REPUBLIC OF KENYA

Approved
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13/3/25



THE NATIONAL ASSEMBLY

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THIRTEENTH PARLIAMENT – FOURTH SESSION

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THE PUBLIC ACCOUNTS COMMITTEE

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# THE REPORT ON THE EXAMINATION OF THE REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS FOR THE NATIONAL GOVERNMENT MINISTRIES, DEPARTMENTS AND AGENCIES

## FOR THE FINANCIAL YEAR 2021/2022

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VOLUME I - MAIN REPORT

| THE NATIONAL ASSEMBLY PAPERS LAID | |
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| DATE: 14 MAR 2025 | DAY. Friday |
| TABLED BY: | Hon Tindi Mwale (Chairperson, Public Accounts Committee) |
| CLERK-AT THE-TABLE: | Irene Nduku |

DIRECTORATE OF AUDIT, APPROPRIATIONS
& GENERAL PURPOSE COMMITTEES
THE NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
NAIROBI

MARCH, 2025

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## LIST OF ABBREVIATIONS/ACRONYMS

| | | |
|---|---|---|
| AG. | - | Acting |
| CEO | - | Chief Executive Officer |
| CS | - | Cabinet Secretary |
| DCI | - | Directorate of Criminal Investigations |
| EACC | - | Ethics and Anti-Corruption Commission |
| FY | - | Financial Year |
| GoK | - | Government of Kenya |
| IAS | - | International Accounting Standards |
| IPSAS | - | International Public Sector Accounting Standards |
| KES/ KSHS. | - | Kenya Shillings |
| PFMA | - | Public Finance Management Act, No. 18 of 2012 |
| PPAD | - | Public Procurement and Asset Disposal Act, No. 33 of 2015 |
| PS | - | Principal Secretary |
| PSASB | - | Public Sector Accounting Standards Board |

## CHAIRPERSON'S FOREWORD

The Public Accounts Committee hereinafter referred to as "the Committee" is one of the six 'Watchdog Committees' in the thirteenth Parliament that examines reports of the Auditor-General laid before the National Assembly to ensure probity, efficiency, and effectiveness in the use of public funds. The Committee is established pursuant to National Assembly Standing Order 205 to examine accounts showing appropriations of sums voted by the House to meet public expenditure and of such other accounts laid before the House as the Committee may think fit. This ensures implementation of *Article 229(8)* of the Constitution of Kenya, 2010 on reports submitted to the House by the Auditor- General.

This is the second report of the Public Accounts Committee of the 13th Parliament. In examining the accounts of the Auditor General, the Committee invited accounting officers for the various Ministries, State Departments, Commissions and Agencies to adduce evidence before it.

This report contains observations, findings and recommendations arising from examination of reports of the Auditor-General for National Government for the financial year 2020/21. The report is structured as follows:

i) general observations arising from recurring and cross-cutting audit queries;

ii) recommendations to each of the above;

iii) audit queries identified by the Auditor General in the audit reports of each Ministry, State Department, Commission or Agency;

iv) Submission by the Accounting Officers to each of the queries;

v) Committee observations/ findings on each query; and

vi) recommendations of the Committee to each query raised.

In this report, the Committee goes beyond financial recommendations and makes policy recommendations that it deems will cure financial and audit challenges and at the same time recommends specific actions against specific officers who may have acted contrary to the law. It further recommends further investigations of certain matters by the relevant investigative agencies such as the EACC and the DCI. All this is geared towards ensuring prudent use of public resources and holding all persons that have misappropriated public funds accountable, in accordance with Article 226 (5) of the Constitution.

The Committee appreciates the Offices of the Speaker and the Clerk of the National Assembly for the support accorded to it to enable it to perform its mandate. The Committee further extends its appreciation to the Office of the Auditor-General and the National Treasury for the services it offered to the Committee during the entire period, as well as those Accounting Officers who complied with audit timelines, and provided satisfactory responses to queries raised. I also extend my appreciation to my fellow Members of the Committee, including the predecessor Committee, and the secretariat whose immense contributions and dedication to duty has enabled the Committee to examine the audit queries and produce this report.

On behalf of the Public Accounts Committee, and pursuant to National Assembly Standing Order 199(6), it is my pleasant duty and honour to present the Report of the Public Accounts Committee on Audited Financial Statements for National Government for the financial year 2020/21.

**HON. NICHOLAS S. TINDI MWALE, MP**
**CHAIRPERSON, PUBLIC ACCOUNTS COMMITTEE**

## EXECUTIVE SUMMARY

This report of the Public Accounts Committee contains the Committee's examination of audited financial statements of National Government for the financial year 2021/22.

In its examination and scrutiny of the audited financial statements of the various Ministries, State Departments, Commissions and Agencies, the Committee's primary approach was to get submission from Accounting Officers as regards errors of omission or commission that gave rise to the audit queries cited by the Auditor General. This was done guided by the relevant public financial management principles in the Constitution of Kenya, 2010, the Public Audit Act, 2015, the Public Finance Management Act, 2012 and the attendant Regulations, the Public Procurement and Asset Disposal Act, 2015 and the attendant Regulations and the International Public Sector Accounting Standards (IPSAS). The Committee has elaborated on these various provisions and the remedies that are prescribed for their breaches elsewhere in this report.

The preface of the report contains preliminaries on the establishment of the Committee; its membership and secretariat; mandate; and the guiding principles governing the Committee in the discharge of its mandate and its recommendations.

The report then examines reports of each specific Ministry, State Department, Independent Commission or Agency; the specific audit reservations raised by the Auditor-General; Submission by the Accounting Officer to each audit query by the Accounting Officer; Committee observations/ findings after consideration of the respective audit reservation; and finally, Committee recommendations on each audit query.

## 1.0 PREFACE

### 1.1 Establishment and Mandate of the Committee

1. The Public Accounts Committee is established under the National Assembly Standing Order (S.O.) 205 and is mandated to examine accounts showing appropriations of sums voted by the House to meet public expenditure and of such other accounts laid before the House as the Committee may think fit.

### 1.2 Committee Membership

2. The Committee comprises of the following fifteen (15) Members;

i. **The Hon. Nicholas Tindi S. Mwale, MP - Chairperson**
ii. **The Hon. Amina Udgoon Siyad, MP - Vice-chairperson**
iii. The Hon. Junet Sheikh Nuh, EGH, MP
iv. The Hon. Lesuuda Josephine Naisula, OGW, MP
v. The Hon. (Dr.) Otiende Amollo, SC, EBS, MP
vi. The Hon. (Dr.) Wilberforce Ojiambo Oundo, MP
vii. The Hon. (Dr.) Edwin Mugo Gichuki, MP
viii. The Hon. Emathe Joseph Namuar, MP
ix. The Hon. Gabriel Gathuka Kagombe, MP
x. The Hon. Kitany Marianne Jebet, MP
xi. The Hon. Mohamed Aden Adow, MP
xii. The Hon. Nabwera Daraja Nabii, MP
xiii. The Hon. Ruku Geoffrey Kariuki Kiringa, MP
xiv. The Hon. Victor Kipng'etich Koech, MP
xv. The Hon. Yakub Adow Kuno, MP

3. The Committee expresses its gratitude to its predecessor Committee which superintended over examination of these accounts. The current membership, majority of whom were in the previous Committee, confirms review of this report, and owns the observations and recommendations herein.

### 1.2 Committee Secretariat

4. The secretariat facilitating the Committee comprises the following technical staff;

| | | |
|---|---|---|
| i. Mr. Victor Weke | - | Senior Clerk Assistant/Lead Clerk |
| ii. Mr. Josphat Bundotich | - | Principal Sergeant-at-Arms I |
| iii. Mr. Lenny Muchangi | - | Legal Counsel II |
| iv. Ms. Lilian Mwikali Mutiso | - | Clerk Assistant III |
| v. Mr. Mohamed Jelle Abdi | - | Clerk Assistant III |
| vi. CPA Cyrille Mutali | - | Fiscal Analyst III |
| vii. Ms. Lydia Shalom | - | Research Officer III |
| viii. Ms. Yvonne Kendi | - | Hansard Officer III |
| ix. Ms. Lilian Aluga | - | Public Communication Officer |
| x. Mr. Mark Mbuthia | - | Audio Recording Officer |
| xi. Mr. Hillary Mageka | - | Media Relations Officer |

5. The Committee benefitted from technical support from liaison officers from the Office of the Auditor General, Mr. Paul Kagwanja & Mr. Ezekiel Omore, and from the National Treasury, Rev. CPA Kimathi Kwiriga.

### 1.3 Committee proceedings

**6.** To produce this report, the Committee held one hundred and eleven (111) sittings in which it examined the audited financial statements of all ministries, state departments and agencies for the financial year 2021/22.

**7.** In response to all the audit queries, the Committee heard and received both oral and written evidence from Principal Secretaries and Commission Secretaries (Accounting Officers) of the various votes and other relevant witnesses.

**8.** Despite limited time and resources, the Committee made a select few field visits to ascertain status of projects and get first-hand information. The Committee intends to pursue more of this in its succeeding financial year report examinations.

**9.** These observations and recommendations, if considered and implemented, will enhance accountability, effectiveness, transparency, efficiency, prudent management, and value for money in state organs.

## 2.0 GUIDING PRINCIPLES

**10.** The Committee in considering the Audited accounts of National Government is guided by the Constitution of Kenya and the following statutes and codes/regulations in undertaking its mandate: -

**11. Chapter Twelve of the Constitution on Public Finance**

***Part 1-Principles of Public Finance***

**Article 201** sets out the principles of public finance which includes: -

- openness and accountability, including public participation in financial matters (Article 201(a)); use of public money in a prudent and responsible way (Article 201(d)); and
- responsible financial management and clear fiscal reporting (Article 201(e)).

***Part 6-Control of Public Money***

**Article 226** deals with the accounts and audit of public entities and provides that.

- the accounting officer of a national public entity is accountable to the National Assembly for its financial management (Article 226(2));

**Article 227** deals with the procurement of public good and services. Article 227 (1) in particular, provides that "when a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive, and cost-effective".

**12.** The Public Finance Management Act, No. 18 of 2012

**Section 68** sets out the responsibilities of accounting officers for national government entities, Parliament and the Judiciary. This includes accountability to the National Assembly for ensuring that the resources of the respective entity for which he or she is the accounting officer are used a lawful, authorized, effective, efficient, economical and transparent manner (section 68(1)).

