocation and The National Treasury has approved the request; and the total sum of all reallocations made to or from a program or Sub-Vote does not exceed ten percent of the total expenditure approved for that program or Sub-Vote for that financial year.

In the circumstances, the Project Management was in breach of the law.

1713. Misapplication of Project Funds

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.1,187,006,036 which, as disclosed in Note 3 to the financial statements, includes Kshs.881,487,809 in respect of daily subsistence, travelling and accommodation. Included in the later expenditure is an amount of Kshs.12,959,502 which was used to finance activities of the State Department for Agriculture. This was contrary to Regulation 43(b) of Public Finance Management (National Government) Regulations, 2015 which provide that an accounting officer shall ensure that public funds entrusted to their care are properly safeguarded and are applied for purposes for only which they were intended and appropriated by the National Assembly.

In the circumstances, the Project Management was in breach of the law.

1714. Failure to Provide for Performance Bond

The County Government of Isiolo on 20 November, 2023 contracted a local company for the rehabilitation of Gafarsa Borehole in Isiolo County for farming activities at a cost of Kshs.10,038,916. However, Project Management did not request the successful bidder to submit performance bond before signing the contract as required for contracts above five million shillings. This was contrary to Regulation 135 and Section 142 of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, the Project Management was in breach of the law.

1715. Non-Disclosures to Unsuccessful Bidders

Project Management in Tharaka-Nithi County awarded a local contract of Kshs.6,000,000 on 21 June, 2024. The contract was for the supply and delivery of twenty thousand (20,000) Hass Avocado variety seedlings for soil and water conservation through water harvesting and agroforestry. However, review of notification letters to the unsuccessful bidders revealed that unsuccessful bidders were notified on 21 June, 2024 without disclosing the successful tenderer and the contract price. This was contrary to Section 87(3) of the Public Procurement and Asset Disposal Act, 2015 that stipulates, when a person submitting the successful tender is notified, the accounting officer of the procuring entity shall also notify in writing all other persons submitting tenders that their tenders were not successful, disclosing the successful tenderer as appropriate and reasons thereof.

In the circumstances, the Project Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1716. Lack of Risk Management Policy, Disaster Recovery Plan and Business Continuity Plan

The Project had not put in place Risk Management Policy, Disaster Recovery and Business Continuity Plans and thus the Project did not have a framework for identification and management of risks. In the absence of a disaster recovery/business continuity plan, the project lacks a blueprint for identifying, preventing, and mitigating against disasters and ensuring that its operations are not interrupted. This was contrary to the provisions of Regulation 165(1)(a) and (b) of the Public Finance Management (National government) Regulations, 2015.

In the circumstances, Management may fail to identify potential risks and the corresponding mitigating measures to be taken during the unfortunate events.

1717. Failure to Establish Project Implementation Structures

Physical verification of the Project establishment in the implementing counties revealed that the Project had not formed any County Locust Control Unit (CLCU) in any of the fifteen (15) implementing counties. This was contrary to Clause 24 of Chapter Two of the Project Implementation Manual (PIM) on Project Start-up Activities and Institutional Implementation Arrangements. The Clause provides that the National Government in consultation with the County Governments will establish a County Locust Control Unit (CLCU) where the County Government will deploy the relevant staff who will be employees of the county with the relevant experience and expertise.

In the circumstances, adequate governance and operationalization measures of the projects at the county level could not be confirmed.

MULTI-NATIONAL RURAL LIVELIHOOD'S ADAPTATION TO CLIMATE CHANGE IN THE HORN OF AFRICA (RLACC) (ADB/ADF GRANT NO.5550155001201)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified opinion

1718. 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

1719. Unutilized Balance

The Project information and overall performance under funding summary reflects donor commitment of Kshs.403,680,000 or USD 2,784,000 and cumulative amount received as at 30 June, 2024 of Kshs.399,733,091 against cumulative amount spent of Kshs.360,676,939. This resulted to an unutilized balance of Kshs.39,056,152 held in the bank which Management explained that it had been transferred to a deposit account at the Central Bank of Kenya. However, no evidence was provided in form of acknowledgement from African Development Bank.

In the circumstances, the planned project activities may not have been achieved and therefore the expected benefits to the people of Kenya may not be realized.

1720. Construction of Feeder Canals for Improved Irrigation Water Management and Distribution for Simailele Irrigation Scheme in Turkana County

Review of project records revealed that a contract for the construction of Simailele Irrigation Scheme was awarded on 25 October, 2017 at a contract sum of Kshs.213,748,219 which was later revised to Kshs.251,042,456. However, project inspection carried out during the month of October 2024 indicated that the feeder canals had not been utilized by the community.

Further, Progress report number two (2) indicated that Block 3, 4A, 4B, 5 and the sub-main division boxes for infields were structurally broken down and there was no water flowing in the main canals from the intake.

1720.1 Construction of Feeder Canals for Improved Irrigation Water Management and Distribution for Simailele Irrigation Scheme

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects acquisition of non-financial assets totalling Kshs.146,052,088 which includes an amount of Kshs.6,475,975 for the construction of feeder canals for improved irrigation water management and distribution for Simailele irrigation scheme. However, physical inspection in the month of October, 2024 revealed that the canals have silted back with soil and other debris, and livestock graze in the irrigation scheme resulting to collapse of the farming activities envisaged in the Project.

1720.2 Land Levelling and Drainage Works at Simailele Irrigation Scheme

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects acquisition of non-financial assets totalling Kshs.146,052,088 which includes an amount of Kshs.5,473,611 in respect of Land levelling and drainage works - climate proofing of Simailele Irrigation Scheme. However, the Project was not in use.

In the circumstances, stakeholders and target beneficiaries have not obtained value for money from the resources already spent on this project.

1721. Supply and Delivery of Honey Processing Equipment for Konoo Youth Group in Turkana County

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects acquisition of non-financial assets totalling Kshs.146,052,088 which includes an amount of Kshs.6,218,000 in respect of construction for the supply and delivery of honey processing equipment for Konoo Youth Group in Turkana County which was awarded to a company on 08 February, 2023 at a contract sum of Kshs.6,218,000. The equipment was delivered on May, 2023 and payment done on 04 September, 2023. Physical inspection during the month of October, 2024 revealed that, the honey processing equipment was still kept in the store and not in use.

In the circumstances, the Youth Group are not deriving value from the supplied and paid for honey processing equipment.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1722. There were no material issues relating to the effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1723. As required by African Development Bank and African Development Fund, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Programme and, the Programme's financial statements are in agreement with the accounting records and returns.

MULTI-NATIONAL PROGRAM TO BUILD RESILIENCE FOR FOOD AND NUTRITION SECURITY IN THE HORN OF AFRICA (BREFONS)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1724. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1725. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.719,712,062 and Kshs.202,948,990 respectively resulting to an underfunding of Kshs.516,763,072 or 72% of the budget.

The underfunding affected the planned activities and may have negatively impacted on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1726. Project Implementation Status

Physical verification carried on 14 October, 2024 in four (4) sampled Counties revealed the following unsatisfactory issues;

1726.1 Construction of Lesirikani Hay Shed in Samburu

The contract whose commencement date was 27 June, 2024 with a completion period of four (4) months was awarded at a contract sum of Kshs.13,085,035. The Project was at 30% completion and no payment had been done as at the date of verification hence the project was behind schedule and completion within the contracted time may not be achieved. Further, some of the items used in construction were not as per the Bill of Quantities while workmanship was poor. Lastly, the site office and site house had not been constructed.

1726.2 Construction of Tum Hay Shed in Samburu

The contract for the construction of Tum Hay Shed in Samburu was awarded at a contract sum of Kshs.13,588,872. The contract was set to be completed in four (4) months with a commencement date of 28 June, 2024. As at the time of physical verification, the project was at 95% completion and no certificates had been paid. Further, no sign board was erected and the office constructed as provided for in the Bill of Quantities.

1726.3 Construction of Kimose Hay shed in Baringo County

The contract for the construction of Kimose Hay shed in Baringo County was awarded at a contract price of Kshs.10,771,190. The contract was signed on 15 May, 2024 with a completion period of four (4) Months and no payment had been done as at the time of verification. Physical verification revealed that the site was handed over to the contractor on 5 June, 2024 and the actual works started on 13 September, 2024. The Project was ongoing and the contractor was on site. The works were at 12% completion as construction was at foundation level. However, the site did not have a sign board and some key items in the Bill of Quantities were yet to be constructed.

1726.4 Construction of Lobokat Commercial Pasture Plot in Turkana County

The contract was awarded at a contract sum of Kshs.10,197,568 with a commencement date of 25 June, 2024 and completion period of four (4) months. During the field verification, it was noted that the land preparation was not yet done, the contractor had ploughed the pasture plot before the rains and had to re-do it since the weed grew back. Further, as at the time of verification the ploughing was ongoing at approximately 10%

completion. Given the pasture plot needs to be harrowed before planting the hayseeds, the likelihood that the October - November rains will hinder the completion of commercial pastures was high. In addition, the contractor had not yet constructed the fence, gate and the toilets although the works on digging the holes for the poles was ongoing.

1726.5 Construction of Runo Livestock Sale Yard in West Pokot County

The contract for construction of Runo livestock sale yard in West Pokot County was awarded at a contract sum of Kshs.15,328,909. The contract commenced on 12 June, 2024 with a completion period of four (4) months. The Project was at 95% completion. However, during physical verification, the audit noted that some items in the Bill of Quantities had not been done and painted, while other were not supplied, installed or fitted.

In the circumstances, the slow implementation and sub-standard works are likely to delay the intended benefits to the community.

1727. Other Non-Compliance

1727.1 Delay in Disbursement of the Authority to Incur Expenditure (AIE)

During the year under review, it was noted that the Project's funds were received in Project's account in November, 2023. However, the County project units received the disbursement in March, 2024, four (4) months after the receipt of funds in project account and three (3) months to the closure of the financial year. This was contrary to Regulation 52(1)(d) and (e) of the Public Finance Management (National Government) Regulations, 2015, which states that when the AIE is issued by the Ministry or State Department or Agency, the allocation shall be entered as a commitment in the Ministry's or State Department's or Agency's master vote book so as to ascertain at all times the availability of uncommitted funds and Accounting Officers whose votes cover field programmes and projects shall issue AIE's to their field officers not later than the 15th day of each quarter.

In the circumstances, Management was in breach of the law.

1727.2 Discriminatory Specifications in the Bill of Quantities

Tenders for construction of hay sheds in Lesirikan in Samburu County, Tuum in Samburu County and Dololo Sericho in Isiolo County were awarded to three (3) different contractors. Review of the Bill of quantities for the projects undertaken by the client revealed that the Bills of Quantities (BoQs) restricted the supply of several components to specific brands including Kentank, Roto Tank and Gal sheet iron sheet as opposed to giving the specific requirements relating to the goods. This is irregular as it prevented other suppliers who would have supplied goods with similar or better specifications. The irregularity was contrary to Section 60(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity shall prepare specific requirements relating to the goods, works or services being procured that are clear, that give a correct and complete description of what is to be procured and that allow for fair and open competition among those who may wish to participate in the procurement proceedings.

In circumstances, Management was in breach of the law.

1727.3 Failure to Operationalize the GOK Account

The statement of receipts and payments and as disclosed in Note 1 to the financial statements reflects transfers from Government entities amounting to Kshs.40,917,560. However, review of the available documents revealed that the entity did not receive the amount in their bank account as the State Department was paying for the amount on behalf of the Project. This was contrary to the law which require all monies relating to the project to be deposited to the specific project bank account.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1728. Lack of Internal Audit Function

During the year under review, there was no evidence that internal audit activities were performed on the Program as the internal audit department did not review and carry out the evaluation of the budgetary performance, financial management, transparency, and accountability mechanisms and processes of the project. This was contrary to Regulation 166(1) of the Public Finance Management (National Government) Regulations, 2015 which requires the internal audit unit of a National Government entity to assess effectiveness of the entity through an internal performance appraisal commenting on its effectiveness in the annual report to The National Treasury.

In the circumstances, the program did not benefit from the oversight role and advice from the audit committee and the internal audit function.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1729. As required by African Development Fund, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR CROP DEVELOPMENT

CENTRE OF EXCELLENCE IN SUSTAINABLE AGRICULTURE AND AGRIBUSINESS MANAGEMENT – EGERTON UNIVERSITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1730. 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

Conclusion

1731. There were no material issues relating to the lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1732. There were no material issues relating to the effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1733. As required by International Development Association (IDA), I report based on my audit that, I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the project, so far as appears from examination of those records and, the project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR CO-OPERATIVES – VOTE 1173

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1734. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1735. Pending Accounts Payables

Note 16.1 to the financial statements discloses a balance of Kshs.2,872,881 in respect of pending accounts payable for services rendered during the year. The payables were not settled within the reporting period and were instead carried forward to the 2024/2025 financial year. Management did not provide a satisfactory explanation for this delay in payment.

Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

1736. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.7,532,898,470 and Kshs.3,848,038,219 respectively resulting in an under-funding of Kshs.3,684,860,251 or 49% of the budget. However, the State Department spent Kshs.3,841,161,765 against actual receipts of Kshs.3,848,038,219 resulting in an under-expenditure of Kshs.6,876,454 of the actual receipts.

The underfunding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of these matters.

Other Matter

1737. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. The issues remain unresolved, as the report has not been discussed by the relevant Parliamentary Committee.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1738. Delayed Exchequer Releases

The statement of receipts and payments reflects transfers from The National Treasury amount of Kshs.2,815,454,092 as disclosed in Note 1 to the financial statements. Included in the amount is Kshs.103,873,046 received on 4 July, 2024 but was accounted for in the financial year under review. This was contrary to Regulation 97(4) of the Public Finance Management (National Government) Regulations, 2015 which states that an actual cash transaction taking place after the 30 June, shall not be treated as pertaining to the previous financial year.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1739. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR TRADE – VOTE 1174

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1740. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1741. Pending Accounts Payables

Note 16.1 to the financial statements reflects pending accounts payable of Kshs.54,947,474 relating to supply of goods and services. Included in the amount is Kshs.30,105,866 relating to the financial year 2022/2023 which was not settled during the year under review. The amount was not settled during the year but instead carried forward to 2024/2025 financial year. Management had not explained why the bills were not settled during the year they occurred.

Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

1742. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.3,552,791,035 and Kshs.2,699,234,220 respectively resulting in an under funding of Kshs.853,556,815 or 24% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of these matters.

Other Matter

1743. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under Other Matter and Report on Lawfulness and Effectiveness in Use of Public Resources. The issues remain unresolved, even though discussed by the relevant Parliamentary Committee.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1744. Non-Compliance with the Approved Staff Establishment

Review of the human resource records reflects that the State Department had an approved establishment of five hundred and twenty-four (524) staff members across all cadres. However, the actual number in position was three hundred and sixty-four (364) staff leading to an under establishment of one hundred and sixty (160) staff. This was contrary to Section A.15 of the Human Resource Policies and Procedures Manual for Public Service, May 2016, which states that the functions of Ministerial Human Resource Management Advisory Committees (MHRMAC) entail making recommendations to the Authorized Officer regarding: - inter alia (viii) establishment and complement control.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1745. Grounded Vehicles and Boarded Vehicles

Review of the motor vehicle records revealed that nine (9) motor vehicles have been grounded for some time which are parked in various locations and some in private garages. However, it casts doubts on how the State Department ensures that the vehicles are in safe custody and cannot be vandalized.

In the circumstances, the effectiveness of internal controls on motor vehicles could not be confirmed.

STATE DEPARTMENT FOR INDUSTRY – VOTE 1175

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1746. Inaccuracies of the Transfer to other Government Entities

The statement of receipts and payments reflects other revenues (Appropriation-In-Aid) of Kshs.520,971,796 as disclosed in Note 3 to the financial statements. Review of receiving entities records revealed A-I-A collection of Kshs.638,903,441 during the year resulting to excess A-I-A amount of Kshs.117,931,645 as further disclosed in Note 6b to the financial statements. However, Management did not provide evidence or explanation on the excess A-I-A and whether there was approval to utilize or surrender to the Exchequer as required by law.

Further, Note 6b to the financial statements reflects A-I-A of Kshs.520,971,796 out of which Kshs.18,851,461 relates to Kenya Industrial Research and Development Institute. However, the Institute's financial statements and records reflects an amount of Kshs.24,857872 resulting to unaccounted revenue of Kshs.6,006,411.

In the circumstances, the accuracy and completeness of other revenues of Kshs.520,971,796 could not be confirmed.

Emphasis of Matter

1747. Pending Bills

Note 17.1 to the financial statements reflects pending accounts payable of Kshs.101,876,885 which were not settled in the year under review but were carried forward to the financial year 2024/2025**.** The pending accounts payables balance includes an amount of Kshs.51,493,715 which relates to 2022/2023 and earlier financial years.

The State Department is at risk of incurring interest and penalties with the continued delay in settling long outstanding bills. Further, failure to settle bills during the year in which they relate to adversely affects the budgetary provisions for the subsequent year as they form a first charge.

1748. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects an approved final receipts budget and actual on comparable basis of Kshs.9,022,804,182 and Kshs.5,662,335,523 respectively resulting in an under-funding of Kshs.3,360,468,659 or 37% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

1749. County Aggregation Industrial Parks

Review of the approved budget for the eighteen (18) Counties in respect to County Aggregation Industrial Parks (CAIPs) revealed an allocation of Kshs.250,000,000 per County totalling Kshs.4,500,000,000. However, during the year under review an amount of Kshs.1,152,000,000 was remitted resulting in an underfunding of Kshs.3,348,000,000 or 74% of the budget.

Further, as at the time of audit in November 2024, it was noted that the State Department did their last visits in April 2024 citing insufficient funds. This was contrary to the agreement that stipulates that regular visits should be undertaken in the Counties.

In the circumstances, the underfunding may have affected the implementation of the projects and without regular visits there is uncertainty on exact implementation on construction of industrial parks.

My opinion is not modified in respect of these matters.

Other Matter

1750. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in use of Public Resources. The issues remained unresolved as Parliament had not deliberated on the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1751. Inadequate Workmanship on Female Hostels, Central Stores and Ablution Block

The Kenya Industrial Training Institute (KITI) through the State Department for Industry contracted a Construction Company for construction of female hostels, central stores and ablution block. The works commenced on 6 May, 2022 at an estimated contract sum of Kshs.107,101,302 and was to take twenty-six (26) weeks, with an initial completion date of 4 November, 2022. However, the project duration was extended to forty-two (42) weeks with no cost implications. Physical inspection and a letter from the Institute outlined the defects which were hindering the full utilization of the facility after completion and hand over on 15 September, 2023. These included seepage/leakage of water on walls and roofs of each floor including the laundry area, Matron's house and washrooms, the TV room remained locked with no access since the project completion, fallen ceilings on the ablution block, lack of grill door to the toilet area of the 1st and 2nd floor of the hostels as outlined in the Bill of Quantities, inadequate gradient not allowing flow of water in the Matron's house and plastering and painting works for both the female hostels and ablution block were peeling off.

Further, the Ministry of Lands, Public Works, Housing and Urban Development acknowledged the receipt of a letter dated 20 June, 2024 from the Institute outlining the defects which were hindering the full utilization of the facility. The public works planned a site inspection on 4 July, 2024. However, the status report from the Public Works was not provided for review. As at the time of the audit, the contractor had been fully paid based on recommendations from the Ministry of Public Works. The amount pending was the retention money of Kshs.8,700,000.

In the circumstances, value for money spent on the Project may not have been obtained which could lead to possible loss of funds.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1752. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECT

KENYA INDUSTRY AND ENTREPRENEURSHIP PROJECT (CREDIT NO. IDA 6268-KE) - STATE DEPARTMENT FOR INDUSTRY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1753. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1754. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects an approved final budget and actual on comparable basis receipts of Kshs.636,390,000 and Kshs.547,960,430 respectively resulting in an overall underfunding of Kshs.88,429,570 or 14% of the budget.

In the circumstances, the under-funding affected the planned activities which may have a negative impact on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1755. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. The matters remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1756. 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

1757. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR MICRO, SMALL AND MEDIUM ENTERPRISES (MSME) DEVELOPMENT – VOTE 1176

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1758. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1759. Pending Accounts Payables

Annex 1 to the financial statements reflects pending accounts payable of Kshs.53,750,295 relating to supply of goods and services which were not settled during the year under review but instead carried forward to 2024/2025 financial year. Management has not explained why the bills were not settled during the year they occurred.

Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year to which they form a first charge.

1760. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.7,689,563,354 and Kshs.3,189,793,275 respectively resulting in an under-funding of Kshs.4,499,770,078 or 59% of the budget. Similarly, the State Department spent an amount of Kshs.3,188,457,299 against actual receipts of Kshs.3,189,793,275 resulting to an under-utilization of Kshs.1,335,975.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1761. Irregular Advance Payment for Fuel, Oils and Lubricants

The statement of receipts and payments reflects expenditures on use of goods and services of Kshs.142,633,011 which include expenditure on fuel, oil and lubricants of Kshs.6,160,814 as disclosed in Note 4 to the financial statements. However, as previously reported, the expenditure on fuel, oil and lubricants totalling Kshs.5,764,815 were paid in advance contrary to Section 146 of the Public Procurement and Asset Disposal Act, 2015. This Section, states that no works, goods or services contract shall be paid for before they are executed or delivered and accepted by the Accounting Officer of a procuring entity or an officer authorized by him or her in writing except where so specified in the tender documents and contract agreement. Such an advance payment shall not be paid before the contract is signed.

In addition, signed contracts between the State Department and suppliers were not provided for audit. Further, the fuel, oil and lubricants were procured from one supplier through direct method which was contrary to Section 103(2) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, Management was in breach of the law.

1762. Value for Money on Rentals of Produced Assets

The statement of receipts and payments reflect use of goods and services of Kshs.142,633,011 which includes rentals of produced assets expenditure of Kshs.12,000,000 as disclosed in Note 4 to the financial statements. According to the lease agreement signed on 30 June, 2023 between a local company and the State Department, the State Department acquired the lease for a period of six (6) years. Further, the State Department was granted three (3) months rent-free period starting from July 2023 to September 2023, to enable fitting out partitions, fittings and fixtures. However, at close of audit in November 2024, fifteen (15) months later, the State Department has not occupied the premises. Cumulatively the State Department has spent an amount of Kshs.22,066,978 on leasing unoccupied office space. Further, Kenya Institute of Business Training (KIBT) which operates under the State Department for Micro, Small and Medium Enterprises has a building which is 60% occupied. No explanation was given why the State Department has not taken up the unoccupied space in KIBT building but chose to lease office space elsewhere.

In the circumstances, the value for money on rentals of produced assets expenditure of Kshs.22,066,978 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1763. Disconnection of Water Services at Kenya Institute of Business Training

The Kenya Institute of Business Training is a training institution under the State Department which is responsible for payment of all utilities used by the Institute. However, review of records revealed various incidences where water services had been disconnected due to non-payment of water bills during the year under review. No explanation given by Management for not making prompt payments for water services.

In the circumstances, the effectiveness of payment of utilities service could not be confirmed.

DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER STATE DEPARTMENT FOR MICRO, SMALL AND MEDIUM ENTERPRISES (MSME) DEVELOPMENT

KENYA YOUTH EMPLOYMENT AND OPPORTUNITIES PROJECT (CREDIT NO. IDA 5812-KE) – MICRO AND SMALL ENTERPRISES AUTHORITY (MSEA)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1764. 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

Conclusion

1765. There were no material issues noted relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1766. There were no material issues noted relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENT

1767. As required by International Development Agency Credit Agreement, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

STATE DEPARTMENT FOR INVESTMENT PROMOTION – VOTE 1177

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1768. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1769. Pending Accounts Payables

Note 15.2 to the financial statements reflects pending accounts payable of Kshs.6,636,284 in respect of retention and pending bills of Kshs.5,107,724 and Kshs.1,528,560 respectively. The pending bills were not settled during the year but instead carried forward to 2024/2025 financial year. Management has not explained why the bills were not settled during the year they occurred.

Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

1770. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual combined on comparable basis of Kshs.7,190,422,306 and Kshs.2,637,416,150 respectively resulting in an under-funding of Kshs.4,553,006,156 or 63% of the budget.

In the circumstances, the under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1771. Non-Compliance with the Approved Staff Establishment

Review of the human resource records reflects that the State Department had an approved establishment of one hundred and fifty-five (155) staff members across all cadres. However, the actual number in position was seventy-four (74) staff leading to an under establishment of eighty-one (81) staff. This was contrary to Section A.15 of the Human Resource Policies and Procedures Manual for Public Service, May 2016, which states that the functions of Ministerial Human Resource Management Advisory Committees (MHRMAC) entail making recommendations to the Authorized Officer regarding: - inter alia (viii) establishment and complement control.

In the circumstances, the service delivery to the public may be negatively affected and Management was in breach of the law.

1772. Failure to Deduct and Remit Statutory Deductions

The statement of receipts and payments reflects compensation of employees amount of Kshs.69,635,422 as disclosed in Note 3 to the financial statements. However, review of the payroll revealed that the Management deducted National Social Security Fund (NSSF) of Kshs.360 and Kshs.1,080 were done for tier one and two per staff member instead of Kshs.420 and Kshs.1,740 respectively. Further, no evidence was provided to confirm if the deductions were remitted to the NSSF fund account during the year under review. This was contrary to National Social Security Fund Act No.45 of 2013 on the monthly deductions from the employee salaries or other remuneration and remittance of the contribution to the Fund on behalf of and to the exclusion of that person.

In the circumstances, the Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1773. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR LABOUR AND SKILLS DEVELOPMENT - VOTE 1184

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1774. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1775. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflect final receipts budget and actual on comparable basis of Kshs.5,666,031,402 and Kshs.3,978,037,002 respectively resulting to an underfunding of Kshs.1,687,994,400 or 30% of the budget.

The underfunding affected the planned activities and may have impacted negatively on service delivery to the public.

1776. Programme and Sub Programmes Budget Under Execution

IFMIS budget execution by programme and sub programme report for the year under review reflects approved budget of Kshs.5,666,031,402 and actual on a comparable basis of Kshs.3,945,632,721 resulting to budget under-utilization of Kshs.1,720,398,681. The underutilization included under performance totalling Kshs.1,354,924,494 relating to three (3) sub programmes with significant under execution of 23%, 11% and 41% for provision of occupational safety and health, human resource planning and development and provision of industrial respectively.

The under expenditure on the three programmes and sub programmes implies the planned activities and Programme objectives of the State Department were not achieved.

1777. Budget Over Expenditure

IFMIS budget execution by programme and economic classification reports for the year under review reflects manpower development employment and productivity acquisition of fixed capital assets approved budget of Kshs.8,974,479 and actual payments of Kshs.11,837,060 resulting in over expenditure of Kshs.2,862,581 or 32% of the budgeted amount.

In the circumstances, resources allocated for other economic activities may been impacted negatively by the over-expenditure in manpower development and productivity acquisition of fixed assets.

1778. Delay in Settlement of Pending Bills

Annex 1 to the financial statements on analysis of pending bills reflects total pending bills of Kshs.83,583,103. However, some of the pending bills have been long outstanding with some dating far back as June, 2005. It was not clear why the pending bills that ought to have formed the first charge in the subsequent fiscal period had not been paid contrary to The National Treasury Circular dated 16 June, 2020 which requires payment of pending bills to be treated as a first charge on the approved budgets.

Failure to settle pending bills during the year to which they relate distorts the financial statements and adversely affects budgetary provisions for the subsequent year as they form first charge.

1779. Missed Performance Targets

The statement of performance against pre-determined objectives indicates that 45 out of the targeted 92 or 48% of fatal occupational accidents reported were investigated. Further, the State Department target was to increase access to comprehensive labour market information to 500,000 but only 389,932 or 78% of the target accessed the Kenya Labour Market Information System (KLMIS) during the period under review.

In the circumstances, the State Department did not achieve its predetermined targets and objectives.

My opinion is not modified in respect of these matters.

Other Matter

1780. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1781. Payment of Special Duty Allowance for Periods Exceeding Six Months

Review of payroll revealed that nine (9) officers were in an acting capacity for periods of more than six months during the year under review and were paid acting allowance of Kshs.690,858. This was contrary to Section C 15(4) of the Public Service Commission Human Resources Policies and Procedures Manual which states that special duty allowance will not be payable to an Officer for more than six (6) months.

In the circumstances, Management was in breach of law.

1782. Non-Compliance with One Third of Basic Salary Rule

Review of the payroll for the year revealed that ninety-one (91) staff earned net salaries that were less than a third of their basic pay contrary to Section19(3) of Employment Act,

2007. This Section provides that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

In the circumstances, Management was in breach of law.

1783. Non-Compliance with Employment Thresholds for Persons with Disabilities

Review of payroll revealed that as at 30 June, 2024 the State Department had seven hundred and eighty-eight (788) staff out of which seventeen (17) or 2% are Persons With disabilities (PWD). This was contrary to Section B (23) (2) of the Public Service Commission Human Resource Policies and Procedures Manual, 2016 which states that the government shall implement the principle that at least five (5) percent of all appointments shall be for persons with disabilities.

In the circumstances, Management was in breach of law.

1784. Delayed Completion of the Construction of National Employment Promotion Centre

As previously reported, the construction of the National Employment Promotion Centre project was awarded to a local contractor on 15 May, 2015 at a contract sum of Kshs.442,723,947 for a duration of seventy-eight (78) weeks. The total amount certified and paid as at 30 June, 2023 amounted to Kshs.244,023,001 but the project had stalled. During the year under review, the contract for completion of remaining works was re-advertised and was awarded in April, 2024 and works were going on as at 30 June, 2024. However, IFMIS budget execution by heads and programmes report indicated that the project was allocated approved budget of Kshs.301,120,000 in 2023/2024 financial year but no amount was paid.

In the circumstances, the value for money for expenditure of Kshs.244,023,001 has not been realized and the uncompleted project is not benefitting the citizens.

1785. Delayed Completion of Construction of Occupational Safety and Health (OSH) Institute Phase 1

As previously reported, the construction of Research Institute Office Complex for the Directorate of Occupational Safety and Health Sciences was awarded to a local contractor on 3 May, 2019 at a contract sum of Kshs.114,039,118 for a duration of thirty-two (32) weeks. The total amount certified as at 30 June, 2023 amounted to Kshs.95,291,477 but the project had stalled as a result of non-payment. Further, the contract sum was irregularly varied to Kshs.140,170,548 by an additional amount of Kshs.26,131,430 representing 23% variation. This was contrary to the provisions of Section 139(4)(c) of the Public Procurement and Asset Disposal Act, 2015 which caps quantity variation of works at 20%.

The State Department re-advertised a contract to finalize the project which was awarded in April 2024 and as at 30 June, 2024 works were on going. However, IFMIS budget execution by head and programmes report reflected approved budget of

Kshs.206,429,955 for construction of Occupational and Safety Health Institute and actual payments of Kshs.134,382,271 in 2023/2024 financial year.

In the circumstances, the value for money for expenditure of Kshs.229,673,748 has not been realized and the uncompleted project is not benefitting the citizens.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1786. Lack of Strategic Plan

During the year under review, contrary to provisions of Section 68(2)(g) of Public Finance Management Act, 2012, the State Department did not have an approved strategic plan in place. This Section states that an accounting officer shall prepare a strategic plan for the entity in conformity with the medium-term fiscal framework and fiscal policy objectives of the national government.

In the circumstances, the efficiency of the operations of the State Department could be affected due lack of approved benchmark.

1787. Effectiveness of Audit Committee

Review of the minutes of the audit committee provided for audit revealed that the committee met only twice during financial year. This was contrary to Regulation 179(1) of the of the Public Financial Management (National Government) Regulations, 2015 which states that the audit committee shall meet at least once in every three months.

In the circumstances, the effectiveness of the audit Committee could not be confirmed.

1788. Incomplete Asset Register and Lack of Ownership Documents

Annex 4 to the financial statements reflects fixed assets historical cost carried forward of Kshs.548,339,002 made up of balance brought forward and additions during the year of Kshs.380,034,271 and Kshs.168,304,731 respectively. However, eight (8) parcels of land owned by the State Department but without ownership documents have been excluded from the register. Further, included in the fixed asset historical cost is transport equipment of Kshs.30,836,345 relating to Motor vehicles for which twenty-eight (28) out of eighty eight (88) motor vehicles owned by the State Department did not have log books. This was contrary to Regulation 139(1)(a) and (b) of the Pubic Finance Management (National Government) Regulations, 2015 which states that the accounting officer of a national government entity shall take full responsibility and ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse and movement and conditions of assets can be tracked.

In the circumstances, the internal controls over asset management are weak.

DONOR FUNDED PROJECT

KENYA YOUTH EMPLOYMENT OPPORTUNITIES PROJECT CREDIT NO.5812-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1789. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1790. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total actual receipts of Kshs.99,366,253 and actual expenditure of Kshs.41,743,249 resulting to underutilization of Kshs.57,623,004 or 58% of the budget.

In the circumstances, the underfunding affected the planned activities and may have affected negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1791. Failure to Handover Assets After Project Completion

Annex 4 to the financial statements on summary of fixed asset's register reflects assets amounting to Kshs.81,285,155 that were held and owned by the Project. However, though the Project came to an end on 31 August, 2023 the assets were not handed over to the accounting officer, State Department for Labour and Skills Development. This was contrary to Regulation 74(6)(b) and (c) of the Public Finance Management(National Government) Regulations, 2015 which requires the accounting officer to ensure that whenever projects are completed, the project assets including buildings, plant, vehicles, furniture, fittings and equipment are properly recorded and handed over to the accounting officer in accordance with the financing agreement and where no time frame is provided for the project the accounting officer should ensure that the assets are handed over within three months from the date of the closure of the project.

In the circumstances, Management was in breach of the law.

1792. Unimplemented Project Activities

The Project information and overall performance under source of funds reflects World Bank IDA commitment of USD 8.5 million or Kshs.901,000,000 and received amount of Kshs.845,742,920 resulting to undrawn balance of Kshs.55,257,080. The donor commitment of Kshs.901,000,000 was to implement component C of the project by undertaking 30 activities according to the interim completion report. However, two project activities namely staff long term international training in applied labour economics for development and regional study tours which were allocated a budget of USD 72,000 (Kshs.7,632,000) and USD 12,900 (Kshs.1,367,400) respectively were not undertaken as at the project completion date.

In the circumstances, the overall project objectives may not have been achieved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1793. There were no material issues relating to the effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

Conclusion

1794. As required by the International Development Association (IDA), I report based on my audit that, I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records and, the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR LABOUR AND SKILLS DEVELOPMENT

KENYA YOUTH EMPLOYMENT AND OPPORTUNITIES PROJECT CREDIT NUMBER: IDA-58120-KE - NATIONAL INDUSTRIAL TRAINING AUTHORITY (NITA)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1795. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1796. Budgetary Control and Performance

1796.1 Budget Under Utilization

The statement of comparison of budget and actual amounts and, as disclosed in Annex 2 to the financial statements, reflects the purchase of goods and services final budget amount of Kshs.93,196,057 and actual expenditure of Kshs.14,162,665 resulting in budget underutilization of Kshs.79,033,392 or 85% of the approved budget. Annex 2 to the financial statements indicates that a larger percentage of the budget under-utilized was allocated to training payments whereby there was a decrease in employment milestones and some of the items were not cleared in the annual work plan. Further, the statement of comparison of budget and actual amounts and Annex 2 reflects compensation of employees final budget of Kshs.3,500,000 while actual expenditure amounted to Kshs.2,967,948 resulting in an under-utilization of Kshs.532,052. No explanation was provided in for the 15% budget under-utilization.

In addition, the statement of comparison of budget and actual amounts and Annex 2 reflect other grants and other transfers budget over-utilization of Kshs.79,565,444 which relate to underutilized purchase of goods and services of Kshs.79,033,392 and compensation of employee of Kshs.532,052 which was transferred to the National Treasury for onward transmission to the World Bank.

In the circumstances, the under-expenditure affected the planned activities and may have affected negatively on service delivery to the public.

My opinion is not modified in respect to this matter.

Other Matter

1797. Budget Under Absorption

Section 2.8 on the summary of overall project performance reflects a cumulative budget of Kshs.4,570,631,517 and cumulative actual expenditure of Kshs.2,804,146,677 over the last eight (8) years resulting in under expenditure of Kshs.1,766,484,840 or 39% of the Project’s budget.

In the circumstances, the Project is unlikely to meet its objectives.

1798. Prior Year Audit Matters

The audit report of the previous year highlighted several issues under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Annex 1 on prior year's Auditor-General’s recommendations indicates that several issues had not been resolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1799. There were no material issues relating to the lawfulness and effectiveness in the use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1800. There were no material issues relating to the effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR SOCIAL PROTECTION AND SENIOR CITIZEN AFFAIRS – VOTE 1185

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1801. Variances Between Financial Statements and Schedules

The statement of receipts and payments reflects amounts of Kshs.3,254,775,218, Kshs.28,744,179,274 and Kshs.39,386,201 in respect of use of goods and services, grants and transfers and acquisition of assets, respectively. However, the amounts differed with the amounts of Kshs.3,199,810,165, Kshs.28,725,002,855 and Kshs.44,567,097 reflected in the supporting schedules by unexplained and unreconciled variances of Kshs.54,965,053, Kshs.19,176,419 and Kshs.5,180,896, respectively.

In the circumstances, the accuracy and completeness of the respective balances could not be confirmed.

1802. Unsupported Prior Year Adjustment

The statement of financial assets and financial liabilities reflects a debit balance of Kshs.188,909,524 in respect of prior year adjustment and as further disclosed in Note 15 to the financial statements. The amount was explained to be unspent bank balance for the FY 2022/23 which was transferred back to The National Treasury. However, the supporting bank statements and official receipt confirming the transfer were not provided for review.

In the circumstances, the accuracy and completeness of the prior year adjustment balance of Kshs.188,909,524 could not be confirmed.

1803. Variances in Grants and Transfers to Other Government Entities

The statement of receipts and payments reflects an amount of Kshs.28,744,179,274 in respect of grants and transfers to other government entities which, as disclosed in Note 6 to the financial statements, includes cash transfers of Kshs.25,594,472,236 in respect of the Kenya Social and Economic Inclusion Project. However, the supporting schedules reflected an amount of Kshs.26,122,438,000 resulting to an unexplained variance of Kshs.527,965,764. Further, the reported transfer of Kshs.25,594,472,236 to the Project differed from the Project's reported receipts of Kshs.27,353,449,499 by an unexplained variance of Kshs.1,758,977,263.

In the circumstances, the accuracy and completeness of the cash transfers to the Kenya Social and Economic Inclusion Project of Kshs.25,594,472,236 could not be confirmed.

1804. Unsupported Domestic Travel and Subsistence Expenditure

The statement of receipts and payments reflects expenditure on use of goods and services of Kshs.3,254,775,218 which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.1,251,546,087 in respect of domestic travel and subsistence.

However, out of the total expenditure of Kshs.1,251,546,087, an amount of Kshs.98,628,960 was not supported by payment schedules, attendance schedules and in some cases, inconsistencies of signatures in the attendance and payment schedules were noted.

In the circumstances, the accuracy and occurrence of domestic travel and subsistence expenditure of Kshs.98,628,960 could not be confirmed.

1805. Unsupported Cash Payments

The statement of receipts and payments reflects an amount of Kshs.34,520,990,954 in respect of total payments. However, analysis of the payment details report from the Integrated Financial Management Information System (IFMIS) indicated that, although one hundred and fifty-nine (159) transactions amounting to Kshs.41,282,970 were paid in cash, the respective payment vouchers provided did not have any supporting documents.