**Section 72** focuses on the accounting officers' responsibility to manage the assets and liabilities of national government entities.

**13.** Apart from the above-named laws, the Committee was further guided by the following. -

(i) the Parliamentary Powers and Privileges Act, No. 29 of 2017;
(ii) the Public Finance Management (National Government) Regulations, 2015;
(iii) the Public Procurement and Asset Disposal Act, No. 33 of 2015;
(iv) the Public Procurement and Asset Disposal Regulations, 2020;
(v) the Public Audit Act, No. 34 of 2015;
(vi) The Fair Administrative Action Act, No. 4 of 2015;
(vii) the Accountants Act, No. 15 of 2008; and
(viii) the National Assembly Standing Orders

## 3.0 GENERAL OBSERVATIONS AND RECOMMENDATIONS

**14.** In consideration of reports of various ministries, state departments and agencies, the Committee encountered cross-cutting and at times persistent matters that that informed the general observations and recommendations. Specific observations and recommendations are however made respective agencies and queries.

**15. Poor accounting standards and general incapacity of some accounting units**

The Committee found that despite all accounting units being staffed by qualified accountants and procurement officers, non-compliance with the various provisions of the various laws elaborated above pointed to incompetence or resistance. The various breaches included inaccuracies in financial statements, failure to reconcile accounts and failure to address prior year matters. The situation was most prevalent in donor funded projects.

*The Committee recommends that the National Treasury conducts periodic sensitization and capacity building for all accounting officers, finance staff and procurement officers across government on their responsibilities during the audit cycle and adherence to IPSAS.*

*The Committee also recommends that ICPAK enforces compliance to standards and met out sanctions to those officers found to be willfully failing to discharge their functions.*

**16. Late submission of supporting documentation**

Further to the above, the Committee observed that some accounting officers failed to submit supportive documentation to the Auditor-General on time (during the audit cycle) as required under section 68 of the PFM Act and the various provisions of the Public Audit Act. This invariably led to the Committee discussing matters that should ordinarily not feature in the final report, some as mundane as accounts not balancing. The Committee observed that accounts and finance staff in the various state agencies did not maintain financial statements real time and waited for the end of the financial year to commence reconciliations. This therefore leads to the many 'resolved' queries once they land on the Committee's desk.

*The Committee recommends that Accounting Officers henceforth comply with Section 68(2)(k) of the PFM Act 2012, by providing supportive documentation on time. The Committee in subsequent audits will prescribe punitive measures to those accounting officers that fail to adhere to requirements of the law in this regard.*

*The Committee has currently stopped the bad culture of continuous engagement between officers of the Auditor General and Accounting Officers, beyond the time period prescribed by law. Audit is time-bound and all queries carried to the report of the Auditor General will be considered as such and attract requisite recommendations as is.*

**17. Long outstanding construction works/ stalled projects**

The Committee encountered cases where some construction projects took inordinately long to complete for various reasons including contractor non-performance, late exchequer issuance, budget cuts and general poor foresight and project management. This led to sunk costs and a general lack of value for money, and in most cases, escalation costs and interest charged by contractors.

*The Committee recommends that the National Treasury should only approve projects that it can guarantee funding and completion within the medium-term expenditure framework. No new project should be commenced by an agency before all existing ones are completed or fully funded. Accounting Officers are further warned of personal responsibility should contractors fail to perform, considering evaluation of technical and financial capacity of bidders is mandated under the law. The failure to enforce and/or recall performance guarantees will also be personally remedied by the Accounting Officers.*

**18. Non-existence or weak internal audit functions**

The Committee noted numerous instances where internal audit committees were non-existent or did not meet regularly as prescribed by law. The Committee observed that the current practice where the Accounting Officer appointed and facilitated the audit committees may be a hindrance to the effectiveness of these committees as they are required to report to the same Accounting Officer on breaches by the same.

*The Committee reiterates its previous recommendation that Treasury submits proposals to the National Assembly within three (3) months of adoption of this report, delinking internal audit functions in terms of appointment, facilitation and reporting from Accounting Officers to an independent office.*

**19. Budgetary control and performance**

All ministries, state departments and agencies faced budgetary underperformance predominantly attributed to late exchequer release, supplementary budgets or incapacity to collect AIA. This invariably led to underperformance of programme objectives and lack of service provision to the public.

*The Committee recommends that Treasury and the National Assembly through the Budget & Appropriation Committee, and the departmental Committee on Finance and National Planning make realistic revenue projections and attainable expenditure estimates.*

**20. Pending bills**

Related to the above, state agencies have seen accrual of huge sums of pending bills largely blamed on inadequate exchequer release and budget rationalization, after commitments have been made and goods/ services have been procured. The Pending Bills Verification Committee, which is in itself a remedial after-the-fact measure, has taken inordinately long to conclude on the so-called 'verification'.

*The Committee recommends that Treasury only rationalizes budgets that have not been committed. Further, borrowing by the National Treasury to plug budget deficit should be done uniformly across the financial year to avoid the end year rush of disbursements and procurement in an effort to beat the deadline.*

**21. Accrual vs cash basis accounting**

The National Government has continued to operate under the cash basis of accounting that poses various challenges in maintaining of financial records. Accrual accounting provides a more accurate view of an agency's financial health by especially factoring in accounts receivables and payables. This will clear the long persistent matter of pending bills, and allow agencies to complete programmes beyond the end of the financial year where as is the current practice, sees a rush to expend funds at the end of the financial year. The National Treasury itself admitted to disbursing funds beyond the 31st of June.

*The Committee recommends that National Treasury expedites the full roll-out of accrual basis of accounting, as per its released plan.*

**22. Interest and commitment fees charged on undrawn loans**

The Committee observed certain instances where loans have been negotiated, signed and committed but the implementing agency was yet to drawdown. In these instances, interest accrued pronto while the Kenyan people did not obtain utility of the programmes. This amounts to wasteful expenditure. Related to these were various donor funded projects with undrawn balances that implementing agencies had no capacity to absorb, hence forgone development funds.

*The Committee recommends that National Treasury only enters into loan agreements whose programme/project implementation plans are ready for immediate execution. Accounting Officers that fail to absorb such funds promptly and within schedule will be held personally liable and will make good the lost interest, subject to Article 226(5) of the Constitution.*

**23. Dual implementation of projects between National and County Governments**

The Committee continued to encounter instances under the State Department for Housing & Urban Development where certain donor projects financed by the World Bank to be implemented by county governments posed an accountability challenge. The Accounting Officer is expected to accounts for the funds while total responsibility lay with the counties, the former basically acting as a conduit and had no control whatsoever.

*The Committee reiterates its recommendation that such funds be wholly issued to the implementing agency as conditional grants, rather than the mongrel arrangement that currently subsists.*

**24. Failure/ Delay to Compensate Land Owners**

The Committee noted several instances, especially under State Departments for Energy and Roads, where projects have been undertaken without due compensation to persons affected by compulsory acquisition of their land. The lack of enthusiasm to settle these dues sees the affected persons suffer for long periods, despite the projects being long been completed, handed over and are in use.

*The Committee recommends that implementating agencies prioritize compensation of land acquired for projects promptly and before acquisition is undertaken, as provided for under sections 111, 115 and 117 of the Land Act.*

**25. Audit Opinions**

During the 2021/22 financial year, the Auditor General examined and issued audit opinion for a total of three hundred and twenty-six (326) National Government financial statements in respect of Ministries, Department and Agencies (MDAs), Revenue Statements, Donor Funded Projects, and Other clients such as Public Debt, National Exchequer Account, Public Trustee, Business Registration Service and Subscriptions to International Organizations.

Table: Audit Opinions on National Government Entities

| No. | Details | Type of Opinion Issued | | | | |
|---|---|---|---|---|---|---|
| | | Unqualified | Qualified | Adverse | Disclaimer | Total |
| 1 | MDAs | 31 | 40 | - | - | 71 |
| 2 | Revenue Statements | 8 | 5 | - | - | 13 |
| 3 | Donor Funded Projects | 120 | 94 | 2 | 1 | 217 |
| 4 | Others | 18 | 5 | 1 | 1 | 25 |
| | Total | 177 | 144 | 3 | 2 | 326 |

*Data Source: Office of the Auditor General*

*The Committee commends those agencies that have dutifully kept proper accounting records.*

**26. Revenue**

During the 2021/2022 financial year, total revenue recorded under various revenue statements as received by the National Government amounted to Kshs. 2,028,236,839,950 representing an increase of Kshs. 314,593,858,437 or about 18% when compared to actual collections of Kshs. 1,713,642,981,513 realized in the year 2020/2021 as tabulated below.

Table: Comparison of Actual Receipts with the Previous Year's Receipts

| DETAILS | 2021/22 Actual Receipts | 2020/21 Actual Receipts | Increase/Decrease (Kshs) | Increase/Decrease (%) |
|---|---|---|---|---|
| Recurrent Revenue | 1,967,190,835,775 | 1,626,801,249,470 | 340,389,586,305.00 | 20.92% |
| o/w Sharable Revenue | 1,920,434,085,078 | 1,570,562,945,014 | 349,871,140,064.00 | 22.28% |
| GIPE | 46,756,750,697 | 56,238,304,456 | -9,481,553,759.00 | -16.86% |
| Development Revenue | 61,046,004,175 | 86,841,732,043 | -25,795,727,868.00 | -29.70% |
| Total | 2,028,236,839,950 | 1,713,642,981,513 | 314,593,858,437.00 | 18.36% |

*Data Source: Office of the Auditor General*

The total revenue of Kshs. 2,028,236,839,950 for the year 2021/2022 comprised of Kshs. 1,920,434,085,078 as sharable revenue, Kshs. 46,756,750,697 as receipts from Government Invest & Public Enterprises and Kshs. 61,046,004,175 relating to Development revenue. In the 2021/22 financial year, the total sharable revenue of Kshs. 1,920,434,085,078 increased by 22% when compared to the sharable revenue of Kshs. 1,570,562,945,014 in the 2020/21 financial year.