In the circumstances, the accuracy and completeness of the respective payments amounting to Kshs.41,282,970 could not be confirmed.

1806. Voided Transactions

The statement of receipts and payments reflects total payments of Kshs.34,520,990,954. Analysis of the IFMIS system payments details revealed two hundred and thirty-seven (237) transactions amounting to Kshs.687,758,223 had been granted approval by Controller of Budget but were later voided. However, there no correspondence from The National Treasury authorizing the voiding was provided for audit verification.

In the circumstances, the accuracy and completeness of the respective payments amounting to Kshs.687,758,223 could not be confirmed.

1807. Unsupported Fuel and Lubricants Expenditure

The statement of receipts and payments reflects expenditure on use of goods and services of Kshs.3,254,775,218 which, as disclosed in Note 5 to the financial statements, includes fuel and oil lubricants expenditure of Kshs.74,796,236 which further includes cost of fuel procured from a contracted supplier of Kshs.25,274,425. However, review of the fuel register revealed that the fuel was consumed through open fuel cards not assigned to any vehicle. Further, review of the fuel statements from the supplier did not indicate the vehicles registration numbers that were consuming the fuel. In addition, the manual fuel register lacked details such as the work ticket numbers, fuel loaded in each fuel card and fuel running balance. Further review of the fuel register revealed various inconsistencies between the fuel opening balance amount, fuel consumed and closing balances on various dates and cases of over or under consumption for different fuel cards.

In the circumstances, accuracy and completeness of fuel, oil and lubricants expenditure of Kshs.25,274,425 could not be confirmed.

1808. Variances in the Total Receipts Original Budget

The statement of comparison of budget and actual amounts reflects total receipts original budget of Kshs.36,259,550,000 which differs with recomputed amount of Kshs.36,159,550,000 resulting into a variance of Kshs.100,000,000.

In the circumstances, the accuracy of the statement of comparison of budget and actual amounts could not be confirmed.

Emphasis of Matter

1809. Budgetary Control and Performance

The statement of comparison of budget and actual amounts combined reflects final receipts budget and actual on comparable basis of Kshs.36,833,673,256 and Kshs.35,348,641,552 resulting to an underfunding of Kshs.1,485,031,704 or 4% of the budget. Similarly, the State Department spent Kshs.34,520,990,954 of the actual receipts of Kshs.35,348,641,552 resulting to an underutilization of Kshs.827,650,598 or 2% of the realized budget.

The underfunding and underutilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1810. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under Report on Financial Statements, Report on Lawfulness and Effectiveness in use of Public Resources and Report on the Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1811. Non-Compliance with the Minimum Net Salary Rule

Review of the payroll data over the twelve-month period under review revealed that four hundred and thirty-seven (437) employees earned net pay that was less than a third (⅓) of their basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which states 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 which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds (⅔) of such wages or such additional or other amount as may be prescribed by the Minister.

In the circumstances, Management was in breach of the law.

1812. Payment of Allowances to Non-Committee Members

The statement of receipts and payments reflects an amount of Kshs.3,254,775,218 in respect of use of goods and services which, as disclosed in Note 5 to the financial statements, includes expenditure on domestic travel and subsistence amounting to Kshs.1,251,546,087. The expenditure further includes committee allowances of Kshs.1,400,000 paid to various officers who were however, not members of the tender committees. This was contrary to Section 68(1) of the Public Finance Management Act, 2012 which states 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.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1813. Lack of a Risk Management Framework

During the year under review, it was noted that the State Department used a risk management framework that expired in November 2021 and had not been renewed at the time of audit in November, 2024. Further, there was no evidence of Management undertaking a risk assessment.

In the circumstances, Management might not effectively and promptly detect and prevent risks arising from fraud and other malpractices.

1814. Inconsistencies in the Fixed Asset Register

Annex 2 to the financial statements on summary of fixed asset register, discloses a fixed assets balance of Kshs.1,344,888,423. However, the fixed assets register provided did not include cost, date of purchase and serial numbers of various listed fixed assets. Further, Annex 2 reflects fixed assets historical cost balance of Kshs.1,344,888,423 which differs with the recomputed balance of Kshs.1,339,707,526 resulting to a variance of Kshs.5,180,897.

In the circumstances, the effectiveness of internal controls on safeguarding fixed assets could not be confirmed.

1815. Grants and Transfers to Other Government Entities

The statement of receipts and payments and, as disclosed in Note 6 to the financial statements, reflects grants and transfers to other government entities of Kshs.28,744,179,274. However, the following unsatisfactory matters were noted:

1815.1 Over Payment of Beneficiaries

Analysis of the payment amounts for the Consolidated Cash Transfer Programme data for the period ended 30 June, 2024 revealed that nine hundred and nineteen (919) beneficiaries were overpaid by Kshs.896,500 in the month of February, 2024. This was contrary to Clause 3.3.2 of the State Department of Social Protection Revised Operations Manual for Consolidated Cash Transfer Programme which states that payments are made to beneficiary households on a monthly basis. The current transfer value is Kshs.2,000 per month.

1815.2 Caregivers Supporting Multiple Households

Analysis of the Older Persons Cash Transfer Programme for the year under review revealed that 15,243 caregivers represented more than one household contrary to Clause 3.1.1(v) of State Department of Social Protection Revised Operations Manual for Consolidated Cash Transfer Programme which states that caregivers should not represent more than one household.

1815.3 Repeat Unsuccessful Credit Transactions

An analysis of the unsuccessful credit reports revealed 1,719 beneficiaries whose accounts experienced more than three monthly failed credit attempts totalling Kshs.34,799,500. This was due to lack of adequate controls to manage repetitive failed transactions. This was contrary to Clause 3.3.8 of State Department of Social Protection and Senior Citizen’s Affairs Revised Operations Manual for Consolidated Cash Transfer Programme on failed Credits which requires that after PSPs have finalized the credit reporting of a payment, the payments team extracts and analyzes the failed credits data from Consolidated Cash Transfer Programme Management Information System (CCTPMIS) which is then shared with the Directorate of Social Assistance, Grievance and Case Management team for onward sharing with the field officers for mobilization of beneficiaries to undertake proof of life tests.

1815.4 Poor Controls Over Data Input and Validation

Review of the Persons with Severe Disability (PSD) and Orphans and Vulnerable Children (OVC) payrolls revealed that of 646 orphans and 3,812 vulnerable children were enrolled using invalid national identification numbers. This was contrary to Clause 3.1.3.4 (v) of State Department of Social Protection Revised Operations Manual for Consolidated Cash Transfer Programme on household identification and listing which requires that after the listing exercise is completed, the lists will be synced into the CCTPMIS which will subject the names to the Integrated Population Registration System (IPRS) and the National Registration Bureau (NRB) checks to ensure names, dates of birth and national identity card numbers are captured correctly.

In the circumstances, the effectiveness of data validation controls over beneficiary enrollment could not be confirmed.

1816. Encroachment of Land for Children Institutions

As previously reported various parcels of land for children remand homes, rehabilitation centers, and rescue centres lack of ownership documents and have been encroached as indicated below:

1816.1 Getathuru National Reception, Assessment and Classification Centre

The Getathuru Center, situated in Nairobi County's Westlands Sub-County along Lower Kabete Road occupied about 17 hectares. However, a Chinese Construction Company was given about 5 hectares to set up their building site as they built the Redhill-Waiyaki Way By-Pass. The Company built a double permanent perimeter wall on the property as a residence and a yard for machinery. However, no lease agreement was provided, making it impossible to determine the terms under which they leased the property with no evidence of receipt of revenue from the Company by the State Department. Further, it was not explained why the Construction Company continued to use the property about three (3) years after the bypass had been completed.

1816.2 Wamumu Rehabilitation School

Wamumu Rehabilitation School occupied approximately 74.6 hectares of land, out of which, approximately 40.5 hectares of land was allocated to KEMRI and approximately 26 hectares is in the process of being allocated to a local group. However, no approval documents were provided for the allocation. Further, documents provided revealed that no correspondence between the Rehabilitation Center, the Director of Children Services and the County Coordinator for Kirinyaga National Lands Commission, involved the Principal Secretary of the State Department of Social Protection, an indication of the irregular transfer of the parcel of land.

1816.3 Othaya Rehabilitation School

Othaya Rehabilitation School had approximately 9.8 hectares of land. However, a physical verification revealed that the land had not been fenced off and lacked ownership documents.

1816.4 Muranga Children's Remand Home

The Muranga Children's Remand Home occupied approximately 0.9 hectares parcel of land. However, the Home had no fence and had been encroached upon by private developers who have put up permanent buildings on the land.

1816.5 Thika Rescue Centre

Thika Rescue Center occupied approximately 10.1 hectares. However, the parcel of land had not been fully fenced. Management did not take measures to safeguard the public land from encroachment and alienation.

In the circumstances, the effectiveness of control systems put in place by Management for assets and preventative mechanisms to eliminate theft, security threats, losses, wastage and misuse of assets could not be confirmed.

DONOR FUNDED PROJECT

KENYA SOCIAL AND ECONOMIC INCLUSION PROJECT CREDIT NUMBER: 6348-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1817. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1818. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects the final total payments budget and actual on a comparable basis of Kshs.29,952,693,980 and Kshs.28,519,249,967 respectively resulting to an under-expenditure of Kshs.1,433,444,013 or 5% of the budget.

The under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

1819. Pending Accounts Payables

Note 12 to the financial statements on other disclosures and as further disclosed in Annex 4a discloses pending accounts payable of Kshs.56,013,859 that was outstanding as at closure of the financial year. Management has not provided explanations for the failure to settle the bills.

Failure to settle bills during the year to which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of these matters.

Other Matter

1820. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal controls, Risk management and governance. However, the Management has not resolved the issues as at 30 June, 2024.

1821. Low Budget Absorption and Undrawn Fund Balances

Section 2.8 on summary overall project performance reflects overall 90% budget performance as at 30 June, 2024. However, the GoK counterpart funding, IPF Credit and

Grant Revenue reflect absorption rates of 67%, 53% and 35% respectively six months to the Project end date.

Further, Section 2.7A of Project Information and Overall Performance on source of funds reflects total commitment of Kshs.112,948,883,421. However, as at 30 June, 2024, only Kshs.80,040,650,823 was drawn resulting to undrawn balance of Kshs.32,908,232,598 or 29% of total commitment. There was no satisfactory explanation provided for the slow drawn down of the funds.

In the circumstances, the Project may not achieve its goals and objectives closure.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1822. Irregular Recruitment of Employees

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects compensation of employee costs of Kshs.31,967,440. Review of documents revealed that 193 casuals and 161 mentors and supervisors were recruited in April 2024. However, adverts for the vacant positions, minutes supporting the shortlisting and interview reports were not provided for audit verification. This was contrary to Section B4(1) and (2) of the Public Service Human Resource Policies and Procedure Manual, 2016.

In the circumstances, Management was in breach of the Manual.

1823. Failure to Deduct and Remit Statutory Deductions

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects compensation to employees of Kshs.31,967,440. However, an amount of Kshs.4,998,455 comprising of Kshs.3,035,542, Kshs.930,500 and Kshs.1,032,412 on account of National Social Security Fund (NSSF), National Hospital Insurance Fund (NHIF) and Housing Levy Fund respectively was not deducted from employees' salaries for remittance to the statutory bodies contrary to Section 20 of the National Social Security Fund Act, 2013 Section 16(3) of National Health Insurance Fund Act and the Housing Levy Fund rules.

In the circumstances, Management was in breach of the law.

1824. Procurement of Hospitality Supplies and Services from Non-Prequalified Providers

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects the purchase of goods and services of Kshs.843,528,896 which includes hospitality supplies and services of Kshs.48,993,241. Included in hospitality supplies and services expenditure are payments amounting to Kshs.24,945,600 for which the conference facilities were procured from suppliers not listed in the list of registered suppliers. This was contrary to Section 95(3) of Public Procurement and Asset Disposal Act, 2015 which states that a procuring entity shall invite tenders from only the approved persons who have been pre-qualified.

In the circumstances, Management was in breach of the law.

1825. Other Operating Payments

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects purchase of goods and services of Kshs.843,528,896 which includes other operating payments of Kshs.428,662,548. The following unsatisfactory matters were however noted:

1825.1 Delay in Implementation of Procurement of Data Room Upgrades and IT Infrastructure Builds for Management Information System Contract

Included in other operating payments is an amount of Kshs.73,885,042 paid to a consultant for the procurement of two data room upgrades and two IT infrastructure builds for Enhanced Single Registry and Consolidated Cash Transfer Programme Management Information System under Contract No. KE-NSPS-279055-NC-RFB.The contract agreement was signed on 3 July, 2023 with a contract period of six months. As at the time of audit in October, 2024 the contract implementation was incomplete.

1825.2 Delay in Implementation of Procurement of Provision of Technical Assistance to Support the Implementation of Economic Inclusion Intervention

Also included in other operating payments is an amount of Kshs.51,440,746 being payments to a consultant for delivery of phase v deliverables under the provision of technical assistance to support the implementation of economic inclusion intervention. The State Department contracted the consultant in a consortium to offer consultancy services for the provision of technical assistance to support the implementation of economic inclusion intervention under the Project. The contract agreement No. ICB NO: KE-NSPS-91656-CS-QCBS/2018-2019 was signed on 16 November, 2020 which was also the commencement date. The contract period was thirty-six (36) months with an end date of 15 November, 2023. However, as at the time of the audit in October, 2024 the support was incomplete.

1825.3 Delay in Implementation of Procurement of a Third-Party Firm Quality Assurance Service Provider

Further, other operating payments includes an amount of Kshs.197,168,893 paid to a consultant for procurement of a third-party firm quality assurance phase II for households' registration towards enhanced single registry under Project contract No. KE-NSPS-283362-CS-QCBS.The contract agreement was signed on 17 August, 2023 with a contract period of five (5) months. However, as at the time of the audit in October, 2024 the contract was incomplete.

In the circumstances, the Project objectives and goals may not have been met and may not be of benefit to the targeted citizens.

1826. Lack of Fixed Assets Register

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects the acquisition of non-financial assets of Kshs.260,029,475. However, Annex 5 to the financial statements on the fixed assets register reflects assets valued at Kshs.242,663,883 resulting to an unexplained variance of Kshs.17,365,592. Further, the fixed assets register was not provided for audit verification contrary to Regulation 143 (1) of Public Finance Management (National Government) Regulations, 2015.

In the circumstances, the controls over the management of fixed assets are weak while Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1827. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1828. As required by the International Development Association, I report based on my audit that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records and the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR SOCIAL SECURITY AND SENIOR CITIZEN AFFAIRS

KENYA SOCIAL AND ECONOMIC INCLUSION PROJECT NO. P164654 IDA CREDIT NO. 63480-KE AND GRANT NO. TF0A9527– NATIONAL DROUGHT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1829. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1830. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final budgeted and actual receipts on comparable basis of Kshs.174,445,829 and Kshs.123,223,497 respectively, resulting to an under-funding of Kshs.51,222,333 or 29% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

1831. Undrawn Project Funds

As disclosed under Paragraph 2.7 on funding summary, the Project duration was five (5) years from 2018 to 2023 but was later extended to 31 December, 2024. Further, the funding summary indicates that the Donor had made commitments amounting to Kshs.1,129,517,518 (USD 9,100,000) and Kshs.350,478,647 (EUR 2,600,000) for the Grant and Loan respectively. However, the total receipts as at 30 June, 2024 amounted to Kshs.448,552,402 (USD 3,842,800) and Kshs.164,222,731 (EUR 1,258,775) leaving undrawn balances of Kshs.680,965,116 (USD 5,257,200) and Kshs.186,255,916 (EUR 1,341,225) of the expected funding for the Grant and Loan respectively.

Failure to draw the committed funds may have impacted negatively on achievement of project objectives.

My report is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1832. Delayed Disbursements to Beneficiaries - Hunger Safety Net Programme

Schedules 3 and 4 of the Kenya Social and Economic Inclusion Project Credit and Grant Financing Agreements provides for Disbursement Linked Indicators Matrix relating to the Kenya Hunger Safety Net Programme (HSNP) in the four (4) expansion Counties as summarized below;

Disbursement Linked Indicators	**Financial Year Indicator to be Achieved**	**Grant Amount USD**	**Credit Amount EUR**
1(b)(ii): Registration of Households in the four (4) expansion Counties	2020/2021	500,000	4,300,000
5 (a) (i): 10,000 new HSNP Households enrolled and paid through the Governments Budget in Two (Expansion Counties)	2021/2022	-	12,000,000

Disbursement Linked Indicators	Financial Year Indicator to be Achieved	Grant Amount USD	Credit Amount EUR
5 (a) (ii): 22,000 new HSNP Households enrolled and paid for through the Government Budget in 4 expansion Counties	2022/2023	-	13,000,000
6 (a) (vi): Emergency payments made in the FY 2022/23 for 100% of the total number of households triggered in 8 Counties where HSNP is functional and financing plan for FY 2023/24 updated and financed.	2022/2023	5,948,810	5,200,000
Total		**6,448,810**	**34,500,000**

Review of records provided indicated that disbursements to The National Treasury as a result of attaining the indicators associated with the Kenya Hunger Safety Net Programme was USD 6,448,810 and EUR 34,500,000. However, verification of two thousand (2,000) beneficiaries in the month of October, 2024 in the four (4) expansion counties of Garissa, Tana River, Isiolo and Samburu revealed unpaid scale ups to 54,453 beneficiaries amounting to Kshs.273,804,300 for the months of February to May 2023. The amounts were unpaid despite the National Drought Management Authority (NDMA) having bank balances of Kshs.222,405,662 and Kshs.48,729,070 in the HSNP Bank accounts as at 30 June, 2023 and 30 June, 2024 respectively. This was an indication that the disbursement indicator 6(a)(vi) was not attained despite the World Bank making disbursements of Kshs.1,547,370,895 (USD 11,948,810) to The National Treasury.

Further, as at 30 June, 2024, some 11,096 beneficiaries were yet to collect a total of Kshs.33,223,489 in scale ups and regular cash transfers. In addition, the NDMA did not have mechanisms to ensure that the household beneficiaries were not registered in more than one (1) National Safety Net Programme.

In the circumstances, it was not possible to confirm that the communities derived value for money from the Disbursement Linked Indicators relating to the Kenya Hunger Safety Net Programme.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1833. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1834. As required by International Development Agency (IDA), I report based on my audit, that: I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, ln my opinion, adequate accounting records have been kept by the Project and the Project financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR MINING - VOTE 1192

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1835. Unsupported Expenditure Reversals

The statement of receipts and payments reflects use of goods and services amount of Kshs.590,161,272 as disclosed in Note 4 to the financial statements. Review of ledgers provided in support of the expenditure revealed several entries which were debited in the ledger and later reversed. However, entries totalling Kshs.7,638,075 were yet to be reversed. In addition, the debit entries and reversals of the same were not supported by journal entries, approval for the reversals and particulars indicating the nature of the errors corrected.

In the circumstances, accuracy and completeness of the use of goods and services amount of Kshs.590,161,272 could not be confirmed.

1836. Unsupported Accounts Payable

Note 12.3 to the financial statements reflects pending accounts payable balance of Kshs.169,283,358. As disclosed in Annex 1 to the financial statements, the bills comprised of an opening balance of Kshs.93,883,644, additions during the year of Kshs.128,833,123 and bills paid during the year of Kshs.53,433,408. Review of the bills revealed that an amount of Kshs.3,985,200 was not supported with relevant documentation such as invoices, contracts, delivery notes and inspection reports.

Further, the balance did not include an amount of Kshs.11,722,984 payable to National Mining Corporation. The amount was incurred by the Corporation on behalf of the Ministry of Petroleum and Mining at Flourspar Day and Boarding Primary School and has been outstanding since 31 March, 2018.

In the circumstances, the accuracy and completeness of pending accounts payable balance of Kshs.169,283,358 could not be confirmed.

Emphasis of Matter

1837. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,809,551,872 and Kshs.1,625,988,335 respectively, resulting in an under-funding of Kshs.1,183,563,537 or 42% of the budget. Similarly, the Department spent an amount of Kshs.1,624,744,376 against the actual receipts of Kshs.1,625,988,335 resulting in an under-utilization of Kshs.1,243,959. In addition, no explanations were provided in the financial statements on reasons for over or under expenditures on the budget exceeding 10% as required in the annual financial reporting guidelines and template.

The under-funding of the budget affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1838. Unresolved Prior Year Issues

In the audit of the previous year, matters were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources and on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues or given any explanations for failure to implement the recommendations as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1839. Unprocedural Confirmation of Employees Terms of Service

Review of Ministerial Human Resources Management Advisory Committee minutes for a meeting held on 29 February, 2024 revealed that an approval was given for belated confirmation of two (2) employees to permanent and pensionable terms who were first appointed to the public service on probationary terms in 1986 and 1996 respectively. The confirmation was for purposes of processing pension benefits for the officers. However, this was against provisions of the Public Service Human Resources Policies and Procedures Manual which provides that an officer appointed to the Service in a pensionable post will be confirmed in appointment and admitted into the permanent and pensionable establishment on completion of probationary period of six (6) months satisfactory service.

It was not clear why the two officers had not been appointed to permanent and pensionable terms upon serving the requisite probation period.

In the circumstances, Management was in breach of the law.

1840. Use of Invalid Local Purchase Orders for Payment

The statement of receipts and payments reflects use of goods and services amounting to Kshs.590,161,272 and as disclosed in Note 4 to the financial statements. However, payments amounting to Kshs.10,359,100 were supported by Local Purchase Orders (LPOs) which had exceeded the stipulated validity period of 30 days. This was contrary to Regulation 53(3) of the Public Finance Management (National Government) Regulations, 2015 which provides that any public officer involved in the processing of a payment with regard to goods or services delivered after due date shall inform the Accounting Officer of this anomaly before proceeding to process the payment.

In the circumstances, Management was in breach of the law.

1841. Irregularities in Procurement of Goods and Services

During the year under review, Management procured various goods, works, and services as was provided for in the Annual Procurement Plan. Review of records revealed that payments totalling Kshs.56,523,070 were made in respect of various goods before inspection and acceptance. This was contrary to Section 48 of Public Procurement and Asset Disposal Act, 2015 which provides inter alia that an Inspection and Acceptance Committee shall immediately after the delivery of the goods, works or services; inspect and where necessary, test the goods received in order to ensure compliance with the terms and specifications of the contract.

In the circumstances, Management was in breach of the law.

1842. Non-Compliance of Climate Change Regulations

Paragraph 8(b) of Environmental and Sustainability reporting on page xliv discloses activities, collaborations and approaches taken by the State Department towards climate change and mitigation of natural disasters climate action. Further, Management developed a climate action workplan and tool for documenting Sustainable Development Goals (SDGs) good practices. The workplan indicated that Management will perform post mining land reclamation and mine sites rehabilitation. However, review of the budget for the year under review revealed that no funds were allocated for those activities and Management did not indicate whether the objective was met.

Further, Management did not prepare and submit sectoral greenhouse emissions report to the National Council on Climate Change as required by Section 15 (5) (b) of the Climate Change Amendment Act, 2023 which provides that each State Department and National Government Entity shall report on sectoral greenhouse gas emissions for the national inventory.

In the circumstances, Management was in breach of law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1843. Lack of Land Ownership Documents

During the year under review, the State Department operated eighteen (18) Regional Offices with a responsibility of coordinating mining activities in the regions. Physical verification in September, 2024 revealed that despite having erected permanent buildings for its regional offices in one of the County, the State Department had no title deed for the land. According to Management, the land was allotted by the defunct Town Council of Kwale in March, 2010. However, no evidence was provided to indicate steps taken to transfer the land to the State Department.

In the circumstances, existence of effective safeguard measures for land and buildings owned by the State Department could not be confirmed.

1844. Poor Conditions at the Department's Main Store

During the year under review, the State Department maintained a store located at the at Madini House. Physical inspection of the store revealed store was in a dilapidated state, which Management attributed to a fire incident several years back. However, no action had been taken by Management to rehabilitate the store to a usable state after the fire incident. Further, various items in the stores had expired while other were obsolete and there was leakage of hazardous materials from some of the items in the store.

In addition, no records of a stock take undertaken during the year to establish the number of items in the store and identify and isolate expired items and obsolete for disposal were provided and some shelves and storage cabins were not labelled, and some items were not arranged according to existing labels.

In the circumstances, the existence and effectiveness of systems for stores control and management could not be confirmed.

1845. Unimplemented Internal Audit Reports

During the year under review, the State Department had an established Internal Audit Unit. However, review of Internal Audit Reports revealed that the recommendations made by the unit had not been deliberated and implemented due to lack of an Audit Committee at the State Department. Further, during the year under review, the Internal Audit Function was not adequately resourced in terms of budget and staff.

In the circumstances, the effectiveness of the internal audit to perform its functions could not be confirmed.

1846. Weaknesses in Information Technology Controls

The State Department operates Information Technology (IT) Systems which are critical to its operations including management of licensing and permits, filing of mineral production and e-procurement. Review of the IT Systems revealed that there was an offsite data back-up. However, there was no disaster recovery site, and an approved Business Continuity Plan and Disaster Recovery Plan were not provided for review.

Further, a generator installed at the building was not working and was connected to the building where the Directorate of Geological Survey was housed and employees including senior management officers used private emails addresses to transact official business contrary to the Head of Public Service circular issued on 14 June, 2022.

In the circumstances, existence of effective IT internal control systems could not be confirmed.

1847. Enhancement of Governance Systems for Security Related Expenditures

During the year under review, Management transferred some funds to a government agency for confidential security operations. A certificate of confidential expenditure was issued, supported by a declaration from the Accounting Officer affirming proper use of funds in compliance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015.

There is need, however, to enhance accountability of confidential expenditures through review of the Regulations to clearly define entities eligible for confidential security related expenditures and to specify what constitutes security related operations. Further, entities should establish internal oversight mechanisms and processes that include detailed budget projections and post-operation financial summaries to address risks and ensure responsible use and accountability of the funds, beyond the certificate.

The measures will strengthen governance, foster trust, and ensure funds are utilised responsibly without compromising State security.

RECEIVER OF REVENUE STATEMENTS - STATE DEPARTMENT FOR MINING

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

1848. Inaccuracies in the Financial Statements

The statement of receipts and disbursements reflects property income of Kshs.3,276,480,229 which as disclosed in Note 2 to the financial statements, includes mining royalties amounting to Kshs.257,256,823. However, review of the general ledger provided revealed remittances totalling Kshs.3,309,637 were not supported with details of the date of receipt, receipt numbers and the remitter's particulars.

Further, the statement of arrears of revenue reflects an amount of Kshs.2,888,335 received from a mining company during the year. However, monthly returns revealed that Kshs.15,400,909 had been received resulting in an unreconciled variance of Kshs.11,512,554.

In addition, no verification reports from Management on production and sales records of the mineral rights holders to determine the amount of royalties payable and arrears of revenue accruing during the year under review were provided.

In the circumstances, the accuracy and completeness of property income of Kshs.3,276,480,229 and arrears of revenue of Kshs.2,781,818,882 as at 30 June, 2024 could not be confirmed.

1849. Unsupported Arrears of Revenue

The statement of arrears of revenue reflects total arrears of Kshs.2,781,818,882. Review of an ageing analysis of revenue arrears revealed an amount totalling Kshs.1,348,120,829 equivalent to 60% had been outstanding for more than three (3) years. However, details debtors indicating particulars of the arrears, production and sales quantities and value, balances paid towards settlement of the arrears and the outstanding balances were not provided.

Although, Management indicated that it had taken recovery measures including issuance of demand letters and out of court settlements. No evidence was provided for audit review on progress made in collecting the arrears in revenue.

Further, the statement reflects cement levy arrears totaling Kshs.370,862,635 owing from a cement manufacturing company. However, Management had entered into an out of court settlement with company in financial year 2021/2022 to have the arrears forfeited. Explanation for the continued retention of the balance was provided by Management.

In the circumstances, the accuracy and completeness of the statement of arrears balance of Kshs.2,781,818,882 could not be confirmed.

1850. Unpaid for Laboratory Testing Services

The statement of receipts and disbursement reflects fees on use of goods and services of Kshs.11,590,496 as disclosed in Note 1 to the financial statements. The balance includes prospecting fees of Kshs.6,734,396. Review of records relating to prospecting fees revealed that during the year under review, the State Department maintained two (2) registers for private entities and another for government entities and employees of the State Department. A fee ranging between Kshs.100 and Kshs.500 per sample tested was chargeable to private entities while government entities and employees at the State Department obtained the services for free.

Review of the laboratory registers revealed that twenty-seven (27) private entities were recorded in the register of government entities implying that no fees was charged on the services rendered the entities. In addition, the registers lacked crucial details such as source of the mineral samples and the license numbers of persons submitting the samples.

In the circumstances, the accuracy and completeness of receipts from laboratory testing services rendered to private entities could not be confirmed.

Other Matter

1851. Unresolved Prior Year Matters

In the audit of the previous year, matters were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources and on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues or given any explanations for failure to implement the recommendations as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1852. Lack of Revenue Sharing Framework

The statement of receipts and disbursements reflects property income amounting to Kshs.3,276,480,229 which as disclosed in Note 2 to the financial statements, includes royalties of Kshs.2,129,772,377. However, no evidence was provided to indicate that the royalties were distributed among the County Governments and local communities as required by Section 183(5) of the Mining Act, 2016 which provides that that the royalties shall be shared between the National Government, respective County Governments and the community where the mining operation occurs at a ratio of seventy percent (70%), twenty percent (20%) and ten percent (10%) respectively.

In the circumstances, Management was in breach of the law.

1853. Un-procedural Export of Gold Samples

During the year under review, the State Department granted a licence to a gold mining company to export rock samples from a gold exploration site. Review of records at the Department revealed that the Company exported sixty-five (65) kilograms of gold for which Nil royalties were remitted. Management explained that the consignment comprised of rock samples shipped for analysis. However, results of the analysis were not provided for review and were not filed with the State Department as required by Regulation 26(3) the Mining (Dealings in Minerals) Regulations, 2017.

In the circumstances, the mineral composition, quantity, quality, and value of exported samples could not be confirmed.

1854. Unsupported Geological Survey

During the year under review, the State Department conducted a survey of minerals as a follow up to an earlier Nation Wide Airborne Geophysical Survey (NAGS) which indicated that nine hundred and seventy (970) mineral occurrences were identified. However, the reports of the surveys were not provided for review. In addition, Management indicated the State Department was in the process of acquiring a Library Management System for the Geological survey. However, no evidence was provided on steps taken to have the system in place.

Further, the State Department did not have a database of minerals discovered or cited by private companies who were granted reconnaissance and exploration licenses for minerals. This was contrary to Section 29 of the Mining Act, 2016 which provides that The Cabinet Secretary shall ensure that a database of geoscience and information is kept and maintained; and is made available to the public on request.

In the circumstances, Management was in breach of law.

1855. Unlicensed Use of Blasting Materials

Review of Mining Inspection compliance reports from various regions in the Country compiled by the State Department revealed that seventeen (17) operators who did not possess miner’s blasting certificates had used blasting materials in various quarries. This was contrary to Section 11(1)(a) of the Explosives Act Cap 115 which provides that no person shall use, or cause to be used, any blasting materials unless he is in possession of a valid miner’s blasting certificate issued to him under the Mining Act. Management did not indicate steps taken to curb the practice which posed threats to the environment and safety of human and animal lives in the affected areas.

In the circumstances, Management was in breach of the law.

1856. Unrehabilitated Quarry Sites

During the year under review, several stakeholders raised concerns on existence of open quarries across the Country which had been abandoned upon depletion of minerals and completion of mining activities. The quarries were not rehabilitated or restored after completion of mining activities and were a threat to the environment, human and animal lives. This was contrary to Section 179(d) of the Mining Act, 2016 which states that the holder of a permit or licence under this Act shall use the land in accordance with the terms of the permit or licence and shall ensure that upon completion of prospecting or mining, the land in question shall be restored to its original status or to an acceptable and reasonable condition as close as possible to its original state.

In addition, conditions for issuance of mining licenses required an applicant to provide a site restoration plan before a mining licence is granted. However, no evidence was provided to indicate that Management was following on implementation of such plans.

Further, there was no evidence of rehabilitation programs undertaken by the State Department despite holders of the mining permits being required by Section 181 of the Mining Act, 2016 to provide environmental protection bond sufficient to cover the costs of implementation of the environmental and rehabilitation obligations of holders of mining permits.

In the circumstances, Management was in breach of the law.

1857. Unutilized Laboratory Machines

During the year under review, the State Department operated mineral testing laboratories at Madini House, Industrial Area and in selected regional offices. Physical inspection at the Madini House laboratory in September, 2024 revealed that machines and equipment purchased during the year under review at a cost of Kshs.13,237,210 and in prior years, were not in use.

In the circumstances, the value for money incurred on acquisition of laboratory equipment could not be ascertained.

1858. Un-updated Applicants and Rights Holder Information in the Mining Cadastre and Registry System

Review of the cadastre records revealed thirty-one (31) companies with expired exploration licences which were reflected as undertaking exploration. This meant that the exploration areas which had been assigned to the holders could not be allocated to other applicants. In addition, review of the system revealed that seven (7) companies had their status in the Cadastre system indicated as “application”, while the applications had expired before being granted or denied. This meant that no applications could be made in those areas.

Further, analysis of the applicants on sample basis revealed that one hundred and seventy-four (174) companies were still waiting for their applications to be determined. Some applications related to prior years dating back to the year 2015, an indication that cadastre system was not up to date, thus affecting new applications.

This was contrary to Section 191 of the Mining Act, 2016 which provides for establishment and maintenance of an up-to-date computerized mining cadastre and registry system which shall contain details of each application, grant, assignment, transfer, notice, surrender, suspension and cancellation of a mineral right.

In the circumstances, Management was in breach of the law.

1859. Application and Grant of Mineral Rights in Protected Areas

Review of the cadastre system database revealed that several companies successfully made applications and were granted exploration licences in protected areas including forests, lakes, national parks and conservancies. Although some of those licences had expired, satellite images from those areas indicated mining activities characterised by installed equipment, excavations, buildings and actively used roads.

Further, the cadastre system map revealed no licence applications in sixteen (16) protected areas comprising national parks and reserves, and conservancies. However, satellite images from the sites revealed possible mining activities.

No evidence of the applicants having sought approval from the relevant authorities as provided under Section 36(2) of the Mining Act, 2016 prior to grant of the licences was provided.

In the circumstances, Management was in breach of the law.

1860. Inconsistences in the Mineral Rights Board Meetings

Review of minutes of the Board meetings held during the year revealed that several licence applications were considered by the Board before being completed in the system and approval for applications were granted without indicating the duration for the licences. In addition, an alternate Board member attended several board meetings without an appointment letter. This was contrary to Section 30 of the Mining Act, 2016 which provides for the composition of the Board.

In the circumstances, the composition of the Board and its deliberations were in breach of the law.

1861. Ineffective Artisanal Mining Committees

During the year under review, the State Departments had twenty-nine (29) established County Artisanal Mining Committees while committees in twenty-two (22) Counties were yet to be established. This was contrary to Section 94(1) of the Mining Act, 2016 which provides for establishment of an Artisanal Mining Committee in every County.

Further, review of operations of the established County Artisanal Mining Committees revealed that out of the twenty-nine (29) established committees, only ten (10) held meetings and deliberated on issuance of artisanal mining permits. This indicated ineffectiveness of the artisanal committees in performing the outlined functions.

In addition, review of the register of artisanal mining cooperatives and a list of artisanal miners revealed no record of artisanal mining permits issued during the year under review.

In the circumstances, Management was in breach of the law.

1862. Lack of Designation of Areas for Artisanal Mining

During the year under review, the Directorate of Mines conducted mapping exercise and submitted proposed coordinates for establishment of artisanal mining zones. However, the State Department did not designate areas for artisanal mining as required by Section 13 of the Mining Act, which requires the Cabinet Secretary to designate an area of land to be an area reserved exclusively for small scale mining operations.

Further, a report on rapid results initiative exercise for Kakamega region in June, 2024 indicated that large scale miners which included two gold mining companies had been granted mining permits in areas where artisanal miners had made an application to undertake mining operations.

In the circumstances, Management was in breach of the law.

1863. Unlicensed Mineral Leaching Operations

Physical verification at mining areas in Migori, Kakamega and Narok Counties in September, 2024 revealed several gold leaching plants which had been set up and were processing gold mined by artisanal miners in the region. However, the plants lacked requisite mineral processing licences and permits as provided for in the Mining Act, 2016.

In the circumstances, the mining operations by the plants was in breach of the law.

1864. Stalled Value Addition Centres

Management initiated a feasibility study for setting up a soapstone value addition centre in Kisii County in October, 2018 at an estimated cost Kshs.300 million. The purpose of the center was to create value addition to soapstone mining in the Kisii region. Records provided revealed that a consultant was contracted to conduct a feasibility study for the project at a cost of Kshs.13,771,520. Physical verification carried out in Tabaka mining area in Kisii County revealed the project was yet to start, six (6) years later, despite the feasibility study having concluded that the project was viable. Management indicated that the Government was yet to acquire land for the Project.

Further, Management initiated construction of a Granite value addition centre project in Vihiga County and fenced off the parcel of land. However, physical verification at the site located in Luanda area in Vihiga County in September, 2024 revealed that the Project was yet to start, six (6) years later, despite the feasibility study having concluded that the Project was viable. In addition, interviews with the Regional Management revealed that an investor was identified through a procurement process to develop the processing plant, however, the contractor was not on site and works had not started. Further, the fence erected by the State Department to secure the site had been vandalized. Management did not indicate whether there were plans to complete the Project.

In the circumstances, the value for money incurred on feasibility studies on the value addition centres could not be confirmed.

1865. Unutilized Mineral Testing Laboratory Containers

During the year under review, Management procured twelve (12) customized forty-foot containers at a cost of Kshs.13,467,572 for use as mineral testing laboratories in Kakamega, Kitui and Mombasa regions. Physical verification in Kakamega Regional Office in September, 2024 revealed that despite the containers having been delivered to the regional office, they were not operational. Management attributed the state to lack of laboratory staff in the regions to operate the equipment.

In the circumstances, the value for money incurred in the procurement customized mineral laboratory containers for the regional mining offices could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1866. Weaknesses in IT Internal Control Systems

The State Department operates Information Technology (IT) Systems which are critical to its operations including management of licensing and permits, filing of mineral production and e-procurement. Review of the IT Systems revealed that there was an offsite data back-up. However, there was no disaster recovery site, and an approved Business Continuity Plan and Disaster Recovery Plan were not provided for review.

Further, a generator installed at the building was not working and was connected to the building where the Directorate of Geological Survey was housed and employees including senior management officers used private emails addresses to transact official business contrary to the Head of Public Service circular issued on 14 June, 2022.

In the circumstances, the existence of effective IT internal control systems could not be confirmed.

1867. Insufficient Mechanisms for Identification Construction Minerals Revenue

Review of cadastre records data revealed that the State Department did not have a system that identifies, collects and account for revenue from construction and industrial minerals which includes, among others, construction stones from quarries, salt and soapstone which are listed in First Schedule of the Mining Act, 2016. This is contrary to Regulation 64(1) (a) of the Public Finance Management (National Government) Regulations, 2015.