*The Committee recommends that the total nationally collected revenue amount of* ***Kshs. 1,920,434,085,078*** *forms the basis of sharing of revenue between the national and county governments as contemplated in Article 203 (3) of the Constitution.*

## 4.0 CONSIDERATION OF THE REPORTS OF THE AUDITOR GENERAL ON THE AUDITED FINANCIAL STATEMENTS

### 4.1 VOTE 1071: THE NATIONAL TREASURY

**Dr. Chris Kiptoo, CBS,** the Principal Secretary and Accounting Officer for the National Treasury, appeared before the Committee on 18th September, 30th October & 5th November 2024, accompanied by the following officers:

| | | | |
|---|---|---|---|
| i. | Mr. Rispah Simiyu | – | Commissioner Domestic Taxes, KRA |
| ii. | Mr. Bernard Ndung'u | – | Director General, Accounting Services |
| iii. | Mr. George Gichuru | – | Head of Accounting |
| iv. | Mr. Ambrose R.M. Ogango | – | Senior Chief Finance Officer |
| v. | Ms Damaris Onsumo | – | SPFO |
| vi. | Mr. Michael A Kagika | – | Director Pensions |
| vii. | Mr. Samwel Onyango | – | HFA - PPPD |
| viii. | Mr. Francis Amuyunzi | – | Snr. Dep. Acct. General |
| ix. | Ms. Lilian W. Dishon | – | Deputy Accountant General |
| x. | Mr. Daniel Mwangi | – | Deputy Accountant General |
| xi. | Mr. Saman Wangusi | – | Principal Admin. Secretary |
| xii. | Mr. Daniel Kagira | – | Director Corporate Services - KRA |
| xiii. | Mr. James Letaro | – | Ag. Director Finance - KRA |
| xiv. | Mr. Fredrick Kiamba | – | Parliamentary Liaison, KRA |

And submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

**1. Unconfirmed Expenditure Balances**

The statement of receipts and payments reflects an expenditure of Kshs. 1,606,952,339 in respect of acquisition of assets which, as disclosed in Note 15.12 to the financial statements, includes an amount of Kshs.9,847,738 relating to purchase of office furniture and general equipment. However, the latter amount was at a variance with the amount of Kshs. 89,234,988 reflected in the Integrated Financial Management Information System (IFMIS) system payments report by an unexplained variance of Kshs.79,387,250. Similarly, the statement of receipts and payments reflects an amount of Kshs.25,026,311,607 in respect of use of goods and services which, as disclosed in Note 15.06 to the financial statements, includes an amount of Kshs.13,063,400 in respect of fuel, oil and lubricants. However, the amount of Kshs.13,063,400 was at variance with the amount of Kshs.50,091,990 computed from the fuel statements by an unexplained variance of Kshs.37,028,590.

In the circumstances, the accuracy of the expenditure of Kshs. 9,847,738 incurred on purchase of office furniture and general equipment and the expenditure of Kshs. 13,063,400 incurred on fuel, oil and lubricants could not be confirmed.

**Submission by the Accounting Officer**

It is true that statement of receipts and payment reflects an amount of Kshs1,606,952,339/-in respect of acquisition of assets as disclosed in note 15.12 to the financial statements includes an amount of Kshs 9,847,738/- in respect of office furniture and general equipment.

This amount of Kshs. 9,847,738/- was at variance with the computed amount of office furniture and general equipment of Kshs. 89,234,988 /- by Kshs. 79,387,250/-. The variance of Kshs. 79,387,250/- were payments of purchase of office equipment and general equipment met from other related and relevant economic items falling under the acquisition of assets to avoid carrying forward pending bills to FY 2022/2023.

It is also true that the statement of receipts and payment reflects an amount of Kshs. 25,026,311,607/- in respect of use of goods and services which as disclosed in Note 15.06 to the financial statements includes an amount of Kshs. 13,063,400/- in respect of fuel, oil and lubricants.

This amount of Kshs. 13,063,400/- was at variance with the computed amount of fuel of Kshs. 50,091,990/- by Kshs. 37,028,590/-. The variance of Kshs. 37,028,590/- were fuel payments that were charged to security operations item 0-0001-11-2211313 which is also a relevant item to pay fuel.

This figure was reflected under other operating expenses of note 15.06.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**2. Long Outstanding Bank Reconciling Items**

The statement of assets and liabilities reflects an amount of Kshs. 3,657,492,025 in respect of bank balances. However, review of the bank reconciliation statement for the development bank account for the month of June, 2022, revealed that a number of reconciling items had been outstanding for a long period. The bank reconciliation statement reflected receipts of Kshs. 4,839,939,398 recorded in the bank statement on 26 May, 2022 but not in the cash book. Further, the bank reconciliation statement reflected receipts in the cash book not yet recorded in the bank statement totaling Kshs. 2,716,155,626 out of which receipts totaling Kshs. 623,593,984 were dated between 13 May, 2020 and 02 December, 2021. No explanation was provided for failure to clear the long outstanding reconciling items.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.3,657,492,025 as at 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

It is true that the statement of Assets and Liabilities reflected Kshs. 3,657,492,025 in respect of Bank Balances as at 30th June, 2022. This Amount was composed of cash book balances for;

| | | Account No | Amount (Kshs) |
|---|---|---|---|
| | Recurrent Bank | 1000181467 | 8,905,068.00 |
| | Development Bank | 1000181664 | 670,219.00 |
| | Deposit Bank | 1000182137 | 97,664,524.00 |
| | Petroleum Development Levy Fund Bank | 1000182137 | 3,550,252,214.00 |
| | | **Total** | **3,657,492,025.00** |

Copies of the Cash Books extracts have been availed.

It is also true that IFMIS auto bank reconciliation statement for Development Bank Account had receipts of Kshs. 4,839,939,398 recorded in the bank statement but not in the cash book, receipts in the cash book not yet recorded in the bank statement totaled Kshs. 2,716,155,626 out of which receipts totaling Kshs. 623,593,984 were dated between 13th May, 2020 and 2nd December, 2021.

The outstanding items were being analyzed at the time of audit. After analysis was concluded, all the items were cleared. Copies of the Cash Book extracts, Bank Certificate and auto bank reconciliation statement were availed for audit review.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**3. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects a final receipts budget and actual on comparable basis of Kshs.167,894,349,737 and Kshs.126,414,837,692 respectively resulting to an underfunding of Kshs.42,782,675,278 or 25% of the budget.

Similarly, The National Treasury spent a total of Kshs.125,778,027,665 against an approved budget of Kshs.167,894,349,737 resulting to an under expenditure of Kshs.42,116,322,072 or 26% of the budget.

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

**Submission by the Accounting Officer**

It is true that the statement of comparison of budget and actual amounts reflects a final receipts budget and actual on comparable basis of Kshs.167,894,349,737 and Kshs.126,414,837,692 respectively resulting to an underfunding of Kshs.42,782,675,278 or 25% of the budget.

It is also true that The National Treasury spent a total of Kshs.125,778,027,665 against an approved budget of Kshs.167,894,349,737 resulting to an under-expenditure of Kshs.42,116,322,072 or 26% of the budget.

The under-utilization of the budget and under collection of revenue was due to;

(i) Some activities including procurement were suspended due to the Covid-19 pandemic;

(ii) Exchequer under issue during the financial year; and

(iii) Low business activities during the year due to covid-19 led to under collection of revenue.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**4. Lack of Fixed Assets Register**

As previously reported, Annex 4 to the financial statements reflects a summary of fixed assets register with a historical cost of Kshs.6,570,539,354 (2021: Kshs.5,614,749,522) and which included assets valued at Kshs.955,789,832 as additions during the year under review. However, The National Treasury did not provide an assets' register to support the assets valued at Kshs.6,570,539,354 as required by 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.

**Submission by the Accounting Officer**

The under listed measures have been taken to address the issue of fixed assets register:

i. An Asset and Liability Management Standing Committee has been appointed to oversee implementation of National Treasury Asset Register. The committee was appointed on 29th November, 2023 with specific terms of reference, amongst them being to ensure compliance with the provisions of the Policy on Asset and Liability Management in the Public Sector.

ii. An Asset and Liability Management Unit was also appointed by the Accounting Officer on 29th November, 2023 as provided under Part 4.8 of the Asset and Liability Management policy guidelines. The functions of the Unit as specified in the appointment letter include maintaining an updated register of assets and liabilities, serving as the secretariat to the

Asset and Liability Management Standing committee and advising the Accounting Officer on matters relating to optimal use of assets;

iii. A capacity building program was conducted for Asset Management Committee and Unit members in the month of May, 2024 to enable them discharge their respective responsibilities effectively

iv. The National Treasury has completed collection of information on headquarters assets across all directorates/departments/units using the template prescribed under the assets policy guidelines and is currently in the process of consolidating and onboarding the same on the IFMIS inventory and assets module

v. Assets entry IFMIS rights have been assigned to the relevant users.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that within three (3) months upon adoption of this report, the Accounting Officer should avail a fixed assets register to the National Assembly**

**5. Over-Commitment of Salary**

The statement of receipts and payments reflects an expenditure of Kshs.3,192,672,341 on compensation of employees, which, as disclosed in Note 15.05 to the financial statements, includes an amount of Kshs.1,652,229,155 paid as basic salaries to permanent employees. However, review of the payroll data revealed that, during the year under review, one hundred and twenty-five (125) employees earned a net salary less than one-third (⅓) of their basic salary. This was against Section C.1(3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which states that public officers shall not over-commit their salaries beyond two thirds (⅔) of their basic salaries and Heads of Human Resource Units should ensure compliance.

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

**Submission by the Accounting Officer**

The IPPD system has in built artificial intelligence to detect any violation of this rule save for scenarios when a government liability is being recovered. Recovery of GOK liabilities take precedence to be recovered in full irrespective of this rule.

Over-commitment of salary for the year under review was occasioned by the following reasons which take precedence of the one third rule.

i. Salary Overpayments:

These were as a result of overpayment recoveries that run for over twelve months.

Other officers were in areas where they were earning a higher house allowance and on transfer there were deduction of house allowance rate.

ii. Interdictions/ suspensions:

Officers placed under interdiction earn half salary and because of statutory deductions and loan commitments the officer had taken the one third rule is infringed.

Further, officers placed under suspension from duty earn half salary and as a result of statutory deductions and salary commitments the officer had made, the one third rule is equally infringed.

iii. Government Liabilities
   - Officers who had rent arrears from housing that were supposed to have been recovered at a given earlier date and recoveries start much later.
   - Others are as result of un-surrendered imprest recoveries that were recovered from their salaries

iv. Retirements;

Retirement by officers within mid- month i.e officers retiring by 15th and statutory deductions had to be made together with Loan commitments the officer had made. There were one hundred and twenty-five officers who retired in the period of audit.