In addition, during the year under review, the State Department issued at least fifty-eight (58) licenses for explosives used in mining quarry stones. However, the applicants were not required to be holders of a mining license or to submit returns on quantities extracted and for purposes of royalty remittances.

In the circumstances, the existence of an effective system of identification of revenue streams from constructions minerals could not be confirmed.

1868. Lack of Border Controls

During an audit inspection undertaken in September, 2024, it revealed that the State Department did not have inspectors of mines at border points. Similarly, critical ports of entry such as the Port of Mombasa and Jomo Kenyatta International Airport did not have inspectors of mines. The inspectors are necessary to ensure minerals are not smuggled in and out of the Country and in ensuring a pre-shipment inspection is undertaken to ascertain the type, quantity and grade of minerals exported.

In addition, metal detectors used to screen travelers at border points were not capable of detecting gemstones such as rubies, tsavorites, which were mined in the coastal region. In the western region, a site visit in September 2024 to a region where a gold mining company operated, revealed that the State Department did not have designated inspectors to confirm the minerals extracted before leaving the mines.

In the circumstances, the existence and effectiveness of controls to monitor operations, measure quantities extracted, and verify minerals exported could not be confirmed.

STATE DEPARTMENT FOR PETROLEUM - VOTE 1193

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1869. Misclassification of Expenditure

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.575,772,766, as disclosed in Note 5 to the financial statements. Included in the amount are payments of Kshs.6,550,400 and Kshs.24,429,310 relating to hospitality supplies and services and other operating expenses totalling Kshs.30,979,710 which were wrongly charged to domestic travel and subsistence allowance.

In the circumstances, the accuracy and completeness of travel and subsistence expenditure of Kshs.30,979,710 could not be confirmed.

1870. Unsupported Third-Party Deposits and Retention

The statement of financial assets and financial liabilities reflects third party deposits and retention balance of Kshs.19,574,413, as disclosed under Note 12 to the financial statements. As reported in the previous year, the amount includes Kshs.11,358,816 payable to an international law firm which had been outstanding since 2016 due to lack of proper documentation.

In the circumstances, the accuracy and validity of third-party deposits and retention balance of Kshs.11,358,816 could not be confirmed.

1871. Unsupported Pending Bills

The State Department had pending accounts payable balance of Kshs.30,248,871, as disclosed in Note 17.2 and Annex 1 to the financial statements. Included in the amount are Kshs.1,875,600 and Kshs.5,859,600 due to two suppliers which had been outstanding since 2018. The amounts were cleared for payment by a ministerial approval and acceptance committee on 26 October, 2022 using copies of supporting documents such as delivery notes, requisition form and local purchase orders rather than original documents, raising doubt on validity of the claim. Further, the amount includes Kshs.19,392,175 due to Kenya National Trading Corporation Limited (KNTC). However, confirmation from KNTC reflected a balance of Kshs.21,350,913 resulting in an unreconciled variance of Kshs.1,958,738. In addition, pending bills balance of Kshs.15,474,175 carried forward from previous years as disclosed in Note 17.2 to the financial statements was not settled as a first charge in the year under review.

In the circumstances, the accuracy and validity of the pending accounts payable balance of Kshs.30,248,871 could not be confirmed.

Other Matter

1872. Unresolved Prior Year Issues

In the audit of the previous year, several matters were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. The issues remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1873. Importation of Refined Petroleum Products under Government-to-Government Framework

The Government of Kenya implemented a system of importation of petroleum products for local and transit markets through Government to Government (G-to-G) framework in March, 2023 following a policy shift from use of Open Tender System (OTS). The change was meant to mitigate against declining value of the Kenyan currency that was attributed to oil marketing companies (OMC) foreign exchange operations.

Following the change of policy, the State Department signed several agreements including Memoranda of Understanding (MoUs) and Master Framework Agreements (MFA) with international oil exporters, and tripartite agreements between The National Treasury, nominated local bulk oil importers and financial institutions.

Review of records provided in respect of the framework revealed several anomalies and inconsistencies as detailed below;

i. Article 3.1 of MOUs assigned the responsibility of identifying and nominating the importers of bulk petroleum products to the Government of the Republic of Kenya. However, Clause 31 of the Master Framework Agreements (MFA) shifted this responsibility to the International Oil Suppliers, thus contradicting the MOUs. The appointment of the local importers by the supplier meant that the process became non-competitive.

ii. Articles 6 and 7 of the MOUs provided that the parties were to establish a joint steering committee and a joint working group respectively whose functions were among others, advising the governments on appropriate strategies for smooth implementation of the MOUs, undertaking studies and sharing information. However, no evidence was provided to indicate that the two committees were established.

iii. At the commencement of the program, in March, 2023, an International Oil Company (IOC) appointed a Kenyan Oil Marketing Company (OMC) to be the importer of Automotive Gas Oil (AGO), also known as diesel. In April 2024, the appointment was terminated and two new OMCs were appointed in its place. However, a termination letter for the initial OMC and the nomination process and letters of appointment for the two companies were not provided for review.

iv. Clause 2C of the MFA provided that three IOCs were granted exclusive rights to supply petroleum products into Kenya following a competitive bidding process. However, documents supporting the process were not provided for review.

v. A tripartite agreement signed between The National Treasury, local importers and a commercial bank provided that any new party to the agreement should sign a deed of adherence. During the year under review, five (5) new banks were included in the agreement. However, the deeds of adherence from the five banks were not provided for review.

vi. Clause 4.5 of the MFA required the Government of Kenya to provide a schedule of monthly petroleum product requirements to the suppliers. However, evidence of provision of the schedules was not provided for review.

vii. Clause 5.3 of the MFA required importers to maintain three bank accounts comprising of an escrow account, a collection account, and an investment account. However, documents supporting the existence of the accounts, amounts deposited and withdrawn from the accounts were not provided for review.

viii. A total of USD19,849,897, approximately Kshs.2,540,786,853, was recovered through pump prices during the November 2023 to April 2024 pricing cycles in respect of shortfall financing. The recovery followed instructions from The National Treasury through a letter dated 1 August, 2023, classifying the costs as prudent. However, the inclusion of the costs in pump prices lacked approval from the Energy and Petroleum Regulatory Authority (EPRA) Board, contrary to Regulation 6(2) of the Petroleum (Pricing) Regulations, 2022. The Regulation requires that, any prudently incurred cost must be approved by the Authority before inclusion in the pump price build-up. Further, minutes of The National Treasury, Risk, and Investment Management Committee dated 9 August, 2023 indicated that the shortfall financing arose from delayed payments by some Oil Marketing Companies (OMCs), who failed to meet the five-day settlement payment period stipulated in the OTS terms and conditions. The delays in payment hindered timely investment of collected funds, thereby reducing interest earnings. Additionally, payment defaulters were not reported by the nominated OMCs to the Ministry of Energy and Petroleum or EPRA for enforcement action.

ix. Review of a summary of petroleum product deliveries under the framework revealed that, a maximum of 17,230,000 metric tons of Premium Motor Spirit (PMS), Automotive Gas Oil (AGO) and Jet A1 products was expected to be lifted under contracts signed between suppliers and the Ministry of Energy and Petroleum. As of 14 November, 2024, 10,877,586 metric tons had been lifted. However, the contract volumes were not supported by demand projections, as required under Regulation 10(a) of the Petroleum (Importation) Regulations, 2023.

x. In addition, analysis of cargo tracker data for the period under review revealed that 23 vessels delivered consignment which exceeded 10% of the approved volume. The 23 vessels delivered a total of 2,184,476 metric tonnes (MT) out of 1,798,153 MT tonnes approved resulting in a variance of 402,399 MT above the award quantity. Further one (1) vessel did not have an award quantity despite delivering 48,048 MT of AGO.

xi. Review of sampled petroleum pump price build up computation revealed that during the July - August and August - September 2023 pricing cycles, a legal fee of USD 5.5868 per metric ton of super petrol (PMS) was charged to the pump translating to Kshs.662,946,736 and Kshs.291,709,830 respectively. However, justification and approval for inclusion of the fees in pump prices was not provided. In addition, the nature of the fees and the beneficiaries were not disclosed.

xii. During the period between March 2023 to June 2024, a total of USD 30,711,739.18 (Equivalent to Kshs.3,977,784,459) demurrage charges were passed to consumers through pump prices. However, the demurrage charges were not supported by requisite documentation, including claims from suppliers, demurrage committee minutes approving payments, and the reasons for payment.

xiii. Review of vessel scheduling, and arrival data revealed that between March, 2023, and June, 2024, sixty-nine (69) vessels arrived at the port of Mombasa later than the scheduled delivery date. However, the vessels were irregularly allowed to charge demurrage amounting to Kshs.2,729,585,304 contrary to Clause 14.1 of the OTS terms and conditions which provides that demurrage claims are not applicable for vessels arriving after the delivery date range or where lack of physical ullage for cargo is attributable to the seller.

xiv. Similarly, nineteen (19) vessels arrived earlier than their scheduled delivery date range and irregularly charged demurrage amounting to Kshs.1,275,381,167, which included days that vessels were not entitled to such claims. The claims were contrary to OTS terms and conditions and resulted in unjustified costs to consumers. Additionally, a total of Kshs.472,266,260 was charged to pump prices between March 2023 and September 2024 under a description of additional demurrage. However, the nature, justification and approval of the charge was not provided for audit review.

In the circumstances, the lawfulness, and effectiveness of the Government-to-Government Oil Importation Scheme could not be confirmed.

1874. Stalled Mwananchi Gas Project

As reported in prior years, the State Department procured 106,292 six-kilogram Liquefied Petroleum Gas (LPG) cylinders and accessories, two-burner low pressure tabletop cookers at a cost of Kshs.1,125,648,762 which included lease of storage space, provision of security services and a disbursement to National Oil Corporation limited (NOCK) for refilling of the cylinders. Further, the State Department purchased additional LPG cylinders and rubber horse pipes for Kshs.148,322,195 and Kshs.6,785,862 respectively. The State Department incurred costs on storage and security services amounting to

Kshs.5,820,740 and Kshs.864,540 respectively during the year under review, bringing the total costs of the Project to Kshs.1,287,442,100.

The Project was being implemented by NOCK and was expected to be rolled out during the 2020/2021 financial year. However, at least 79,057 LPG cylinders or 74% were found to be defective by an independent inspector who was contracted by the Department following safety concerns raised by consumers, which had led to suspension of the Project in 2019. Management engaged the suppliers to start the process of collecting and remedying the defective LPG cylinders. However, as at the time of audit in December 2024, a total of 26,188 cylinders valued at Kshs.55,344,068 had not been remedied by the suppliers. In addition, one of the suppliers, whose 11,132 cylinders costing Kshs.24,479,268 had been found defective, had been placed under receivership.

Review of records at NOCK, revealed that a total of 161,448 6kg cylinders, 329,303 burners, 330,115 6kg grills, 60,000 horse pipes and 84,499 double burner stoves were received at the Corporation. However, only 11,675 6kg cylinders, 12,869 burners and 87,147 grills with an aggregate value of Kshs.20,501,191 had been included in the Corporation's financial statements, while the rest of the items awaited formal transfer of ownership by the State Department.

In addition, implementation of the Project had stalled due to uncertainties attributed to lack of a project implementation plan, overall sustainability plan, a beneficially identification mechanism, and smart metering and technical support services for dispensing to consumers. Management indicated that the Project also lacked sufficient working capital.

In the circumstances, the value for money on the expenditure incurred on the Project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1875. Lack Of Governance Framework for Stabilization of Petroleum Prices

The statement of receipts and payments reflects oil market stabilization expenditure of Kshs.47,263,760,741, as disclosed in Note 6 to the financial statements. The amount was paid to Oil Marketing Companies (OMCs) to compensate them for lower prices charged at the pump against prices set by Energy and Petroleum Regulatory Authority (EPRA). Review of documents provided in relation to the program revealed that The National Treasury through a letter dated 21 July, 2022 advised the State Department to form a multi-agency team to review the total resource requirements and assess the sustainability of the fuel price stabilization programme. However, Management did not constitute the team, but continued to make funding requests for petroleum price stabilization.

Further, The National Treasury through a letter dated 25 August, 2022 required the State Department to ensure that the governance framework for stabilization of fuel prices and compensation mechanisms are in place. However, the framework came into place on 26

June, 2024 at the close of the financial year and thus did not guide administration of the program during the year under review.

In the circumstances, the existence and effectiveness of controls governing stabilization of petroleum pump prices could not be ascertained.

STATE DEPARTMENT FOR TOURISM - VOTE 1202

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1876. There were no material issues noted during the audit of the financial statements of the State Department.

Other Matter

1877. Unresolved Prior Year Matters

In the previous year's audit report, two (2) issues were raised under Emphasis of Matter. However, as of 30 June, 2024 the issues had not been discussed by the relevant parliamentary oversight committee for further recommendations and therefore the matters remained unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1878. Non-Compliance with the Minimum Net Salary Rule

The statement of receipts and payments reflects cost on compensation of employees of Kshs.190,864,605. Analysis of the State Department's payroll for the twelve (12) months under review, revealed that twenty-one (21) employees received net pays which were below one-third (⅓) of their basic pay. This was contrary to Section 19(3) of the Employment Act, 2007 which states 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 which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds (⅔) of such wages or such additional or other amount as may be prescribed by the Minister.

In the circumstances, Management was in breach of the law.

1879. Delay in Settling Other Pending Payables

Note 19 to the financial statements discloses other pending payables balance of Kshs.143,231,038. However, the balance included long outstanding bills relating to deposits (retentions) from various contractors with one contractor claiming an amount of Kshs.17,794,643 which remained unpaid despite lapse of the defects liability period on 11 August, 2021. This was contrary to Section 151(2)(h) of the Public Procurement and Asset Disposal Act, 2015 which provides that the Contract Implementation Team shall ensure that prior to closing the contract file including all hand over procedures, the final retention payment is made.

In the circumstances, Management was in breach of the law.

1880. Failure to Settle Pending Bills as a First Charge

Annex 1 on pending accounts payables (pending bills) discloses a balance of Kshs.73,896,954 as at 30 June, 2024 from the previous year's balance of Kshs.54,645,486. Bills amounting to Kshs.36,231,732 were paid in the year under review leaving a balance of Kshs.18,413,754. It was not clear why they did not form first charge of the budgeted amount for the year 2023/2024 contrary to Paragraph 20 of The National Treasury's Circular No.7/2023 dated 21 June, 2023 which states that, in order to ensure that there is no accrual in payment of arrears (pending bills), Accounting Officers should ensure that carryover payments emanating from the FY 2023/24 are treated as a first charge against the FY 2023/24 budgetary allocation before entering into any new commitments.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1881. Staff Over-Establishment

The statement of receipts and payments reflects cost on compensation of employees of Kshs.190,864,605. Review of the approved staff establishment for the State Department dated 24 December, 2019 revealed instances of overstaffing across various cadres with ninety-one (91) staff employed against an approved establishment of only twenty (20) positions resulting to an over establishment of seventy-one (71) positions.

In the circumstances, the effectiveness of the staff establishment as a Human Resource Management control could not be confirmed.

1882. Weaknesses in Management of Motor Vehicles

During the year under review, the State Department purchased six (6) vehicles at a cost of Kshs.79,963,537. However, the six vehicles were registered under the State Department for Tourism and Wildlife which was split into the State Department for Tourism and the State Department for Wildlife as per the Executive Order No. 2 of November, 2023. Further, it observed that the Cabinet Secretary for Tourism and Wildlife utilized a vehicle belonging to the Tourism Promotion Fund, despite the availability of a government-provided vehicle, raising concerns about potential misuse of public resources.

In the circumstances, the effectiveness of the State Department's management of motor vehicles could not be confirmed.

1883. Failure to Maintain an Approved Risk Management Policy

In the year under review, the State Department for Tourism had no approved Risk Management Policy contrary to Regulation 165(1) of Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer of a national government entity to develop risk management strategies which include fraud prevention mechanisms and a system of risk management and internal control that build robust business operations.

In the circumstances, the adequacy and effectiveness of the State Department's risk management system could not be confirmed.

STATE DEPARTMENT FOR WILDLIFE – VOTE 1203

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1884. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1885. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual receipts on comparable basis of Kshs.14,971,397,318 and Kshs.11,811,307,740 respectively resulting to an under-funding of Kshs.3,160,089,578 or 21% of the budget. Similarly, the State Department spent Kshs.11,716,351,746 against actual receipts of Kshs.11,811,307,740 resulting to an under-expenditure of Kshs.94,955,994 of the actual receipts.

The under-funding and under-performance affected the planned activities of the State Department and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1886. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1887. Un-Surrendered Imprest

The statement of financial assets and financial liabilities reflects imprests and advances amount of Kshs.4,178,917 as disclosed in Note 10 to the financial statements out of which Kshs.3,059,022 relates to outstanding imprests issued to staff which had not been surrendered by 30 June, 2024. This was contrary to Regulation 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 seven (7) working days after returning to duty station.

In the circumstances, Management was in breach of the law.

1888. Delayed Outstanding Pending Accounts Payables

Note 17.2 to the financial statements reflects pending accounts payables balance of Kshs.2,935,454,477. Included in the amount is Kshs.2,757,429,458 (2023 - Kshs.2,708,390,651) relating to human wildlife conflict compensation balance as at 30 June, 2024. The National Treasury had approved an amount of Kshs.960,000,000 for compensation but only Kshs.481,900,624 was received by the State Department. Further, the State Department had requested Salaries and Remuneration Commission (SRC) for approval of allowances for the Committee Wildlife Conservation Committee (CWCC) domiciled in the Counties to deliberate on the compensation claims after revocation of applicable sitting allowances. This initiative paralyzed the activities at the county level as there has not been any sittings for the verification of the claims since December, 2021.

The CWCC members were not full-time employees of the Government or Kenya Wildlife Service and therefore denying them the allowances affected their morale and renders their office irrelevant. Further, the human wildlife conflict data was maintained manually hence the risk of errors, fraud and loss of data, confidentiality, integrity and availability was possible.

In the circumstances, failure to settle bills to the human wildlife victims may have adversely affected wildlife conservancy efforts and effectiveness, and integrity of data on compensation of victims could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1889. Understaffing of Technical Staff

The State Department's approved staff establishment allows for employment of a total number of one hundred and sixteen (116) members of staff to efficiently carry out its duties and obligation as envisioned in the Constitution of Kenya. The approved staff establishment authorizes for fifty (50) technical staff and sixty-six (66) support service staff. However, review of staffing documents presented for audit, revealed that the State Department had only thirty (30) technical staff in post instead of fifty (50) staff thus occasioning a short fall of twenty (20) officers as at 30 June, 2024. Further the State Department had a total of eighty-three (83) support staff against authorized number of sixty-six (66) as per the approved staff establishment.

In the circumstances, failure to employ and fill the approved establishment may have negatively affected service delivery to the public.

1890. Lack of a Comprehensive Risk Management Policy

Review of the risk management policies documents revealed that the State Department did not have a comprehensive risk policy document that provides a framework for minimizing risks by enhancing mitigative and corrective measures thereby maximizing potential opportunities. Further, risk assessment was not conducted during the year under review. As a result, there was no identification, assessment and rating of risks or development of strategies to deal with identified risks, so as to provide reasonable assurance that the State Department's objectives would be achieved.

In the circumstances, the existence of effective measures on risk management could not be confirmed.

DONOR FUNDED PROJECT

COMBATING POACHING AND ILLEGAL WILDLIFE TRAFFICKING IN KENYA THROUGH AN INTEGRATED APPROACH (GRANT NO.00108406)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1891. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1892. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.211,000,000 and Kshs.128,157,613 respectively, resulting to an under-funding of Kshs.82,842,387 or 39% of the budget. Similarly, the Project spent an amount of Kshs.123,679,590 against actual receipts of Kshs.128,157,613 resulting to an under-utilization of Kshs.4,478,023 of the actual receipts.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1893. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. Management had not resolved the issues as at 30 June, 2024.

Basis for Conclusion

1894. Delayed Construction of Facilities for Security Hub at KWS Tsavo Conservation Area and Kasigau

The Project through the State Department of Wildlife entered into a contract with a company for the construction of facilities for security hub at KWS Tsavo Conservation Area and Kasigau on 08 November, 2022 at a contract sum of Kshs.52,231,554. The contract duration was ten (10) months with completion scheduled for August, 2023. The contractor requested for four (4) months extension of time vide letter dated 08 September, 2023 which was granted by the contract implementation team that sat on 15 December, 2023. However, the minutes of the meeting were not clear on the start and end of the extension period.

Further, as at the time of physical verification in October, 2024 the physical works were still ongoing. The contract had delayed yet total certified works of Kshs.41,225,410 representing 77% of the total amount had been paid and no project progress reports and site visit minutes for the same were provided for audit.

In view of the above delayed project, value for money on project and its intended purpose may not be achieved.

1895. Delay in the Design and Publishing of the National Wildlife Strategy (2023-2028)

The statement of receipts and payments reflects directs payments Appropriation-In-Aid (AIA) amount of Kshs.49,046,912 as disclosed in Note 2 to the financial statements. Included in the amount is Kshs.1,924,200 paid to a consultant to develop a National Strategy to combat poaching and illegal wildlife trade (IWT). The contract was entered into on 24 August, 2023 at contract sum of Kshs.2,606,000 and was to take five (5) months from 24 August, 2023 to 28 December, 2023. Review of documents provided for audit revealed that an amount of Kshs.1,824,200 was paid to the consultant yet the consultancy had not been completed. Therefore, the time frame for the contract was not adhered to, since the contract duration had elapsed.

In the circumstances, value for money in the expenditure of Kshs.1,824,200 that had already been paid to the consultant could not be confirmed.

1896. Delayed Development and Implementation of Conservancy Management Plans

The statement of receipts and payments reflects directs payments Appropriation-in-Aid (AIA) amount of Kshs.49,046,912 as disclosed in Note 2 to the financial statements. Included in the amount is Kshs.5,232,920 and Kshs.2,992,800 all totalling Kshs.8,225,720 paid to two (2) consultants. The Project Management awarded a consultancy contract to develop a conservancy management plan for Mbokishi and Mara-

Ripoi Conservancies on 31 July, 2023 at a contract sum of Kshs.6,542,400. The contract was expected to be completed by 31 March, 2024 as per the work plan. Review of documents provided for audit revealed that an amount of Kshs.5,232,920 was paid to the consultant. However, Management plans for the two conservancies are in draft stage and have not been submitted to the Cabinet Secretary for approval and gazettement for implementation.

Further, the Project Management also awarded another consultancy contract to develop a Conservancy Management Plan for Mbale and Dawida Conservancies on 10 July, 2023 and 31 October, 2023 respectively at a combined cost of Kshs.9,976,000. The contract was expected to be completed by 30 November, 2023 as per the work plan and programme. Review of documents provided for audit revealed that an amount of Kshs.2,992,800 was paid to the consultant. However, Management plans for the two conservancies are at inception stage yet the consultancy was supposed to have been completed by 28 February, 2024.

In the circumstances, value for money on the expenditure of Kshs.8,225,720 that had already been paid for developing conservancies management plans could not be confirmed.

1897. Non-Disclosure of In-Kind Contributions

The project grant document indicates that the Illegal Wildlife Trafficking (IWT) project was to be implemented in a span of five (5) years, effective from the date the agreement was signed. The total cost of the project was USD 19,392,268 which was to be financed through a Global Environment Facility (GEF) cash grant of USD 3,826,605 and USD 15,565,663 in-kind contributions by the project implementation partners. The project is expected to close in less than 12 months in December, 2025. However, there are no records showing how much the implementing partners have contributed in-kind since the inception of the project to date.

Further, component 1 to 4 of the project was to be implemented in phases with budgeted amounts and expected outcomes per year. However, there are no detailed reports indicating how far the project outcomes have been achieved and the budgetary allocations absorbed per outcome per year. Therefore, there is ambiguity in project implementation and utilization of resources.

In the circumstances, the Project may experience under funding, resulting in inability to fully implement the expected outcomes, thereby denying the beneficiaries the expected benefits.

1898. Low Absorption of Funds and Undrawn Balances

The project information and overall performance reflects that the Project signed an agreement for funding from UNDP and Government of Kenya combined amount of Kshs.1,350,727,377. However, only Kshs.314,664,193 had been received as at 30 June, 2024 resulting in an undrawn balance of Kshs.1,036,063,184 and implying low absorption of funds. Although the projects period was extended to 31 December, 2025, it is doubtful that undrawn funds amounting to Kshs.1,036,063,184 will be absorbed, In the circumstances, there is risk that the project's timelines would end without implementing all the planned activities and therefore not meeting all the projects objectives.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1899. Failure of the Audit Committee and the Internal Audit Function to Perform their Duties

Review of the audit committee minutes revealed that the internal audit function did not carry out any audits during the year under review. Although, the internal audit unit annual work plan for the financial year 2023-2024 indicated that the function had planned to audit the Project, no such audit reports were provided for audit review.

In the circumstances, effectiveness of Audit Committee and the Internal Audit Function in providing internal checks and balances to the project could not be confirmed

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1900. As required by African Development Bank (ADB), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the management of the Project, so far as it appears from the examination of those records and the Project's financial statements agree with the accounting records and returns.

STATE DEPARTMENT FOR GENDER AND AFFIRMATIVE ACTION - VOTE 1212

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1901. Inaccuracies in the Statement of Cash Flows

The statement of cash flows reflects unsupported prior year adjustment of Kshs.10,658,871 as detailed in Note 14 to the financial statements.

In the circumstances, the accuracy and completeness of the statement of cash flows could not be confirmed.

Emphasis of Matter

1902. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipt budget and actual on a comparable basis of Kshs.5,739,527,741 and Kshs.5,061,395,823 respectively resulting in an underfunding of Kshs.678,131,918 or 12% of the budget. Similarly, the State Department spent an amount of Kshs.5,044,896,395 against an actual of Kshs.5,061,395,823 resulting in an under absorption of Kshs.16,499,427.

In the circumstances, the budget under-funding and budget under-absorption affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1903. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Other Matter and Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the matters remained unresolved as at 30 June 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1904. Pending Accounts Payable

According to Note 17.2 (Annex 1) to the financial statements, the State Department had pending accounts payable balance of Kshs.483,394,489. Out of this balance, Kshs.458,338,968 relates to pending bills in respect of sanitary towels. However, Management did not provide evidence that the bills were settled as a first charge as required by Regulation 42.(1)(a) of the Public Finance and Management (National Government) Regulations, 2015.

In the circumstances, Management was in breach of the law.

1905. Unapproved In-posts

Review of approved staff establishment for the State Department revealed that there were unapproved staff in positions beyond the approved establishment. This was in violation of Section A.15 of the Human Resource Policies and Procedures Manual for the Public Service, 2016, which requires the Ministerial Human Resource Management Advisory Committees, to make recommendations to the Authorized Officer regarding among others establishment and complement control.

In the circumstances, Management was in breach of the Human Resources Policy Manual.

1906. Failure to Maintain One-Third Rule on Net Pay

Review of the payroll data for the year under review revealed that a number of officers were earning net salary which was below one-third of their basic pay.

Failure to comply with the one-third rule is a violation of the Section C.1 (3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which requires Public officers not to over-commit their salaries beyond two thirds ($^{2}/_{3}$) of their basic salaries and Heads of Human Resource Units to ensure compliance.

In the circumstances, Management was in breach of the Human Resources Policy Manual.

1907. Ageing Workforce

Section H.14(1) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 states that authorized Officers are expected to develop, update and maintain a skills inventory for all officers in their respective State Departments for purposes of identifying the available, and the required skills. The inventory will guide the training, recruitment and succession management decisions.

However, review of payroll data for the State Department revealed that over 44% of the staff were above fifty (50) years. As a result, in the next few years, the succession of the entity will be doubtful considering the expected reduced manpower due to retirements.

In the circumstances, Management was in breach of the Human Resources Policy Manual.

1908. Motor Vehicles in the Asset Register Without Value

Annex 3 to the financial statements reflects a summary of fixed assets totalling Kshs.718,594,641. This includes purchase of vehicles and other transport equipment balance of Kshs.32,311,979 procured during the year under review.

However, out of thirteen (13) motor vehicles in custody of State Department, three (3) vehicles had no values indicated. This is a violation of Regulation 143(1) of Public Finance Management Regulations, 2015 which requires, the Accounting Officer to maintain a register of assets under his or her control or possession as prescribed by the relevant laws.

In the circumstances, Management was in breach of the law.

1909. Inadequate Asset Tagging/Identification

The State Department had maintained an asset register as provided for in the law. However, most items had not been labelled for identification, control, traceability and for ease of verification. This was contrary to the provisions of Regulation 143(1) of the Public Finance Management (National Governments) Regulations, 2015 which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession.

In the circumstances, Management was in breach of the law.

1910. Unaccounted for Motor Vehicles

Annex 3 on the financial statements reflects net book value of motor vehicles amounting to Kshs.96,889,959. However, two (2) Motor vehicles were not presented for physical verification. Failure to present assets for physical verification may point to a possible loss of public assets. This was contrary to the provisions of Regulation 139(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which provides that the Accounting Officer of a national government entity shall take full responsibility and ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1911. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECTS

WOMEN EMPOWERMENT FOR GENDER EQUALITY PROJECT (WEGEP)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1912. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1913. Pending Bills

Review of the financial statements under note 7A – Other Important Disclosures on Analysis of pending bills indicate that, the project had pending bills amounting to Kshs.180,000. In addition, in the financial year 2022/2023, the project had a cash and cash equivalents balance of Kshs.1,978,095 as at 30 June, 2023. During the financial year 2023/2024 a refund of Kshs.1,938,595 was made to the United Nations and imprest recovery of Kshs.29,400 was received in the bank leaving a balance of Kshs.68,900 as at 30 June, 2024. However, Management did not explain why the funds were refunded to the donor prior to settling the pending bills amount of Kshs.180,000. As a result, the remaining balance in the bank account of the project of Kshs.68,900 was not enough to clear the pending bills of Kshs.180,000. No explanation was provided on how the Management of the project would settle the pending bills which were long overdue.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1914. 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

1915. There were no material issues relating to effectiveness of internal controls, risk management and governance.

GOK-UNFPA 10TH COUNTRY PROGRAMME GRANT/CREDIT NO.1000702818

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1916. There were no material issues noted during the audit of the financial statements of the Programme.

Emphasis of Matter

1917. Budgetary Control and Performance

The statement of comparison of budget and actual amounts indicates that the Project's receipts budget for the year under review amounted to Kshs.24,000,000 and actual receipts amounted to Kshs.21,634,126 resulting to an under-funding of Kshs.2,365,874 or 10% of the budget. Further, the Project spent Kshs.20,014,232 against the actual receipts of Kshs.21,634,126 resulting to an under-utilization of Kshs.1,619,894 or 7% of the actual receipts.

In the circumstances, the under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1918. Pending Bills

Annex 2 to the financial statements reflects pending accounts payable balance of Kshs.316,290 which relates to the supply of services that had not been settled as at 30 June, 2024.

Failure to clear pending bills in the year to which they relate distorts the budget of the subsequent year as they constitute a first charge on the budget.

1919. Delay in Implementation of the Project

Paragraph 2.2 of the Project information revealed that the Project was expected to start on 01 July, 2022. However, documents provided for audit revealed that the Project received funding in October, 2023 and began operations in November, 2023. No justification was provided to explain the delay in funding.

Further, it was noted that as at the time of audit in September, 2024, the Project had not carried out any activities since January, 2024 due to lack of funding.

In the circumstances, the Project may not achieve its objectives.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1920. 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

1921. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR PUBLIC SERVICE - VOTE 1213

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1922. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1923. Budgetary Control and Performance

The statement of comparison of budget and actual amounts combined reflects final receipts budget and actual on a comparable basis of Kshs.26,447,849,629 and Kshs.22,843,833,168 respectively, resulting in an underfunding of Kshs.3,604,016,462 or 14% of the budget. Similarly, the State Department for Public Service spent Kshs.22,807,881,282 against actual receipts of Kshs.22,843,833,168 resulting in an absorption rate of 99.84% of the actual receipts.

The underfunding affected the planned activities and may have impacted negatively on delivery of services to the public.

1924. Long Outstanding Accounts Payables

Note 18.2 to the financial statements reflects pending accounts payables balance of Kshs.1,536,781,825 owed to suppliers of goods and services which were not settled in the year under review but were instead carried forward to 2024/2025 financial year. The unpaid bills include long outstanding accounts payables balance of Kshs.158,579,220 relating to financial years ranging from 2018/19 to 2021/2022. However, Management did not provide reasons for the non-payment of the bills. Further, records available indicate that pending bills for Huduma Kenya Secretariat which amounted to Kshs.25,885,560 were excluded from the pending bills balance of Kshs.1,536,781,825 as at 30 June, 2024.

Failure to settle bills in the year to which they relate adversely affects the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge to subsequent year budget provision.

My opinion is not modified in respect of these matters.

Other Matter

1925. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the issues are yet to be deliberated by the Public Accounts Committee (PAC).

Basis for Conclusion

1926. Lack of Ownership Documents and Incomplete Fixed Asset Register

Annex 2 to the financial statements reflects a summary of fixed assets register totalling Kshs.778,818,082 which includes the purchase of vehicles and other transport equipment of Kshs.71,738,617. However, out of the twenty-eight (28) motor vehicles in the custody of the State Department, logbooks for ten (10) vehicles were not provided for audit review. Further, the annexure on the summary of the fixed asset register excluded assets located at Huduma Kenya Secretariat Headquarters. Physical verification of assets at Huduma Centres revealed that seventeen (17) Huduma Centres did not maintain fixed asset registers while fourteen (14) Huduma Centres maintained incomplete fixed asset registers. The incomplete fixed asset registers did not capture details such as the value of the assets. In addition, the assets were not tagged for ease of identification and tracking.

Physical verification also revealed that four (4) Huduma Centres did not have lockable cabinets for safe safekeeping of crucial documents. This was contrary to regulation 143 (1) of the Public Finance Management (National Government) Regulations, 2015 which require the accounting officer to be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws. In addition, Regulation 139 (1) and (2) of the Public Finance Management (National Government) Regulations, 2015 require the accounting officer to maintain the safety of assets.

In the circumstances, Management was in breach of law and ownership of the assets could not be confirmed.

1927. Lack of Legal Framework for Huduma Kenya Secretariat

Gazette Notice No. 2177 of 4 April, 2014 established the Huduma Kenya Service Delivery Programme under the oversight of Service Delivery Summit. The Summit is required to meet twice a year. Further, a Technical Committee was formed chaired by the Cabinet Secretary for Devolution or Cabinet Secretary for Interior and drew membership from nine (9) Principal Secretaries and the Solicitor General. The function of the technical committee includes developing policy and legislation for the Huduma Kenya Secretariat for approval by the Service Delivery Summit. However, since its inception in the year 2014, Huduma Kenya Secretariat has no policy and legislative framework for its existence as required by the gazette notice No. 2177.

In addition, minutes of the meetings by the Service Delivery Summit which is meant to meet twice a year and the Technical Committee were not provided for audit review.

In the circumstances, legality of the Huduma Kenya Secretariat operations could not be confirmed.

1928. Lack of Lease Agreement Between Huduma Kenya Secretariat and Postal Corporation of Kenya

The statement of receipts and payments reflects payments for use of goods and services totalling Kshs.1,588,455,547. The amount includes rentals of produced assets totalling Kshs.282,773,447 as disclosed in Note 6 to the financial statements. Excluded from these payments are rental charges for twenty-three (23) Huduma centres housed inside Postal Corporation of Kenya buildings which are spread throughout the country without any lease agreements. Audit inspection revealed that confirmation of actual space occupied and valuation by the Centres is ongoing.

Further, the Attorney General's legal opinion on the claim by the Postal Corporation of Kenya (PCK) for payment of Kshs.1,669,169,202 in respect of rent and utilities consumed by the Huduma Centres, advised the Postal Corporation of Kenya to liaise with the Accounting Officer of the State Department for Public Service to obtain a reasonable amount for the rent to be claimed, and under Section 68 of the Public Finance Management Act, 2012, seek further mediation by the Chief of Staff and Head of Public Service in the event both parties are unable to agree.

In the circumstances, the legality of the occupation of the Posta premises by Huduma Centres could not be ascertained and this may affect operations.

1929. Regularity of Human Resource Management Practices

1929.1 Non-Compliance with the One-Third of Basic Salary Rule

The statement of receipts and payments reflects payments totalling Kshs.6,239,211,076 in respect to the compensation of employees. However, payroll analysis revealed that nine (9) officers had overcommitted their salaries beyond one-third of their basic salary during the year under review for June, 2024. This was contrary to Section 19(3), of the Employment Act, 2007 which states 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 which under the provisions of subsection (1), may be made by an employer from the wages of his employee 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.

In the circumstances, Management was in breach of the law.

1929.2 Non-Compliance with Law on Ethnic Composition

The statement of receipts and payments reflects payments totalling Kshs.6,239,211,076 in respect to compensation of employees. However, payroll analysis revealed that out of the State Department's total 294 employees, 117 employees or 40% were from the same ethnic community. Out of this, 34% are in senior positions, job group P-U. This is contrary to Section 7 (2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one-third of its staff from the same ethnic community.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1930. Poor Succession Planning of Human Resource

The statement of receipts and payments reflects payments totalling Kshs.6,239,211,076 in respect of compensation of employees. However, analysis of the staff biodata revealed that 176 employees, or 60% of the staff in post are above the age of 45 years. This means that a significant number of experienced staff are set to exit the service in the next 10 years. The age analysis of the staff count is shown in the table below: -

Age range (Years)	Count (No.)	Percentage (%)
25-35	44	15%
36-44	74	25%
45-54	99	34%
55-64	77	26%
Total	**294**	**100%**

This indicates poor succession planning as services offered by staff in critical areas may be affected as the most experienced staff exit the service.

In the circumstances, the effectiveness of internal controls relating to Human Resource Management could not be confirmed.

1931. Lack of an IT Strategy Committee and an IT Steering Committee

Review of the State Department's Information and Communication Technology (ICT) environment revealed that the department does not have an IT strategy and a Steering Committee in place. This is contrary to Section 6.2 of the IT Governance Standard by the ICT Authority on ICT Governance which directs that all Ministries, Counties, Departments and Agencies shall establish two ICT Governance Committees namely; an IT Strategy Committee to provide strategic advice on ICT initiatives and investments to the management and an IT Steering Committee to define the IT mission and goals aligned with the strategic direction of the organization, to authorize and direct the development of the services and operation plans.

The lack of an IT Steering Committee exposes the State Department to the risk of unclear direction regarding the maintenance of information security and safeguarding of ICT Assets across the State Department.

STATE DEPARTMENT FOR EAST AFRICAN COMMUNITY AFFAIRS – VOTE 1221

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1932. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1933. Pending Accounts Payable

Note 14.2 to the financial statements discloses pending accounts payable totalling Kshs.83,320,029 comprised of pending bills relating to supply of goods of Kshs.11,533,894 and supply of services of Kshs.71,786,135 as further detailed in Annex 1 to the financial statements. The bills were not paid during the year under review but were instead carried forward to the financial year 2024/25.