The Management intends to carry out the following measures to address the issue of over commitment of salary:

- Letters will be issued to the affected financial institutions to adhere with the one third rule;
- Repayment period of all overpayment recoveries will be extended to accommodate the officer's net salary within the rule; and
- The Integrated Payroll and Personnel Database (IPPD) system is configured to observe the one third rule on all third party's loans, shares and insurance covers among others. However, when a statutory deduction is introduced, the deductions are deferred

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer ensures all staff incrementally comply with the one-third of basic salary rule.**

**6. Non-Operational Vehicle Scanning Machines**

During the financial year 2014-2015, The National Treasury awarded a contract to install modern vehicle scanning machines at the Treasury Building and Bima House to a local contractor at a cost of Kshs 164,510,341. The contract entailed the supply of three (3) handheld advanced, explosive, trace, particulate and vapor detectors at a cost of Kshs.16,882,502. However, none of the scanners or detectors were in operation at the time of the audit in the month December, 2022.

In the circumstances, it was not possible to confirm whether The National Treasury obtained value for money from the expenditure of Kshs.16,882,502 incurred on the project.

**Submission by the Accounting Officer**

It's true that the scanners / detectors were not in operations at the time of audit in the month of December, 2022 This was due to lack of service contract. The State Department of Public Works, Electrical Department has been requested to prepare bills of quantities for maintenance and servicing of the scanners vide letters:

a. Letter Ref: ZZ MOF 307/03/02 Part "B" dated 10th August, 2022;

b. Letter Ref: ZZ MOF 307/03/02 Part "O" dated 2nd February, 2023; and

c. Letter Ref: TNT/ICTU/AD/01 "H" (81) dated 21st July, 2023.

State Department of Public Works was tasked with the responsibility of carrying out a detailed analysis on the scanners and other critical equipment at the National Treasury and prepare a report to the Accounting Officer, National Treasury on way forward. A report has been prepared on the same.

**Committee Observations and Findings;**

**The Committee noted that the submission by the Accounting Officer was unsatisfactory as the machines were too expensive, wasteful and the expenditure a non-priority item. Furthermore, the machines were still not operational. It is expected that the National Treasury would lead from the front in budget efficiency.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for wasteful expenditure.**

**7. Failure to Implement the Public E-Procurement System**

Review of procurement processes in government corporations and other public procuring entities revealed that, by the time of their respective audits, the entities' procurement processes had not been linked with the Integrated Financial Management Information System (IFMIS) as per Executive Order No. 2 of 2018. The Order had directed that by 01 January, 2019, The National Treasury was to facilitate seamless integration of all public procurement entities to the Integrated Financial Management Information System (IFMIS) and that by that same date, all Public Procuring entities undertake all their procurement through the e-procurement module. Most of the non-complying procuring entities have blamed The National Treasury for failing to create the integration platform.

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

**Submission by the Accounting Officer**

The Ministry signed a contract with a Service Provider to Design, Develop / customize, supply, install and maintain an Electronic Government Procurement (e-GP) System for the Government of Kenya that shall ensure an end-to-end system that seeks to eliminate all manual procurement processes. These shall ensure that all the procuring entities comply with the executive order.

The Service Provider has designed the system and currently they are customizing it to the requirements of the National Treasury. In this regard, two modules i.e. the supply registration module and the Procuring Entities registration modules have been tested. The procurement and disposal plan module is undergoing testing.

Further it is expected that the e-GP system shall be in full operational as from January, 2025.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation:**

**The Committee recommends that within three (3) months upon adoption of this report, the Accounting Officer, should submit to the House a status report on the implementation of the Public E-procurement System .**

**8. Unauthorized Staff Establishment**

Review of The National Treasury staff establishment revealed that thirty-nine (39) positions with ninety-two (92) members of staff in-post were not authorized. Similarly, forty-five (45) positions with an authorised establishment of four hundred and sixty-six (466) members of staff had one thousand and sixty-one (1,061) staff members in-post, exceeding the approved establishment by five hundred and ninety-five (595) staff members.

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

**Submission by the Accounting Officer**

Implementation of the 17-tier grading structure which clustered Job Groups R/Q, M/N, A/B/C created over establishment at the immediate lower positions since the promotions caused by the merged grades did not have a corresponding creation of additional posts. Additional posts have now been created in the Job Groups that were merged vide authority letter No. MPSYG.2/6/4A VOL XI (32) dated 2nd July, 2019.

The over establishment was also occasioned by;

i. Succession Management programme by the Public Service Commission that promoted mass staff against the limited approved establishment;
ii. Recruitment and posting of staff by State Department for Public Service and the Public Service Commission;
iii. Transfer of officers in various cadres from State Department for Public Service and other Scheme administrators. Delayed release of officers due to the handing over process which include; induction of the incoming officers for the smooth running of the office; and
iv. Narrow staff establishment for Support Service cadres. This is mostly occasioned by lack of enough support staff in the technical departments which makes them request for additional support staff hence creating an over establishment to the particular department.

This office has taken the following measures to address the staff establishment;

i. The Human Resource Department liaising with heads of departments to forward the exact number of staff required in various departments;
ii. To stablish a distribution structure for the staff which will help in the deployment process; and
iii. Reviewing and restructuring the staff establishment through the re-organization of National Treasury to include various additional posts proposed for approval by Public Service Commission to address the over establishment gaps as part of the government reforms.

**Committee Observations and Findings:**

**The Committee noted that the Public Service Commission made promotions and postings beyond their own approved staff establishment under the pretext of succession planning.**

**Committee Recommendation;**

**The Committee recommends that the PSC ensures compliance with approved staff establishment and the Accounting Officer National Treasury submits a status report of the same within six (6) months of adoption of this report.**

## NATIONAL EXCHEQUER ACCOUNT

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### 11. Non-Compliance with Article 260 of the Constitution - Late Exchequer Releases

As disclosed in Note 13.6 to the financial statements, an amount of Kshs.39,964,834,094 was indicated as payments in the cash book not yet recorded in the bank statement (uncleared items). However, examination of records indicated that the amount relates to Exchequer releases to Ministries, Departments and Agencies, Public Debt and County Governments that were disbursed after the end of the financial year. This was contrary to Regulation 97(4) of the Public Finance Management (National Government) Regulations, 2015 which states, inter alia, "that an actual cash transaction taking place after the 30 June, shall not be treated as pertaining to the previous financial year." This was also in breach of 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, the practice of backdating transactions to 30 June, is against the concept of IPSAS cash accounting. Management has explained that the late Exchequer releases were occasioned by late receipt of revenues and that approval was given by the Controller of Budget.

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

**Submission by the Accounting Officer**

It is true that a total of Kshs.39,964,834,093.50 transferred to MDA's and Consolidated Fund Services (Public Dept) was cleared in the Central Bank Account after 30th June 2022. It should be noted that substantial revenues for funding these Exchequer requests were received on 30th June, 2022.

We wish to state further as follows:

a) As per the fiscal framework and Budget Estimates for Financial Year 2021/2022, all the revenue and loans received as at 30th June, 2022 were budgeted to fund expenditures relating to that financial year and it was therefore imperative that these funds are released to the MDAs and Public Debt.
   Otherwise, the unfunded Exchequer requests would have translated to pending bills;
b) The National Treasury did not encroach on the revenue for the consequent year;
c) The above receipts and issues were properly recorded and accounted for in our books of accounts for the year 2021/2022; and
d) The National Treasury sort the authority of Controller of Budget to release the funds and the same was granted in compliance with Article 206 (2) of the Constitution and Section 17 (5) of the PFM Act 2012.

**Committee Observations and Findings;**

**The Committee noted that the matter would be dealt with finality when The National Treasury eventually implements accrual method of accounting.**

**Committee Recommendation;**

**The Committee recommends that The National Treasury hastens the full operationalization of accrual method of accounting and submits implementation reports every six (6) months of adoption of this report.**

## CONSOLIDATED FUND SERVICES - PUBLIC DEBT

## REPORT ON THE FINANCIAL STATEMENTS

### 14. Payment of Commitment Fees on Undrawn Amounts

As reported in the previous year, the statement of receipts and payments for the year ended 30 June, 2022 reflects finance costs including loan interest amounting toKshs.510,090,079,877 which, as disclosed in Note 13.3 to the financial statements, includes interest payments on foreign borrowing of Kshs.121,494,973,255. The latter balance includes commitment fees on undrawn amounts paid during the period under review amounting to Kshs.1,486,813,083. The commitment fees relates to undrawn loans signed between the Government of Kenya and foreign lenders.

Further, review of the summary statement of debt stock as at 30 June, 2022 revealed that twenty (20) loans agreements with cumulative loans of Kshs.379,943,389,070 were signed between 1 July, 2019 and 31 December, 2020. However, no drawdowns on these loans had been made by the various implementing Agencies for the funded projects and programmes as at 30 June, 2022. Had the implementing Agencies put proper mechanisms in place to enable absorption of the committed credit within the agreed timeframe, payment of commitment fees would have been minimized. The National Treasury, being the overall supervisor of Government Ministries, Departments and Implementing Agencies needs to ensure that programmes and projects are ready for execution before committing the Government to bear the loans.

**Submission by the Accounting Officer**

The commitment fees are paid on the loan that become effective and to become effective the conditions precedent should be met by both the borrower and the lender. Further, not all loans that become effective have commitment fee charges.

Currently, five (5) of the Twenty loans which had no draw down as at 30th June 2022 have fully been disbursed and Fifteen (15) are at various stages of disbursement

The National Treasury has put several mitigating measures to ensure that programmes and projects are ready for execution before committing the government to bear the loans. These are;

i. Provision of Public Investment Management Regulations, 2022 whose purpose is to provide a legal framework for efficient and effective public investment management. This includes;
    - Project identification and Planning;
    - Pre-feasibility and Feasibility,
    - Selection for Budgeting;

- Implementation, Monitoring, Evaluation and Reporting; and
- Closure and impact assessment to ensure value for money and optimal use of public resources.

ii. Development of a project information Management system which will provide a dash-board view of project implementation status;

iii. Ensuring counter funding is available to MDAs during the project implementation period; and

iv. Ensuring that Ministries and MDAs absorb funds during the implementation period by providing the exchequer requested on timely basis.