Failure to settle bills during the year in which they relate adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1934. Non-Compliance with the Minimum Net Salary Rule

Review of the State Department's payroll revealed that fourteen (14) employees were paid net salaries below the one-third (⅓) basic pay threshold on various months of the year. This was contrary to Section19(3) of the Employment Act, 2007 which states that all deductions made by an employer from the wages or salaries of his employees at any one time shall not exceed two-thirds (⅔) of such wages or salaries.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1935. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE LAW OFFICE AND DEPARTMENT OF JUSTICE – VOTE 1252

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1936. Unexplained Variance in Transfer to Other Government Entities

The statement of receipts and payments reflects expenditure on transfers to other Government entities of Kshs.2,866,934,378 as disclosed in Note 5 to the financial statements. The transfers include Appropriations-In-Aid (AIA) of self-reporting entities amounting to Kshs.537,815,753, out of which, an amount of Kshs.7,000,000 is in respect of the Nairobi Centre for International Arbitration (NCIA). However, an acknowledgement receipt from NCIA indicated an amount of Kshs.10,000,000, resulting in an unexplained variance of Kshs.3,000,000.

In the circumstances, the accuracy and completeness of the transfers to other Government entities of Kshs.2,866,934,378 could not be confirmed.

Emphasis of Matter

1937. Pending Bills

Note 16.2 to the financial statements reflects pending accounts payable balance of Kshs.458,334,150 as at 30 June, 2024, which were not settled during the year under review, but instead were carried forward to the 2024/2025 financial year.

Failure to settle bills in the year to which they relate distorts the financial statements for the year and affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

Other Matter

1938. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues or provided satisfactory reasons for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1939. Non-Compliance with the One Third of Basic Salary Rule

Review of the June, 2024 salary payroll revealed that thirty-four (34) employees were earning net salaries below the recommended one-third (1/3) of their basic salary contrary to the provisions of Section C.1(3) of the Public Service Commission's Human Resource Policies and Procedures Manual, 2016. The policy stipulates that public officer shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries and Heads of Human Resource Units should ensure compliance. Salary deductions exceeding two-thirds of basic pay may lead to low productivity or subject the officers to pecuniary embarrassment.

In the circumstances, Management was in breach of the Human Resource policies.

1940. Wasteful Payment for Rent

During the year under review, the State Law Office and Department of Justice paid rent amounting to Kshs.20,880,000 to Central Bank of Kenya Staff Pension Scheme for office space on the 18, 19 and 20 floors of the Central Bank of Kenya Pension Towers. However, physical inspection carried out at the building in November, 2024 revealed that the offices are yet to be occupied by staff. The payment of rent for unoccupied office space is against the principles of prudent financial management and is contrary to Section 68(1)(a) of Public Finance Management Act, 2012. The law requires Accounting Officers to ensure that public resources are used in a lawful, economical, and authorized manner to prevent losses from wasteful expenditure.

In the circumstances, the regularity and value for money for the expenditure of Kshs.20,880,000 for the unoccupied office space could not be confirmed.

1941. Irregular Payment of Rent on Expired Leases

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.954,708,726 as disclosed in Note 4 to the financial statements. The expenditure includes an amount of Kshs.76,819,086 incurred on rental of produced assets. Review of lease documents revealed that the Department paid property owners rent amounting to Kshs.2,284,799 for nine (9) regional offices whose lease agreements had expired, with some that expired in April, 2022. Management did not provide explanation for the failure to renew the lease agreements.

In the circumstances, the regularity of the expenditure on rental of produced assets of Kshs.2,284,799 could not be confirmed.

1942. Non-Compliance with Law on Employment of Persons with Disabilities

Review of staff establishment biodata revealed that the State Department had one thousand and sixty-two (1,062) employees, out of which, only thirty-four (34) or 3% of the total employees are persons living with disabilities. This was contrary to Article 54 of the Constitution of Kenya, 2010, which requires the entity to secure the reservation of five percent (5%) of all casual, emergency and contractual positions in employment for persons with disabilities. Further, out of the thirty-four (34) employees with disabilities, a disability guide allowance of Kshs.20,000 per month was paid to nine (9). However, there was no evidence provided to validate the eligibility of the nine (9) out of the thirty-four (34) employees.

In the circumstances, Management was in breach of the law.

1943. Failure to Operationalize Institutions and Submit Financial Statements

During the year under review, the State Law Office and Department of Justice did not submit the financial statements for audit in respect of five (5) institutions which were allocated budget provisions amounting to Kshs.260,558,440 from The National Treasury as shown in the table below:

S No.	Entity	Budget Amount (Kshs.)	Enabling Legislation Breached
1	Victims Protection Board	33,610,000	Victims Protection Act, 2014
2	Victims Protection Trust Fund	32,340,000	Victims Protection Act, 2014
3	National Legal Aid Service	48,968,440	Legal Aid Act, 2016
4	National Coroners Service	40,000,000	National Coroners Service Act, 2017
5	National Anti-Corruption Campaign Steering Committee	105,640,000	
	Total	**260,558,440**	

However, despite the enabling legislation giving autonomy and legal mandate to delink and operate independently, the institutions continue to operate under the State Law Office and Department of Justice. As a result, annual reports and financial statements for the institutions were not prepared as required by Section 68 (2)(k) of the Public Finance Management Act, 2012.

In the circumstances, Management was in breach of the law.

1944. Long Outstanding Payables -Third Party Deposits and Retention

The statement of financial assets and financial liabilities reflects accounts payables balance of Kshs.439,350,462 as disclosed in Note 10 to the financial statements. The balance includes long outstanding deposits totalling Kshs.13,874,942 which have remained unpaid since the 2018/2019 financial year. This is contrary to Regulation 106 of the Public Finance Management (National Government) Regulations, 2015, which requires that any deposit that remains unclaimed for five (5) years should be paid into the Consolidated Fund and subsequently, the Accountant-General may refund the deposit to any person entitled thereto, if he or she is satisfied that the claim is authentic.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1945. Lack of Risk Management Process and Information Technology Strategic Committee

As previously reported, the State Law Office and Department of Justice did not have an approved, operational and well documented enterprise-wide risk management process and policies in place to effectively guide the risk management processes. Further, the entity lacked an operational Information Technology (IT) Strategic Committee and IT Strategic Plan that guide the Information Technology operations. In addition, the entity lacked Business Continuity and Disaster Recovery Plans to support the organization's business processes.

In the circumstances, the policy, strategies and procedures put in place to assess, identify, measure, prioritize and mitigate risks in the State Law and Department of Justice could not be confirmed.

1946. Lack of Ownership Documents and Failure to Tag Assets

Annex 4 to the financial statements on summary of fixed asset register reflects assets balance of Kshs.620,942,875 as at 30 June, 2024, which comprises of historical cost balance brought forward from 2022/2023 Kshs.146,984,665 and additions during the year of Kshs.476,458,210. However, assets held at the Headquarters and regional offices were not tagged for ease of identification. Further, as previously reported, the State Law Office and Department of Justice paid an amount of Kshs.2,500,000 in June, 2023 for a parcel of land in Malindi for the construction of a regional office. However, the sale agreement and title deed for the land were not provided for audit.

In addition, physical inspection revealed that the land is not fenced and there is no signage to indicate the ownership of the land. It was also noted that the survey beacons of the land had been tampered with.

In the circumstances, the existence of an effective system for safeguarding and controlling the entity's assets could not be confirmed.

1947. Understaffing

During the year under review, the State Law Office and Department of Justice had a total of one thousand and sixty-one (1,061) employees in post, against the approved staff establishment of one thousand, four hundred and ninety-two (1,492), resulting in an understaffing by four hundred and thirty-one (431) or 29%.

In the circumstances, the mandate of advising Government Ministries, Departments, Constitutional Commissions, Independent Offices and State Corporations on legislative and other legal matters may not be achieved.

1948. Low Investment in ICT Infrastructure

As previously reported, the State Law Office and Department of Justice did not acquire ICT infrastructure in all offices, hence the business processes were not automated. Further, a Disaster Recovery Strategy had not been developed as required by Regulation 165(1)(a) and (b) of the Public Finance Management (National Government) Regulations, 2015.

In the circumstances, the effectiveness of ICT support services could not be confirmed.

RECEIVER OF REVENUE STATEMENTS - STATE LAW OFFICE AND DEPARTMENT OF JUSTICE

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

1949. Variance Between Revenue Statements and Supporting Schedules

The statement of receipts and disbursements reflects fees on use of goods and services of Kshs.249,297,276 as disclosed in Note 1 to the revenue statements. Included in this amount is Kshs.26,341,750 in respect of registration of societies fees, out of which Kshs.20,673,900 was collected via the E-Citizen platform. However, the settlement report provided to support the balance reflected revenue amounting to Kshs.20,309,950, resulting in an unremitted balance of Kshs.363,950.

In the circumstances, the accuracy and completeness of the registration of societies fees of Kshs.26,341,750 could not be confirmed.

1950. Variance Between Revenue Statements, IFMIS Trial Balance and Public Trustee's Financial Statements

The statement of receipts and disbursements reflects fees on use of goods and services amounting to Kshs.249,297,276 as disclosed in Note 1 to the revenue statements. Included in this amount is Kshs.83,038,340 in respect of public trustee fees. However, the IFMIS trial balance reflected public trustee fees amount of Kshs.90,491,690 resulting to an unreconciled variance of Kshs.7,453,350. Further, the Public Trustee financial statements indicated fees collected and remitted to the revenue account amounting to Kshs.75,027,482 resulting to an unexplained variance of Kshs.8,010,858.

In the circumstances, the accuracy and completeness of public trustee fees of Kshs.83,038,340 could not be confirmed.

Other Matter

1951. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Revenue Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not provided satisfactory reasons for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1952. Unconfirmed Appointments of Collectors of Revenue

Field verification of sampled Sub-counties revealed that Deputy County Commissioners and Assistant County Commissioners did not have appointment letters as Public Trustee collectors of revenue from the Solicitor General. Further, Management did not provide evidence of issuance of official receipts to collectors of revenue amounting to Kshs.249,297,276 paid to the Government of Kenya. This was contrary to Regulation 63(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the receiver of revenue shall authorize a public officer or any of the National Government entities to be a collector of revenue for National Government for the collection of, and accounting for, such items of revenue as the receiver of revenue may specify.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1953. Failure to Prepare and Submit Marriage Fees Periodical Reports by the County and Assistant County Commissioners

The statement of receipts and disbursements reflects fees on use of goods and services of Kshs.249,297,276, as disclosed in Note 1 to the revenue statements. Included in this amount is Kshs.139,764,486 in respect of registration of marriages. However, only thirteen (13) out of the thirty-four (34) gazetted Deputy County Commissioners and Assistant County Commissioners submitted quarterly and consolidated reports on marriage fees as at 30 June, 2024. Further, submitted returns did not cover the whole financial year as required by the Registrar-General's guidelines and no explanation was provided.

Further, the returns submitted had only bank deposit slips without monthly deposit control schedule, quarterly consolidated revenue schedule and annual consolidated revenue collection schedule reports, counter control sheets, receipt voucher (FO 17) and miscellaneous receipts serial numbers as required.

In the circumstances, the existence of effective internal controls that ensures all revenues are collected and reported on in a timely manner could not be confirmed.

1954. Failure to Provide Registration of Marriage Services at Sub-County Level

As previously reported, sample field verification visits to the Counties of Nandi, Nyandarua, Nyamira, Homabay, Baringo Central and Kwale on service delivery to citizens revealed that there was no provision of marriage registration services. Further, various Counties failed to surrender the marriage registration revenue and did not to maintain registers of accountable books.

In the circumstances, the effectiveness of internal controls on revenue collected could not be confirmed.

DONOR FUNDED PROJECT

PROGRAMME FOR LEGAL EMPOWERMENT AND AID DELIVERY (PROJECT CREDIT NUMBER KE/FED/2018/397-591)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1955. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1956. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual receipts on a comparable basis of Kshs.38,404,468 and Kshs.31,935,750 respectively, resulting to an under-funding of Kshs.6,468,718 or 17% of the receipts budget. However, the Project spent an amount of Kshs.34,626,850 against actual receipts of Kshs.31,935,750 resulting to an over-expenditure of Kshs.2,691,100 or 8% of actual receipts.

In the circumstances, the under-funding affected the planned activities which may have a negative impact on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1957. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. The matters remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1958. Failure to Operationalize Offices in Marginalized/Focal Counties

Review of the feasibility study report revealed that offices were identified in Lamu, Tana River, Wajir, Mandera, Garissa, Marsabit and Isiolo counties during the second year of project implementation as focal or marginalized areas. However, no involvement from the Government or Public Works Department in analyzing the requirements for these new offices and therefore no report was prepared and provided for audit review. Further, the summary of fixed assets register shows that office equipment, furniture and fittings, ICT equipment, other machinery and equipment were purchased at a cost of Kshs.14,498,553 all of which are lying unused at the National Legal Aid Service (NLAS) stores in Nairobi.

Management had indicated that there are inadequacies in capacity, citing lack of personnel and financial resources to address the identified office requirements. However, no records were provided to demonstrate the actions taken to ensure NLAS presence in the seven (7) marginalized counties.

In the circumstances, the Project strategic development objective of enhancing access to legal aid in marginalized and high-risk counties may not be achieved.

1959. Delayed Project Implementation and Undrawn Loan Balance

As reported in the previous year, following the signing of the project financing agreement in 2017, the project was scheduled to be implemented over a period of sixty (60) months, with an additional closure period of twenty-four (24) months after the implementation phase. As at 30 June, 2024 the project has been in the operational implementation phase for the full sixty (60) months. The total amount disbursed was EUR 1,026,482 (Kshs.115,422,960) out of the total donor commitment of EUR 2,600,000 (Kshs.289,380,780). The disbursed amount represents 40% of the donor commitment. Further, as at 30 June, 2024, the project had completed 99% of its implementation period, leaving only one month until the end of this phase and the commencement of the closure period.

In the circumstances, the specific objectives, outcomes and performance of the project may not be achieved, which could impact negatively on service delivery to the public.

1960. Lack of a Communication and Visibility Plan

Review of the Financing Agreement revealed that the communication and visibility plan had a budget of Euros.200,000 equivalent to Kshs.22,260,000 under component 2.8. The plan was supposed to be implemented in first year of the implementation phase and was supposed to be supported by the technical assistance component of the donor commitment. However, as at 30 June, 2024 or one (1) month before the end of the implementation phase and beginning of the closure period, the technical assistance had not been provided to help the project develop and gain approval for the communication and visibility plan.

In the circumstances, the public may not benefit from the funds allocated in the Financing Agreement for communication and visibility plan.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1961. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REVENUE STATEMENTS OF THE BUSINESS REGISTRATION SERVICE

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

1962. There were no material issues noted during the audit of the revenue statements of the Service.

Other Matter

1963. Unresolved Prior Year Matter

In the audit report of the previous year, several issues were raised under the Report on the Revenue Statements. However, Management had not resolved the issues. No satisfactory explanation was provided for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1964. There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

Basis for Conclusion

1965. Lack of Capacity in the Internal Audit Unit

Review of the staffing levels in the Internal Audit Department revealed that the Department has only one member of staff instead of the two provided in the staff establishment. Further, the officer, is also the head of the internal audit unit is placed in BRS Grade 4 contrary to the Head of Public Service Circular dated 11 March, 2020 which directed that the Head of Internal Audit be placed between level 2 and 3 of the grading structures.

In the circumstances, the effectiveness of internal audit department as an independent, objective assurance and advisory service to the Service could not be confirmed.

1966. Lack of Service Level Agreements for the Financial Service Providers

Review of records provided revealed that revenue from the Business Registration Service (BRS) was being undertaken by the E-Citizen-platform which was contracted by the Government Digital Payments Unit. However, the Service Level Agreements (SLAs) between the service providers and BRS were not provided for audit review.

In the circumstances, effectiveness of controls over revenue collected under the E-Citizen platform could not be confirmed.

PUBLIC TRUSTEE OF KENYA

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1967. Long Outstanding Deposits

The statement of financial position and as disclosed in Note 15 to the financial statements reflects deposits balance of Kshs.108,381,817. Included in the balance is an amount of Kshs.70,231,817 that was held at Imperial Bank Limited. The bank was placed under receivership by the Central Bank of Kenya on 13 October, 2015 and the Kenya Deposit Insurance Corporation appointed as receivers. The bank informed the Public Trustee of Kenya through 07 July, 2021 that an amount of Kshs.4,072,732 had been transferred to the Kenya Commercial Bank for transmission to the Public Trustee of Kenya leaving a balance of Kshs.67,927,268 held at Imperial Bank Limited. Although, the transfer was confirmed by the Kenya Deposit Insurance Corporation, the amount of Kshs.4,072,732 had not been remitted to the Public Trustee of Kenya as at 30 June, 2024. Further, recoverability of the balance of Kshs.67,927,268 held at Imperial Bank Limited remains doubtful.

In the circumstances, the accuracy, existence and recoverability of the deposits balance of Kshs.108,381,817 could not be confirmed.

1968. Doubtful Investments

The statement of financial position reflects an investments balance of Kshs.240,107,686 as disclosed in Note 16 to the financial statements. Included in this amount is Kshs.152,045,283 described as deposits in financial institutions under the management of the Kenya Deposit Insurance Corporation (KDIC) and the Official Receiver. The deposits include investments totaling Kshs.29,693,938 that were held in Central Finance Kenya Limited and Allied Credit limited. The two (2) financial institutions were wound up and dissolved on 13 September, 2012 and 15 November, 2007, respectively. The Kenya Deposit Insurance Corporation communicated to the Public Trustee on 8 April, 2019 stating that the balances of Kshs.29,693,938 could not be paid since the institutions had been dissolved indicating doubt in its recoverability and subsequent loss of the funds. Further, no sufficient explanation was provided for failure to seek refund of the remaining balance of deposits

In the circumstances, the accuracy, existence and recoverability of the balance of Kshs.240,107,686 is in doubt.

Other Matter

1969. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had neither resolved the issues nor implemented the recommendations as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1970. 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

1971. Failure to Automate Beneficiaries Financial Records

Review of financial records and business processes revealed that the Public Trustee of Kenya maintained its records in a manual form and had over 50,000 ledgers and average annual disbursement of Kshs.3,000,000,000 to beneficiaries in the Headquarters and twelve (12) regional offices. However, the records had aged over the years despite reasonable precautions to guard against damage and the task of updating them was challenging hence the need to design automated systems to help in updating beneficiaries' financial records.

In the circumstances, failure to perform periodic risk assessments may lead to losses, poor management and delays in processing beneficiaries' financial transactions.

1972. Understaffing of Key Staff Positions

The Public Trustee of Kenya has its operation at the headquarters and thirteen (13) regional offices with operational bank accounts and other accounting records for estates. However, review of the staffing revealed that the Headquarters had two (2) accountants against the required number of five (5) accountants. Further, nine (9) regional offices had accountants in service while the in the other four (4) regions the accountants had exited from service and had not been replaced.

In the circumstances, lack of effective internal control measures poses the risk of error and misstatements in the accounting records.

1973. Lack of an Operational and Approved Enterprise Risk Management Strategy

Management did not have an operational and approved enterprise risk management strategy. This was contrary to Regulation 165(1) of the Public Finance Management (National Government) Regulations, 2015, which requires heads of public institutions to develop risk management strategies, which include fraud prevention mechanism and a system of risk management and internal control that build robust business operations.

In the circumstances, the policies, strategies and procedures put in place to assess, identify, measure, prioritize and mitigate risks in the Public Trustee of Kenya could not be confirmed.

1974. Management of the Public Trustee Agents Activities

Review of Public Trustee records revealed that fees collected by the ex-official agents were deposited directly to the revenue collection account of State Law Office. However, surrenders of revenue collected were not provided to the Public Trustee. Further, the returns on the value of estate administered and balances in the books of accounts were not provided to the Public Trustee regularly.

In the circumstances, failure to account for revenue collected affected planning and follow-up on the ex-official agents of the Public Trustee.

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1975. Unsupported Compensation of Employees

The statement of receipts and payments reflects employees costs of Kshs.14,050,247,576 which includes personal allowances paid as part of the salary amounting to Kshs.4,894,681,873 as disclosed in Note 3 to the financial statements. However, personal allowances amounting to Kshs.182,390,324 and leave allowances of Kshs.131,318,155 were not supported by ledger and payroll analysis.

In addition, review of payroll data revealed that The Judiciary had a total of eight thousand three hundred and thirty (8,330) employees as at 30 June, 2024 and six thousand and fourteen (6,014) members of staff as at 30 June, 2023, indicating an increase of two thousand three hundred and sixteen (2,316) employees during the year. The list provided for new contracts revealed one-hundred and thirty-six (136) additional staff members resulting in an unsupported variance of two thousand one hundred and eighty (2,180) employees. Management did not provide for audit records on the recruitment of the additional staff.

In the circumstances, the accuracy, completeness and regularity of the compensation of employees amount of Kshs.14,050,247,576 could not be confirmed.

1976. Unsupported Foreign Travel Subsistence and Training Expenses

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.6,528,902,111 as disclosed under Note 4 to the financial statements. Included in the expenditure is foreign travel and subsistence of Kshs.213,863,129 and training expenses of Kshs.55,298,426. Review of records revealed payments amounting to Kshs.37,778,400 paid for the procurement of air tickets was not supported by invoices and boarding passes. Further, the expenditure of Kshs.55,298,426 on training expenses was not supported by an approved training plan, training needs assessment, approval and list of employees nominated for the training.

In the circumstances, the accuracy, completeness and regularity of foreign travel subsistence and training expenses amount of Kshs.93,076,826 could not be confirmed.

1977. Variances Between the Comparative Balances and Prior Year Audited Financial Statements

Comparison between the 2022/2023 audited financial statements and comparative balance of the financial statements presented for audit revealed variances as indicated below:

Description	Financial Statements Balance (Kshs.)	Balance as Per Audited 2022/2023 Financial Statements (Kshs.)	Variance (Kshs.)
Statement of Financial Assets and Liabilities			
Bank Balances	85,320,110	8,186,097,574	(8,100,777,464)
Third Party Deposits	0	8,100,777,464	(8,100,777,464)
Statement of Cash Flows			
Cash and Cash Equivalents at Beginning	62,119,764	6,718,069,286	(6,655,949,522)
Cash and Cash Equivalents at end of the year	85,320,110	8,186,097,574	(8,100,777,464)
Bank Account Balances Note 6A	64,375,639	8,186,097,574	(8,121,721,935)
CBK 1000589377- Development Judiciary Fund	0	728,449,399	(728,449,399)
CBK 100082342 Deposit The Judiciary	0	50,279,333	(50,279,333)
Various Commercial Bank Balances	0	7,322,048,732	(7,322,048,732)
Kshs.55,373,565 Unspent Funds (AIEs and Imprest)	0	55,373,565	(728,449,399)

Management did not provide for audit explanations, reconciliations or restatements for the above variances.

In the circumstances, the accuracy and completeness of the financial statements for the year under review could not be confirmed.

Emphasis of Matter

1978. Long Outstanding Pending Accounts Payables

Note 12.1 on Other Important Disclosures reflects pending accounts payables of Kshs.872,100,944 which was not paid during the year, but instead carried forward to the 2024/2025 financial year. The balance includes pending payables of Kshs.82,455,478 relating to 2022/2023 and prior years and an amount of Kshs.791,432,670 or 91% incurred in the 2023/2024 financial year.

Failure to settle bills in the year to which they relate distorts the financial statements for the year and affects the budgetary provisions for the subsequent year as they form a first charge.

1979. Low Absorption of Development Budget

The statement of comparison of budget and actual amounts for development funds reflects final budget of Kshs.1,450,000,000 and an actual expenditure of

Kshs.929,561,636, resulting in under-utilization by Kshs.520,438,264 or 33% of the budget. Management attributed the under-utilization of project funds to internal capacity challenges which led to contractors' failure to resume work due to the rising costs associated with inflation, delayed procurement processes, and delays in certification of works. However, there was no evidence of plans to build capacity to address these challenges.

In the circumstances, the effectiveness of The Judiciary's programme aimed at providing critical infrastructure for social transformation through enhanced access to justice may be delayed.

My opinion is not modified in respect of these matters.

Other Matter

1980. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not provided satisfactory reasons for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1981. Avoidable Payments

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.6,528,902,111 as disclosed in Note 4 to the financial statements. The expenditure includes other operating expenses of Kshs.880,106,087, out of which Kshs.100,000,000 was in respect of partial payment of arbitration award to a contractor involved in the construction of the Lodwar Law Courts. Records provided indicate that The Judiciary was sued by the contractor for breaching contractual obligations, which delayed payments and termination of the contract. The payments could have been avoided if The Judiciary adhered to the contract terms.

In the circumstances, the regularity and value for money of other operating expenses amounting to Kshs.100,000,000 could not be confirmed.

1982. Non-Compliance with One-Third Rule on Basic Salary

Review of payroll data revealed that, during the year under review five hundred fifty-one (551) employees earned a net salary of less than one-third (⅓) of their basic salary. This is contrary to Section 19(3) of the Employment Act, 2007 which states that public officers shall not over-commit their salaries beyond two-thirds (⅔) of their basic salaries.

In the circumstances, Management was in breach of the law.

1983. Non-Compliance With Law on Affirmative Action

Review of payroll data for July,2023 and staff establishment revealed that, The Judiciary had six thousand two hundred and ninety-nine (6,299) staff members during the year out of which one hundred (100) staff members or 2% were people with disabilities. This percentage falls below the 5% of the staff members. This is contrary to Article 54(2) of the Constitution of Kenya (2010) which requires that persons with disabilities should make up at least five percent (5%) of the workforce.

In the circumstances, Management was in breach of the law.

1984. Non-Compliance with Staff Establishment

Review of records revealed The Judiciary has an approved staff establishment of ten thousand one hundred and six (10,106) against an in-post of six thousand eight hundred and eighty-two (6,882) resulting in a deficit of three thousand two hundred and twenty-two (3,222) or 32%. Further, the magistrates and judges approved establishment was one thousand five hundred and forty-seven (1,547) against those in-post of eight hundred and twenty-six (826), resulting in a shortage of seven hundred and twenty-one (721) or 47%. Further, thirty-five (35) cadres with an approved total establishment of eight hundred and sixteen (816) in seven (7) job groups had staff in-post of one thousand five hundred and forty-six (1,546) resulting in an overstaffing by seven hundred and thirty (730) or 89%. The non-compliance with the staff establishment may affect service delivery to the public.

In the circumstances, the effectiveness of the internal controls and the regularity of human resources management processes could not be confirmed.

1985. Failure to Operationalize Courts

Review of documents provided for audit and inspection of the court stations revealed that The Judiciary had one hundred and seventy-five (175) courts that had been gazetted. However, as at 30 June, 2024, only one hundred and forty-one (141) of these courts or 83% were operational. Among the non-operational courts were eleven (11) that were established in 2020 in Zombe, Borabu, Matiliku, Usigu, Kasarani, Masinga, Manga, Garbatulla, Marigat, Kikima and Kobujoi. However, no records were provided outlining any plans to operationalize the remaining Law Courts.

In the circumstances, the effectiveness of service delivery to the public could not be confirmed.

1986. Condemned New Office Building at the Mombasa Law Courts

Records provided for audit indicate that The Judiciary signed contract for the construction of the Mombasa Law Courts during the 2016/2017 financial year at a contract sum of Kshs.445,173,323. Construction of the building began in September, 2017 and a completion certificate was issued in June, 2021. However, audit inspection at the Mombasa Law Courts and reports from the Ministry of Lands, Public Works, Housing and Urban Development revealed that the newly constructed court building remains unoccupied due to significant structural defects which render it unsafe for use. Further, a final structural assessment report by the Ministry dated 17 May, 2024 recommended the demolition of the building due to high costs associated with repair works.

In the circumstances, the public did not obtain value for money for the amount of Kshs.445,173,323 spent on the court building.

1987. Failure to Prepare and Submit Bank Reconciliation Statements

During the year under review, Management did not prepare and submit to the Auditor-General for review monthly bank reconciliation statements. This was contrary to Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015 which requires Accounting Officers to prepare bank reconciliation statements not later than the 10th day of the subsequent month and submit a copy to The National Treasury and the Auditor-General.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1988. Lack of Internal Audit Reports

Management did not provide internal audit reports for the financial year for audit review. Regulation 171 of the Public Finance Management (National Government) Regulations, 2015 requires the internal auditor to discuss the findings, conclusions and recommendations with the auditee; issue a signed written report after each internal audit assignment that is objective, clear, concise, constructive and timely; and give reports with recommendations for potential improvement, suggestions of corrective actions and acknowledgement of satisfactory performance. It was therefore not possible to determine actions taken by the Accounting Officer and the Audit Committee in accordance with Regulation 172 of the Public Finance Management (National Government) Regulations, 2015 requires the Accounting Officer to develop a response and action plan for submission to the Chairperson of the Audit Committee within fourteen days.

In the circumstances, the effectiveness of internal controls, risk management and governance could not be confirmed.

1989. Incomplete Fixed Assets Register

Annex 1 on the summary of fixed asset register to the financial statements reflects historical cost of non-current assets of Kshs.31,770,849,000. Records provided for audit revealed that twenty-six (26) motor vehicles were disposed off during the year under review. However, the disposal of the vehicles was not reflected in the summary of fixed asset register. Further, the register was not in compliance with The National Treasury template provided vide Circular No.23 of 2020. Important information such as date acquired, cost of the asset, serial number, tag number, asset condition, and current value was not included in the asset register.

In the circumstances, the effectiveness of controls on asset management could not be confirmed.

1990. Enhancement of Governance Systems for Security Related Expenditures

During the year under review, The Judiciary incurred expenditure for confidential security operations. A certificate of confidential expenditure was issued, supported by a declaration from the Accounting Officer affirming the proper use of funds in compliance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015. There is need, however, to enhance accountability of confidential expenditures through review of the Regulations to clearly define entities eligible for confidential security-related expenditures and to specify what constitutes security-related operations. Further, entities should establish internal oversight mechanisms and processes that include detailed budget projections and post-operation financial summaries to address risks and ensure responsible use and accountability of the funds, beyond the certificate.

The measures will strengthen governance, foster trust, and ensure funds are utilised responsibly without compromising State security.

RECEIVER OF REVENUE STATEMENTS - THE JUDICIARY

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

1991. There were no material issues noted during the audit of the revenue statements of the Judiciary.

Other Matter

1992. Unresolved Prior Year Matter

In the audit report of the previous year, an issue was raised under the Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issue as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1993. Failure to Prepare and Submit Bank Reconciliation Statements and Quarterly Reports

During the year under review, Management failed to prepare and submit monthly bank reconciliation statements for revenue account, including the station deposit bank accounts, to the Auditor-General for review. This was contrary to the Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015 which inter alia requires Accounting Officers to prepare bank reconciliation statements by the 10th of the following month and submit to The National Treasury with a copy to the Auditor-General. Similarly, the receiver of revenue did not submit quarterly reports to The National Treasury, with a copy sent to the Auditor-General by the 15th day of each quarter.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1994. Lack of Internal Audit Reports

During the year under review, no internal audit reports were provided for revenue collections. This was contrary to Section 73 (3)(b) of the Public Finance Management Act, 2012 which requires that government entities establish appropriate arrangements for conducting internal audits that adheres to the guidelines issued by the Accounting Standards Board.

In the circumstances, the effectiveness of internal controls, risk management and governance could not be confirmed.

JUDICIARY DEPOSIT ACCOUNTABILITY STATEMENTS

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1995. Incomplete Statement of Comparison of Budget and Actual Amounts

The statement of comparison of budget and actual amounts reflects nil amounts in respect of final budgets for receipts and payments.

In the circumstances, the accuracy and completeness of the statement of comparison of budget and actual amounts could not be confirmed.

1996. Unsupported Long Outstanding Reconciliation Items

The statement of financial position reflects a cash and cash equivalents balance of Kshs.8,432,972,935 which, as disclosed in Note 3 to the deposit accountability statements, comprises of Central Bank of Kenya deposits of Kshs.657,688,319 and other deposits held at various commercial banks amounting to Kshs.7,775,284,616. However, the bank reconciliation statements reflect receipts in the cash books not in bank statements totaling Kshs.352,938,473 some dating back to 2019.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.8,432,972,935 could not be confirmed.

1997. Lost Deposits

The statement of financial position reflects third party deposits balance of Kshs.8,432,972,935 as disclosed in Note 5 to the deposit accountability statements. However, as previously reported, the balance includes general deposits for various Court stations amounting to Kshs.7,322,048,732 out of which an amount of Kshs.352,938,472 relates to deposits for seventy-two (72) court stations held by the former District Treasuries that have not been paid to the Judiciary. Although, Management had written to the Principal Secretary for The National Treasury vide letter dated 29 December, 2021 requesting confirmation of the liability, The National Treasury did not acknowledge the same to date. Further, there was no evidence of receivable or a contingent asset recognized in the deposit accountability statement.

Further, as previously reported in the Judiciary financial statements for the year 2022/2023, and as disclosed in Note 5, included in the third-party deposits balance are deposits amounting to Kshs.150,748,101 lost through theft by staff members in Embu, Malindi, Molo, Nakuru Courts and Judiciary Headquarters in 2017/2018 and prior financial years. Although the matter was referred to the Directorate for Criminal Investigation and Assets Recovery Agency, the amounts had not been recovered as at 30 June, 2024

In the circumstances, the accuracy and completeness of the third-party deposits of Kshs.8,432,972,935 and the and recoverability of the lost deposits could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1998. Failure to Submit Monthly Bank Reconciliation Statements and Quarterly Reports

During the year under review, Management did not prepare and submit to the Auditor-General monthly bank reconciliation statements for Judiciary deposits including the station deposits bank accounts. This is contrary to the Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015 which requires accounting officers to prepare bank reconciliation statements not later than 10th of the subsequent month and submit a copy to The National Treasury with a copy to the Auditor-General.

Further, Management did not prepare and submit copies of quarterly deposit reports to the Auditor-General as required by Regulation 65 of the Public Finance Management (National Government) Regulations, 2015.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1999. Failure to Carry out Internal Audits

During the year under review, Management did cause the carrying out of internal audits for the deposits as prescribed in Section 73 (3)(b) of the Public Finance Management Act, 2012 which requires a national government entity to ensure that appropriate arrangements for conducting internal audit according to the guidelines issued by the Accounting Standards Board.

In the circumstances, the effectiveness of the Deposits' internal controls could not be confirmed.

THE JUDICIARY MORTGAGE AND CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

2000. Unsupported Revenue from Exchange Transactions - Other Income

The statement of financial performance reflects other incomes-3% income on disbursed loans of Kshs.121,868,772 as disclosed in Note 8 to the financial statements. However, Note 8 reflects total expenses of 3% commission charged by service provider. Further, the income was not supported by a note, schedules or journal voucher indicating the payee, purpose description, date and amounts.

In the circumstances, the accuracy and completeness of other income of Kshs.121,868,772 could not be confirmed.

2001. Inaccuracies in the Financial Statements

Review of the financial statements revealed the following inaccuracies:

2001.1 Statement of Comparison of Budget and Actual Amounts

The statement of comparison of budget and actual amounts reflects Nil amounts for original and final budget against actual interest income of Kshs.18,577,954. Further, the statement of financial performance reflects other income of Kshs.121,868,772. However, the amount has been omitted in the column of actual amounts of the statement. Further, the statement reflects Nil expenditure while the statement of financial performance reflects Kshs.121,868,772 resulting in an unexplained variance of same amount.

2001.2 Car Loan Revolving Fund Balance

The statement of financial position reflects car loan revolving fund balance of Kshs.6,704,416 and has no corresponding explanatory note. Further, Note 4 to the financial statements which ought to relate to the revolving fund, reflects a car loan balance of Kshs.6,936,974, resulting in an unreconciled variance of Kshs.232,558. In addition, the balance was not supported with a schedule or ledger.

2001.3 Mortgage Revolving Scheme Balance

The statement of financial position reflects mortgage revolving scheme balance of Kshs.5,340,548,588, while statement of changes in net assets reflects a balance of Kshs.5,110,705,818, resulting in an unexplained variance of Kshs.229,842,770.

2001.4 Accumulated Surplus

The statement of financial position reflects accumulated surplus(reserves) of Kshs.118,810,512. However, the statement of changes in net assets reflects accumulated surplus of Kshs.255,357,698, resulting in an unexplained variance of Kshs.136,547,186.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

2002. Unsupported Outstanding Loan Advances

The statement of financial position reflects receivables from exchange transactions balance of Kshs.4,505,361,656 as disclosed in Note 5 to the financial statements. The balance includes short term outstanding loan advances (short Term) held at a commercial bank of Kshs.5,048,818. However, the balance was not supported with a schedule or a ledger.

In the circumstances, the accuracy and completeness of outstanding loan advances (short term) balance of Kshs.5,048,818 could not be confirmed.

Other Matter

2003. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2004. Non-Compliance with the Public Sector Accounting Standards Board Reporting Requirements

The annual report and financial statements presented for audit revealed the following anomalies:

i. The annual report and financial statements were not dated;

ii. The notes are not sequentially numbered while Note 9 has not been referenced to the financial statements;

iii. The total expenses-3% commission to service provider (Kshs.121,868,772), accumulated surplus Kshs.118,810,512, car loan revolving fund Kshs.6,704,416 and mortgage revolving scheme Kshs.5,340,548,588 do not have corresponding explanatory notes to the financial statements; and

iv. The statement of comparison of budget and actual amounts do not have summation on the original budget, adjustment and final budget.

In the circumstances, the financial statements presented for audit did not comply with reporting templates prescribed by the Public Sector Accounting Standards Board.

2005. Lack of Enabling Legislation

As previously reported, review of information and records provided for audit revealed that the judiciary Mortgage and Car Loan Scheme did not have an enabling legislation establishing the Fund. Management did not provide satisfactory explanation for the continued to operate the Fund without the enabling legislation.

In the circumstances, the legality of the fund could not be confirmed.

2006. Lack of an Approved Scheme Budget

The statement of financial performance reflects revenue of Kshs.240,679,284 and expenses of Kshs.121,868,772. However, during the year, Management did not prepare an annual budget as part of the annual budget preparation process. This was contrary to Section 68(2) of the Public Finance Management Act, 2012, which states that an Accounting Officer shall prepare estimates of expenditure and revenues of the entity in conformity with the strategic plan.

In the circumstances, Management was in breach of the law.

2007. Failure to Prepare and Submit Bank Reconciliation Statements and Quarterly Reports

During the year under review, the Scheme did not prepare and submit to the Auditor-General monthly bank reconciliation. This was contrary to the Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015 which requires accounting officers to prepare monthly bank reconciliation statements not later than 10^{th} of the subsequent month and submit a copy to The National Treasury with a copy to the Auditor-General.

Further, Management did not prepare and submit copies of quarterly reports to the Auditor-General. This was contrary to Regulation 65 of the Public Finance Management (National Government) Regulations, 2015 which requires preparation and submission of quarterly reports by an Accounting Officer or receiver of revenue or collector of revenue by the 15^{th} day of each quarter and submit to The National Treasury with a copy to the Auditor-General.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2008. Lack of Internal Audit Reports

Management did not provide internal audit reports for the Scheme during the financial year under review. This was contrary to Section 73 (3)(b) of the Public Finance Management Act,2012 which requires a national government entity to ensure that appropriate arrangements for conducting internal audit according to the guidelines issued by the Accounting Standards Board.

In the circumstances, the effectiveness of the Scheme internal controls could not be confirmed.

ETHICS AND ANTI-CORRUPTION COMMISSION - VOTE 1271

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2009. There were no material issues noted during the audit of the financial statements of the Commission.

Emphasis of Matter

2010. Material Uncertainty Related to Going Concern

During the year under review, the Commission reported a deficit of Kshs.61,273,032 compared with Kshs.181,860,262 in 2022/2023 which was caused by depreciation and amortization expense amounting to Kshs.122,124,148 and accrued trade and other payables balances of Kshs.45,218,753 as at 30 June, 2024 as disclosed in Notes 11 and 22 to the financial statements. Management disclosed the poor performance under Note 35 to the financial statements and attributed the situation to the underfunding by The National Treasury, which, if not addressed, may negatively impact the implementation of the Commission's planned activities.