**Committee Observations and Findings;**

**The Committee noted that the National Treasury committed the government to loans whose drawdowns are not ready due to unprepared implementing agencies, leading to incurring of unnecessary and wasteful costs.**

**Committee Recommendation;**

**The Committee recommends that;**

**i. The National Treasury submits to Parliament Debt Management Strategy that includes as a pre-condition of signing of borrowings, written commitment from implementing agencies of readiness to immediately drawdown and absorb borrowings;**

**ii. Accounting Officers who fail to drawdown loans within three (3) months of government commitment be reprimanded and held personally liable for any commitment fees and interest accrued.**

**15. Guaranteed Debts**

The summary statement of public debt reflects total outstanding debt stock balance of Kshs.8,478,949,965,757 as at 30 June, 2022. Review of the debt stock records provided revealed that the balance includes guaranteed loans amounting to Kshs.145,356,697,726 as at 30 June, 2022. As reported in the previous year, these are loans advanced to State Agencies for which The National Treasury is the guarantor. Although the guaranteed loans are serviced by the recipient entities and would only be charged to the Consolidated Fund in cases of default, the guaranteed loans constitute contingent liabilities and form part of public debt as guaranteed debts. However, the balance does not include loans and overdrafts, if any, held by other National and County Governments entities. Management has however indicated that there were no borrowings by the County Governments and The National Treasury did not guarantee any loan by State Agencies during the year. Management has also indicated that where a State Agency secures a loan, it is the responsibility of the Board of Directors to ensure that the amount is repaid and is not chargeable to the Consolidated Fund.

However, the National Government is obliged to bail out any amount that could be defaulted by the County Governments and State Agencies using public resources.

**Submission by the Accounting Officer**

It's true the summary statement of public debt as at 30 June, 2022 reflected total outstanding debt stock balance of Kshs. 8,478,949,965,757. This amount included guaranteed Loans totaling Ksh 145,356,697,726.

Further, we wish to state that:

a) Guaranteed loans constitute contingent Liabilities and form part of the public debt as guaranteed debts;
b) The balance does not include loans and overdraft held by other National and County Government entities since there were no borrowings by the county government;
c) Where a state agency secures a loan it is the responsibility of the Board of Directors to ensure that the amount is repaid and it is not charged to the consolidated fund;
d) Article 214(2) of the constitution of Kenya defines public debt as all financial obligations attendant to loans raised or guaranteed and securities issued or guaranteed by the National Government;
e) The bank overdraft is neither a security nor a loan but a short-term financing option used for short term cash management by respective entity hence not included in the total outstanding debt stock; and
f) All guaranteed debts are reported separately in the summary statement of public debt.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**16. Default on Debt Repayment**

As reported in the previous year, review of records held by The National Treasury's Commonwealth Secretariat Debt Recording and Management System as at 30 June, 2022 revealed that the Government had defaulted on servicing an amount of Kshs. 11,039,138,761 in respect of three (3) loans advanced by an International Commercial Bank towards the construction of three (3) dams as detailed below;

| Project | Disbursed Amount Euro | Principal Defaulted Euro | Interest Defaulted Euro | Total Arrears Euro | Equivalent (Kshs.) |
|---|---|---|---|---|---|
| Arror Dam | 91,852,267 | 3,196,591 | 9,874,612 | 23,071,203 | 2,861,297,485 |
| Itare Dam Project | 141,552,608 | 36,388,094 | 6,735,832 | 43,123,926 | 5,348,242,211 |
| Kimwarer Dam | 71,878,751 | 15,380,277 | 7,435,335 | 22,815,612 | 2,829,599,065 |
| **Total** | **305,283,626** | **64,964,961** | **24,045,779** | **89,010,741** | **11,039,138,761** |

The credit agreements for these loans were not provided for audit review to confirm the terms of the loans and if the termination of the credit was conducted in accordance with the provisions in the respective agreements. Management indicated that the lender has cancelled the remaining balance and the credit agreements for the three (3) dams are in the custody of the Directorate of Criminal Investigation (DCI) as the matter was in court. The default on debt repayment exposes the Government to risks of legal suits that may lead to punitive penalties and subsequent loss of public resources.

**Submission by the Accounting Officer**

Following ongoing investigations by the Directorate of Criminal Investigations (DCI), the transaction files containing credit agreements for the Arror, Kimwarer, and Itare dam projects were taken by the DCI and to date remain in their custody. The National Treasury suspended debt service payment obligations under the Itare, Arror, and Kimwarer facilities Agreements in January 2020.

However, copies of the credit agreements of the three loans were provided to the auditors on 31st October, 2023

To confirm the termination of the credit, letters communicating that the creditor Intesa San Paolo cancelled the remaining amount have been provided.

Further, we wish to state as follows:

i. In March, 2023, the Cabinet approved the restructuring of the Government of Kenya's outstanding debt service payment obligations under the Facilities Agreements for the Itare, Arror, and Kimwarer Dam Projects;
ii. The Government of Kenya and the commercial lender negotiated and agreed on a financial settlement. In April 2024, the Cabinet approved the resumption of debt service obligations with commercial lenders and SACE under the negotiated financing agreements (Amendment and Restatement Agreements) for the Itare, Arror, and Kimwarer Dam Projects; and
iii. In June 2024, the Government of Kenya, through the National Treasury, signed the Amendment and Restatement Agreements for the Arror, Kimwarer, and Itare Dam Projects. As a result, the National Treasury resumed debt service payments under the revised agreements.

**Committee Observations and Findings;**

**(i) The Committee noted the submission by the Accounting Officer; and**

**(ii) The Committee found that the matter was resolved.**

**17. Increase in Domestic Borrowings**

Review of Summary statement of public debt for the year ended 30 June, 2022 revealed that external debt rose from Kshs.3,761,235,298,615 to Kshs.4,076,028,476,708 or 8.37% against that of internal debt which increased from Kshs.3,635,319,130,686 to Kshs.4,257,564,791,323 or 14.62%. Interest on internal debt for the financial year ended 30 June, 2022 stood at 76% to that of external debt which stood at 24% of the total finance costs, including loan interest. The cost of domestic debt is three times the cost of external borrowings. Management has not indicated the measures being put in place to guard against the excessive internal borrowings with a view to reducing the crowding out effect of local borrowers in the economy.

In the circumstances, the high domestic borrowings may have a negative impact on the country's interest rates, inflation rates and may lead to crowding out of private investors due to reduced loanable funds in the market.

**Submission by the Accounting Officer**

Borrowing is as a result of a budget deficit as approved by parliament. The Government borrows from domestic and external debt sources. The main objective of debt management is to raise government resources at minimal cost with some prudent degree risk to finance the budget.

The borrowings during the year are subject to the market conditions and thus the Government tries as much as possible to diversify its funding sources and optimize the best options available through External concessional and semi concessional sources. External commercial borrowing is a last resort.

Domestic debt is costly due to undeveloped nature of the domestic securities market but the Government working with Central Bank of Kenya, has taken Medium term measures to reduce cost through various reforms aimed at deepening and developing the domestic debt market namely:

i. Facilitation of an electronic bond auction

Introduction of Dhow Central Security Depository System (DCSD) has enhanced efficiency in Government securities market both primary and secondary, reduced auction cycle (from auction to settlement) and also is expected to improve pricing transparency in trading of government securities and secured a way that enables the public and diaspora community to invest in government securities;

ii. Separation of the Retail and Wholesale Market for Government Securities

In a bid to facilitate separation of the retail and wholesale market, the government introduced the system aimed at enhancing access to Government securities market by retail investors including buying and selling Treasury Bills and Bonds online, without the need for intermediaries or physical documents. The DCSD system has addressed a significant obstacle in repurchase agreement (repo) market development related to title transfer;

iii. Establishment of the Over-the-Counter (OTC) Market for Government Securities

The development of the OTC trading for Government securities is being undertaken separately for Treasury bills and bonds. Treasury bills have been trading on OTC. The Capital Market Authority has been coordinating development of the OTC trading guidelines which will inform CBK support in the implementation of the OTC for Treasury bonds trading in Dhow-CSD. The CMA has approved NSE trading rules for its proposed OTC platform, i.e., Unquoted Securities Platform (USP). The establishment of OTC platform is envisaged to boost liquidity in the bond market;

iv. Establishment of an Efficient Horizontal Repo Market and Securities Lending and Borrowing (SLB)

The CBK Dhow-CSD system will allow full transfer of securities ownership for Repo transactions through a collateral management module. The launch of Repo market and securities lending and borrowing through Dhow-CSD system will provide a critical anchor to the financial sector in Kenya. It will promote the distribution of liquidity among the capital markets stakeholders and enhance uptake of Government securities in financial market;

v. The Framework of the Primary Domestic Debt Market

The National Treasury intends to undertake reforms in restructuring of the primary market activities to reduce borrowing costs and promote market development. This will involve:

- Implementing a detailed issuance calendar to stabilize demand and ensure that auctions meet the targeted issuance size;
- Creating an adequate benchmark bond program;
- Addressing fragmentation in the domestic debt portfolio;
- To manage competition between tax-free infrastructure bonds and Treasury bonds: It may be beneficial to restrict "infrastructure bonds" to retail investors; and
- Increasing the issuance size of benchmark bonds and implementing proactive cash and liability management operations will further support these efforts.

vi. The Structure of the Secondary Market;

To reduce costs of domestic borrowing the government has initiated strategies to develop the secondary market for government securities which will ensure liquidity and lower costs. These strategies are:

- Improving Price transparency.
  The National Treasury will implement strategies aimed at giving investors' confidence for them to price instruments appropriately;
- Addressing inefficiency in the repo market.
  The government intends to improve efficiency and increase liquidity in repo market;
- Establishing a daily yield curve.
  The government will encourage day to day exchanges or trading in the secondary market across all tenors;
- Implementing a Primary Dealer (PD) system.
  The primary dealer will strengthen the primary market for government securities by building a stable, dependable source of demand for securities and providing liquidity in the secondary market; and
- Moving towards a hybrid exchange/Over-the-Counter mode
  The exchange will lead to improved transparency and price discoveries and aid with risk based supervision.

  However, it should be noted that although external debt is cheaper, it is also riskier given that it is denominated in foreign currency. Any depreciation of Kenya shilling has an adverse effect on the cost of servicing debt. External debt despite its low costs has exchange rate volatility risks than domestic debt.