My opinion is not modified in respect of this matter.

Other Matter

2011. Trade and Other Payables

The statement of financial position reflects trade and other payables balance of Kshs.45,218,753 as disclosed in Note 22 to the financial statements, which was not settled during the financial year 2023/2024 but was carried forward to the 2024/2025 financial year. Management attributed non-payment of trade and other payables to a lack of Exchequer issues from The National Treasury. Failure to settle payables during the year to which they relate adversely effects the budgets for the following year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2012. 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

2013. 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

Unmodified Opinion

2014. 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

Conclusion

2015. 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

2016. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL INTELLIGENCE SERVICE - VOTE 1281

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2017. 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

Conclusion

2018. There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

Basis for Conclusion

2019. Enhancement of Governance Systems for Security Related Expenditures

During the year under review, the Service incurred expenditures on confidential security operations. Certificates of confidential expenditure were issued, supported by declarations from the Accounting Officer affirming proper use of funds in compliance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015.

However, there is need to enhance accountability of confidential expenditures through review of the Regulations to clearly define entities eligible for confidential security related expenditures and to specify what constitutes security related operations. Further, entities should establish internal oversight mechanisms and processes that include detailed budget projections and post-operation financial summaries to address risks and ensure responsible use and accountability of the funds, beyond the certificate.

The measures will strengthen governance, foster trust, and ensure funds are utilised responsibly without compromising State security.

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS - VOTE 1291

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2020. There were no material issues noted during the audit of the financial statements of the Office.

Emphasis of Matter

2021. Pending Bills

Annex 1 to the financial statements reflects pending bills balance of Kshs.21,915,009 which were not settled during the financial year 2023/2024 but were instead carried forward to 2024/2025 financial year.

Failure to settle bills during the year in which they relate adversely affects the provisions of the subsequent year to which they are charged.

My opinion is not modified in respect of this matter.

Other Matter

2022. Unresolved Prior Year Matters

As disclosed in Note 15.2 to the financial statements on Progress on Follow-up of Prior Year's Auditor-General's Recommendations, several issues raised in the previous year had not been resolved as at 30 June, 2024. Management did not give any explanation for the failure to resolve the issues and to adhere to the provisions of the Public Sector Accounting Standards Board reporting templates.

REPORT ON THE LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2023. Non-Compliance with the One-Third of Basic Salary Rule

Analysis of payrolls for the year under review revealed that one hundred (100) employees had committed their salaries beyond two thirds (2/3) of basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which states that all deductions made by an employer from the wages or salaries of his employees at any one time shall not exceed two thirds (2/3) of such wages or salaries. Management did explain the failure to comply with the human resource policies.

In the circumstances, Management was in breach of the law and the Public Service Commission Human Resource Policies.

2024. Underutilized Leased Office Space

The statement of receipts and payments reflect an amount of Kshs.1,371,389,377 in respect of use of goods and services which, as disclosed in Note 4 to the financial statements, includes rental of produced assets amount of Kshs.245,519,231. Audit inspection of the leased premises revealed that the office in Kabarnet Town accommodates thirteen (13) staff members and incurs an annual rent of Kshs.2,811,616 effective from 1 July, 2019 for a duration of six (6) years. However, three-quarters (¾) of the office space measuring 4,208 square feet was unoccupied resulting in loss of public funds of Kshs.2,108,712 per year and totalling Kshs.12,652,272 over the six-year lease period.

Further, the Mombasa office located in a building along Moi Avenue/Tewa Road, with an annual rent of Kshs.9,077,250 effective from 1 April, 2020 for five (5) years, had the capacity to accommodate thirty-two (32) staff members. However, audit verification revealed that more than three-quarters (¾) of the office space was also unoccupied.

In the circumstances, value for money derived from the annual expenditure of Kshs.11,888,866 on the leased premises could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2025. Weaknesses in Management of Fixed Assets

Annex 3 on the summary of fixed assets register reflects total assets of Kshs.1,403,926,906. Review of the motor vehicle status report indicated that the Office owns one hundred and sixty-two (162) motor vehicles and nine (9) motorcycles. However, twenty-two (22) motor vehicles and four (4) motorcycles were grounded out of which six (6) were serviceable while the remaining twenty (20) were unserviceable. No reason was given for not taking any action to repair the motor vehicles for use or dispose of them. In addition, ten (10) vehicles did not have logbooks and only sixteen (16) motor vehicles and two (2) motorcycles were recorded in the assets register.

In the circumstances, the existence of effective internal controls over asset management could not be confirmed.

2026. Long Outstanding Accounts Receivables

The statement of financial assets and financial liabilities reflects accounts receivables balance of Kshs.4,008,085. Included in the balance is government imprests totalling Kshs.2,634,668 that has been long outstanding for a period of more than two years. Although Management explained that the delay in recovering the debt is due to officers having moved to other government institutions, no adequate provision has been made in the financial statements to cater for the uncertainty in the recoverability of these receivables.

In the circumstances, the recoverability of the long-term receivables balance of Kshs.2,634,668 could not be confirmed.

2027. Non-Enhancement of Governance Systems for Security Related Expenditures

During the year under review, the Office incurred some expenditure on confidential security operations. A certificate of confidential expenditure was issued, supported by a declaration from the Accounting Officer affirming proper use of funds in compliance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015.

However, there is need to enhance accountability of confidential expenditures through review of the Regulations to clearly define entities eligible for confidential security related expenditures and to specify what constitutes security related operations. Further, entities should establish internal oversight mechanisms and processes that include detailed budget projections and post-operation financial summaries to address risks and ensure responsible use and accountability of the funds, beyond the certificate. The measures will strengthen governance, foster trust, and ensure funds are utilised responsibly without compromising State security.

In the circumstances, the effectiveness of governance systems in relation to confidential security related expenditures could not be confirmed.

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS STAFF HOUSING MORTGAGE AND CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

2028. Unreconciled Variance in Mortgage Loan Principal Repayments

As disclosed in Note 12 to the financial statements, the principal loan repayment for the year totalled Kshs.55,775,131, which comprised of car loan recoveries of Kshs.26,648,667 and mortgage loan recoveries of Kshs.29,126,464. However, the bank statement for the mortgage loan reflected that the principal amounts credited to the Scheme’s account amounted to Kshs.27,469,227, which differed from the respective supporting schedule balance of Kshs.34,588,142. Further, an analysis of mortgage loan principal repayments credited by the Scheme’s administrator, Consolidated Bank of Kenya, to the Scheme’s bank account since the inception of the Fund in 2018/2019 financial year, revealed cumulative principal mortgage loan repayments totalling Kshs.13,084,494 had not been credited to the Scheme’s account as at 30 June, 2024.

In the circumstances, the accuracy and completeness of the Scheme’s loan principal repayments of Kshs.55,775,131 could not be confirmed.

Other Matter

2029. Unresolved Prior Year Matters

In the audit report for the previous year, several issues were raised. However, as indicated in Annex 1 to the financial statements on Progress on follow-up of prior year's Auditor's Recommendations, Management has not resolved the issues or provided satisfactory explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board reporting templates.

REPORT ON THE LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2030. 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

2031. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OFFICE OF THE REGISTRAR OF POLITICAL PARTIES - VOTE 1311

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2032. There were no material issues noted during the audit of the financial statements of the Office.

Other Matter

2033. Unresolved Prior Year Matter

In the audit report of the previous year, an issue was raised under the Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issue or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board reporting templates.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2034. Non-Compliance with One-Third of Basic Salary Rule

Analysis of the monthly payrolls revealed that five (5) employees had salary deductions that exceeded two-thirds (2/3) of their basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which states inter alia the total amount of all deductions which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2035. Understaffing

Review of the organization structure revealed that the Office had an authorized staff establishment of two-hundred and thirty-five (235), against the staff members in-post of one-hundred and nine (109), resulting in an understaffing of one-hundred and twenty-six (126), representing a shortage of 53% of the authorized staff establishment. Despite the additional twenty-seven (27) new staff members recruited during the year under review, the number of employees is significantly below the approved staff establishment.

In the circumstances, the understaffing may hinder effective service delivery to the public.

OFFICE OF THE REGISTRAR OF POLITICAL PARTIES STAFF MORTGAGE AND CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2036. 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

Conclusion

2037. 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

2038. There were no material issues relating to effectiveness of internal controls, risk management and governance.

WITNESS PROTECTION AGENCY - VOTE 1321

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2039. 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

Basis for Conclusion

2040. Delay in Establishment of the Victims Compensation Fund

As reported in the previous years, review of the Agency's records revealed that a letter from The National Treasury Ref: AG.3/155 Vol.1/33ES/126/13 dated 3 March, 2017 advised the Agency to develop and align the policies for operationalizing the Victims Compensation Fund (VCF) with the requirements of Section 24 of the Public Finance Management Act, 2012 and Regulation 207 of the Public Finance Management (National Government) Regulations, 2015. In response, Management submitted the revised Draft Regulations to The National Treasury through the Office of the Attorney General on 7 November, 2019 for approval. However, the Regulations have not been approved to date. This has led to delay in establishing the VCF for eighteen (18) years from 30 June, 2006 to 30 June, 2024. This was contrary to Section 3I(1) of the Witness Protection Act, (Revised 2022) which requires establishment of the Victims Compensation Fund.

In the circumstances, the existence of a proper governance structure to execute the effectiveness in use of public resources could not be established and Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2041. Under-Staffing

As reported in the previous year, the Agency’s Human Resource Policy Manual, 2016 provides for two hundred and ninety-six (296) staff members. However, only one hundred and seventeen (117) staff members were in post, resulting in a shortfall of one hundred and seventy-nine (179) staff members as at 30 June, 2024. Further, the shortage is on various job cadres including core departments like Operations, Internal Audit, IT and Administration. The job cadres most affected include psychosocial officers, protection officers, research planning and policy analysis officers, internal audit staff, IT staff and secretaries.

In the circumstances, the under staffing may hinder effective delivery of services by the Agency.

WITNESS PROTECTION AGENCY STAFF HOUSING MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2042. 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

Conclusion

2043. 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

2044. There were no material issues relating to effectiveness of internal controls, risk management and governance.

WITNESS PROTECTION AGENCY STAFF MOTOR CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2045. 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

Conclusion

2046. 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

2047. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR ENVIRONMENT AND CLIMATE CHANGE – VOTE 1331

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

2048. Inaccuracy in Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.11,610,446 comprising of bank account balances of Kshs.11,376,513 and Cash in hand balance of Kshs.233,933. However, Management did not disclose a balance of Kshs.700,000 held in Central Bank of Kenya.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.11,610,446 could not be confirmed.

2049. Inaccuracies on Acquisition of Assets

The statement of receipts and payments reflects an amount of Kshs.130,220,576 relating to acquisition of assets as disclosed in Note 10 to the financial statements. The expenditure includes an amount of Kshs.97,301,523 relating to purchase of specialized plant, equipment and machinery. Review of the ledger and other documents in support of the expenditure revealed expenditure amounting to Kshs.29,887,622 not related to purchase of specialized plant, equipment and machinery. This expenditure comprise of Kshs.10,408,342, Kshs.14,852,200 and Kshs.4,627,080 relating to unexplained journal voucher adjustments, purchase of tables, sofas and chairs, and on purchase of stationery (toners and papers) respectively. This was contrary to Regulation 43(b) of the Public Finance Management (National Government) Regulations, 2015 which requires an accounting officer to ensure that public funds entrusted to their care are properly safeguarded and are applied for purposes for only which they were intended and appropriated by the National Assembly.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.29,887,622 could not be confirmed.

Emphasis of Matter

2050. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.6,696,850,941 and Kshs.5,987,268,130 respectively resulting to an under-funding of Kshs.709,582,811 or 11% of the budget. Similarly, the State Department spent an amount of Kshs.5,966,723,161 against actual receipts of Kshs.5,987,268,130 resulting to an under-utilization of Kshs.20,544,969.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

2051. Long Outstanding Pending Accounts Payables

Note 16.2 to the financial statements reflects pending accounts payables of Kshs.640,726,799 which includes a balance of Kshs.522,030,199 carried forward from 2022/2023 financial year out of which an amount of Kshs.323,656,698 was settled during the year under review.

No explanation was provided for non-payment of the pending bills before the end of the financial year. This was contrary to Regulation 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which states that debt service payments shall be a first charge in the Consolidated Fund and the Accounting Officer shall ensure this is done to the extent possible that the government does not default on debt obligations.

Failure to settle bills during the year in which they relate to adversely affects the budgetary provisions for the subsequent year to which they have to be charged.

My opinion is not modified in respect of these matters.

Other Matter

2052. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under Report on the Financial Statements and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, as at 30 June, 2024, Management had not resolved and disclosed the status of all the prior year matters as prescribed in the reporting requirements set by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2053. Non-Compliance with the Law on One-Third Rule of Basic Salary

The statement of receipts and payments reflects compensation of employees amount of Kshs.1,136,012,632. Analysis of the payroll for the twelve months revealed that forty-one (41) employees received net pay which were below one-third ($^1/_3$) of their basic pay. This was contrary to Section 19(3) of the Employment Act 2007 and Section C.1(3) of the Public Service Human Resource Policies and Procedures Manual 2016.

In the circumstances, Management was in breach of the law.

2054. Late Remittance of Statutory Deductions

During the year under review, the State Department paid Kenya Revenue Authority an amount of Kshs.4,457,881. This payment included an amount of Kshs.3,410,893 for principal amount and Kshs.1,046,988 for penalty and interest.

In the circumstances, Management did not obtain value for money of Kshs.1,046,988 paid as penalty and interest for late remittance of tax and was in breach of the law.

2055. Inaccuracies in Summary of Fixed Assets Register

Annex 2 to the financial statements on summary of fixed assets register omitted opening balance of Kshs.554,666,775 and reflects a Nil balance as at 30 June, 2024. The register reflects additional assets of Kshs.130,220,576 procured in the year under review comprising of ICT equipment, office equipment and furniture and fittings and machinery and equipment balances of Kshs.92,604,478, Kshs.27,558,698 and Kshs.10,057,400 respectively. However, the balances are at variance with the statement of receipts and payments and Note 10 to the financial statements which reflects expenditure of Kshs.97,301,523, Kshs.30,446,300, Kshs.1,578,382 and Kshs.482,500 on purchase of specialized plant, equipment and machinery, construction and civil works, purchases of house hold furniture and renovation of plant and machinery respectively.

In the circumstances, the accuracy and completeness of the fixed assets register could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2056. Under-Staffing

Review of the State Department staff establishment structure revealed that out of the established positions of nine hundred and forty-five (945), only six hundred and sixty-four (664) (70%) positions were filled resulting to a shortfall of two hundred and eighty-one (281) positions.

In the circumstances, the understaffing may result to overworked staff and may lead to compromise on quality of service delivered to the Public.

2057. Non-Functional Critical Weather Instruments

Physical verification undertaken in the month of October, 2024 at Kisii, Kericho, Nakuru, Malindi, Mombasa and Kilifi weather stations revealed that Automatic Weather Instruments were not operational. The systems were intended to enhance the State Department's ability to monitor and forecast weather conditions accurately. However, technical malfunctions and lack of maintenance had rendered the systems non-functional leading to inefficiencies.

In the circumstances, the effectiveness of the Kenya Metrological Department to deliver on its mandate could not be confirmed.

2058. Ineffective Public Finance Management Standing Committee

The State Department established its Public Finance Management Standing Committee (PFMSC) at the beginning of financial year 2023/2024. However, there were no minutes for the first and second quarter, and the minutes for the fourth quarter were not signed. This was contrary to Regulation 18(1) of the Public Financial Management (National

Government) Regulations, 2015 which stipulates that there is established in every national government entity a committee to be known as the Public Finance Management Standing Committee to provide strategic guidance to the entity on public finance management.

In the circumstances, Management did not benefit from the strategic role of the Public Finance Management Standing Committee.

DONOR FUNDED PROJECTS

INTEGRATED HEALTH AND ENVIRONMENT OBSERVATORIES AND LEGAL AND INSTITUTIONAL STRENGTHENING FOR THE SOUND MANAGEMENT OF CHEMICALS IN AFRICA (NO.AFR/CHEMOBS PROJECT/C/07-2017)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2059. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

2060. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.12,500,000 and Nil respectively resulting to an under-funding of Kshs.12,500,000 or 100% of the budget. However, the project spent Kshs.541,445 against actual receipts of Nil balance resulting to an over-utilization of Kshs.541,445. Further, no approval for the expenditure of Kshs.541,445 was provided for audit.

My opinion is not modified in respect of this matter.

Other Matter

2061. Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2062. Outstanding Project Implementation Review

Review of the Grant Agreement revealed that as part of the deliverables, the Project was supposed to carry out a project implementation review within one month of the end of the project reporting fiscal year including a final report within two months of the project completion date or termination of the present agreement. However, the project ended on 30 November, 2023 and the Project implementation review and final report have not been carried out. Further, audit of project information and overall performance disclosure revealed that, the project has not achieved its objective of developing a prototype of national integrated health and environment observatories including a core set of indicators for data aggregation. In addition, the project had not carried out its reporting requirements as per the grant agreement and met its objectives.

In the circumstances, value for money on the project and the impact on the objectives of the Project could not be confirmed.

2063. Delay in Project Implementation

The summary of overall project Performance reflects that the project was extended up to November, 2023. Management indicated that five (5) outputs had been achieved. However, no evidence of the achieved outputs was provided for audit. Further, the absorption rate for the financial years 2022/23 and 2023/2024 has not been provided, in the summary of overall project performance In addition, the current status of the project after the lapsed date of November, 2023 has also not been provided for audit.

In the circumstances, value for money on the project and the impact of the objectives of the project could not be confirmed.

2064. Lack of Environmental and Sustainability Reporting

Included in environmental and sustainability reporting is community engagement in which one of the major components of the project was to identify communities that are highly exposed to chemical risks and engage them to reduce these risks. However, there was no information on which communities were identified as part of the mitigating measures.

In the circumstances, the objective of the environmental and sustainability reporting may not be achieved.

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

Conclusion

2065. There were no material issues relating to the effectiveness of internal controls, risk management and governance

KENYA INSTITUTIONAL STRENGTHENING PROJECT PHASE XIII (NO. UNEP/KEN/SEV/92/INS/66)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2066. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

2067. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.22,500,000 and Kshs.17,000,000 respectively, resulting to under-funding of Kshs.5,500,000, or 24% of the budget. Similarly, the Project incurred an expenditure of Kshs.15,088,206 against actual receipts of Kshs.17,000,000, resulting to under-utilization of Kshs.1,911,794 or 13% of the actual receipts.

The under-funding and under-utilization may have affected the planned activities and impacted negatively on the service delivery to the stakeholders.

My opinion is not modified in respect of this matter.

Other Matter

2068. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues as at 30 June, 2024 or given any explanation on why the issues had not been addressed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2069. 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

2070. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA GOLD MERCURY FREE ASGM PROJECT NUMBER GEF/UNDP/GOK-00108253

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2071. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

2072. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.150,000,000 and Kshs.85,103,224 respectively, resulting to an under-funding of Kshs.64,896,776 or 43% of the budget. However, the Project spent Kshs.84,008,752 against actual receipts of Kshs.85,103,224 resulting to an under-utilization of Kshs.1,094,472 of the actual receipts.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

2073. Unfulfilled Project Objectives

Review of the statement of performance against projects predetermined objectives reflected underperformance in attaining the objectives of the Project as analyzed below:

i. Objective 1: Strengthening institutions and the policy/regulatory framework for mercury-free ASGM was at 70%.

ii. Objective 2: Establishing financing lending arrangements to provide loans for mercury free processing equipment was at 60% .

iii. Objective 3: Increasing capacity for mercury-free ASGM through provision of technical assistance, technology transfer and support for formalization was at 65%.

iv. Objective 4: Monitoring and Evaluation, awareness raising, capturing and disseminating experiences, lessons learned and best practices was not indicated.

The Project objectives ought to be more than 83% given that the Project is in its sixth year since inception.

In the circumstances, the full realization of the planned projects predetermined objectives could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2074. Delays in Disbursements of Funds

Note 2 to the financial statements reflects cumulative grants received from the donor of Kshs.189,433,941 compared to approved budget of Kshs.546,000,000 as reflected in the funding summary. The Project duration is five (5) years from July, 2019 with a no cost extension up to 30 December, 2025. However, as at 30 June, 2024, with the remaining period of fourteen (14) months, Kshs.293,517,458 (54%) of the funds remained undrawn.

In the circumstances, the key objective of reducing or eliminating the use of mercury in the Kenya's ASGM mining sector and value for money on the funds so far spent could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2075. Failure to Maintain a Separate Imprest Register

During the year under review, Management did not maintain an imprest register exclusively for the Project. Instead, imprests issued and surrendered were recorded in the imprest register of the State Department for Environment and Climate Change.

In the circumstances, the effectiveness of management and monitoring of imprest could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

2076. As required by the United Nations Development Programme (UNDP), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

STRENGTHENING DROUGHT RESILIENCE FOR SMALL HOLDER FARMERS AND PASTORALISTS IN THE IGAD REGION PROJECT NO. 03/DRESS-EA/07/0SS-KE/20

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2077. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

2078. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2024 reflects final receipts budget and actual on a comparable basis of Kshs.50,000,000 and Nil respectively resulting in under-funding of Kshs.50,000,000. However, the project spent an amount of Kshs.27,485,604 against Nil actual receipts.

The under-underfunding affected the planned project activities and may have impacted negatively on service delivery.

My opinion is not modified in respect of this matter.

Other Matter

2079. Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under Other Matter and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON THE LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2080. Low Absorption of Donor Funds

Paragraph 2.7 of the financial statements on the funding summary budget reflects an amount of USD 2,491,480 equivalent to Kshs.286,520,200 as approved by the Adaptation Fund. However, the statement of receipts and payments reflects cumulative to-date receipts amount of Kshs.30, 590,616 or 11% of the budget with Kshs.255,929,584 (USD 2,241,513) or 89% being undrawn balances. The undrawn balances reflect a low absorption rate of 11% against a 75% lapsed project period of four (4) years out of the total project period of six (6) years. Management may not utilize all the Project funds by the date of closure of April, 2026.

In the circumstances, the fulfillment of the objectives for which the Project was set up and value for money on the funds spent so far could not be confirmed.

2081. Failure to Maintain an Assets Register

During the year under review, Management did not maintain an assets' register to record and track the Project's assets as required by Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015 which requires an accounting officer to maintain an asset register for assets under his or her control or possession as prescribed by relevant laws. The effectiveness of asset management could not be confirmed.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2082. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGEAL AND REGULATIORY REQUIREMENTS

2083. As required the Financing Agreement between the Government of Kenya and the Sahara and Sahel Observatory-OSS, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of those records of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records; and the Projects financial statements are in agreement with the accounting records and returns.

SC REPORTING TOOL KIT PROJECT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2084. 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

Conclusion

2085. 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

2086. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

2087. As required by United Nations Environment Programme, I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project, so far as it appears from the examination of those records and the Project's financial statements are in agreement with the accounting records and returns.

KENYA ETF REPORTING PROGRAMME TO THE UNFCCC PROJECT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2088. There were no material issues noted during the audit of the financial statements of the Programme.

Emphasis of Matter

2089. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts and actual on comparable basis amount of Kshs.100,000,000 against actual receipts of Kshs.52,088,545 resulting to an under-funding of Kshs.47,911,455 or 48% of the budget. Similarly, the Project spent an amount of Kshs.47,970,479 against actual receipts of amount of Kshs.52,088,545 resulting to under-utilization of Kshs.4,118,066 or 8% of the actual receipts.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2090. Delay in Project Implementation and Under Absorption

As per the Project Information, the Project start date was 4 July, 2023 and end date is 30 November, 2026. The first disbursement of funds was on 22 March, 2024 nine (9) months after the expected start period. Further, the funds received as at 30 June, 2024 amounted to Kshs.52,088,545 against donor commitment of Kshs.143,502,440 or 36% of total funding, implying slow absorption of funds.

In the circumstances, the Project is not likely to achieve its set objectives to meet all the planned activities.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2091. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

2092. As required by United Nations Environment Programme Project Cooperation Agreement, I report based on my audit that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

AFRICA CLIMATE SUMMIT (ACS) AFRICA CLIMATE WEEK

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

2093. Use of Donor Funds to Pay Taxes

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.213,482,891 as disclosed in Note 2 to the financial statements. However, the amount included value added tax on transport, accommodation, service charge, training and catering levy for the accommodation and meals totalling Kshs.37,062,656. The taxes were paid using donor's funds, contrary to clause 3.2 of the financing agreement which states that, "where any tax or duty is not exempted, the recipient is responsible to pay such tax".

In the circumstances, the accuracy and regularity of expenditure of Kshs.37,062,656 on use of goods and services could not be confirmed and Management was in breach of the agreement.

Emphasis of Matter

2094. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final budget and actual on comparable basis of Kshs.350,000,000 and Kshs.322,862,822 respectively resulting to an under-funding of Kshs.27,137,178 or 8% of the budget. However, the Project spent Kshs.213,482,891 against actual receipts of Kshs.322,862,822 resulting to an under expenditure of Kshs.109,379,931 or 34% of the actual receipts.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

2095. Unreconciled Grant

The application of funds reflects Donor Grant of USD 2,500,000 in the year under review. However, the special account for the Project at the Central Bank reflects total amount withdrawn as USD 2,537,500 which differs with the amount of USD 2,500,000 received by the Project resulting to a variance of USD 37,500. However, Management has explained that the variance of USD 37,500 (Kshs.4,842,937) was disbursed to The National Treasury.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2096. Failure to Reimburse Excess Funds

The statement of financial assets and liabilities reflects bank balances of Kshs.109,379,931 as disclosed in Note 3 A to the financial statements. The balance relates to grant amounts that had not been expended at the date of the Project closure. However, the balance had not been reimbursed to the Donor, contrary to clause 5.3 of the of the grant agreement which states that, "any unutilized amount shall be reimbursed to the bank".

In the circumstances, Management was in breach of the grant agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2097. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGEAL AND REGULATIORY REQUIREMENTS

2098. As required by the African Development Bank (ADB), I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of those records of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records and, the Project's financial statements are in agreement with the accounting records and returns.

EARLY ACTION SUPPORT PROJECT (EASP)-GRANT NO.2015-39790

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2099. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

2100. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.19,000,000 and Kshs.10,689,072 respectively resulting to an under-funding of Kshs.8,310,928 or 44% of the budget. Similarly, the Project spent Kshs.9,890,147 against actual receipts of Kshs.10,689,072 resulting to an under-expenditure of Kshs.798,925 or 7% of the actual receipts.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON THE LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2101. 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

2102. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

2103. As required by United Nations Environment Programme Cooperation Agreement Project No. 2015-39790 dated 15 November, 2023 between United Nations Environment Programme and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project, so far as it appears from the examination of those records and the Project's financial statements agree with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR ENVIRONMENT AND CLIMATE CHANGE

GREEN ZONES DEVELOPMENT SUPPORT PROJECT PHASE II (CREDIT NO.P.KE-AAD-005) - KENYA FOREST SERVICE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2104. 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

2105. Failure to Achieve Project Performance Objectives

During the year under review, the Project was supposed to achieve set objectives as per the approved work plan. Other than the raising of the indigenous tree seedlings which surpassed the set target, many of the objective achievements were at 79% and 56%. This performance objective rate indicates an under absorption of project funds in line with the project lifeline which comes to an end in June, 2026.

As per the Green-Zones Development Support Project - Phase II project funding summary for the years 2019/2020 to 2023/2024, the project cycle estimates were Kshs.4,590,000,000 against the printed estimates of Kshs.3,863,000,000 resulting to budget under-funding of Kshs.727,000,000. Further, for the same period, the donor has disbursed an amount of Kshs.2,981,235,482 against receipts/disbursement to the project amount of Kshs.2,878,680,309 resulting to withheld funding by the Central Bank of Kenya of Kshs.102,555,173 which have not been accounted for. Out of the funds withheld, an amount of Kshs.33,614,513 is for the year under review.

In the circumstances, failure to disburse the Project funds already disbursed by the donor is a breach of the financing agreement and is an impediment to the Project achieving its objectives.

2106. Failure by the Project Steering Committee (PSC) to meet its Obligatory Responsibility

Annex B.3 Implementation Arrangements of the Kenya Green Zones-2 project-PAR Technical Annexes dated April, 2018 states that at the National level, a Project Steering Committee (PSC) would be established to oversee project implementation. The main task would be to review and approve the project's annual work plans and related budget to ensure adherence to project development objectives. It further states that the PSC will also monitor the performance of the project and advise it on policy issues to ensure adherence to project development objectives and provide guidance to project management and resolve problems that might arise during project implementation. However, minutes provided for audit indicated that, the Project Steering Committee last met on 09 June, 2023 implying that the committee did not meet during the year under review as mandated. Therefore, it was not possible to ascertain how project work plans and related budgets were reviewed and how monitoring and implementation of project objectives were done.

In the circumstances, Management was in breach of the law.

2107. Low Absorption of Funds and Undrawn Balances

The Government signed an agreement for a loan from Africa Development Bank and Africa Development Fund for combined amount of Kshs.4,999,742,000 and counterpart funds of Kshs.498,508,000 from the Government of Kenya. However, only Kshs.3,332,597,179 had been received as at 30 June, 2024 resulting in an undrawn balance of Kshs.2,165,652,821 and leading to low absorption of funds. Further, the Project is expected to be completed by 30 June, 2025.

In the circumstances, there is risk of lack of absorption, posing risks that the Project's timelines would end without implementing all the planned activities and therefore not meeting all the projects' objectives.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2108. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

2109. As required by African Development Bank Financing Agreement Credit No. P-KE-AAD-005 dated 17 July, 2019 between African Development Bank and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project, so far as it appears from the examination of those records and Project's financial statements agree with the accounting records and returns.

INTEGRATED PROGRAMME TO BUILD RESILIENCE TO CLIMATE CHANGE AND ADAPTIVE CAPACITY OF VULNERABLE COMMUNITIES IN KENYA (CREDIT NO: KEN/NIE/MULTI/2013/1) - NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2110. There were no material issues noted during the audit of the financial statements of the Programme.

Emphasis of Matter

2111. Budgetary Control and Performance

The statement of comparison of budget and actual amounts shows that the Project spent an amount of Kshs.106,771,238 against actual receipts of Kshs.187,000,000 resulting to under-utilization of Kshs.80,228,762 or 43% of the actual receipts.

The under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2112. Delay in Project Implementation

The Project commenced on 1 May, 2016 and was to be completed by 30 April, 2019. However, the Project was not completed as planned with the Project Implementing Unit seeking extensions which were granted as summarized below:

Extension	Start Date	End Date
Extension 1	30 June, 2019	30 June, 2020
Extension 2	1 July, 2020	30 December, 2021
Extension 3	31 December, 2021	30 September, 2022
Extension 4	1 October, 2022	30 June, 2023
Extension 5	1 July, 2023	30 June, 2024

Further, at the end of the last extension, the Project had unspent balance in the bank of Kshs.146,066,835 or 15% of the total fund received. In addition, two Project activities were still ongoing with a completion of 91% and 70% respectively with a total contract sum of Kshs.60,366,388 and had been certified to the tune of Kshs.48,594,510.

In the circumstances, value for money on certified works of Kshs.48,594,510 on the two Projects may not have been realized by citizens.

2113. Use of Non-Designated Bank Account

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.149,760,255 as disclosed in Note 6 to the financial statements. However, included in this balance is an amount of Kshs.3,693,419 for a CGF Devolved Project. Further, the balances were held in a commercial bank account which was different from the account approved in the financing agreement. No reasons were provided for the change in the bank accounts.

In the circumstances, Management did not comply with the Project Financing Agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2114. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGEAL AND REGULATIORY REQUIREMENTS

2115. As required by the Financing Agreement between Adaptation Fund Board and National Environment Management Authority (NEMA), I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Programme and the Project's financial statements are in agreement with the accounting records and returns.

NEMA-GCF PROJECT PREPARATION FACILITY: "DEVOLVED CLIMATE CHANGE GOVERNANCE TO STRENGTHEN RESILIENCE OF COMMUNITIES IN TARGET COUNTIES" - CREDIT NO.KEN-PPF-010 - NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2116. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

2117. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2024 reflects final receipts budget and actual on comparable basis of Kshs.25,200,694 and Kshs.23,303,092 respectively, resulting to an under-funding of Kshs.1,897,602 or 8% of the budget. Similarly, the Project spent Kshs.23,303,092 against budgeted amount of Kshs.25,200,694 resulting to an under-expenditure of Kshs.1,897,602 or 8% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

Other Matter

2118. Unresolved Prior Year Matter

In the audit report of the previous year, one issue was raised under the Report on Financial Statements. However, Management had not resolved the issue as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2119. There were no material issues relating to lawfulness and effectiveness in use of public resources.

Basis for Conclusion

2120. Failure to Remit Project's Bank Balance

Review of the Financing Agreement reflects that the Project was extended and scheduled to end on February, 2024. As part of closure procedures, the Project's fund balance was expected to be refunded to the Donor. However, the project balance of Kshs.1,897,602 remained un-surrendered to the Donor despite the closure of project on 24 February, 2024.

In the circumstances, Management was in breach of part 3.6 of the Project Cooperation Agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2121. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

2122. As required by United Nations Office for Project Services Cooperation Agreement Project No. KEN-PPF-010 dated 20 May, 2019 between United Nations Office for Project Services and National Environment Management Authority. I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

NEMA-GCF READINESS AND PREPARATORY SUPPORT: "NEMA CAPACITY STRENGTHENING PROGRAMME TOWARDS ACCESSING CLIMATE FINANCE FROM GREEN CLIMATE FUND" - CREDIT NUMBER KEN-RS-003 – NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2123. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

2124. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.10,635,125 and Kshs.8,839,308 respectively resulting in a revenue shortfall of Kshs.1,795,817 or 17% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2125. Non-Compliance with Agreement on Return of Funds

During the year under review, the Project had an unspent balance of Kshs.1,795,817 as at 30 June, 2024. The balance was to be returned to the United Nations Office for Project (UNOPS) according to clause 3.7 of the agreement which states that "any balance on completion/expiry of the project should be refunded to UNOPS immediately". As at the time of this audit in September, 2024 the balance had not been returned.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2126. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGEAL AND REGULATIORY REQUIREMENTS

2127. As required between the Government of Kenya and the United Nations Office for Project Services (UNOPS), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of those records of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records; and the Project's financial statements are in agreement with the accounting records and returns.

AFRICA ENVIRONMENTAL HEALTH AND POLLUTION MANAGEMENT PROJECT (EHPMP) – NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2128. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

2129. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total budget receipts of Kshs.240,000,000 against actual receipts of zero, resulting to under disbursement of funds by Kshs.240,000,000 or 100%. Similarly, the project spent an amount of Kshs.56,634,109 against a budget of Ksh.240,000,000 resulting to an under-expenditure of Kshs.183,365,891 or 24% of budget.

The under-expenditure may have impacted negatively on the service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2130. There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

Conclusion

2131. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

Conclusion

2132. As required by Global Environment Facility Grant Agreement, I report based on my audit that, I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit.

STRENGTHENING FOREST MANAGEMENT FOR IMPROVED BIODIVERSITY CONSERVATION AND CLIMATE RESILIANCE IN THE SOUTHERN RANGE LANDS OF KENYA - IUCN PROJECT NO.P03162, IUCN WARD NO.AVCH-000981 AND GEF ID/10292 – NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2133. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

2134. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final budget and actual on comparable basis of Kshs.129,796,186 and Kshs.129,500,640 respectively resulting in u-funding of Kshs.295,546 or 0.22% of the budget. However, the project spent Kshs.24,863,938 against actual receipts of Kshs.129,500,640 resulting to under - utilization of Kshs.104,636,702 or 81% of the actual receipts.

The under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

2135. Slow Project Implementation

Review of the project documents revealed that, the Project financing agreement was signed on 28 April, 2023 while its first Exchequer requisition was done on 5 December, 2023 about five (5) months after the start of the financial year. The initial instalment of Kshs.129,500,640 was credited to the project account on 15 January, 2024.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2136. 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

2137. There were no material issues relating to the effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGEAL AND REGULATIORY REQUIREMENTS

2138. As required between the Government of Kenya and the International Union for Conservation of Nature and Natural Resources (IUCN), I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of those records of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records and, the Projects financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR FORESTRY – VOTE 1332

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2139. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

2140. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts and actual on comparable basis of Kshs.13,527,707,261 and Kshs.12,519,641,157 respectively, resulting to an under-funding of Kshs.1,008,066,104 of the budget. However, the State Department spent an amount of Kshs.12,437,643,863 against actual receipts of Kshs.12,519,641,157 resulting to an under-utilization of Kshs.81,997,294 of the actual receipts.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2141. Understaffing in Technical Department

The approved staff establishment submitted for audit revealed that the State Department had a technical staff establishment of eighty-six (86) posts. However, an analysis of staff in-post revealed that the Department was operating with only eleven (11) technical staff resulting to a shortfall of seventy-five (75) or 87% of the total approved staff establishment. The Department was therefore operating far below its optimal staffing level. This situation may lead to low morale and poor service delivery and may hinder the Department from achieving its mandate of conservation, protection, rehabilitation and sustainably managing forests and landscape resources.

In the circumstances, effectiveness and efficiency service delivery to the public could not be confirmed.

2142. Over-establishment of Staff

The approved staff establishment submitted for audit revealed that the State Department has administrative support staff establishment of forty-five (45) posts. However, an analysis of staff in-post revealed that the Department had in post eighty-one (81) administrative support staff resulting to an over establishment of thirty-six (36) of the approved staff establishment. Management did not explain the nature of the duties, the excess staff were assigned to.

In the circumstances, efficient delivery of service and value for money on the compensation of employees cost for the excess staff could not be confirmed.

2143. Unauthorized Secondment of an Officer to the State Department

The State Department requested for secondment of one technical officer from Kenya Forestry Research Institute (KEFRI) to act as Director Agroforestry in the State Department and to enhance capacity. The officer once seconded, retained his entitlement with the KEFRI except for travelling allowances and daily subsistence which were paid by the State Department.

However, no approval from Public Service Commission for the secondment was provided for audit. This was contrary to the Human Resource Policies and Procedures Manual for Public Service (2016) Section B33(3), which states that “Approval for secondment for officers moving from the other public administrations to the Civil Service shall be granted by the Public Service Commission”.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2144. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS - VOTE 2011

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2145. There were no material issues noted during the audit of the financial statements of the Commission.

Other Matter

2146. Unresolved Prior Year Matter

In the previous year's audit report, an issue was raised on pending bills under Emphasis of Matter. However, as of 30 June, 2024 the issue had not been discussed by the relevant parliamentary oversight committee for further recommendations and therefore the matter remained unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2147. 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

2148. Inadequate Staffing

Review of the staff establishment provided for audit revealed that the Commission had in place one hundred and thirty-five (135) employees, representing 29% of the approved establishment of four hundred and sixty-one (461) positions, resulting in a deficit of three hundred and twenty-six (326) positions.

In the circumstances, the Commission's ability to effectively discharge its mandate may be severely hampered by the significant understaffing.