To reduce cost and risks of public debt, there is need to balance the borrowing allocation to both external and domestic sources.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the National Treasury ensures prudent local borrowing to shield the public from rising interest rates.**

**RECEIVER OF REVENUE (RECURRENT)**

REPORT ON THE REVENUE STATEMENTS

**21. Budgetary Control and Performance**

As disclosed in Note 5 to the revenue statements, fees on licenses under the Traffic Act and Petroleum Development Levy realized during the year under review was Kshs.4,424,032,458 and Kshs.26,132,322,347 respectively, against estimated revenues of Kshs.5,106,206,554 and Kshs.37,132,000,000 resulting in under-collections of Kshs.682,174,096 or 13% and Kshs.10,999,677,653 or 30%, respectively. Further, as disclosed in Note 8 to the revenue statements, sundry revenue realized during the year under review was Kshs.275,548,422 against estimated revenue of Kshs.902,639,669 resulting to under-collection of Kshs.627,091,247 or 69%.

The under-collection may have impacted negatively on funding the budgets of the various public entities and therefore affecting development and service delivery to the public.

**Submission by the Accounting Officer**

The under collection of revenue was due to;

- Fees and Licenses under the Traffic Act recorded an underperformance due to decline in imports.
- Petroleum Development Levy under performance is attributed to high international oil prices.

The Government is developing a Medium-Term Revenue strategy that will undertake a comprehensive tax review with aim of improving revenue performance.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**The Committee found that the matter was resolved.**

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

**23. Long Outstanding Arrears of Revenue**

As reported in the previous year, the statement of arrears of revenue reflects total tax arrears amounting to Kshs.1,558,258,572,271 as analyzed in the Kenya Revenue Authority debt portfolio. The balance includes an amount of Kshs.177,788,000,000 categorized as long outstanding legacy debts. The debts date back to 1992 and relate to penalties, interest, prior years debt, estimated assessment debt and other debts that are subject to other factors such as data corrections, objections and appeal processes.

Further, the statement of arrears of revenue as at 30 June, 2022 reflects non-tax revenues arrears of Kshs.79,955,123,344 comprising of loan redemption amounting to Kshs.38,078,376,052 and loan interest amounting to Kshs.41,876,747,292. Included in the balance is an amount of Kshs.54,100,388,350 which has been outstanding for more than two years.

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.

In the circumstances, the existence of an effective mechanism to ensure full realization of the outstanding arrears of revenue could not be established.

**Submission by the Accounting Officer**

The total tax arrears as at 30th June 2022 amounted to Kshs. 1,558,258,572. The status of the debt arrears as at 31st July 2024 is outlined below;

| **Debt Category** | **Balances as at July 2022** | **Balances as at July 2024** | **Explanations/Remarks** |
|---|---|---|---|
| **Collectible Debts Including:** | | | KRA has enhanced debt recovery using using available legal tools including demand notices, payment plans, agency notices and distress actions. |
| a) Domestic Taxes Debt | 77,659,676,047 | 35,288,852,794 | |
| b) Customs Debt | 8,186,606,421 | 5,702,725,836 | |
| **Sub Total** | **85,846,282,468** | **40,991,578,630** | |
| **Doubtful Debts Including:** | | | |
| a) Penalties | 194,679,003,171 | 49,667,000,809 | These debts are difficult to recover and continue accumulating due to challenges relating to validation, estimated assessment and disputes arising in the recovery process. These debts were significantly reduced through the implementation of the tax amnesty on penalties and interest granted via Finance Act 2023. |
| b) Interest | 303,771,877,959 | 199,748,919,750 | |
| c) Old Legacy System Debt Under Ledger Reconciliation/ Correction Process. | 177,787,778,906 | 0 | • KRA validated the Legacy System balances using available information and migrated the balances to iTax System in June 2024. The migrated balances include debit balances of Kshs. 765,311,932,975 and credit balance of Kshs. 315,115,857,096.<br>• KRA has formed a full time dedicated team to revalidate the debit and credit balances together with taxpayers within six months from July 2024. |

| Debt Category | Balances as at July 2022 | Balances as at July 2024 | Explanations/Remarks |
|---|---|---|---|
| | | | • After six months, the revalidated balances will be confirmed and demanded from the taxpayers. For revalidated credit balances, taxpayers will be allowed to utilize them against revalidated ledger debit balances, any existing debt in tax or current taxes.<br>• **Note:** The migrated debit and credit balances can only be confirmed after joint revalidation process with taxpayers. |
| d) Tax Waiver Applications | 24,658,599,680 | 0 | The penalties and interests taxpayers had applied for waiver were cleared through the tax amnesty granted via Finance Act 2023. |
| e) Debt Under Tax Appeal Processes (Court, TAT, ADR, Objections) | 339,745,724,596 | 14,737,988,053 | • These were tax assessment that were in dispute and being handled at various appeal processes including independent review of objections (IRO), Tax Appeals Tribunal (TAT), Court and Alternative Dispute Resolution (ADR).<br>• These debts take time to conclude due to lengthy litigation processes that delay debt recovery and when decisions and rulings are finally made, some taxpayers have already covered their tracks by closing down their companies, changing ownership of property and closure of bank accounts making it difficult for recovery.<br>• KRA has been engaging taxpayers to fast track resolution of the taxes in dispute by encouraging them to opt for the ADR Framework. |
| f) Public Institutions Debts Under Reconciliation | 309,002,762,609 | 121,453,906,693 | • These were PAYE debts owed by public institutions and were largely ledger reconciliation cases. |

| Debt Category | Balances as at July 2022 | Balances as at July 2024 | Explanations/Remarks |
| --- | --- | --- | --- |
| | | | • The debt arise from the fact that public institutions pay their taxes directly to Central Bank of Kenya (CBK) thereby bypassing iTax system.<br>• The missing tax payments are reconciled and captured manually in iTax on continuous basis to clear the erroneous debts. KRA has formed a dedicated team to reconcile the missing payments and update the taxpayers' ledgers by 31st December 2024.<br>• KRA in conjunction with Treasury, Ministry of Public Service, CBK and other government ministries and agencies have been working on systems integration between the payroll systems (IPPPD/G-pay), IFMIS, CBK system and iTax to provide a permanent solution to this challenge by June 2025. |
| g) Uncollectible (Erroneous, Estimated Assessments etc.) debts | 67,415,716,479 | 67,415,716,479 | • These debts remain uncollectible due to challenges related to data validation (correctness) caused by data capturing errors, taxpayers' ledgers having not been updated with payments due to system challenges and erroneous tax returns declarations.<br>• A dedicated team has been formed to validate the top 2,000 debt cases to clean up the taxpayer ledgers.<br>• Due to the complex nature of the debt validation of this category of taxpayers and huge number of taxpayers involved, KRA has concentrated in validating the debt of top debt cases. |

| Debt Category | Balances as at July 2022 | Balances as at July 2024 | Explanations/Remarks |
|---|---|---|---|
| h) Debts Under Validation Process | 55,350,826,854 | 55,350,826,854 | • These are debts under review to determine their validity and collectability at station level.<br>• Debt validation process is a complex and time-consuming exercise. |
| **Sub Total** | **1,472,412,290,254** | **508,374,358,639** | |
| **Total** | **1,558,258,572,721** | **549,365,937,269** | |

As at 30th June 2022, Legacy System debt reported amounted to Kshs. 177,787,778,906. This constituted of old debts prior to the rollout of the iTax System.

During the FY 2023/2024, KRA undertook an exercise to clean it up and migrate the Legacy System balances to iTax system. Debit balances amounting Kshs. 765,311,932,975 were validated using available information to KRA and migrated to iTax in June 2024. The migrated debit balances are being revalidated jointly with the taxpayers from July 2024;

**Debt Reductions Effort (July 2021 to June 2024 in Kshs. Million)**

| Debt Reduction Initiatives | FY 2021/22 | FY 2022/23 | FY 2023/24 | Total |
|---|---|---|---|---|
| Debt Recovery | 103,763,923,065 | 103,390,339,908 | 148,125,342,919 | 355,279,605,89[illegible] |
| Taxpayers Ledgers Reconciliations/Corrections | 202,366,795,167 | 98,072,529,921 | 174,540,820,167 | 474,980,145,25[illegible] |
| Reversal of Erroneous Debt (Penalties & Interest) | 3,169,376,651 | 2,231,271,044 | 5,228,230,905 | 10,628,878,60[illegible] |
| Tax Disputes Resolved and Vacated | 5,248,453,550 | 60,658,990,634 | 128,369,185,724 | 194,276,629,908 |
| Tax Returns Amendments (Erroneous Declarations) | 10,543,743,481 | - | - | 10,543,743,481 |
| Tax Waivers Granted | 209,122,748 | 3,442,870,688 | - | 3,651,993,43[illegible] |
| Tax Amnesty Vacations (Penalties & Interest) | | | 507,782,808,185 | 507,782,808,18[illegible] |
| **Total Debt Reduction** | **325,301,414,662** | **267,796,002,195** | **964,046,387,900** | **1,557,143,804,757** |

**Measures in Place to Improve Outstanding Customs and Tax Arrears**

The key measures in place to reduce outstanding Tax and Customs arrears include;

a) Enhanced recovery through the use of available legal tools including demand notice, payment plans, agency notices, offsetting against refund claims and distress actions. During the financial year 2024/2025, KRA targets to collect Kshs.114,396,424,988 from the outstanding debt;
b) Formation of dedicated teams to undertake re-validation of migrated Legacy System ledger balances (debit balances Kshs.765,311,932,975 and credit balances of Kshs.315,115,857,096) with taxpayers;
c) Enhanced i-Tax ledger reconciliations and corrections to remove invalid debts. On this, KRA has formed dedicated teams to validate debt of the top 2000 debtors and public sector institutions, which constitute 54% of the KRA Customs/tax debt portfolio;
d) Reversal of erroneous debts (penalties and interest) in KRA systems as per the approved policy;
e) Strengthening of the tax appeal processes including objections, ADR and TAT to enhance timely resolution of the many cases tying up huge debts (Kshs. 389,817,953,642 as at June 2024). In addition, KRA is proactively updating taxpayers' ledgers with decisions made in the various tax appeal levels (Kshs 588,152,964,489 as at June 2024); and
f) Undertaking system integration for key government institutions (e.g. IFMIS/IPPD/CBK/i-Tax Systems) to eliminate build-up of invalid PAYE debts for public institutions that pay taxes directly to CBK.