DONOR FUNDED PROJECT

INCREASED ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS BY ALL IN KENYA PROJECT GRANT/CREDIT NUMBER: KEN 2062, KEN19-0011

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2149. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

2150. Budgetary Control and Performance

The statement of comparison budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.46,389,058 and Kshs.43,603,315 respectively, resulting in an under-funding of Kshs.2,785,743 or 6 % of the budget. Further, the Project Management spent an amount of Kshs.31,802,123 out of the actual receipts of Kshs.43,603,315, resulting in an under-utilization of Kshs.11,801,192 or 27% of the actual receipts.

The under-funding and under-utilization affected the planned project activities and may have had a negative impact on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

2151. Unresolved Prior Year Matter

In the audit report of the previous year, an issue was raised on Budgetary Control and Performance. However, Project Management has not resolved the issue as at 30 June, 2024

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2152. 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

2153. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

2154. As required by the Norwegian Ministry of Foreign Affairs (NMFAs), I report based on my audit, that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, Adequate accounting records have been kept by the project, so far as appears from examination of those records and, The Project's financial statements are in agreement with the accounting records and returns.

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS CAR LOAN AND MORTGAGE SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2155. There were no material issues noted during the audit of the financial statements of the Scheme.

Other Matter

2156. Unresolved Prior Year Matter

In the audit report of the previous year, an issue was raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. However, no action had been taken by Management as the matter awaited discussion and resolution by the relevant Parliamentary Committee.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2157. 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

2158. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL LAND COMMISSION - VOTE 2021

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2159. There were no material issues noted during the audit of the financial statements of the Commission.

Other Matter

2160. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the issues were not resolved and Management did not provide explanation for failure to implement recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2161. Non-Compliance with One-Third Rule on Basic Salary

Review of the Commission's staff payroll revealed that for the twelve (12) months period there were seventy-one (71) employees whose salary deductions exceeded two-thirds (2/3) of the basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which states 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 which under the provisions of subsection (1), may be made by an employer from the wages of his employee 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 employers or employees or any trade or industry. This may expose the staff to pecuniary embarrassment.

In the circumstances, Management was in breach of the law.

2162. Non-Compliance with Persons with Disability Act

Review of the Commission's workforce revealed that out of six hundred and twenty-eight (628) employees, only seven (7) or 1% are persons with disabilities, which falls significantly short of the 5% quota required by the Persons with Disabilities Act, 2003. Further, during the year under review, ninety-nine (99) staff members were hired. However, no person with disability was employed. This was contrary to Section 13 of the Persons with Disabilities Act, 2003 which states that employers are required to reserve at least 5% of all jobs in both the public and private sectors for persons with disabilities.

In the circumstances, Management was in breach of the law.

2163. Failure to Comply with the Approved Staff Establishment

Review of Human Resource records revealed that the Commission had an approved staff establishment of one thousand two hundred and sixteen (1,216) staff against six hundred and twenty-nine (629) in-post resulting in understaffing of five hundred and eighty-seven (587). This was contrary to Section 2 of the National Land Commission Human Resource Manual, 2015 which provides that in order to attract and retain competent employees required for efficient and effective service delivery, appointments shall be made with the approval of the Commission and shall be within the approved establishment.

In the circumstances, Management was in breach of Human Resource Manual.

2164. Third-Party Deposits and Retention

2164.1 Long Outstanding Third-Party Deposits and Retention Balances

Review of records revealed that included in the third-party deposits and retention balance of Kshs.5,710,722,768 are long outstanding balances held for various Projects totalling Kshs.1,339,275,083 in respect of Persons Affected by Projects (PAPs) for projects that were completed several years ago. No explanation was provided for not paying the intended beneficiaries as required by the law. This was contrary to Section (115(1)(b) of the Land Act, 2012 which states that after notice of an award has been served to all the persons determined to be interested in the land, the Commission shall, promptly pay compensation in accordance with the award to the persons entitled thereunder, except in a case where the person entitled does not consent to receive the amount awarded.

In the circumstances, Management was in breach of the law.

2164.2 Failure to Refund Expenses Paid from the Compensation Fund

The statement of financial assets and financial liabilities reflects third-party deposits and retention balance of Kshs.5,710,722,768 which, as disclosed in Note 12 to the financial statements includes Project payments balance of Kshs.6,643,068,896. Included in the Project payments was an amount of Kshs.297,300,323 which was legal fee paid to a law firm. Review of records revealed that the approval to pay was given through resolutions of 118th Commission meeting held on 21 October, 2022 which resolved that the money be paid from Compensation Fund Account and the same be reimbursed upon provision of the budget by The National Treasury. However, as at the time of audit in October, 2024, the funds had not been received from The National Treasury. The recoverability of the funds is doubtful.

2164.3 Court Orders Paid Back Not Refunded to the Compensation Fund Account

Included in the third-party deposits and retention balance of Kshs.5,710,722,768 is Court orders paid back balance of Kshs.108,863,885. Review of the records revealed that the funds were recovered/paid directly from a local bank Compensation Fund Account to various Agencies. The payments arose from Court rulings on various cases. Management did indicate that the Commission was engaging the agencies to refund the money.

However, the amount had not been refunded to the local bank Compensation Fund Account at the time of audit in the month of October, 2024. The recoverability of the funds is doubtful.

2165. Poor Workmanship on Partitioning Works at the National Land Commission Offices

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects other payments amount of Kshs.424,713,646. This amount includes Kshs.423,968,016 in respect of administrative costs. Review of records revealed that an amount of Kshs.34,396,551 was paid to a firm for partitioning works at the National Land Commission (NLC) offices in Upper Hill Chambers being part payment of the total contract sum of Kshs.130,009,167.

However, the contractor revised the original contract amount from Kshs.130,009,167 to Kshs.146,137,739 as per a final account summary dated 31 May, 2022, increasing the contract price by Kshs.16,128,572 within less than a year of signing. This violates Section 139(3) of the Public Procurement and Asset Disposal Act, 2015 and Regulation 132(2) of the Public Procurement and Asset Disposal Regulations, 2020. Although the Commission disputed the variation, no further communication was received from the contractor.

Review of the correspondence from the National Land Commission to Management of 316 Upper Hill Chambers on 2 November, 2023, revealed that the Commission reported water leakages in offices on the 20th floor, likely to have been caused by structural defects in the building. The affected offices included those of the Chairman, Vice Chairperson, Chief Executive Officer and several Commissioners. Physical inspection on the building conducted on 2 October, 2024, revealed defects in the ceiling of the Chairman's waiting room, poor drainage in the Chairman's kitchen and continued leakage in the CEO's office despite repairs and this affected the partitioning works of the offices during rain seasons. No report on the leakages was provided for audit and it remains unclear on how the Commission intends to resolve the issue.

In addition, procurement documents such as inspection and acceptance report, certificate of completion, and handover report were not provided for audit. In the absence of these documents, it could not be confirmed whether the works were inspected, completed, and handed over satisfactorily.

In the circumstances, the value for money incurred on partitioning works could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2166. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL LAND COMMISSION HOUSING SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

2167. Unsupported Purchase of Staff Houses

Note 11 to the financial statements reflects loan disbursements paid out during the year of Kshs.47,270,000. Included in the amount is Kshs.19,100,000 disbursed to the Civil Servants Housing Scheme Fund in July 2023. However, the Fund Management did not provide the sectional title deeds for the beneficiaries. Management stated that the Commission together with the Ministry of Land are working out on getting the sectional title deeds.

In the circumstances, the ownership of the purchased houses amounting to Kshs.19,100,000 could not be confirmed.

Emphasis of Matter

2168. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects actual expenditure of Kshs.2,443,075 against actual receipts of Kshs.6,278,420 resulting to an under-utilization of Kshs.3,835,345 or 61% of the actual receipts. Further, Management did not provide for audit the approved budget for the Fund.

The under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

2169. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. Although Management indicated that the issues were resolved, no evidence was provided on how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2170. 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

2171. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL LAND COMMISSION STAFF CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2172. There were no material issues noted during the audit of the financial statements of the Fund.

Emphasis of Matter

2173. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.358,074 and Kshs.358,074, respectively. However, the Fund spent an amount of Kshs.196,363 against an actual receipt of Kshs.358,074 resulting to underutilization of Kshs.161,711 or 45% of the receipts. Further, Management did not provide for audit the approved budget for the Fund.

In the circumstances, the Fund did not operate towards fulfilling its mandate.

My opinion is not modified in respect of these matters.

Other Matter

2174. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not provided any explanation on how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2175. Non–Compliance with Addendum to the Agreement with the Fund Administrator

Review of records revealed that a local bank which is the appointed Fund Manager/Administrator has been charging the Fund 5% as administration fees based on an Addendum to the Fund administration agreement signed on 8 October, 2018. The

Addendum indicated that the administrative fee charged by the Bank was to increase from 4% to 5% of the mortgage repayments for the year. The bank administration fee would be 4% and 1% would be maintained to grow the Fund. However, over the years, the Bank had not maintained the 1% to grow the Fund contrary to the Addendum to the agreement dated 8 October, 2018.

Management explained that the Commission had contacted the Fund Administrator/Manager and the bank agreed to review the relevant data with a view to establish the number of loan repayments affected by the 1%. However, no documentary evidence was provided for audit review.

In the circumstances, Management was in breach of the Staff Car Loan Scheme Fund Administration agreement.

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

Conclusion

2176. There were no material issues relating to effectiveness of internal controls, risk management and governance.

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION – VOTE 2031

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

2177. Property, Plant and Equipment

The statement of financial position reflects property, plant and equipment balance of Kshs.1,869,424,000 as disclosed in Note 13 to the financial statements. Review of the balances revealed the following unsatisfactory matters:

2177.1 Unregistered Land

As reported in the previous year, the property, plant and equipment balance exclude value of thirty-five (35) parcels of land and two (2) parcels of land one located in Mandera and Lamu whose value had not been determined. Further, the Commission was yet to obtain ownership documents for twenty-five (25) parcels of land allocated to it by the National and County Governments.

Management explained that all Counties were directed to engage relevant Government agencies in pursuit of allotment letters and ownership registration documents. The Commission had also engaged the State Department of Housing and Urban Development on valuation of the land, equipment, furniture and fittings. However, the exercise had not been done as at November, 2024.

2177.2 Unvalued and Unconfirmed Ownership of Motor Vehicles

Included in the property, plant and equipment balance of Kshs.1,869,424,000 are motor vehicles with historical cost of Kshs.783,115,000 for two hundred and seventy-two (272) motor vehicles. According to motor vehicles' status report as at 30 June, 2024, the Commission had two hundred and seventy-two (272) motor vehicles, three (3) motor boats and two (2) folk lifts. However, only two hundred and seven (207) logbooks were provided for audit out of which one hundred and eighty-six (186) motor vehicles were still registered under the defunct Electoral Commission of Kenya and had not been transferred to the Independent Electoral and Boundaries Commission.

In the circumstances, the accuracy and completeness of the property, plant and equipment balance of Kshs.1,869,424,000 could not be confirmed.

Emphasis of Matter

2178. Outstanding Accounts Payables

Note 15 to the financial statements reflects trade and other payables balance of Kshs.3,948,522,000 (2023 - Kshs.4,857,441,000). The payables balance include legal fees and goods and services balances of Kshs.2,662,871,000 and Kshs.1,112,394,000 respectively, out of which Kshs.173,257,000 was accrued within the year under review.

In the circumstances, the Commission is at risk of incurring avoidable interest costs and penalties on delayed payments.

My opinion is not modified in respect of this matter.

Other Matter

2179. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues or given satisfactory explanation for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2180. Failure by The National Treasury to Operationalize the Commission Fund

The Commission funding from The National Treasury in form of Exchequer issues totalled Kshs.4,483,268,000. However, the Cabinet Secretary to The National Treasury had not operationalized the Commission's Fund. Failure by the Cabinet Secretary to operationalize the Fund led to the Commission's funding by The National Treasury being issued in form of Exchequer issues contrary to Section 18 (1) of Independent Electoral and Boundaries Commission Act, 2011. This Section stipulates that the funds of the Commission shall be held in the Independent Electoral and Boundaries Commission Fund which shall be administered on behalf of the Commission, by the Secretary.

Further, the Commission's expenditure relating to salaries, allowances and other remuneration, travelling and subsistence allowances for the employees and members of committees of the Commission and other operational expenses were not paid from the Fund. This was contrary to Section 18 (2) of the Independent Electoral and Boundaries Commission Act, 2011 which provides that such expenses shall be paid from the Fund.

In the circumstances, The National Treasury and the Commission were in breach of the law.

2181. Failure to Use the E-Procurement System

As reported previously, the Commission procured goods and services totalling Kshs.136,099,522 (2023 – Kshs.3,169,974,250) at its County Offices. Review of the payment records supporting the expenditure revealed that the procurement done outside e-Procurement system and manual returns were sent to the Head Office for further processing. This was contrary to Regulation 54 of the Public Procurement and Asset Disposal Regulations, 2020 which requires procuring entities to use the e-procurement system.

Management explained that the Commission had collaborated with The National Treasury for a planned rollout of the IFMIS to the counties in two phases whereby Phase One was to be undertaken between November 2023 and March, 2024. However, field visits to proposed Phase One pilot Counties of Nairobi, Kajiado, Kiambu, Muranga, Machakos, Makueni and Kitui in September, 2024 revealed that the proposed setup of County Election Managers and Regional accountants as General Ledger users and General Ledger Supervisors in IFMIS to facilitate real-time capture of data in IFMIS had not taken place.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2182. Deficiency in the Commission's Governance System

2182.1 Failure to Appoint Commissioners

Review of the Commission's governance structure revealed that it has been operating without Commissioners since the departure of all former members between December, 2022 and January, 2023. The lack of full Commission has adversely affected its ability to effectively carry out its goals and objectives as outlined in Articles 88(4) and 89(2)(3) of the Constitution of Kenya, 2010 as well as related legislation and policies.

Lack of Commissioners has hindered key policy decisions and strategic directives as well as the Commission's capacity to formulate policies and strategies and oversee its secretariat. The failure of the Executive to initiate the process of replacing the Chairperson and the Commission Members within six months before the expiration of their terms was a breach of the provisions of Section 5 of the Independent Electoral Boundaries Commission Act, 2011.

In addition, the annual report and financial statements have not been signed by the Chairman of the Commission. Similarly, the Chairperson's report was also missing from the annual report contrary to the requirements of the reporting template by the Public Sector Accounting Standards Board.

In the circumstances, the Commission was unable to fulfill its Constitutional mandate.

2182.2 Composition of the Audit and Risk Committee

The Commissions' Audit Committee guidelines provides for appointment of one (1) Commissioner to the Audit and Risk Committee which as constituted had four (4) members. However, due to lack of Commissioners to be appointed into the Committee, the Audit and Risk Committee was not operational.

In the circumstances, the Commission did not benefit from the governance and oversight expected from the Committee.

2183. Failure by the Commission to Conduct Its Principal Activities

2183.1 Pending By-Elections

As at the time of this audit in September, 2024 there were thirteen (13) pending by-elections consisting of two (2) Members of the National Assembly and eleven (11) Members of County Assembly vacant seats due to death or petitions**.** The absence of a duly constituted Commission made it impossible for the pending by-elections to take place denying the citizens of the affected regions the right to exercise their sovereign power through their democratically elected representatives.

2183.2 Delimitation of Electoral Units

Article 89(2) of the Constitution of Kenya, 2010 requires the Commission to review the names and boundaries of constituencies at intervals of not less than eight years, and not more than twelve years. Consequently, the first delimitation of boundaries under the Constitution of Kenya, 2010 was due by March, 2024. However, the Commission failed to undertake the activity due to lack of Commissioners.

2183.3 Continuous Registration of Citizens as Voters and Revision of Voters' Roll

Section 4 of the Independent Electoral Boundaries Commission Act, 2011 requires the Commission to continuously register voters and revise the voter register. However, the Commission did neither register new voters nor update to the voters' roll.

In the circumstances, the Commission failed to fulfil its Constitutional and regulatory responsibilities which may negatively impact the democratic processes in the country.

2184. Failure by the Commission to Fill Vacant Positions

As previously reported, the Commission's approved staff establishment had two hundred and ninety-six (296) vacancies in various cadres of staff as at 30 June, 2024 which were not filled by the time of the audit in November, 2024. The positions included thirty (30) County Accountants, thirty-two (32) County Supply Chain Management Assistants, thirty (30) Senior Elections Officers and nineteen (19) Assistant Elections Officers among others. As a result, the Commission engaged casual staff who performed key roles and had access to confidential information and documentation of the Commission.

Further, vacancies arising out of natural attrition in the Commission were not filled through promotion of existing staff or external recruitment due to lack of Commissioners to approve the same leading to the appointment of members of staff in acting capacities and subsequent payment of acting allowances.

Management explained that the process of filling the vacant positions began in December, 2021 but was temporarily halted to allow the Commission to prepare for the August, 2022 general elections. However, delays in the reconstitution of the Commission impacted negatively on the timely filling of vacancies as they arose.

2185. Deficiencies in the Biometric Voter Registration (BVR) and Kenya Integrated Elections Management System (KIEMS) Kits Controls

2185.1 Status of KIEMS Kits

As previously reported, review of the Commission's KIEMS kits maintenance report revealed that between 2017 and 2022 the Commission procured a total of fifty-nine thousand one hundred (59,100) KIEMS kits which comprised forty-five thousand Morpho kits (45,000) (2017) and fourteen thousand one hundred (14,100) VIU-100 (Smartmatic) (2022). However, it was observed that a total of three thousand, four hundred and thirty-three (3,433) KIEMS kits were faulty, two hundred (200) KIEMS Kits were not returned after the 2017 and 2022 general elections, two (2) were reported as lost, and thirty (30) were burnt in Wajir County. Further, one hundred and fifty-nine (159) Kits dispatched for by-elections and petitions were yet to be returned to the Election Technology Centre leaving the Commission with only 55,286 (fifty-five thousand, two hundred and eighty-six) Kits.

Management explained that the Commission had initiated the development of the Standard Operating Procedure for KIEMS kits movement and management and that it was undergoing internal reviews and approvals. However, it could not be implemented due to lack of Commissioners to approve it.

In the circumstances, the effectiveness internal controls for the KIEMS kits management could not be confirmed.

2185.2 Loss of Election Materials at Karachuonyo Constituency Office

As previously reported, field visit to Karachuonyo IEBC Constituency revealed that the premises and storage areas were in poor condition and thirty-one (31) BVR laptops and forty-five (45) chargers were reported missing. The loss was reported to have occurred on 26 August, 2021. Further, there was inadequate accounting of the stores records and no reconciliation had been done.

2185.3 Discrepancies in Stores Records at Kisii County Offices

As previously reported, field visit to IEBC offices in Kisii County revealed variances between store records provided for Nyanza South BVR kits and a physical count. The store's ledger and stock control card recorded a balance of two hundred and ninety-seven (297) kits as at 20 May, 2022. However, the stock take balance recorded was two hundred and seventy-one (271) resulting in an unexplained variance of twenty-six (26) kits. Further, physical verification carried out in September, 2024 revealed that a total of seventy-nine (79) kits had no hard disks while 215 were empty.

In the circumstances, the effectiveness of internal controls over the BVR kits management and safeguards against possible loss or damage could not be confirmed.

2186. Lack of Segregation of Duties at the Commission's County Offices

Review of internal controls, risk management and procedures of the Commission revealed the following weaknesses:

2186.1 Maintenance of Accounting Records

The County Elections Managers maintained accounting records for two or more Counties without any substantive assistants. This led to lack of segregation of duties, as the managers were responsible for initiating, processing, and authorizing payments.

Similarly, the same accountants maintained various financial records, including cash books, vote books, bank reconciliation statements, the county general ledger, trial balances, expenditure returns and imprest registers without being counterchecked. In addition, the regional accountants reported to two or more County Elections Managers, which made their workload increasingly difficult. This was contrary to the approved staff establishment which stipulates that each county should have its own accountant.

In the circumstances, the existence of effective internal controls on the accounting records could not be confirmed.

2186.2 Procurement and Warehouse Management

Field verification of the Commission's County offices in September, 2024 revealed that regional supply chain management assistants were in charge of procurement activities in two or more counties. However, the assistants did not have any substantive procurement professional staff with the necessary technical expertise to supervise them leading to lack of segregation of duties. In the Central and North Rift regions, the assistants managed procurement for four (4) and five (5) counties respectively. As previously reported, County Election Managers occasionally hired casual employees to help maintain store records.

Management explained that the Commission has not been able to fill all the vacancies due to insufficient funding, despite several requests to The National Treasury for budget allocations to recruit accountants and supply chain management assistants.

In the circumstances, the existence of appropriate internal controls such as segregation of duties and independent verification for accuracy of procurement records could not be confirmed.

2187. Lack of Comprehensive Assets Register

As reported in previous years, the Commission did not maintain comprehensive assets register for recording land, buildings, motor vehicles, furniture and intangible assets. Management explained that some of the parcels of land and buildings inherited from the defunct Electoral Commission of Kenya lacked ownership and registration documents at the time of their handover. Further, they stated that they have initiated the development of a comprehensive assets register. Failure to maintain a comprehensive asset register is contrary to Regulation 143 (2) of the Public Finance Management (National Government) Regulations, 2015. The Regulation states that the register of land and buildings shall record each parcel of land and each building and the terms on which it is held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, leasehold terms, maintenance contracts and other pertinent management details. In addition, the assets were not tagged with unique identification numbers.

In the circumstances, the existence of effective mechanisms to safeguard the Commission's assets could not be confirmed.

2188. Insecure Storage of Gas Cylinders

As previously reported, field inspection of the Commission's warehouses in Nyeri, Nakuru, Kisumu, Homabay, Bungoma, Busia, Kisii, Machakos, Meru, Mombasa, Kilifi and Garissa revealed that gas cylinders were stored alongside election materials (strategic and non-strategic election materials). This practice poses a significant risk of fire outbreaks in the event of gas leak and was contrary to Section 172 (h) of the Public Procurement and Assets Disposals Regulation, 2020. This Section provides that the officer in charge of the stores of a procuring entity shall ensure all stores that are highly inflammable or explosive are kept in a separate storeroom.

In the circumstances, the stores are at risk of destruction due to fire hazards.

2189. Long Outstanding Receivables

As previously reported, the statement of financial position reflects balances of Kshs.11,160,000 and Kshs.26,193,000 in respect of ECK accounts receivables and ECK car loan receivables respectively, as disclosed in Notes 11 and 12 of the financial statements. The receivables have been outstanding for more than sixteen (16) years since 2008. The amounts relate to imprests and salary advances held by staff and outstanding car loans to Commissioners of the defunct Electoral Commission of Kenya. The funds were recovered from their final dues but retained by The National Treasury. However, records of The National Treasury do not reflect the retained amounts as payable to the Commission. Management indicated that the Commission is engaging The National Treasury with a view of getting the money refunded or obtaining an approval to write it off from the Commission's accounting records. However, as at the time of concluding the audit in November 2024, this had not been finalized.

In the circumstances, the recoverability of the long outstanding accounts receivables balance and car loans amounting to Kshs.37,353,000 could not be confirmed.

2190. Outstanding Court Awards

The statement of financial position reflects receivables from non-exchange transactions balance of Kshs.12,583,000 as disclosed in Note 9 to the financial statements. Included in the balance is an amount of Kshs.5,396,000 for Court awarded costs. As reported previously, the balance relates to Appropriations-In-Aid (AIA) receivables from court cases decided in the year 2013 for which costs had been awarded to the Commission.

Although Management explained that it had instituted measures to recover costs awarded in its favour from petitioners including appointing Auctioneers to collect awarded costs and filing bills of costs against persons adjudged by the Court to be liable to pay costs, the Commission had not recovered the amount as at November, 2024.

In the circumstances, existence of effective measures to collect the awards could not be confirmed.

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION STAFF MORTGAGE AND CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2191. 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

Conclusion

2192. There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

Conclusion

2193. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PARLIAMENTARY SERVICE COMMISSION - VOTE 2041

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2194. There were no material issues noted during the audit of the financial statements of the Commission.

Emphasis of Matter

2195. Pending Bills

Note 13.1 and Note 13.2 to the financial statements reflects Kshs.74,612,577 and Kshs.30,492,000 for pending account payables and pending staff payables respectively as detailed out in Annex 1 and 2 to the financial statements. The pending bills were not settled but were carried forward to 2024/2025 financial year. However, records indicate that as at close of audit in December 2024, the Commission had settled all the bills.

Failure to settle pending bills in the year they relate distorts the financial statements and adversely affects the budgetary provision for the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

Other Matter

2196. Unresolved Prior Year Matters

As disclosed under the progress on follow-up of auditor's recommendations section of the financial statements, the prior year issues remained unresolved as at 30 June, 2024. Management has not provided satisfactory reasons for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2197. 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

2198. Lack of a Fixed Asset Register and Ownership Documents

As disclosed in Annex 3 to the financial statements, the summary of fixed assets register reflects assets with historical cost brought forward and additional amount during the year of Kshs.8,410,319,731 and Kshs.48,077,731 respectively, totalling Kshs.8,458,397,462. However, the Management did not maintain an asset register to keep track of the assets as required by Regulation 143 of the Public Finance Management (National Government) Regulations, 2015. Further, the assets were not tagged as required by guidelines on asset and liability management.

In addition, as previously reported, ownership documents for the parcels of land for the Main Parliament Building, Center for Parliamentary Studies and Training, Juvenile Court House, County Hall and Protection House were not provided for audit.

In the circumstances, existence and ownership of assets owned by the Parliamentary Service Commission could not be confirmed.

PARLIAMENTARY MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

2199. Loan Defaulters on Receivables from Exchange Transactions

The statement of financial position reflects receivables balance of Kshs.9,029,596,921 as disclosed in Note 9 to the financial statements. The balance includes loans totalling Kshs.50,683,868 for which borrowers have defaulted on repayments. Despite Management's efforts to implement various recovery mechanisms, they had not been successful in securing repayment, and the loans remained unpaid as at the time of audit in October, 2024. Further, no provision for the potential impairment of the outstanding loans was made in the financial statements.

In the circumstances, the accuracy, fair statement and recoverability of the receivables from exchange transactions balance of Kshs.9,029,596,921 could not be confirmed.

Other Matter

2200. Unresolved Prior Year Matter

In the previous year audit report, an issue was raised under the Report on the Financial Statements. However, Management had not resolved the matter or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2201. 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

2202. 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

Unmodified Opinion

2203. 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

Conclusion

2204. 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

2205. There were no material issues relating to effectiveness of internal controls, risk management and governance.

THE NATIONAL ASSEMBLY – VOTE 2042

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2206. There were no material issues noted during the audit of the financial statements of The National Assembly.

Emphasis of Matter

2207. Pending Bills

I draw attention to Annex 2 of the financial statements, which reflects pending bills amount of Kshs.153,348,752 as at 30 June 2024 carried forward to the financial year 2024/2025.The pending bills comprised of an amount of Kshs.147,723,752 relating to 2023/2024 financial year and a balance of Kshs.5,625,000 brought forward from the previous years. However, as at 4 December, 2024 pending bills amounting to Kshs.93,844,046 had been paid leaving an outstanding balance of Kshs.59,504,706.

Failure to settle bills during the year to which they relate adversely affects the provisions of the subsequent year to which they have to be first charged.

My opinion is not modified in respect of this matter.

Other Matter

2208. Unresolved Prior Year Matters

As disclosed under the progress on follow-up of auditor's recommendations section of the financial statements, the prior year issues remained unresolved as at 30 June, 2024. Management did not provide satisfactory reasons for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2209. Non-Compliance with the One-Third of Basic Salary Rule

Review of June 2024 salary payrolls revealed that, eighteen (18) employees were earning net salaries below the recommended one-third of their respective basic salary, contrary to the provisions of Section C.1 (3) of the Public Service Commission's Human Resource Policies and Procedures Manual. The Policy requires that public officers shall not over-commit their salaries beyond two-thirds (2/3) of their basic salaries and Heads of Human Resource Units should ensure compliance. Where salary deductions are recovered in excess of two-thirds of the basis salary may subject employees to pecuniary embarrassment.

In the circumstances, Management was in breach of the Policy.

2210. Irregular Use of Low Value Procurement

The statement of receipts and payments reflects an expenditure of Kshs.10,553,928,596 for use of goods and services as disclosed in Note 4 to the financial statements. This includes an amount of Kshs.2,771,335,055 relating to other operating expenses out of which Kshs.80,649,990 and Kshs.130,313,515 was in respect of operational and transport expenses respectively, in thirty-one (31) Constituencies and six (6) County Women Representative offices. Although the expenditure in various cases were above the threshold for low value procurement method, Management of the Constituency and County Women Representative offices did not apply alternative procurement methods as required under Section 91 of the Public Procurement and Asset Disposal Act, 2015, but procured the above goods and services directly through cash purchases.

Further, the expenditure was not supported with approved work plans and Kenya Revenue Authority ETR receipts. In addition, the stores items were not acknowledged on receipt, recorded in the stores ledger and issued as per requisitions.

In the circumstances, the regularity and value for money of the expenditure amounting to Kshs.210,963,505 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2211. Weak Internal Controls in Payment of Mileage Allowances

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.10,553,928,596 for use of goods and services. The amount includes Kshs.4,627,774,736 relating to domestic travel and subsistence out of which Kshs.183,429,783 was incurred on claimable mileage allowance paid to Members of Parliament upon travelling to and from their constituencies using personal vehicles. However, only transport claim form was used to support the payment. There were no controls in place or other documentary evidence to ascertain that, a member actually travelled, so as to warrant the payment of allowance.

In the circumstances, lack of internal controls in payment of claimable allowances may lead to loss of public funds.

2212. Lack of Fixed Assets Register

Annex 3 to the financial statements on summary of fixed asset register reflects assets balance of Kshs.1,060,376,243 as at 30 June, 2024, which comprise of historical cost balance brought forward from 2022/2023 of Kshs.838,905,217 and additions during the year of Kshs.221,471,026. However, The National Assembly did not maintain an asset register during the year under review to keep track of its assets.

In the circumstances, the existence of effective mechanisms to safeguard the assets from possible loss or damage could not be confirmed.

PARLIAMENTARY JOINT SERVICES – VOTE 2043

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2213. There were no material issues noted during the audit of the financial statements of the Services.

Emphasis of Matter

2214. Pending Bills

As disclosed in Note 14.2 of the financial statements, the Parliamentary Joint Services had pending bills totaling Kshs.1,509,141,657, that were not settled in the 2023/2024 and were carried forward to the 2024/2025 financial year. The pending bills includes Kshs.507,290,490 relating to the financial year 2022/2023 which did not form a first charge during the year under review. However, at the time of audit verification on 17 December, 2024 Kshs.1,097,129,104 had been paid leaving an outstanding balance of Kshs.412,012,462 which includes Kshs.68,745,102 relating to the financial year 2022/2023.

Failure to settle bills during the year to which they relate adversely affects the provisions of the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

Other Matter

2215. Unresolved Prior Year Matters

In the audit report of previous year several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not resolved the issues or given any explanation for failure to resolve them.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2216. Non-Compliance with the One Third of Basic Salary Rule

The statement of receipts and payments, reflects expenditure totalling Kshs.2,457,000,860 in respect of compensation of employee as disclosed in Note 3 to the financial statements. However, analysis of the staff payroll for June, 2024 revealed thirty (30) employees earned net pay of less than one third of their basic salaries contrary to Section 19(3) of the Employment Act, 2007. The law stipulates that the total amount of all deductions made by an employer from the wages of his employee at any given time shall not exceed two-thirds of such wages.

In the circumstances, Management was in breach of the law.

2217. Lack of Proper Maintenance of Elevators

The statement of receipts and payments reflects an amount of Kshs.3,487,992,288 under use of goods and services, as disclosed in Note 4 to the financial statements. Included in this amount is Kshs.90,833,878 related to routine maintenance-other assets. However, review of payment vouchers in respect of routine maintenance-other assets revealed that the Parliamentary Service Commission had entered into a contract to provide repair, service and maintenance for the lifts at Parliament Buildings at a cost of Kshs.7,338,269 over three (3) years.

During the year under review, Kshs.3,428,327 was paid to the service provider. However, it was observed that the lifts at Protection House and Continental House are consistently non-functional and frequently breaks down. This ongoing breakdowns, poses a risk and inconvenience to both staff and visitors accessing the building.

In the circumstances, value for money on the expenditure of Kshs.3,428,327 incurred on the repair, service and maintenance of lifts could not be confirmed.

2218. Delay in Completion and Payments of Proposed Construction of the Centre for Parliamentary Studies and Training

The statement of receipts and payments reflects an expenditure of Kshs.1,562,772,257 in respect of acquisition of assets, as disclosed in Note 6 to the financial statements. Included in this amount is Kshs.795,417,013 for the construction of the Centre for Parliamentary Studies and Training (CPST).

Review of documents provided for audit revealed that Management entered into a contract for the construction of the proposed Centre at a contract sum of Kshs.4,257,000,000 for three (3) years or (156 weeks). The project commenced on 1 July, 2022 with an expected completion date of 1 July, 2025. However, as at October 2024, the percentage of work completed stood at 41%, while 104 weeks had elapsed, translating to 67% of the total project duration. In addition, the total amount certified as at 30 June, 2024 was Kshs.934,598,854 equivalent to 22% of the overall contract sum, while the amount of Kshs.865,853,753 had been paid as at 17 December, 2024, representing 20% of the total contract sum, leaving an unpaid amount of Kshs.68,745,101.

Further, inspection of the project revealed that the contractor had reduced the operations due to the delayed payments.

In the circumstances, Management may not meet the project implementation timelines and risk paying interest charges on delayed payments leading to escalation of costs.

2219. Unresolved Arbitration on Multi-Storey Office Block- Contract No. WP Item No. D29 NB 901 Job.7753C – Nairobi

The statement of receipts and payments reflects an expenditure of Kshs.1,562,772,257 in respect of acquisition of assets as disclosed in Note 6 to the financial statements. The balance includes an amount of Kshs.795,417,013 for the construction of buildings. However, review of the documents for the construction of Bunge Towers revealed that the estimated contract period was 42 months starting from 1 July, 2014, with a planned completion date of 31 December, 2017, at a contract sum of Kshs.5,893,647,850. However, the certificate of practical completion was issued on 11 March, 2024 which is seventy-four (74) months past the planned completion date. This delay resulted in disputes between the Management and the contractor. The contractor had engaged an arbitrator to resolve issues concerning when interest on delayed payments should commence, as well as the payment certificates, which were structured at the ratio of 80:20 in US dollars and Kenya shillings. This matter remains unresolved and may significantly increase the overall cost of the project.

In the circumstances, the undue delay in implementation of the project and avoidable payments led to an escalation of costs, implying that the public may not get value for money.

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

Basis for Conclusion

2220. Lack of Asset Register

Annex 3 to the financial statements reflects summary fixed assets balance of Kshs.9,712,731,260 being the total historical cost of the assets held by the Parliamentary Joint Service as at 30 June, 2024. However, a fixed asset register was not maintained. This was contrary to Regulation 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 as prescribed by the relevant laws.

In the circumstances, the existence of effective internal controls on management of Government assets could not be confirmed.

THE SENATE VOTE – VOTE 2044

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2221. There were no material issues noted during the audit of the financial statements of the Senate.

Emphasis of Matter

2222. Pending Accounts Payable

As disclosed in Note 13.1 and Annex 1 to the financial statements, the Senate had pending bills amounting to Kshs.425,554,969, which were not settled as at 30 June, 2024, but were carried forward to 2024/2025 financial year. Review of payments made revealed Kshs.397,082,852 had been settled leaving a balance of Kshs.28,472,117 unsettled. Management attributed the non-settlement of the bills to inadequate funding by The National Treasury.

Failure to settle pending bills in the year they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2223. Irregular Use of Low-Value Method of Procurement

The statement of receipts and payments reflects an expenditure of Kshs.3,090,540,096 under use of goods and services as disclosed in Note 3 to the financial statements. The expenditure includes an amount of Kshs.807,188,520 relating to other operating expenses, out of which, Kshs.11,428,868 and Kshs.18,192,000 were in respect of operational and transport expenditures respectively in sampled six (6) County Senator Offices. Although the expenditure was above the threshold for low-value procurement method, the Management of the County Senate offices did not apply alternative procurement methods as required under Section 91 of the Public Procurement and Asset Disposal Act, 2015, but procured the above goods and services directly through cash purchases. Further, the expenditure was not supported with approved work plans and Electronic Tax Register (ETR) receipts and some store items were not acknowledged on receipt, or recorded in the stores' ledger and issued as per requisitions.

In the circumstances, the regularity and value for money of the expenditure amounting to Kshs.29,620,868 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2224. Weak Internal Controls in Payment of Mileage Allowances

The statement of receipts and payments reflects an amount of Kshs.3,090,540,096 spent on use of goods and services as disclosed in Note 3 to the financial statements. The amount includes Kshs.1,204,969,124 related to domestic travel and subsistence, out of which Kshs.40,182,653 was incurred as a claimable mileage allowance paid to Senators travelling to and from their counties using personal vehicles. However, the claims were only supported by a transport claim form, and there were no controls or additional documentation in place to verify that a Member had travelled, which would justify the payment of the allowance.

In the circumstances, the lack of internal controls in payment of claimable allowances may lead to loss of public funds.

JUDICIAL SERVICE COMMISSION - VOTE 2051

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2225. There were no material issues noted during the audit of the financial statements of the Commission.

Emphasis of Matter

2226. Pending Bills

I draw attention to Note 14.3 to the financial statements, which reflects pending staff payables of Kshs.3,026,691 as at 30 June, 2024, which were not settled during the year under review, but instead were carried forward to the 2024/2025 financial year.

Failure to settle bills in the year to which they relate distorts the financial statements for the year and affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2227. Lack of Approved Judicial Service Regulations

Review of records and performance reports revealed that the Commission had forty-one (41) petitions pending as at the beginning of the year and an addition of one-hundred (100) petitions against judges were filed, out of which only seventy (70) petitions were concluded, leaving a balance of seventy-one (71) petitions pending.

Further, the Commission had 134 litigation matters, which were disciplinary and other employment and labour-related disputes which have resulted in court awards to successful litigants amounting to Kshs.95,843,000 against the Commission as indicated in Note 14.5 to the financial statements on contingent liabilities. However, Regulations had not been approved and gazetted to guide the operations of the Commission and improve the process of handling petitions and complaints that may be brought against the judges, judicial officers and judiciary staff.

In the circumstances, the Commission is at risk of facing increased disputes and costly court awards.

2228. Non-Compliance with One-Third Rule on Basic Salary

Review of payroll data revealed that during the year five (5) employees earned a net salary of less than one-third of their basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which states inter alia the total amount of all deductions which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2229. Under-Staffing

Review of human resource records revealed that, as at 30 June, 2024, the Commission had sixty-eight (68) staff members against the authorized establishment of one twenty-one (121) employees, resulting in a deficit of fifty-three (53).

In the circumstances, the understaffing may hinder effective service delivery by the Commission.

2230. Lack of an Approved Operational Risk Management Strategies, ICT Policy and Operational Manuals

Review of risk management processes and information communication technology (ICT) systems revealed that the Commission did not have an approved operational and documented Risk Management Policy to guide the risk management processes. Further, the Commission lacks business continuity and disaster recovery plans to guide the Commission's operations in case of service disruptions.

In addition, operational financial policy manuals had not been developed to guide the Secretariat in administration and daily operations. This was contrary to Regulation 165(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting Officer shall ensure that the national government entity develops (a) risk management strategies, which include fraud prevention mechanism and a system of risk management and internal control that builds robust business operations.

In the circumstances, the policy, strategies and procedures implemented to assess, identify, prioritize and mitigate risks could not be confirmed.

2231. Land Under Dispute

As disclosed in Annex 1 to the financial statements, the summary of fixed assets register balance of Kshs.327,060,276 excludes values of land. However, records indicate that the Commission was allocated a parcel of land measuring approximately 22.32 hectares in Ngong allocated to by the National Government for the construction of Kenya Judiciary Academy which has not been valued and fenced to secure the property from encroachment. Further, the land has an ongoing court case where a petitioner laid a claim on the parcel of land and sought court relief to cancel the titles issued to the Commission.

In the circumstances, the Commission risks losing the land through encroachment.

2232. Enhancement of Governance Systems for Security Related Expenditures

During the year under review, the Commission incurred some expenditure for confidential security operations. A certificate of confidential expenditure was issued, supported by a declaration from the Accounting Officer affirming proper use of funds in compliance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015.

There is need, however, to enhance accountability of confidential expenditures through review of the Regulations to clearly define entities eligible for confidential security related expenditures and to specify what constitutes security related operations. Further, entities should establish internal oversight mechanisms and processes that include detailed budget projections and post-operation financial summaries to address risks and ensure responsible use and accountability of the funds, beyond the certificate.

The measures will strengthen governance, foster trust, and ensure funds are utilised responsibly without compromising State security.

COMMISSION ON REVENUE ALLOCATION - VOTE 2061

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2233. There were no material issues noted during the audit of the financial statements of the Commission.

Emphasis of Matter

2234. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.516,815,777 and Kshs.459,170,762 respectively, resulting in an under-funding of Kshs.57,645,015 or 11% of the approved budget.

The under-funding affected the planned activities and programmes of the Commission, which may have impacted negatively on effective service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2235. Delayed Completion of Office Partitioning Works

The statement of financial position reflects property, plant and equipment balance of Kshs.161,145,790 as disclosed in Note 26 to the financial statements. The balance includes additions amount of Kshs.97,935,861 relating to furniture, fittings and refurbishment. Review of procurement records revealed that the Commission entered into a contract on 15 December, 2023 for proposed partitioning works on 28th, 29th and 30th floors of Prism Towers. The contract was awarded to a local Company at a contract sum of Kshs.117,011,951. The contract duration was three (3) months, with a one month's extension granted and the works expected to be completed by 30 April, 2024. At the time of audit, the contractor had been issued with a certificate of practical completion, left site and the Commission had occupied the offices. However, review of the records revealed that the contactor had completed works valued at Kshs.97,747,781 or 83% of the contract sum. This was contrary to Regulation 33(3)(u) of the Public Procurement and Asset Disposal Regulations, 2020 which states that the role of the procurement function shall be to monitor contract management by user departments to ensure implementation of contracts in accordance with the terms and conditions of the contracts.

In the circumstances, the Management was in breach of the law.

2236. Irregular Payment of Commissioners' Leave Allowance

The statement of financial performance reflects receivables from non-exchange transactions of Kshs.44,800,313 as disclosed in Note 25 to the financial statements. Included in the balance is Commissioners leave allowance for recovery of Kshs.400,000 that had been paid by the Commission. Although Management explained that the Commissioners had agreed to reimburse the leave allowance. The payment was contrary to Article 250 (7) of the Constitution of Kenya 2010 which states that the remuneration and benefits payable to or in respect of a commissioner or the holder of an independent office shall be a charge on the Consolidated Fund.

In the circumstances, the Management was in breach of the law.

2237. Non-Compliance with Guidelines on Staff Recruitment

The statement of financial performance reflects employee costs of Kshs.213,395,952 as disclosed in Note 16 to the financial statements. Review of human resources records revealed that Management recruited nine (9) members of staff in the year under review. However, written confirmation of availability of funding from The National Treasury, and necessary approvals from the relevant entities in the Public Service mandated to undertake recruitment were not provided for audit. This is a requirement as outlined in the provisions of The National Treasury Circular No 7/2023 dated 21 June, 2023 on Guidelines for Implementation of the financial year 2023/2024 and the medium–term budget which states that recruitment of new staff/replacement/upgrading/promotion of staff should only take place after the MDAs have obtained written confirmation of availability of funding from The National Treasury, and necessary approvals from the relevant entities in the Public Service mandated to undertake recruitment. Further, Regulation 120 (2) of the Public Finance Management (National Government) Regulations, 2015 stipulates that the budgetary allocation for personnel costs shall be determined on the basis of a detailed costing of a human capital plan of a national government entity as approved by the state department responsible for public service management matters, the Public Service Commission and The National Treasury.

In the circumstances, Management was in breach of the law.

2238. Non-Compliance with the Law on Public Procurement

Review of the revised procurement plan for the year under review revealed planned procurement valued at Kshs.245,430,359. However, it was noted that the reserved allocation for Access to Government Procurement (AGPO) was Kshs.26,154,204 or 11% of the total procurement budget. This is below the required threshold of 30% by the Public Procurement and Asset Disposal Act, 2015. Although Management indicated that revision of the procurement budget affected mostly the reserved procurement items under AGPO groups. This was contrary to Section 157(5) of the Public Procurement and Asset Disposal Act, 2015 which states that an accounting officer of a procuring entity shall, when processing procurement, reserve a prescribed percentage of its procurement budget, which shall not be less than thirty per cent, to the disadvantaged group and comply with the provisions of this Act and the regulations in respect of preferences and reservations.

In the circumstances, the Management was in breach of the law.

2239. Non-Compliance with the Law on Fringe Benefits Tax

The statement of financial position reflects trade and other payables from exchange transactions balance of Kshs.41,166,370 as disclosed in Note 31 to the financial statements. Review of Appendix II on analysis of pending accounts payable revealed the Commission had not remitted fringe benefit tax of Kshs.3,145,926 to the Commissioner of domestic taxes. The Management cited lack of adequate funds for the non-remittance. This was contrary to Section 12B of income tax Act cap 470 which states that, notwithstanding any other provision of this Act, a tax to be known as fringe benefit tax shall be payable commencing on the 12 June, 1998 by every employer in respect of a loan provided at an interest rate lower than the market interest rate to an individual who is a director or an employee or is a relative of a director or an employee, by a virtue of his position as a director or his employment or the employment of a person to whom is related. Under the Act, the rate applicable is 30% of the benefit equal to the difference between the interest at the prescribed market lending rate and the actual interest paid on the loan.

In the circumstances, Management was in breach of the law.

2240. Unauthorized Budget Reallocation

The statement of financial performance reflects general expenses amount of Kshs.215,867,785 which includes domestic travel expenditure of Kshs.26,136,981 as disclosed in Note 20 to the financial statements. The expenditure includes Kshs.1,743,708 in respect of conference package and ought to be expensed under hotel and conference expenditure item. Although Management explained that it was due to budget cuts, approvals for reallocation were not provided for audit. This was contrary to Regulation 44(2) of the Public Finance Management (National Government) Regulations, 2015 which states that National Government entities shall execute their approved budgets based on the annual appropriation legislation, and the approved annual cash flow plan with the exception of unforeseen and unavoidable spending dealt with through the Contingencies Fund, or supplementary estimates.

In the circumstances, the Management was in breach of the law.

2241. Rent Expenses on Unoccupied Office Space

The statement of financial performance reflects general expenses of Kshs.215,867,785 which includes rent expenses of Kshs.99,198,649 as disclosed in Note 20 to the financial statements. Review of expenditure records provided for the audit revealed that the Commission entered into a lease agreement with Prism Towers starting from 1 July 2023 and made an advance payment for the full year's rent. However, the procurement for the partitioning of works begun three (3) months later, in October 2023, with the award of the contract done in December, 2023. This resulted to the Commission paying rent amounting to Kshs.21,440,947 for unoccupied space before the contractor took over site and the works begun. This was contrary to Regulation 43(d) of Public Finance Management (National Government) Regulations, 2015 which states that an Accounting Officer shall manage control and ensure that policies are carried out efficiently and wastage of public funds is eliminated.

In the circumstances, value for money paid on rent of Kshs.21,440,947 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2242. Failure to Implement Internal Audit Recommendations

Review of the Internal Audit reports revealed that Internal Audit Unit had raised sixty-four (64) issues from 2018-2019. However, the Commission had only fully implemented recommendations on five (5) issues or 8% of the recommendations issued. Further, a report on fleet management had recommended that the Commission should consider adequate and effective measures for tracking all motor vehicles. In addition, a local Company had been contracted to install tracking devices to all Commission's motor vehicles. However, at close of audit in December 2024, eight (8) motor vehicles' tracking devices were inactive including six (6) motor vehicles for Commissioners following a resolution by the Commission to remove the tracking devices from the Commissioners' vehicles.

In the circumstances, Management effectiveness on implementation of internal audit recommendations could not be confirmed.

COMMISSION ON REVENUE ALLOCATION STAFF MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

2243. Inaccuracies in the Financial Statements

The statement of financial position reflects mortgage loan revolving fund balance of Kshs.169,133,156 which was at variance with the statement of changes in net assets balance of Kshs.155,923,446, resulting in an unreconciled variance of Kshs.13,209,710. Further, the statement of financial position reflects accumulated surplus of Kshs.1,135,392 which differs with the balance reported in the statement of changes in net assets of Kshs.14,345,102, resulting in unreconciled variance of Kshs.13,209,710.

In the circumstances, the accuracy of the mortgage fund and the accumulated surplus could not be confirmed.

2244. Non-Disclosure of Fringe Benefit Tax

The statement of financial position reflects current liability of Kshs.32,521 in respect of insurance refund as disclosed in Note 11 to the financial statements. Review of non-financial information revealed that the Fund had a fringe benefit tax liability of Kshs.3,100,000, occasioned by insufficient budget allocation which was to be settled in the subsequent financial year. However, the tax liability had not been reflected in the statement of financial position for the period under review.

In the circumstances, the completeness and accuracy of current liability balance of Kshs.32,521 could not be confirmed.

2245. Unsupported Balances in the Budget Statement

The statement of comparison of budget and actual amounts reflects a total final revenue and expenditure budget of Kshs.10,958,602 and Kshs.9,823,210 respectively. Management did not provide an approved budget to support the balances reported. This was contrary to Regulation 31 (1) of The Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer to ensure that the draft estimates relating to her or his department are prepared in conformity with the Constitution, the Act and these Regulations.

In the circumstances, the accuracy and completeness of the budgeted amounts reflected in the statement of comparison of budget and actual amounts could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2246. Non-Compliance with the Law on Income Tax

The statement of financial performance reflects general expenses of Kshs.9,583,373 which, as disclosed in Note 8 to the financial statements, includes Kshs.9,581,243 in respect of administration cost. However, evidence to confirm that withholding tax on the management fees paid to Fund administrator was withheld and remitted to the Commissioner of Domestic Taxes as required by the Income Tax Act 2017, was not provided for audit. Further, Note 8 to the financial statements reflects withholding income tax on interest earned amounting to Kshs.239,837. However, withholding tax certificates to support the withheld amount were also not provided for audit.

In the circumstances, the Fund's compliance with Section 3(1) of Income Tax Act Cap 470 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2247. There were no material issues relating to effectiveness of internal controls, risk management and governance.

COMMISSION ON REVENUE ALLOCATION STAFF CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

2248. Unsupported Amounts in the Budget Statement

The statement of comparison of budget and actual amounts reflects a final revenue and expenditure budget of Kshs.276,489 and Kshs.2,302 respectively. However, the Fund management committee did not provide the approved budget to support the amounts reported in the statement. This was contrary to Regulation 31 (1) of the Public Finance Management (National Government) Regulations, 2015, which states that an Accounting Officer shall ensure that the draft estimates relating to her or his department are prepared in conformity with the Constitution, the Act and these Regulations.

In the circumstances, the accuracy, completeness and regularity of the reported budget amounts could not be confirmed.

2249. Non-Disclosure of Fringe Benefit Tax

Management discussion analysis report for the year under review indicates that the Fund has a fringe benefit tax liability, occasioned by insufficient budget allocation and which was to be settled in the subsequent financial year. However, the value of the fringe benefit tax liability was not disclosed in the statement of financial position.

In the circumstances, the accuracy and completeness of undisclosed fringe benefit tax liability could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2250. 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

2251. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PUBLIC SERVICE COMMISSION - VOTE 2071

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2252. There were no material issues noted during the audit of the financial statements of the Commission.

Other Matter

2253. Unresolved Prior Year Matters

As disclosed under the progress on follow up on the auditor's recommendations section of the financial statements, various prior year audit issues remained unresolved as at 30 June, 2024. Management has not provided reasons for the delay in resolving the prior year's audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2254. Non-Compliance with One third of Basic Salary Rule

Review of the monthly payrolls revealed that sixty-nine (69) employees had salary deductions that exceeded two-thirds (2/3) of their basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which states inter alia the total amount of all deductions which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages

In the circumstances, Management was in breach of the law.

2255. Irregular Recruitment of Retirees for Consultancy Services

Review of human resource records revealed that five (5) employees were still on the Commission's payroll despite having attained the mandatory retirement age of sixty (60) years. This was after the Commission established five (5) supernumerary positions of management analysts on short-term local agreement terms on 17 March, 2023 for an initial period of three (3) months on a gross salary of Kshs.210,000 which was further reviewed to Kshs.460,947 on 2 August, 2023.

As at 30 June, 2024, the contracts had been extended up to 4 September, 2024. This was contrary to the Public Service Commission (PSC) Human Resource Policies and Procedures Manual, 2016 which requires all officers to retire from the service on attaining the mandatory retirement age of sixty (60) years.

Management explained these were former employees of the State Department of Public Service and The National Treasury who retired from service but had been engaged on local agreement contracts. This was due to the rare knowledge, skills and competencies they possessed as a stop gap measure to assist in clearing the backlog of Human Resource Instruments for State Corporations. However, no documentary evidence was provided to indicate how they were identified and whether they were competitively sourced.

Further, there was no evidence of performance appraisals having being conducted at the end of the year to track their performance against the set objectives and key deliverables was provided. In addition, the Commission processed their salaries amounting to Kshs.25,712,045 through manual systems rather than through the Integrated Payroll and Personnel Database (IPPD), which seeks to end the practice of unverified employees.

In the circumstance, Management was in breach of the law.

2256. Delayed Completion of the Integrated Management Information System (IMIS)

The Commission awarded a contract on 7 December, 2015 to a local company for the procurement of an Integrated Management Information System (IMIS) at a sum of Kshs.97,022,400. The IMIS would automate all the operations and services of the Commission including interface with the public. However, review of the status of the IMIS in December, 2024 revealed that the system had not moved from test to live environment and, no evidence of commissioning the IMIS was provided.

Further, the Financial Management and Project Management, Asset Management, Human Capital Management, and Recruitment and Selection modules had not been developed. No explanation by Management on the delayed completion of the contract was provided.

In the circumstances, it was not possible to confirm whether the public obtained value for money on the expenditure of Kshs.67,887,380 incurred to date on the Integrated Management Information System.

2257. Delayed Completion of Construction Offices

The Commission awarded a contract to a local firm at a contract sum of Kshs.66,090,890 for the construction of additional offices (phase 2) on the 5th floor on 16 November, 2020 for a period of thirty-nine (39) weeks, with a completion date of 24 August, 2021.

Review of the records on the progress of works and field inspection conducted in December, 2024 revealed that the works were incomplete and the project was behind schedule. The contractor had since been paid to Kshs.26,219,344 or 40% of the contract sum and three years had elapsed since the last expected contract completion date and no evidence of an extension having been approved was provided.

In the circumstances, the delay in the project completion may result in additional costs and value for money not be realized in this project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2258. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PUBLIC SERVICE COMMISSION MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

2259. Unsupported Accumulated Surplus

The statement of financial position reflects an accumulated surplus balance of Kshs.15,372,416 while the statement of changes in net assets reflects an accumulated surplus balance of Kshs.5,017,048 resulting to a variance of Kshs.10,355,368 which was not reconciled or explained.

In the circumstances, the accuracy and completeness of the accumulated surplus of Kshs.15,372,416 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2260. Unconfirmed Procurement of an Institution to Manage Mortgage Scheme

The Fund Management entered into an agreement on 27 February, 2018 with a financial institution to manage the mortgage scheme. However, procurement records indicating how the financial institution was identified and awarded the tender were not provided for audit review.

In the circumstances, it was not confirmed whether the procurement of the financial institution was competitive and transparent.

2261. Unfavorable Clauses in Contract Agreement with the Financial Institution

The statement of financial position reflects mortgage revolving funds amounting to Kshs.310,500,000. Review of the agreement dated 27 February, 2018 between the Fund and the financial institution managing the mortgage scheme revealed that the agreement provides for an interest rate of five (5) percent on the loans. This was contrary to Part 6 of the Salaries and Remuneration Commission Circular No. SRC/AND/CIR/1/13/Vol.III (128) dated 17 December, 2014 which approved an interest rate of three (3) percent per annum for the duration of the loan. Further, the agreement provides for charging of 3.5% administration fees on interest earned from mortgage loans and a negotiation fee of 1%

on mortgage loans taken as well as a monthly ledger fee of Kshs.350, which has increased the cost of the loans.

In addition, the agreement requires the Fund to maintain a lien deposit account which should at all times have a balance equivalent to the total aggregate disbursed loan principal amount which earns interest of 1.5% per annum. As at 30 June, 2024, the lien account had a balance of Kshs.110,916,936. This has made it difficult for the beneficiaries to access the loans and has denied the Fund the opportunity to earn optimal revenue due to low interest rate on the lien amount.

In the circumstances, the effectiveness and achievement of value for money for the funds could not be confirmed.

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

Conclusion

2262. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PUBLIC SERVICE COMMISSION CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

2263. Unsupported Accumulated Surplus

The statement of financial position reflects accumulated surplus of Kshs.1,734,986 while the statement of changes in net assets reflects accumulated surplus of Kshs.1,885,759 resulting to a variance of Kshs.150,773 which was not reconciled or explained.

In the circumstances, the accuracy and completeness of the accumulated surplus of Kshs.1,734,986 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2264. Unconfirmed Procurement of an Institution to Manage Car Loan Scheme

The Fund Management entered into an agreement on 27 February, 2018 with a financial institution to manage the car loan scheme. However, procurement records indicating how the financial institution was identified and awarded the tender were not provided for audit review.

In the circumstances, it was not confirmed whether the procurement of the financial institution was competitive and transparent.

2265. Unfavorable Clauses in Contract Agreement with the Financial Institution

The statement of financial position reflects car loan revolving funds amounting to Kshs.49,5000,000. Review of the agreement dated 27 February, 2018 between the Fund and the financial institution managing the car loan scheme revealed that the agreement provides for an interest rate of five (5) percent on the loans. This is contrary to Part 6 of the Salaries and Remuneration Commission Circular No. SRC/AND/CIR/1/13/Vol.III (128) dated 17 December, 2014 which approved an interest rate of three (3) percent per annum for the duration of the loan.

Further, the agreement provides for charge of 4% administration fees on interest earned from car loan loans and a negotiation fee of 1% on car loan loans taken as well as a monthly ledger fee of Kshs.350, which has increased the cost of the loans.

In addition, the agreement requires the Fund to maintain a lien deposit account which should at all times have a balance equivalent to the total aggregate disbursed loan principal amount which earns interest of 1.5% per annum. As at 30 June, 2024, the lien account had a balance of Kshs.42,979,253. This has made it difficult for the beneficiaries to access the loans and has denied the Fund the opportunity to earn optimal revenue due to low interest rate on the lien amount.

In the circumstances, the effectiveness and achievement of value for money for the funds could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2266. There were no material issues relating to effectiveness of internal controls, risk management and governance.

SALARIES AND REMUNERATION COMMISSION - VOTE 2081

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2267. 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

2268. Non-Compliance with the One-Third of Basic Salary Rule

The Commission's payroll records revealed that during the financial year under review, twenty-one (21) employees had their net pay below a third of their basic pay in various months. This was contrary to Section 19(3) of the Employment Act, 2007 which provides that the total amount of deductions an employer may make from his employee's wages at any one time shall not exceed two-thirds of such wages.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2269. There were no material issues relating to effectiveness of internal controls, risk management and governance.

SALARIES AND REMUNERATION COMMISSION MORTGAGE AND CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2270. 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

Basis for Conclusion

2271. Irregular Investment of Mortgage and Car Loan Funds

The statement of financial position reflects balances of Kshs.48,342,923 and Kshs.60,000,000 relating to cash and cash equivalents and investment in fixed deposits respectively, as disclosed in Note 22 to the financial statements.

Further, the statement of financial performance and as disclosed in Note 18 to the financial statements reflects an amount of Kshs.8,329,331 relating to interest income derived from the investment in the on-call deposits and fixed deposits. These investment options are contrary to the provisions of the National Treasury and Ministry of Planning Circular No.3/2018 dated 26 March, 2018 which requires State Corporations to invest the surplus funds in Treasury bills and Treasury bonds directly through the Central Bank of Kenya through the non-competitive bidding and not under competitive bidding within the commercial banks.

In the circumstances, Management was in breach of the law.

2272. Unbalanced Budget

The statement of comparison of budget and actual amounts reflects a final revenue budget of Kshs.6,000,000 and a Nil expenses budget. Thus, the budgeted revenue did not have a corresponding budgeted expenditure. This was contrary to Regulation 33(c) of the Public Finance Management (National Government) Regulations, 2015 which provides that budget revenue and expenditure appropriations shall be balanced.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2273. There were no material issues relating to effectiveness of internal controls, risk management and governance.

TEACHERS SERVICE COMMISSION – VOTE 2091

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2274. There were no material issues noted during the audit of the financial statements of the Commission.

Emphasis of Matter

2275. Budgetary Control and Performance

The statement of comparison of budget and actual amounts; Development reflects final receipts budget and actual on a comparable basis of Kshs.1,202,000,000 and Kshs.748,607,958 respectively, resulting in an underfunding of Kshs.453,392,042 or 38% of the budget. Further, the Commission spent Kshs.676,546,545 against actual receipts of Kshs.748,607,958, resulting to an underutilization of Kshs.72,061,413 or 10% of the receipts.

The underfunding and underutilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

2276. Long Outstanding Accounts Payables

The statement of financial assets and liabilities reflects accounts payables balance of Kshs.100,593,503 as disclosed in Note 11 to the financial statements. Review of the payables aging analysis revealed that an amount of Kshs.9,452,365 or 9% of the payables had been outstanding for over a year.

In the circumstances, the Commission was at risk of incurring penalties for failure to settle its obligations as and when they fall due.

2277. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved all the issues or given any explanation for failure to implement the recommendations as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2278. Operations of Car Loan and Mortgage Fund

The statement of financial assets and liabilities reflects bank balances of Kshs.2,013,749,461 as disclosed in Notes 9A to the financial statements. The balance includes the Commission's car and mortgage fund bank balance of Kshs.587,094,327. The following unsatisfactory matters were however noted: -

2278.1 Lack of Fund Governing Regulations

As reported in the previous year, the Fund commenced operations in 2012 as a cash-backed Fund and converted to a revolving Fund in the financial year 2021/2022. However, the Fund operates through a Memorandum of Understanding (MoU) between the National Bank of Kenya and the Commission dated 17 February, 2022 as the regulations to govern the management of the Fund have not been developed. This was contrary to the requirements of Circular No. SRC/ADM/CIR/1/13 Vol III (128) dated 17 December, 2014.

2278.2 Failure to Prepare and Submit Separate Fund Financial Statements

As reported previously, the Management did not prepare and submit for audit separate car and mortgage fund financial statements. This was contrary to Section 81(4)(a) of the Public Finance Management Act, 2012 which requires that, not later than three months after the end of each financial year, the accounting officer for the entity shall; submit the entity's financial statements to the Auditor-General and a copy of the statement to the Controller of Budget, The National Treasury and the Commission on Revenue Allocation.

In the circumstances, Management was in breach of the law.

2279. Delays in Completion of Machakos and Kilifi County Offices

As previously reported, the Commission signed agreements for the construction of two County Offices in Machakos and Kilifi Counties on 13 July, 2022 and 28 June, 2022 at the cost of Kshs.57,663,447 and Kshs.64,900,000 respectively. Both contracts were for sixty (60) weeks with initial estimated completion dates of 5 September, 2023 and 21 August, 2023 for the Machakos and Kilifi County offices respectively. The projects' status report of the contracts implementation team dated 26 June, 2024 indicates the completion rates at 80% and 86% for the Machakos and Kilifi County offices respectively. Further, the contract extensions granted were valid to 8 May, 2024 and 1 May, 2024 respectively. However, there was no evidence of extension of the contracts to cover for the incomplete works while the validity of the performance bonds could not be confirmed as the contract files were not provided for audit review.

Delays in project completion could lead to escalation of costs while value for money has not been realized from the investment in the construction of the two County offices.

2280. Failure to Surrender Unspent Funds for Re-Voting

The statement of financial assets and liabilities reflects accounts receivables balance of Kshs.1,428,183,860 as disclosed in Note 10 to the financial statements. The balance includes an amount of Kshs.108,675,322 in respect of County Disbursements. The funds were not returned to the Commission's account for re-voting as required under Regulation 117(2) of the Public Finance Management (National Government) Regulations, 2015. As at the time of concluding the audit in October, 2024, an amount of Kshs.64,597,779 had been returned to the Headquarters bank account, leaving a balance of Kshs.44,077,543 unreturned.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2281. Salary Overpayments

The statement of financial assets and liabilities reflects accounts receivables balance of Kshs.1,428,183,860 as disclosed in Note 10 to the financial statements. The balance includes an amount of Kshs.433,927,651 in respect of salary overpayments. Review of the aging analysis on the salary overpayments provided for audit revealed that overpayments amounting to Kshs.296,409,143 or 68% had been outstanding for periods exceeding one (1) year. Management indicated that the overpayments had grown over the years due to the previous manual reporting systems' inefficiencies. Further, Management through various mechanisms adopted recovery of salary overpayments, amounting to Kshs.222,305,447 for the year under review from payroll and other avenues. Although progress had been made in the recovery of the salary overpayments, further effort was required to recover the outstanding amounts.

In the circumstances, the controls over recovery of salary overpayments were weak.

2282. Unconfirmed Release of Pensioners Files to The National Treasury

Review of human resource records revealed that fourteen thousand eight hundred twenty-three (14,823) pension cases were handled during the year under review. Out of the cases, eight thousand nine hundred eighty-one (8,981) cases were processed and submitted to The National Treasury while the balance of five thousand eight hundred forty-two (5,842) were pending as at 30 June, 2024. A sample of three hundred and five (305) files of retirees in the current financial year revealed that two hundred and eighty-five (285) files or 93% had been finalized and released to The National Treasury with twenty files (20) files pending. Eight (8) files pending were as a result of missing documents while twelve (12) files were at different levels of processing within the Commission.

In the circumstances, delays in processing the Pensioners' files may impact negatively on the timely release of Pensioners' dues.

2283. Pending Teacher Transfer Requests

The transfer system in the Commission is whereby transfer requests are self-initiated by the teacher and reviewed by a committee. However, the transfer system was not interlinked with the department that handles the transfers, occasioning delays in handling teacher requests. Further, it was not clear if measures had been put in place to address the gaps identified in the transfer system. In addition, Management did not provide information on the number of transfer requests, requests pending approval and approved requests for the year for audit review.

In the circumstances, the delays in processing the transfer requests could adversely affect the productivity of the affected staff.

2284. Land Parcels with Allotment Letters

The Summary of Fixed Assets Register at Annex 3 to the financial statements reflects historical costs of assets balance of Kshs.5,304,974,451. This includes land balance of Kshs.1,000,000,000. Examination of the register revealed that eight (8) out of nine (9) parcels of land donated by County Governments of Bomet, Kiambu, Kitui, Nanyuki, Kwale, Kilifi, Tana River, and Machakos had allotment letters as proof of ownership. Management has indicated having taken measures to acquire the respective title deeds to the land parcels.

Rightful ownership of land in the absence of title deeds could not be confirmed while they were susceptible to encroachment.

DONOR FUNDED PROJECTS

SECONDARY EDUCATION QUALITY IMPROVEMENT PROJECT (IDA CREDIT NO. 6138-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2285. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

2286. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final receipts budget and actual amounts on a comparable basis of Kshs.900,000,000 and Kshs.669,264,931 respectively, resulting to an under-funding of Kshs.230,735,069 or 26% of the budget.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2287. 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

2288. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

2289. As required by the International Development Association, I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. In my opinion, the information given in the Management report is consistent with the financial statements. Further, adequate accounting records have been kept by the Management of the Project, so far as appears from the examination of those records and the Project's financial statements are in agreement with the accounting records and returns.

KENYA PRIMARY EDUCATION EQUITY IN LEARNING PROGRAM GRANT NUMBER D991-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified opinion

2290. There were no material issues noted during the audit of the financial statements of the Program.

Emphasis of Matter

2291. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.40,000,000 and Kshs.20,064,361 respectively, resulting to an underfunding of Kshs.19,935,639 or 50% of the budget. Similarly, the

Program spent Kshs.2,639,780 against actual receipts of Kshs.20,064,361, resulting to an under-utilization of Kshs.17,424,581 or 87% of the receipts.

The under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Information

2292. Unexplained Low Absorption of Funds

The statement of comparison of budget and actual amounts for the year ended 30 June, 2024 reflects actual receipts and expenditure amount of Kshs.20,064,361 and Kshs.2,639,780 respectively against final budget amount of Kshs.40,000,000 with the strategic goals of the Program being as follows: -

i) To improve quality of teaching in targeted areas by reducing teacher shortage;

ii) To improve quality of teaching in targeted areas by enhancing teacher professional development and

iii) To improve digital literacy skills among teachers.

The Program start date and end date are 31 March, 2022 and 31 December, 2026 respectively, which means the Program's completed period was twenty-eight (28) months as at 30 June, 2024. However, the Program milestones and milestones achieved were not provided for audit.

In the circumstances, the Program's milestones may not be achieved within the set period.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2293. 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

2294. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

2295. As required by International Development Association, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

KENYA PRIMARY EDUCATION EQUITY IN LEARNING (DISBURSED LINKED INDICATOR) PROGRAM CREDIT NUMBER 7067-KE 2024

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2296. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

2297. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final expenditure budget and actual on a comparative basis amount of Kshs.175,000,000 and Kshs.91,282,649 respectively, resulting to an underutilization of Kshs.83,717,351 or 48% of the budget.

The underutilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

2298. Unresolved Prior Year Matter

In the audit report of the previous year, an issue was raised under Report on the Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issue nor given any explanation for the failure to implement the recommendation.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2299. 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

2300. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

2301. As required by, International Development Association, I report based on my audit that I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project, so far as appears from the examination of those records; and the Project's financial statements are in agreement with the accounting records and returns.

NATIONAL POLICE SERVICE COMMISSION - VOTE 2101

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2302. 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

2303. Non-Compliance with the Minimum Net Salary Rule

Review of the Commission's payroll revealed that forty-six (46) employees were paid net salaries below the one-third (⅓) basic pay threshold during various months of the year. This was contrary to Section19(3) of the Employment Act, 2007 which states that all deductions made by an employer from the wages or salaries of his employees at any one time shall not exceed two-thirds (⅔) of such wages or salaries.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2304. Understaffing

The Commission's staff establishment provides for five hundred and eleven (511) staff positions. However, only two hundred and seventy-one (271) employees were in post as at the time of audit, resulting into a shortfall of two hundred and forty (240) positions across the various staff cadres.

In the circumstances, the Commission may not be able to discharge its mandate effectively since it does not have the required number of staff.

NATIONAL POLICE SERVICE COMMISSION STAFF CAR LOAN AND MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2305. 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

Conclusion

2306. 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

2307. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OFFICE OF THE CONTROLLER OF BUDGET - VOTE 2121

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2308. There were no material issues noted during the audit of the financial statements of the Office.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2309. Non-Compliance with One-Third Rule on Deduction of Employees' Salary

The statement of receipts and payments reflects compensation of employees' amount of Kshs.375,817,147 as disclosed in Note 4 to the financial statements. Review of the payroll during the year revealed that total deductions from twenty (20) employees' pay, exceeded two-thirds of their basic salary. Management indicated that deductions in excess of two thirds of the basic pay were occasioned by the implementation of Housing Levy Fund and introduction of a departmental deduction in August 2023. However, this is in contravention of provisions of Section 19(3) of the Employment Act, 2007 which restricts such deductions to not more than two-thirds of an employee's basic pay.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2310. Delayed Recruitment of the Audit Committee Members

Review of the Audit and Risk Committee's records indicated that the committee's term ended in November 2023 and in their last meeting on 14 November, 2023, members resolved to complete self-evaluations and submit them to the committee secretary. The Secretary was tasked with presenting these evaluations to the Controller of Budget, who would then decide which members would be retained for a second term. However, the evaluations were not completed, and as at the time of audit in November, 2024, the Audit and Risk Committee had not been reconstituted.

Further, the Committee resolved to hold a final report-writing meeting on 5 December, 2023, to produce an end-of-term report. However, this meeting did not take place, as there were no minutes provided to indicate it occurred. A review of the Committee's minutes also showed that it met only once during the financial year under review. This was contrary to Section 4.3.2(a) of the Notice 2691 dated 15 April, 2016 which requires that the Audit Committee should meet at least quarterly.

In the circumstances, the Office did not benefit from the oversight role and advice from the audit committee during the last half of the financial year.

OFFICE OF THE CONTROLLER OF BUDGET STAFF MORTGAGE AND CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2311. There were no material issues noted during the audit of the financial statements of the Scheme.

Emphasis of Matter

2312. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.29,918,500 and Kshs.36,285,851 respectively, resulting in an over-funding of Kshs.6,367,351 or 21% of the budget. Similarly, the Scheme spent Kshs.6,116,175 against actual receipts of Kshs.36,285,851, resulting in an under-utilization of Kshs.30,083,295 or 83% of actual receipts.

The under-utilization affected the planned activities and may have impacted negatively on service delivery in respect of the scheme.

2313. Low Absorption of the Scheme Funds

The statement of changes in net assets reflects a total funds balance of Kshs.449,203,215 comprising of the Mortgage Fund of Kshs.415,690,623, the Car Loan Fund of Kshs.4,579,339 and an accumulated surplus of Kshs.28,933,253. As at 30 June, 2024, car loans and mortgages totaling Kshs.196,744,574, representing 44% of the total funds, had been disbursed to staff members. Despite the low uptake of car loans and mortgages, an additional Kshs.24,579,339 was injected into the Fund during the year under review. The low absorption rate was attributed to prolonged conveyance processes and delays in disbursement by the previous scheme administrator.

My opinion is not modified in respect of these matters.

Other Matter

2314. Unresolved Prior Year Matter

In the audit report of the previous year, an issue was raised under Report on Lawfulness and Effectiveness in use of Public Resources. However, Management had not resolved the issue as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2315. Irregular Payment of Administration Fees

The statement of financial performance and as disclosed in Note 8 to the financial statements reflects use of goods and services expenses of Kshs.6,116,175 which relates to administration cost. This represents approximately twenty percent (20%) of the approved budget of Kshs.29,918,500. Management therefore contravened Regulation 207(1)(d) of the Public Finance Management (National Government) Regulations, 2015 which sets the ceiling of administration cost of a Fund at 3% of the approved budget.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2316. Delayed Transition from Old to New Scheme Administrator

Review of the Scheme's records revealed that the scheme administrator had been changed with effect from March, 2024. However, handing over to the new administrator had not been concluded at the time of the audit in December, 2024. Although Management indicated that Kshs.100,000,000 had been transferred to the new administrator and that it endeavored to fast-track the process of reconciliation, the delay may have affected the operations of the scheme.

In the circumstances, the effectiveness of the Fund Management's operation of the scheme could not be confirmed.

THE COMMISSION ON ADMINISTRATIVE JUSTICE - VOTE 2131

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2317. There were no material issues noted during the audit of the financial statements of the Commission.

Emphasis of Matter

2318. Pending Bills

Annex 1 to the financial statements reflects pending bills balance of Kshs.3,161,769 which were not settled during the financial year 2023/2024 but were instead carried forward to 2024/2025 financial year.

Failure to settle bills during the year in which they relate adversely affects the provisions of the subsequent year to which they are charged.

2319. Budgetary Control and Performance

Review of the statement of comparison of budget and actual amounts revealed that The Commission spent Kshs.687,843,545 against actual receipts of Kshs.714,200,891, resulting in under-utilization of Kshs.26,357,346 or 4% of the actual receipts.

In the circumstances, the under-utilization may have affected the planned activities and impacted negatively on service delivery to the public.

My opinion is not modified in respect of these matters.

Other Matter

2320. Unresolved Prior Year Matters

As disclosed in Note 16 on progress on follow-up of prior year's Auditor-General's recommendations, several issues raised in the audit report were indicated as having been resolved. However, Management did not provide explanation and evidence on how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2321. Non-Compliance with 30% Procurement Preservation to Youth, Women and Persons with Disabilities

During the year under review, the Commission had total procurement budget of Kshs.246,905,000, with a targeted reservation of thirty percent (30%) or Kshs.74,071,500 to Access to Government Procurement Opportunities (AGPO) intended for Youth, Women and People with Disabilities (YWPD). However, the total value of contracts awarded to these groups was Kshs.28,000,336, which represents only eleven percent (11%) of the total procurement for the financial year. The awarded contracts value was below the 30% AGPO target, contrary to Section 157(10) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2322. There were no material issues relating to effectiveness of internal controls, risk management and governance.

COMMISSION ON ADMINISTRATIVE JUSTICE STAFF MORTGAGE AND CAR LOAN FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2323. There were no material issues noted during the audit of the financial statements of the Fund.

Other Matter

2324. Unresolved Prior Year Matters

As disclosed in Annex I on the Progress on Follow-up of Prior Year Auditor's Recommendations section of the financial statements, the prior year issues remained unresolved as at 30 June, 2024. Management did not provide satisfactory reasons for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2325. Lack of Interest Accrued on Unutilized Funds

Clause 8.6 of the Loan Agreement signed between the Commission and a Local Bank on 15 May, 2019, requires the Bank to accrue interest on deposit funds at the commencement of the mortgage agreement as a guarantee for the scheme. However, the interest-earning clause requirement had not been operationalized as at the time of the audit in November, 2024.

The Fund, therefore, may have lost the opportunity to grow for the last six (6) years.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2326. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL GENDER AND EQUALITY COMMISSION - VOTE 2141

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2327. There were no material issues noted during the audit of the financial statements of the Commission.

Other Matter

2328. Unresolved Prior Year Matters

In the audit report of the previous year, various issues were raised. However, Management had not resolved the prior year matters as at 30 June 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2329. Incomplete Fixed Assets Register

Annex 2 to the financial statements reflects a fixed assets balance of Kshs.157,933,155. However, physical inspection carried out in October 2024, revealed that several assets were not tagged. In addition, serial numbers of some printers, desktops, laptops and other electrical and electronic equipment were not indicated in the register for ease of identification and tracking. This was contrary to Regulation 139(1) and (2) of the Public Finance Management (National Government) Regulations, 2015 which stipulates that Accounting Officer shall ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse by ensuring that movement and conditions of assets can be tracked by putting in place processes and procedures both electronic and manual for the effective, efficient, economical and transparent use of the Government entity's asset.

In the circumstances, the security and preventive mechanism to prevent theft, losses, misuse and wastage could not be confirmed.