Further, the statements of arrears of revenue Submitted for Audit as at 30th June 2022, reflects none tax revenue arrears amounting to Kshs 95,486,058,571 comprising of Loan redemption of Kshs 53,610,477,130 and loan interest of Kshs 41,875,581,442. An amount of Kshs 54,100,388,350 has been outstanding for more than two years.

From this, four (4) entities with loan arrears amounting to Kshs 354,902,440 and arrears of Interest amounting to Kshs 467,531,335 relates to Government owned Sugar Companies which following the approval from Cabinet and National Assembly, have been written off.

Other main component of arrears relates to water sector. These loans are concessional loans procured by the National Government and on-lent to Water Works Development Agencies (formally Water Services Boards). Since water is a devolved function, Water Service Providers are currently responsible for the management and operations of the water and sewerage infrastructure. Water Service Providers are under the County Governments. The Water Service Providers are currently not honoring their on-lent loan obligations and yet in the water tariff approved by the Water Services Regulatory Board (WASREB) there is a component earmarked for loan repayment.

To address this, an Inter-Ministerial Taskforce comprising, Ministry of Water, National Treasury and Devolution, was formed to analyze and propose sustainable modalities on restructuring debts for development of water infrastructure among other terms of references. An interim report has been submitted which is being considered and once finalized a policy direction will be issued to address water sector loans.

The Taskforce dealing with Dormant Loans which are also the source of arrears has recommended a write off of the dormant loans. The National Treasury is in the process of seeking approvals from the Cabinet and Parliament for restructuring the dormant loans. Once the approvals are received, the records will be updated accordingly.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer in liaison with the Kenya Revenue Authority integrates the IPPD, IFMIS and i-Tax systems for efficient tax administration, within one (1) year of adoption of this report.**

**DEVELOPMENT REVENUE STATEMENTS**

REPORT ON THE REVENUE STATEMENTS

**25. Budgetary Control and Performance**

The statement of comparative budget and actual amounts reflects final revenue budget and actual on comparable basis of Kshs.96,570,519,961 and Kshs 61,046,004,175 respectively resulting to under performance of Kshs.35,524,515,786 or 37% of the budget. Management attributed the underperformance to underutilization of budgets by the respective Projects in the Ministries, Department and Agencies.

The underperformance resulted to underfunding of planned development activities which may have adversely impacted on service delivery to the public.

**Submission by the Accounting Officer**

Projects are funded by Development Partners under respective Ministries, Departments and Agencies (MDA's) who request for funds (Exchequer Requisitions) based on approved work plans.

The difference of Kshs 35,524,515,786 is comprised of funds due to County Government under Conditional Grants of Kshs.19,830,759,346 and Kshs.15,419,287,931 under MDAs. The funding under Conditional Grants was approved on 29th April 2022 thereby leaving only 2 months for activities to be undertaken as per Special Issue Gazette No.17 and Acts no.17.

Further, the un-utilised balance of Kshs.15,419,287,931 relates to thirty-six (36) MDAs implementing projects with development partner funding, which was affected also by the approval of Supplementary 2 budget in June 2022

Strict budgetary control provisions shall be observed and measures put in place to improve the budget absorption.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

## GOVERNMENT INVESTMENTS AND PUBLIC ENTERPRISES - REVENUE STATEMENTS

REPORT ON THE REVENUE STATEMENTS

### 28. Unreconciled Outstanding Loans Balances

The summary schedule of outstanding loans reflects total outstanding loans of Kshs.920,690,539,503. However, eighteen (18) entities with a total loan balance amounting to Kshs.268,875,962,951 reflected in the summary schedule differed with the loan balance of Kshs.268,241,119,147 independently confirmed from the entities resulting to an unexplained variances as summarized below;

| No. | Company/Institution | Balance as per the Revenue Statements (Kshs.) | Balance Confirmed After Circularization (Kshs.) | Variance (Kshs.) |
|---|---|---|---|---|
| 1. | Athi Water Services Board | 47,181,677,443 | 44,780,310,172 | 2,401,367,271 |
| 2. | Coast Water Service Board | 15,839,546,804 | 12,865,923,145 | 2,973,623,659 |
| 3. | Equity Bank Limited | 136,672,275 | 14,913,236 | 121,759,039 |
| 4. | Kenya Airports Authority | 1,708,012,739 | 1,709,808,167 | (1,795,428) |
| 5. | Kenya Electricity Generating Company Limited | 81,533,589,265 | 88,136,215,941 | (6,602,626,676) |
| 6. | Kenya Electricity Transmission Company Limited | 2,306,257,099 | 2,563,713,710 | (257,456,611) |
| 7. | Kenya Meat Commission | 940,241,100 | 300,000,000 | 640,241,100 |
| 8. | Kenya Power and Lighting Company Limited | 56,147,469,037 | 56,340,742,324 | (193,273,287) |
| 9. | Kilifi Mariakani Water and Sewerage Company Limited | 283,998,236 | 379,210,338 | (95,212,102) |
| 10. | Lake Victoria North Water Services Board | 11,594,143,705 | 12,618,417,315 | (1,024,273,610) |
| 11. | Lake Victoria South Water Services Board | 12,991,985,210 | 9,471,336,598 | 3,520,648,612 |
| 12. | Malindi Water, Sewerage and Sanitation Company Limited | 284,748,410 | 354,033,526 | (69,285,116) |
| 13. | Northern Water Services Board | 5,389,000,000 | 3,267,383,722 | 2,121,616,278 |
| 14. | Nzoia Sugar Company Limited | 458,510,100 | 11,454,385,173 | (10,995,875,073) |
| 15. | Rural Electrification Authority | 13,426,088,636 | 13,385,625,937 | 40,462,699 |
| 16. | Tana Water Services Board | 7,543,116,143 | 4,545,195,118 | 2,997,921,025 |
| 17. | Tanathi Water Services Board | 9,713,565,506 | 5,691,292,426 | 4,022,273,080 |

| | | | | |
|---|---|---|---|---|
| 18. | Water Resource Management Authority | 1,397,341,243 | 362,612,300 | 1,034,728,943 |
| **Total** | | **268,875,962,951** | **268,241,119,147** | |

**Submission by the Accounting Officer**

To confirm the accuracy of the outstanding loan balances, the National Treasury circularized and requested Entities with outstanding Loan balances to confirm directly to the Auditor General, the Principal Loan amounts owed to the National Government as at 30th June, 2022. Some of those loan balances confirmed did not agree with the balances in the National Treasury records.

The reconciliation of the variances between the National Treasury and the Eighteen (18) Entities reported by Audit on various loans amounting to Kshs 268,87,962,951 has been done and variances explained.

Further, the National Treasury rolled out Government Investment Management Information System (GIMIS) which has a module for Loan Portfolio Management. The module is currently operational and entities with Government loans have uploaded and updated various loan information that are required from them.

***Unconfirmed Loan Balances***

Circularization of debtors is an annual exercise, where the National Treasury request the entities with loan balances to confirm directly to the Office of the Auditor General. Follow up is made for entities who did not confirm on time through reminder letters. Of the Twelve (12) entities that had not confirmed their loan balances, six (6) Entities have confirmed while the other six are defunct/not operating hence could not be reached for confirmation purposes.

The Management has written reminder letters for confirmation of loan balances and a sample of reminder Letters was availed for audit review.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**29. Dormant Loans**

As previously reported, the summary schedule of outstanding loans reflects total loans outstanding of Kshs.920,690,539,503. Included in the balance are twelve (12) loans amounting to Kshs.13,151,255,401 which had no movement during the year and have remained unpaid over a significant period. Further, the Management did not provide the aging analysis of the dormant loans tabulated below;

| No. | Institution | Amount Outstanding as at 30 June, 2022 (Kshs.) |
|---|---|---|
| (i) | Agro-chemical and Food Company Limited | 2,941,884,000 |

| | | |
|---|---|---|
| (ii) | East African Sugar Industries Limited, Muhoroni | 177,123,100 |
| (iii) | Halal Meat Products | 27,701,420 |
| (iv) | Kenya Meat Commission | 940,241,100 |
| (v) | Kenya Urban Transport Various Towns | 40,706,140 |
| (vi) | Miwani Outgrowers Mills Limited | 6,600,000 |
| (vii) | Miwani Sugar Company (1989) Limited | 16,000,020 |
| (viii) | Miwani Sugar Mills Limited | 78,088,180 |
| (ix) | Mumias Sugar Company Limited | 3,000,000,000 |
| (x) | National Irrigation Board | 2,262,036,544 |
| (xi) | National Water Conservation and Pipeline Corporation | 2,460,874,897 |
| (xii) | Uchumi Supermarkets Limited | 1,200,000,000 |
| | **Total** | **13,151,255,401** |

Management has not disclosed measures put in place to ensure all loans are being repaid and in case of default, sanctions imposed on the defaulters.

**Submission by the Accounting Officer**

It's true that there are entities that were advanced loans several years ago, but currently they are not servicing their loans leading to arrears of revenue and loans being categorized as dormant.

As reported by the Auditor, there are Twelve (12) entities with outstanding loans amounting to Kshs 13,151,255,401/- who have not been honoring their loan obligations over years.

From this, four (4) entities with loan balance of Kshs 204,930,435 relates to some of the Government owned Sugar Companies which following the approval from Cabinet and National Assembly, have been written off.

The main reasons for non-repayment by entities is mainly attributed to:

Historical Loans. The National Government has over time advanced loans to several public and other entities to finance various projects within the Country. The mechanism applied for the Government lending was in the past through budgetary provision under the respective Ministries without putting in place contracts or agreements with specified terms of loan repayment thus making follow up of the loan repayments, a challenge.

In 1994/95 FY, the National Treasury took over the loans held by the Ministries. Most of the loans taken over from the Ministries lacked proper records and supporting documentations which posed a big challenge on the loan repayment follow up, thereby leading to non-repayment of the loans. The loans have remained outstanding in the Government books for a long time, some dating in the 1970s.

The Taskforce dealing with Dormant Loans recommended a write off of the dormant loans, especially for the defunct entities. The National Treasury is in the process of seeking approvals from both the Cabinet and Parliament for the write off of dormant loans that were recommended by the task force. Once the approvals are received, they will be effected in the 2024/25 FY statements.

The Ageing analysis has been tabulated and most of the loan have been outstanding for more than there (3) years.