2330. Grounded Motor Vehicles and Motor Cycle

Annex 2 to the financial statements reflects a fixed assets balance of Kshs.157,933,155. However, physical inspection carried out in October 2024 revealed that five (5) motor vehicles were grounded between 2019 and 2021 due to various mechanical defects. Management did not provide measures being taken to repair or dispose of the vehicles.

Further, the Commission acquired a motor cycle in June 2022 which had not been utilized as at the time of audit in October 2024. Further, the motor cycle had a private registration number instead of a Government of Kenya (GK) number plate.

In the circumstances, the continued deterioration of the motor vehicles may lead to loss of salvage value that can be realized from their sale.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2331. Failure to Implement Integrated Payroll and Personnel Database

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects compensation of employees amount of Kshs.278,162,274. Review of the payroll and human resource records revealed that the Commission was not using the Integrated Payroll and Personnel Database (IPPD) in managing its payroll. This was contrary to the Circular No.OP.CAB/31A, dated 4 August, 2022 which requires all public service organizations to adopt a unified human resource system. Further, National Treasury Circular dated 28 August, 2019 on guidelines for preparation of the 2020/21 – 2022/23, provides that allocation for personnel emoluments must be supported by Integrated Payroll and Personnel Database (IPPD). Explanation as to why the Commission had not implemented IPPD was not provided.

INDEPENDENT POLICING OVERSIGHT AUTHORITY - VOTE 2151

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2332. 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

Conclusion

2333. There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

Conclusion

2334. There were no material issues relating to effectiveness of internal controls, risk management and governance.

INDEPENDENT POLICING OVERSIGHT AUTHORITY CAR AND MORTGAGE LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2335. 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

Conclusion

2336. 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

2337. There were no material issues relating to effectiveness of internal controls, risk management and governance.

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
1.	Executive Office of the President
2.	Office of the Deputy President
3.	Office of the Prime Cabinet Secretary
4.	State Department for Parliamentary Affairs
5.	State Department for Performance and Delivery Management
6.	State Department for Cabinet Affairs
7.	State House
8.	State Department for Correctional Services
9.	State Department for Immigration and Citizen Services
10.	National Police Service
11.	State Department for Internal Security and National Administration
12.	State Department for the Arid and Semi-Arid Lands and Regional Development
13.	Ministry of Defence
14.	State Department for Diaspora Affairs
15.	State Department for Technical, Vocational Education and Training
16.	State Department for Roads
17.	State Department for Transport
18.	State Department for Shipping and Maritime Affairs
19.	State Department for Housing and Urban Development
20.	State Department for Public Works
21.	State Department for Lands and Physical Planning
22.	State Department for Information Communication Technology and Digital Economy
23.	State Department for Broadcasting and Telecommunications

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
24.	State Department for Youth Affairs and Creative Economy
25.	State Department for Co-operatives
26.	State Department for Trade
27.	State Department for Micro, Small and Medium Enterprises (MSMED) Development
28.	State Department for Investment Promotion
29.	State Department for Labour and Skills Development
30.	State Department for Tourism
31.	State Department for Wildlife
32.	State Department for Public Service
33.	State Department for East African Community Affairs
34.	Ethics and Anti-Corruption Commission
35.	National Intelligence Service
36.	Office of the Director of Public Prosecutions
37.	Office of the Registrar of Political Parties
38.	Witness Protection Agency
39.	State Department for Forestry
40.	Kenya National Commission on Human Rights
41.	National Land Commission
42.	Parliamentary Service Commission
43.	The National Assembly
44.	Parliamentary Joint Services

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
45.	The Senate
46.	Judicial Service Commission
47.	Commission on Revenue Allocation
48.	Public Service Commission
49.	Salaries and Remuneration Commission
50.	Teachers Service Commission
51.	National Police Service Commission
52.	Office of the Controller of Budget
53.	The Commission on Administrative Justice
54.	National Gender and Equality Commission
55.	Independent Policing Oversight Authority
56.	The National Exchequer Account - The National Treasury
57.	Consolidated Fund Services - Salaries, Allowances and Miscellaneous Services – The National Treasury
58.	Revenue Statements of the Pensions Department – The National Treasury
59.	Receiver of Revenue Statements - Development - The National Treasury
60.	East Africa Tourist Visa Fee Collection Account – The National Treasury
61.	Receiver of Revenue Statements - State Department for Immigration and Citizen Affairs
62.	Revenue Statements – State Department for Internal Security and National Administration
63.	Receiver of Revenue Statements - Ministry of Defence
64.	Receiver of Revenue Statements – State Department for Lands and Physical Planning

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
65.	Revenue Statements of the Business Registration Service
66.	Receiver of Revenue Statements - The Judiciary
67.	Ethics and Anti-Corruption Commission Staff House Mortgage and Car Loan Scheme
68.	Office of the Registrar of Political Parties Staff Mortgage and Car Loan Scheme
69.	Witness Protection Agency Staff Housing Mortgage Scheme Fund
70.	Witness Protection Agency Staff Motor Car Loan Scheme Fund
71.	Kenya National Commission on Human Rights Car Loan and Mortgage Scheme
72.	National Land Commission Staff Car Loan Scheme
73.	Independent Electoral and Boundaries Commission Staff Mortgage and Car Loan Scheme
74.	Parliamentary Car Loan Scheme Fund
75.	Salaries and Remuneration Commission Mortgage and Car Loan Scheme Fund
76.	National Police Service Commission Staff Car Loan and Mortgage Scheme Fund
77.	Office of the Controller of Budget Staff Mortgage and Car Loan Scheme
78.	Commission on Administrative Justice Staff Mortgage and Car Loan Fund
79.	Independent Policing Oversight Authority Mortgage and Car Loan Scheme
80.	Global Fund to Contribute to Achieving Vision 2030 Through Universal Access to Comprehensive HIV Prevention, Treatment and Care Program (Grant Agreement No.KEN-H-TNT-2065) - The National Treasury
81.	Global Fund – Provision of Quality Care and Prevention Services for All People in Kenya with TB, Leprosy and Lung Diseases Program (Grant Agreement No. KEN-T-TNT-2067) – The National Treasury

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
82.	Global Fund - To Reduce Malaria Incidence and Deaths by at Least 75 Percent of the 2016 Levels by 2023, Working Towards a Malaria-Free Kenya Program (Grant Agreement No.KEN-M-TNT-2064) - The National Treasury
83.	Supporting Access to Finance and Enterprise Recovery Project (IDA Credit No. 7018-KE) - The National Treasury
84.	Infrastructure Finance and Public Private Partnerships Project - Additional Financing (IDA Credit No:6121-KE) - The National Treasury
85.	Infrastructure Finance and Public Private Partnerships Project - IDA Credit No 5157-KE - The National Treasury
86.	Green Climate Fund Readiness Project (Grant No. KEN-RS-004) - The National Treasury
87.	Study and Capacity Building Fund Project (Grant Nos. CKE 6015 01K, CKE 1043 01F and CKE 1047 01K) - The National Treasury
88.	Micro Finance Sector Support Credit Project (Credit No.CKE 3004 01E and CKE 6010 01E) - The National Treasury
89.	Technical Support to the French Desk at The National Treasury (Project Grant No. AFD CKE 1204 01E) for the nine (9) months' period ended 30 June, 2024 – The National Treasury
90.	Public Financial Management Reforms Program (Credit Nos. DANIDA/FY06, SIDA 51110081, IDA GESDeK-6133-KE, GESDeK-7438-KE, AFD/CKE 1130 and PASEDE CRIS NO:041-658) – The National Treasury
91.	Horn of Africa Gateway Development Project (IDA Credit No.6768-KE) - Kenya Revenue Authority
92.	Kenya - EU Partnership for the Implementation of the National Strategy to Counter Violent Extremism in Kenya - National Counter Terrorism Centre
93.	Coordinate Implementation of Population Policy and ICPD25 Commitments Project – National Council for Population and Development
94.	National Information Platform for Food Security and Nutrition Project (Credit No. FOOD/2017/393-022) - Kenya National Bureau of Statistics

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
95.	Technical Assistance to Enhance the Capacity of the President's Delivery Unit (ADB Grant No. 5500155012902) Project – State Department for Internal Security and National Administration
96.	Kenya Cooperation and Partnership Facility (KCPF) Project No.KE/FED 2019/041-712, Credit No.FED/2021/423-175 - State Department for Devolution
97.	Kenya Symbiocity Programme - SIDA No. 51110060 - Council of Governors
98.	Kenya Development Response to Displacement Impacts Project (KDRDIP) IDA Credit No.6021-KE and Grant No.TFOA 7762-KE - Ministry of East African Community (EAC), ASALs and Regional Development
99.	Support to Technical and Vocational Education Training and Entrepreneurship (TVETE Project Phase III) (Loan No.2100150042254 - State Department for Technical, Vocational Education and Training
100.	Promotion of Youth Employment and Vocational Training in Kenya (Phase II) Project Loan No.BMZ 2018 65 120 - State Department for Technical, Vocational Education and Training
101.	Promotion of Youth Employment and Vocational Training in Kenya (Tvet I & II) Reference: Loan No. BMZ No. 2016 67 211 & BMZ No. 2016 65 298 and Project Grant Reference: No.1930 05 527 - State Department for Technical, Vocational Education and Training
102.	Support to Technical Vocational Education and Training for Relevant Skills Development Project - TVET Project Phase II (ADF Loan No.2100150033295) - State Department for Technical, Vocational Education and Training
103.	East Africa Skills for Transformation and Regional Integration Project (EASTRIP) IDA Loan Credit No.6334-KE - Ministry of Education - State Department for Technical, Vocational Education and Training
104.	Promotion of Youth Employment Through Scholarships Phase II ("Wings to Fly IV") Project Grant No. BMZ-No. 2018 67 399 - State Department for Technical, Vocational Education and Training (SDTVET)
105.	East Africa Skills for Transformation and Regional Integration Project (EASTRIP) Grant/Credit No. IDA 6334-KE - Kisumu National Polytechnic
106.	East Africa Skills for Transformation and Regional Integration Project (Credit Number 6334-KE) - Kenya Coast National Polytechnic

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
107.	Eastern and Southern Africa Higher Education Centres of Excellence (ACE II) Project (Credit No.5798-KE) - State Department for Higher Education and Research
108.	Africa Centre of Excellence (ACEII) in Phytochemicals, Textiles and Renewable Energy (PTRE) Project (IDA Credit No.5798-KE) - Moi University
109.	Kenya Rural Transformation Centers Digital Platform Project - Cooperative University of Kenya
110.	GoK/UNICEF Education for Young People Programme - State Department for Basic Education
111.	Promotion of Youth Employment Through Scholarships Phase II ("Wings to Fly IV") Project No.BMZ-No. 2018 67 399 - State Department for Basic Education
112.	Covid-19 Health Emergency Response Project Grant/Credit No.6598-KE – State Department for Medical Services
113.	Global Fund - To Contribute to Achieving Vision 2030 Through Universal Access to Comprehensive HIV Prevention, Treatment and Care Program-KEN-H-TNT No. 2065 – State Department for Medical Services
114.	DANIDA Primary Healthcare (PHC) Support Program – State Department for Medical Services
115.	A Case Study on Integrated Delivery of Selected Non-Communicable Diseases in Kenya (PHGF) Grant No.TFOA5636) - Moi Teaching and Referral Hospital
116.	Global Fund HIV/AIDS Project Grant Number KEN-H-TNT-2065 - National Syndemic Diseases Control Council
117.	Support of the Health Care Financing Strategy - Reproductive Health - Output Based Approach Project (Credit BMZ No. Kenya 201065853) – State Department for Public Health and Professional Standards
118.	Resilient Sustainable Systems for Health (RSSH) KEN-T-TNT 2067 Sub-Recipient - State Department for Public Health and Professional Standards
119.	East Africa Skills Transformation and Regional Integration Project IDA Credit No.6334-KE - State Department for Roads
120.	Eastern Africa Regional Transport, Trade and Development Facilitation Project (IDA Credit No. 5638-KE IDA) - State Department for Roads

Appendix A: Unmodified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

121. Nuno-Modogashe Road Project (Credit No.KUWAIT-813; SFD-N/A; OF ID-1331P; BADEA-N/A; ADFD-N/A - Kenya National Highways Authority
122. Kenol-Sagana-Marua Highway Improvement Project (P-KE-DBO-037) Credit Nos.5050200000901 and 2000200004504 - Kenya National Highways Authority
123. Upgrading of Kibwezi-Mutomo-Kitui-Migwani Road Project No. BLA2016K001 - Kenya National Highways Authority
124. Dualling of Magongo Road (A109L): Phase II (FIDIC EPC/Turnkey Based) - Kenya National Highways Authority
125. Mombasa-Nairobi-Addis Ababa Road Corridor Project Phase II (Marsabit-Turbi Road) Loan Agreement No. 2100150020744 – Kenya National Highways Authority
126. Mombasa-Nairobi-Addis Ababa Road Corridor Project Phase III (Turbi-Moyale Road Project) Credit Number: Loan 21001500255546 - Kenya National Highways Authority
127. EPC/TURN KEY Construction of Five Footbridges and T-Mall Flyover on Mombasa and Langata Roads (Project Loan Credit No. KEN-01001 and KEN-02001-19) - Kenya National Highways Authority
128. Kenya - South Sudan Link Road Project (REF. No.2020 62 065 and BMZ No.2020 83 939) - Kenya National Highways Authority
129. Timboroa-Eldoret Road Rehabilitation Project No.P-KE-DBO-019 (Loan No.2100150023344) - Kenya National Highways Authority
130. Nairobi-Thika Highway Improvement Project Lot I and II Credit No.2100150015544 Project No.P-KE-DBO-018 - Kenya National Highways Authority
131. Multinational Arusha-Holili/Taveta-Voi Road Corridor Development Project Phase I Project Loan No.2100150028894 Project No.P-ZI-DBO-075 - Kenya National Highways Authority
132. Port Reitz/Moi International Airport Access (C110) Road (FIDIC EPC/TURNKEY Based) Project - Kenya National Highways Authority
133. East Africa Trade and Transport Facilitation Project (IDA Credit No.4148-KE) – Kenya National Highways Authority

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
134.	Mombasa-Nairobi-Addis Ababa Road Corridor Development Project: (Isiolo/Merille/Moyale Road) Loan Agreement No.210015008850 and Grant No.2100155004016 - Kenya National Highways Authority
135.	Northern Corridor Rehabilitation Programme-PHASE III (Eldoret-Turbo-Webuye-Malaba Road Improvement Project) Grant No.9774KE - Kenya National Highways Authority
136.	Kenya Transport Sector Support Project (Credit No. 4926 KE and No.5410 KE) - Kenya National Highways Authority
137.	Merille - Marsabit Road Rehabilitation Project (Loan Agreement No.KE/FED/2009/021-655) - Kenya National Highways Authority
138.	Kenya Nairobi Southern Bypass Road Project (Loan Agreement No. China Exim bank PBC No. (2011) 32 TOTAL No. (183) No.14203030520112115528) – Kenya National Highways Authority
139.	Nairobi-Thika Highway Improvement Project Lot 3 Government Concessional Loan Agreement No.(2009) 39 TOTAL No.(290) – 1290003022009110585 - Kenya National Highways Authority
140.	National Urban Transport Improvement Project Loan No.5140-KE – Kenya National Highways Authority
141.	Northern Corridor Transport Improvement Project-IDA Credit No. 3930-KE & No. 4571-KE - Kenya National Highways Authority
142.	Regional Mombasa Port Access Road Project (Loan No. (KFW): 27459, Grant No. (KFW): 202061919) and Credit No. (KFW): 84010 – Kenya National Highways Authority
143.	Kenya Nairobi Western Bypass Project (Loan No. China Exim Bank GCL No. (2017) 28 TOTAL No. 633) – Kenya National Highways Authority
144.	Arusha-Namanga-Athi River Road Development Project No.P-Z1-DBO-040 - Kenya National Highways Authority
145.	Eastern Africa Regional Transport, Trade and Development Facilitation Project (IDA Credit No. 5638) - Kenya National Highways Authority
146.	Mombasa Gate Bridge Construction Project (I) Loan Agreement No.KE-P34 - Kenya National Highways Authority
147.	Bagamoyo-Horohoro-Lungalunga-Malindi Road Project (Phase 1) ID NO: PZ-BDO-129 - Kenya National Highways Authority

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
148.	Mombasa Special Economic Zone Development Project I Loan No.KE-P35 - Kenya National Highways Authority
149.	Horn of Africa Gateway Development Project Loan No.6768-KE– Kenya National Highways Authority
150.	Samatar-Wajir Road Project (Loan No.13451P, 13/779 and 995) - Kenya National Highways Authority
151.	Multinational Horn of Africa Isiolo-Mandera Corridor (EL WAK - RHAMU Road) Upgrading Project - Kenya National Highways Authority
152.	The Establishment of Bus Rapid Transit Line 5 Project (EDCF Loan Agreement No.KEN-5) - Kenya Urban Roads Authority
153.	Nairobi Outer Ring Road Improvement Project (Loan No.2100150030144) - Kenya Urban Roads Authority
154.	Nairobi Intelligent Transportation System Establishment and Junctions Improvement Project Phase I (ECDF Loan Agreement No. KEN-6) - Kenya Urban Roads Authority
155.	ASAL Rural Roads Project Credit No.CKE 117 01 H – Kenya Rural Roads Authority
156.	Horn of Africa Gateway Development Project Grant/Credit Number 6768-KE – State Department for Transport
157.	National Urban Transport Improvement Project (IDA Credit No.5140-KE) – Kenya Railways Corporation
158.	Safe Roads/Usalama Barabarani Programme Grant Number KE/FED/037-778 - National Transport and Safety Authority
159.	Horn of Africa Gateway Development Project (IDA Credit No. 6768 KE) - National Transport and Safety Authority
160.	Second Kenya Informal Settlements Improvement Project (IDA Credit No.6759-KE) - State Department for Housing and Urban Development
161.	Kenya Informal Settlements Improvement Project (IDA Credit No.4873-KE, AFD CKE 1055 01J and SIDA - TF: 018327) - State Department for Housing and Urban Development
162.	Nairobi Metropolitan Services Improvement Project (IDA Credit No.5102-KE) - State Department for Housing and Urban Development

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
163.	Kenya Urban Support Program IDA Credit No.61340-KE - State Department for Housing and Urban Development
164.	Kisumu Urban Project (Project Advance Account) - CKE 1035.01.G - County Government of Kisumu
165.	Kisumu Urban Project (Cash Expenditure Fund) - CKE 1035.01.G - County Government of Kisumu
166.	Kenya Water Security and Climate Resilience Project (Grant No. TFOA0761A and Credit No.5268/5674/7423-KE) - State Department for Irrigation
167.	Coastal Region Water Security and Climate Resilience Project Credit Number 5543-KE/70040-KE – State Department for Irrigation
168.	Mwea Irrigation Development Project - Loan Agreement No.KE-P27 - National Irrigation Authority
169.	Thwake Multi-purpose Water Development Program Phase 1 (AfDB Loan No. 2100150029993, 2000200003351, AGTF No. 5050200000501 and AfDB Grant No. 2100155025973) - State Department for Water and Sanitation
170.	Water Sector and Sanitation Development Project (IDA Credit No.60290-KE) - State Department for Water and Sanitation
171.	Kenya Towns Sustainable Water Supply and Sanitation Program - Credit No. P-KE-E00-011 (AfDB Loan No.200200000501) - Athi Water Works Development Agency
172.	Support To Water and Sanitation Services in Peri Urban Areas (KFW Loan No. BMZ 2013.6543.6) Project - Athi Water Works Development Agency
173.	Nairobi Rivers Basin Rehabilitation and Restoration Program P-KE-EBO-010: Sewerage Improvement Project Phase II - Athi Water Works Development Agency
174.	Nairobi Inclusive Sanitation Improvement Project – Grant No.5600155005153 - Athi Water Works Development Agency
175.	Nairobi Water and Sanitation Project (Credit No. CKE113501H) - Athi Water Works Development Agency
176.	Kenya Towns Sustainable Water Supply and Sanitation Programme (AfDB Loan No.2000200000501) - Tana Water Works Development Agency

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
177.	Kenya Towns Sustainable Water Supply and Sanitation Program CR. NO. P-KE-E00-011 (AFDB Loan No.200000501) – Central Rift Valley Water Works Development Agency
178.	Improvement of Drinking Water and Sanitation Systems in Mombasa: Mwache Project (Credit No. AFD Loan No.CKE 1103 01 C) - Coast Water Works Development Agency
179.	Malindi Integrated Social Health Development Programme Phase II (MISHDP-II) – Coast Development Authority
180.	Busia-Port Victoria Household Sanitation Project Grant/Credit No.02HS/LVNWWDA/BUSIA/054 - Busia Water and Sewerage Services Company Limited
181.	Nambale-Mjini-Mayenje Water Project Grant/Credit Number 08W/Busia/Busia/97 - Busia Water and Sewerage Services Company Limited
182.	The Horn of Africa Groundwater for Resilience Project (IDA Credit No.70820-KE and Grant No.P174867) - Water Resources Authority
183.	Horn of Africa Gateway Development Project IDA - P161305 Credit No. 6768 - KE - Information and Communication Technology (ICT) Authority
184.	Kenya Youth Employment and Opportunities Project (IDA Credit No. 5812 – KE) - State Department for Youth Affairs and Creative Economy
185.	Vijana Vuka Na Afya (VIVA) Youth Programme Project No. 201367465 - State Department for Youth Affairs
186.	GOK/UNFPA 10th Country Programme (Project Grant No.B4210) - State Department for Youth Affairs and Creative Economy
187.	Kenya Electricity Modernisation Project (KEMP) (IDA CR. No. 5587-KE) - State Department for Energy
188.	Kenya Off-Grid Solar Access Project (KOSAP) Credit Number 6135-KE– State Department for Energy
189.	Kenya Off-Grid Solar Access Project (KOSAP-SNV) Credit Number 6135-KE – State Department for Energy

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
190.	Multinational Kenya-Tanzania Power Interconnection Project (Kenya Component) (ADF Loan No.2100150032846) - Kenya Electricity Transmission Company Limited
191.	Fund for Africa Private Sector Assistance Project (FAPA) AFDB Grant No.5700155003553 - Kenya Electricity Transmission Company Limited
192.	The Eastern Electricity Highway Project (IDA Credit No.5148-KE; AFD Loan No:CKE 1030 01B; ADF Loan No.2100150027845 - Kenya Electricity Transmission Company Limited
193.	Olkaria-Lessos-Kisumu Transmission Lines Construction Project (JICA Loan No. KE-P28) - Kenya Electricity Transmission Company Limited
194.	220 KV and 132 KV Transmission Lines and Sub-Stations (EXIM Bank of India Funded) Projects - Kenya Electricity Transmission Company Limited
195.	Ethiopia-Kenya Electricity Highway Project (ADB Loan No. 2100150027845 - Mariakani Substation Project ID NO:P-Z1-FA0-044) - Kenya Electricity Transmission Company Limited
196.	Nairobi Ring Transmission Line Project (AFD Credit No. CKE 1068 01 N, AFD Credit No. CKE6012.01, AFD Credit No. CKE 1030 01 B, EIB Credit No. 25.367/KE and GOK) - Kenya Electricity Transmission Company Limited
197.	Last Mile Connectivity Project I ADF Loan No. 2100150032195 - Kenya Power and Lighting Company PLC
198.	Hybrid Generation of Off-Grid Power Systems Credit No. CKE 1066 01 L - Kenya Power and Lighting Company PLC
199.	Kenya Electricity Modernisation Project (IDA Grant Number TFA059 and Credit Number 55870KE) - Rural Electrification and Renewable Energy Corporation
200.	50mw Solar Power Plant in Garissa Project (GCL No.2015(10) – Rural Electrification and Renewable Energy Corporation
201.	Kenya Off-Grid Solar Access Project for Underserved Counties (IDA Cr. No.6135-KE) - Rural Electrification and Renewable Energy Corporation
202.	Kenya Electricity Expansion Project (Cr No. 1487P) - Rural Electrification and Renewable Energy Corporation

Appendix A: Unmodified Opinion

NO. **MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS**

203. Kenya Livestock Commercialization Project No.2000002339 (Loan No.2000003565 and 2000003566) - State Department for Livestock Development

204. Towards Ending Drought Emergencies (TWENDE): Ecosystem Based Adaptation in Kenya's Arid and Semi-Arid Rangelands Project (IUCN Grant No. P02886) – State Department for Livestock Development

205. De-Risking, Inclusion and Value Enhancement of Pastoral Economies (Drive) in the Horn of Africa Project (Credit No. 7139-KE) - State Department for Livestock Development

206. De-Risking, Inclusion and Value Enhancement of Pastoral Economies (Drive) in the Horn of Africa Project (Credit No. 7139-KE) - Kenya Development Corporation

207. Kenya Marine Fisheries and Socio-Economic Development Project (Credit No. 6540-KE) - State Department for Blue Economy and Fisheries

208. Aquaculture Business Development Programme (IFAD Loan No. 20000052 & 2000002614) – State Department for Blue Economy and Fisheries

209. Kenya Cereal Enhancement Programme - Climate Resilient Agricultural Livelihood Window (KCEP-CRAL) EU Grant No.2000000623, Grant No.2000001522, Grant No.2000003493, Grant No.2000001122 and IFAD Loan 2000001121 - State Department for Agriculture

210. Multi-national Drought Resilience and Sustainable Livelihoods Programme (DRSLP) in the Horn of Africa (ADF Loan No.2100150028345) - State Department for Agriculture

211. Small-Scale Irrigation and Value Addition Project - ADF Loan No. 2000130014530 and Grant No. 5570155000751 - State Department for Agriculture

212. Capacity Development Project for Enhancement of Rice Production in Irrigation Schemes in Kenya (CaDPERP) (Project Number 1161001009) - Ministry of Agriculture and Livestock Development, State Department for Agriculture

213. National Agricultural Value Chain Development Project (Credit No. IDA-7064-KE) - State Department for Agriculture

214. National Agricultural and Rural Inclusive Growth Project (IDA Credit No. 5900-KE) – State Department for Agriculture

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
215.	Kenya Climate Smart Agriculture Project (IDA Credit No. 5945-KE) – State Department for Agriculture
216.	Enable Youth Kenya Program (ADF Loan No.2100150038895) - State Department for Crop Development
217.	Agricultural Sector Development Support Programme II (SIDA Grant No: 51110109) - State Department for Agriculture
218.	Emergency Locust Response Project (IDA Credit No. 6648 and 70530 - KE) - State Department for Agriculture
219.	Multi-National Rural Livelihood's Adaptation to Climate Change in the Horn of Africa (RLACC) (ADB/ADF GRANT No.5550155001201) - State Department for Agriculture
220.	Multi-national Program to Build Resilience for Food and Nutrition Security in the Horn of Africa (BREFONS) - State Department for Agriculture
221.	Centre of Excellence in Sustainable Agriculture and Agribusiness Management – Egerton University
222.	Kenya Industry and Entrepreneurship Project (Credit No. IDA 6268-KE) - State Department for Industry
223.	Kenya Youth Employment and Opportunities Project (Credit No. IDA 5812-KE) – Micro and Small Enterprises Authority (MSEA)
224.	Kenya Youth Employment Opportunities Project Credit No.5812-KE - State Department for Labour and Skills Development
225.	Kenya Youth Employment and Opportunities Project Credit Number: IDA-58120-KE - National Industrial Training Authority (NITA)
226.	Kenya Social and Economic Inclusion Project Credit Number 6348-KE - State Department for Social Protection and Senior Citizen Affairs
227.	Kenya Social and Economic Inclusion Project No. P164654 IDA Credit No.63480 - KE and Grant No.TF0A9527 – National Drought Management Authority (NDMA)
228.	Combating Poaching and Illegal Wildlife Trafficking in Kenya Through an Integrated Approach (Credit No.00108406) - State Department for Wildlife
229.	Women Empowerment for Gender Equality Project (WEGEP) - State Department for Gender and Affirmative Action

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
230.	GOK-UNFPA 10th Country Programme Grant/Credit No.1000702818 - State Department for Gender and Affirmative Action
231.	Programme for Legal Empowerment and AID Delivery (Project Credit Number KE/FED/2018/397-591) - Office of the Attorney General and Department of Justice
232.	Integrated Health and Environment Observatories and Legal and Institutional Strengthening for the Sound Management of Chemicals in Africa (Africa CHEMOBS)-Grant No.AFR/CHEMOBS Project/C/07-2017 - State Department for Environment and Climate Change
233.	Kenya Institutional Strengthening Project Phase XIII (No. UNEP/KEN/SEV/92/INS/66) – Ministry of Environment, Climate Change and Forestry
234.	Kenya Gold Mercury Free ASGM Project Grant No.GEF/UNDP/GOK-00108253 - State Department for Environment and Climate Change
235.	Strengthening Drought Resilience for Small Holder Farmers and Pastoralists in the IGAD Region Project No.03/DRESS-EA/07/OSS-KE/20 – State Department for Environment and Climate Change
236.	SC Reporting Toolkit Project – Ministry of Environment, Climate Change and Forestry
237.	Kenya ETF Reporting Programme to the UNFCCC Project - State Department for Environment and Climate Change
238.	Early Action Support Project (EASP)-Grant No.2015-39790 - State Department for Environment and Climate Change
239.	Integrated Programme to Build Resilience to Climate Change and Adaptive Capacity of Vulnerable Communities in Kenya (Credit No: KEN/NIE/MULTI/2013/1) - National Environment Management Authority
240.	NEMA - GCF Project Preparation Facility: "Devolved Climate Change Governance to Strengthen Resilience of Communities in Target Counties" - Credit No.KEN-PPF-010 - National Environment Management Authority
241.	NEMA-GCF Readiness and Preparatory Support: “NEMA Capacity Strengthening Programme Towards Accessing Climate Finance from Green Climate Fund” - Credit Number KEN-RS-003 – National Environment Management Authority

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
242.	Africa Environmental Health and Pollution Management Project (EHPMP) - National Environment Management Authority
243.	Strengthening Forest Management for Improved Biodiversity Conservation and Climate Resilience in the Southern Range Lands of Kenya - IUCN Project No.P03162, IUCN Ward No.AVCH-000981 and GEF ID/10292 – National Environment Management Authority
244.	Green-Zones Development Support Project - Phase II (Credit No.P-KE-AAD-005) - Kenya Forest Service
245.	Increased Enjoyment of Human Rights and Fundamental Freedoms by All in Kenya Project Grant/Credit Number: KEN 2062, KEN19-0011 - Kenya National Commission on Human Rights
246.	Secondary Education Quality Improvement Project (Credit No.6138-KE) - Teachers Service Commission
247.	Kenya Primary Education Equity in Learning Program Grant Number D991-KE - Teachers Service Commission
248.	Kenya Primary Education Equity in Learning (Disbursed Linked Indicator) Program Credit Number 7067-KE - Teachers Service Commission

Appendix B: Qualified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
1.	The National Treasury
2.	State Department for Economic Planning
3.	State Department for Devolution
4.	State Department for Foreign Affairs
5.	State Department for Higher Education and Research
6.	State Department for Basic Education
7.	State Department for Medical Services
8.	State Department for Public Health and Professional Standards
9.	State Department for Irrigation
10.	State Department for Water and Sanitation
11.	State Department for Sports
12.	State Department for Culture, the Arts and Heritage
13.	State Department for Energy
14.	State Department for Livestock Development
15.	State Department for the Blue Economy and Fisheries
16.	State Department for Agriculture
17.	State Department for Industry
18.	State Department for Social Protection and Senior Citizen Affairs
19.	State Department for Mining
20.	State Department for Petroleum
21.	State Department for Gender and Affirmative Action
22.	State Law Office and Department of Justice
23.	The Judiciary
24.	State Department for Environment and Climate Change

Appendix B: Qualified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
25.	Independent Electoral and Boundaries Commission
26.	Consolidated Fund Services-Public Debt - The National Treasury
27.	Receiver of Revenue – Recurrent – The National Treasury
28.	Government Investments and Public Enterprises - Revenue Statements - The National Treasury
29.	Consolidated Fund Services – Pension and Gratuities
30.	Revenue Statements - State Department for the Blue Economy and Fisheries
31.	Receiver of Revenue Statements – State Department for Mining
32.	Receiver of Revenue Statements - State Law Office and Department of Justice
33.	Public Trustee
34.	Judiciary Deposit Accountability Statements
35.	Judiciary Mortgage and Car Loan Scheme
36.	Office of the Director of Public Prosecutions Staff Housing Mortgage and Car Loan Scheme
37.	National Land Commission Housing Scheme Fund
38.	Parliamentary Mortgage Scheme Fund – Parliamentary Service Commission
39.	Commission on Revenue Allocation Staff Mortgage Scheme Fund
40.	Commission on Revenue Allocation Staff Car Loan Scheme Fund
41.	Public Service Commission Mortgage Scheme Fund
42.	Public Service Commission Car Loan Scheme
43.	Technical Support Programme (Financing Agreements No.KE/FED/2009/021421, No.KE/FED/023-733 and No.KE/FED/037-941 - The National Treasury
44.	Financing Locally-Led Climate Action Program Project (Loan No. BWZ-NO. 2016 65 108/2018 65 138) - The National Treasury

Appendix B: Qualified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
45.	Financing Locally-Led Climate Action Program No. P173065; Credit No. IDA 6980-KE; Grant Agreement No.TF0B6810-KE - The National Treasury
46.	Public Debt Management Support Project (PDMS)-ADB Grant Agreement No.5500155013708 - The National Treasury
47.	Affordable Housing Finance Project (IBRD Credit No.8958-KE) - The National Treasury
48.	National Treasury Capacity Strengthening Project (Grant No.5500155013902 ID No.P-KE-KOO-011) – The National Treasury
49.	Rural Kenya Financial Inclusion Facility (RK FINFA) (IFAD Loan No. 2000004121 and IFAD Loan No. 2000004122) - The National Treasury
50.	Eastern Africa Regional Transport, Trade and Development Facilitation Project (IDA Credit No.5638-KE) - Kenya Revenue Authority
51.	East Africa Skills for Transformation and Regional Integration Project (EASTRIP) (IDA Loan No. 6334-KE) - Meru National Polytechnic
52.	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
53.	USAID Boresha Jamii Project No. 72061521CA00004 - Jaramogi Oginga Odinga University of Science and Technology
54.	Kenya Primary Education Equity in Learning Program IDA Grant No. D991-KE and Credit No. 7067-KE and Grants Nos. TF C306-KE and TF C307-KE - State Department for Basic Education
55.	Kenya Primary Education Equity in Learning Project IDA Grant No. D991-KE and Credit No. 7067-KE and Grants Nos. TFC306-KE and TF C307-KE - State Department for Basic Education
56.	Secondary Education Quality Improvement Project (Credit No.6138-KE) - State Department for Basic Education
57.	East Africa's Centre of Excellence for Skills and Tertiary Education in Biomedical Sciences-Phase 1 (Loan No.2100150031997) - State Department for Medical Services
58.	Transforming Health Systems for Universal Care (THS-UC) Project Grant IDA Credit No.5836 - KE, TFOA2561, TFOA2792 And CR. P152394 – State Department for Medical Services

Appendix B: Qualified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

59. Kenya Health Sector Programme Support III (DANIDA REF.104.KENYA.810.300-GRANT) - County Government of Kisii

60. Global Fund - To Reduce Malaria Incidence and Deaths by at Least 75 Percent of the 2016 Levels by 2023 Working Towards a Malaria-Free Kenya - KEN-M-TNT No.2064 - State Department for Public Health and Professional Standards

61. Global Fund Tuberculosis Grant Credit No. KEN-T-TNT-2067 - State Department for Public Health and Professional Standards

62. Horn of Africa Gateway Development Project Loan No.6768-KE – State Department for Roads

63. Kapchorwa-Suam-Kitale and Eldoret Bypass Roads Project (Kenya) ID No. P-Z1-DBO-183 - Kenya National Highways Authority

64. Mombasa Port Area Road Development Project Loan No. KE – P29 & KE P32 - Kenya National Highways Authority

65. Mombasa-Mariakani Highway Project (A109) Road Lot 1: (Mombasa - Kwa Jomvu) ADF Loan No.2100150032743 - Kenya National Highways Authority

66. Sirari Corridor Accessibility and Road Safety Improvement Project: Isebania-Kisii-Ahero (A1) Road Rehabilitation - Kenya National Highways Authority

67. Support to Road Sector Policy: 10^{th} EDF Rural Roads Rehabilitation Project in Kenya No. KE/FED/023-571 - Kenya Rural Roads Authority

68. Improvement of Rural Roads and Market Infrastructure in Western Kenya Project Credit No.BMZ 2007-65 123 (KFW) - Kenya Rural Roads Authority

69. Roads 2000 Phase Two - Central Kenya Rural Roads Improvement and Maintenance Project (AFD Credit No. CKE 101201B, Credit No. CKE 104601J and Credit No. CKE 109401M) - Kenya Rural Roads Authority

70. Upgrading of "Gilgil Machinery" Road Project - Kenya Rural Roads Authority

71. Multinational Lake Victoria Maritime Communications and Transport (MLVMCT) Project - Kenya Maritime Authority

72. Bura Rehabilitation Development Project Loan Numbers BADEA 331, KUWAIT 752, OPEC 1154P - National Irrigation Authority

73. Rwabura Irrigation Development Project No.1109118900 - National Irrigation Authority

Appendix B: Qualified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

74. Lake Victoria Water Supply and Sanitation Programme Phase II Project No. P-Z1-EAO-004 (ADF Grant No.2100155019967) – Lake Victoria South Waterworks Development Agency

75. Lake Victoria Water and Sanitation Project Grant No. CKE 1093 02 M, Credit No. CKE1093 01 L and EIB No. FI N^{0}83890 Serapis N^0 2011-0619 – Lake Victoria South Water Works Development Agency

76. Water Sector Development Programme - Lake Victoria South (Kericho-Kisii, Nyamira and Litein) Loan No. BMZ-No.2010 65 861 and Grant No. BMZ 2010 70 457 - Lake Victoria South Water Works Development Agency

77. Northern Collector Phase 1 and Additional Rehabilitation and Development of the Network Project (Credit No. CKE 1074 01 K) - Athi Water Works Development Agency

78. Lake Nakuru Biodiversity Conservation Project Grant No. 201567916 and Loan No. 2016 65 116 (KFW -German Financial Cooperation) - Central Rift Valley Water Works Development Agency

79. Horn of Africa Groundwater for Resilience Project - Kenya Credit No. 7082-KE - Water Sector Trust Fund

80. Eastern Africa Regional Transport, Trade and Development Facilitation Project IDA Credit No. 5638-KE - Information and Communication Technology (ICT) Authority

81. Bogoria Silali Geothermal Project (Loan No. 2013.66.103) – Geothermal Development Company Limited

82. Menengai Geothermal Project (Agreement No. 1038.01K) - Geothermal Development Company Limited

83. East Africa Skills for Transformation and Regional Integration Project (IDA Credit No. 6334-KE) - Kenya Electricity Generating Company Plc

84. Rural Electrification in Five Regions Project (Credit No.11/597, Credit No.1407P - Rural Electrification and Renewable Energy Corporation

85. Africa Climate Summit (ACS) Africa Climate Week - Ministry of Environment, Climate Change and Forestry

Appendix C: Adverse Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
1.	E-Citizen Revenue Accountability Statement - The National Treasury
2.	ADB Africa Climate Summit Project - The National Treasury

Appendix D: Disclaimer of Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
1.	Statement of Outstanding Obligations Guaranteed by the Government of Kenya - The National Treasury

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