The Management have written letters for confirmation of loan balances and a sample was availed for audit review.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer hastens the process of write-offs by submitting the proposal to Parliament within six (6) months of adoption of this report.**

## EAST AFRICA TOURIST VISA FEE COLLECTION ACCOUNT

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### 34. Lack of Annual Audit Services

The statement of receipts and payments reflects total receipts of Kshs.205,071,201 collected during the year under review. However, there was no evidence of establishment of a Joint Verification Committee to subject the collection account to annual audit. This was contrary to Article 9(4) of the Memorandum of Understanding between the Government of the Republic of Kenya, the Government of the Republic of Rwanda and the Government of the Republic of Uganda which stipulates that a Joint Verification Committee from the parties shall be put in place to carry out annual audit, although the process of sharing the East Africa Tourist Visa revenues shall be done through mutual trust and respect.

In the circumstances, the effectiveness of the collection account internal controls system and risk management processes were not tested during the year.

**Submission by the Accounting Officer**

The receipt of Kshs. 205,071,201 comprised of:

| | |
|---|---|
| • Receipts from sale of EATV stickers | Kshs. 164,518,600.00 |
| • Receipts of EATV Revenue from Rwanda & Uganda | Kshs. 37,681,882.00 |
| • Foreign Exchange gain/loss | Kshs. 2,870,719.00 |
| Total Receipts for the year | Kshs. 205,071,201.00 |

Article 9 of Memorandum of Understanding (MOU) section 9.4 stipulates that the sharing of collections shall be done on mutual trust and respect. However, an annual joint verification exercise shall be carried out by a select committee from key implementing institutions after consultations through diplomatic channels of the partner states.

Diplomatic consultations between the Ministry of Foreign Affairs and Ministry in charge of Northern Corridor Integration project and partner states were ongoing at the time of audit.

However, in August,2023 the National verification committee carried out a national audit covering financial years 2019/2020 to 2022/2023.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**STATEMENT OF OUTSTANDING OBLIGATIONS GUARANTEED BY GOVERNMENT OF KENYA**

REPORT ON THE FINANCIAL STATEMENTS

**35. Unsupported Balance**

As reported in the previous years, the statement of outstanding obligations guaranteed by the Government of Kenya continue to reflect an outstanding balance of Kshs.152,317,825; (2021-Kshs.152,317,825) being capital and interest owed by the Cereals and Sugar Finance Corporation. However, the balance has not been supported by any verifiable records or documents and this constitutes a limitation of scope.

Although Management has indicated that the Corporation is dormant and has embarked on the process of winding up of the Corporation, it is not clear how the guaranteed debt will be cleared without supporting documentation on the same.

**Submission by the Accounting Officer**

The account balances of Ksh 152,317,825 is historical relating to a defunct Cereals and Sugar Finance Corporation. Documents to support this amount are not available. This prompted the National Treasury to form a taskforce to address all issues arising from the defunct corporation. The winding up process is ongoing.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer expedites and concludes the winding up process, and submits a confirmation of the same within six (6) months of adoption of this report.**

**36. Undisclosed Balances**

The Consolidated National Government Investment Report for the year 2021/2022, prepared by The National Treasury in accordance with Section 89 of the Public Finance Management Act, 2012 and the Summary Statement of Public Debt for the year 2021/2022 reflects guaranteed debts/undischarged guarantee from four (4) entities totaling Kshs.145,357,000,000 which have been omitted from the statement of obligations guaranteed by Government of Kenya as indicated below;

| Entity | Lender | Guaranteed Debt (Kshs.) |
| --- | --- | --- |
| Kenya Electricity Generating Company PLC | Government of Japan and Federal Republic of Germany-GTZ | 24,513,000,000 |
| Kenya Ports Authority | Government of Japan | 33,077,000,000 |
| Kenya Airways | Exim Bank USA | 77,824,000,000 |
| Kenya Power and Lighting Company | Government of Japan | 9,943,000,000 |
| **Total** | | **145,357,000,000** |

In the circumstances, the completeness, accuracy and the status of the outstanding obligations guaranteed by the Government of Kenya as at 30 June, 2022 could not be ascertained.

**Submission by the Accounting Officer**

The guaranteed debt for the four (4) entities namely Kenya Electricity Generating Company PLC, Ports Authority, Kenya Airways and Kenya Power and Lighting Company were disclosed in the statement of debt stock. The statement of debt stock is an annex of the public debt financial statement.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

## CONSOLIDATED FUND SERVICES- SUBSCRIPTIONS TO INTERNATIONAL ORGANIZATIONS

REPORT ON THE FINANCIAL STATEMENTS

### 40. Multiple Laws Guiding Operations of the Fund

As previously reported, prior to 2017, the Government through The National Treasury had been paying subscriptions to international organizations through Vote R53 – Consolidated Fund Services - Subscriptions to International Organizations under various pieces of legislation namely: International Finance Corporation Act, Cap 466, International Development Association Act, Cap 465, Bretton Woods Agreements Act, Cap 464, the African Development Bank Act, Cap 492 and the Multilateral Investment Guarantee Agency Convention,1988 (Revised 2010). Other Ministries, Departments and Agencies, MDAs have been remitting such subscriptions through their voted provisions within their budgets.

However, the Public Finance Management (African Union and Other International Organizations Subscription Fund) Regulations, 2017 established the African Union and Other International Organizations Subscription Fund through which Kenya's contributions to African Union and Other International Organizations across all Government agencies were to be paid. This in effect rendered all other individual voted provisions to be consolidated and budgeted under one umbrella body, the African Union and Other International Organizations Subscription Fund.

Management has not caused the revocation or repealing of the earlier laws to be in tandem with the current legislation and avert the risk of making multiple payments to the international organizations.

**Submission by the Accounting Officer**

The Management has started a process of repealing the earlier laws by seeking legal opinion of the Attorney General on the necessary amendments. This will be done once the process is completed.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that within six (6) months upon adoption of this report, the Accounting Officer should conclude the integration process and submit a report to the National Assembly. .**

**41. Budgetary Control and Performance**

Review of the statement of comparison of budget and actual amounts revealed that the Fund had a budget of Kshs. 500,000 but did not incur any expenditure during the period under review resulting in under absorption of funds by the same amount or 100% under- utilization. The under-utilization of funds was attributed to the fact that the Fund did not receive any invoices during the period under review.

**Submission by the Accounting Officer**

There was no payment made through this vote during the year under review because there was no invoice presented for payment. However, this led to the under absorption. The National Treasury has since stopped providing budgetary allocation under this item.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**CONSOLIDATED FUND SERVICES - SALARIES, ALLOWANCES AND MISCELLANEOUS SERVICES**

REPORT ON THE FINANCIAL STATEMENTS

**45. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects budgeted receipts and actual receipts on comparable basis of Kshs.4,542,867,150 and Kshs.3,195,244,429, respectively resulting in a receipts shortfall of Kshs.1,347,622,721 or 30% of the budget. Similarly, the statement reflects expenditure budget and actual payments on comparable basis of Kshs.4,542,867,150 and Kshs.3,200,966,015, respectively resulting in under absorption of Kshs.1,341,901,135 or 30%.

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

**Submission by the Accounting Officer**

The allocation under this budget is used to process for the salaries of constitutional office holders, service gratuities for those retiring from the service, transfer allowances for the Judges and other allowances like commutation of leave for cash.

The salaries are usually covered on monthly payrolls while other relevant allowances are paid upon requests from the constitutional office holders during the budget implementation.

The budget underutilization was caused by;

i. Delay in the appointment of Judges.; and
ii. The non-occurrence of the anticipated activities like commutation of leave for cash and salary review for judicial officers.

**Committee Observations and Findings;**

**i) The Committee noted the submission by the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

**CONSOLIDATED FUND SERVICES – PENSION AND GRATUITIES**

REPORT ON THE FINANCIAL STATEMENTS

**48. Long Outstanding Bank Reconciliation Items**

The statement of financial assets and liabilities reflects a bank balance of Kshs.1,991,824,419 which, as disclosed in Note 9 to the financial statements, includes an amount of Kshs.1,324,694,712 in respect of funds held in the recurrent bank account at the Central Bank of Kenya. However, an examination of the bank reconciliation statement for the month of June, 2022 revealed payments in cash book not in bank amounting to Kshs.145,813,004 with some transactions dating back September, 2019.

Further, the reconciliation statement reflects payments in bank not in cash book of Kshs.17,545,255 with some transactions having remained outstanding since 2008. In addition, the bank reconciliation statement reflects receipts in bank not in cash book amounting to Kshs.30,858,908 while receipts in cash book not in bank amounted to Kshs.15,499,065 with some transactions having remained outstanding since 2010. No explanation was provided for failure to clear the long outstanding reconciling items.

In the circumstances, the accuracy of the recurrent bank balance of Kshs.1,324,694,712 could not be confirmed.

**Submission by the Accounting Officer**

At the time of the audit,

i. Payments in the cashbook but not reflected in the bank statement amounted to Kshs.145,813,004. Most of th items were for June 2022 and a few for earlier years that were being analyzed then. They were paid by the bank in July 2022. All outstanding items have since been cleared from the bank reconciliation statement;

ii. Receipts in bank statements but not in cash book totaled Kshs.30,858,908. These were credits in the bank account whose credit notes had not been received at the end of the financial year. Credit notes were later received and official receipts issued, FO 17 prepared and the same posted in the cash book. All outstanding items have since been cleared;

iii. Receipts in cash book but not in bank statement amounted to Kshs. 15,499,065. These are receipts that had been erroneously posted in cash book. The same have since been reversed in the cash book and cleared from the bank reconciliation; and

iv. Payment in bank statement and not in cash book totaled Kshs. 17,545,255. of this amount;
   - Kshs. 1,905,147.60 relates to dishonored cheques out of which cheques amounting to Kshs. 818,121.00 were replaced. The balance amounting to kshs. 1,087,026.60 is yet to be honored but have since been posted in the cash book and cleared from the bank reconciliation. The Ministry has written to the Sacco requesting them to replace the cheques.
   - Kshs. 748,902.80 relates to dishonored cheques of 2008 still outstanding in books. The RD cheques are not traceable and department has assigned a team to locate them; and
   - Kshs. 14,891,204.65 relates to fraudulent payments that were paid through our CFS Pensions and Gratuity bank account in 2008. Banking fraud investigation unit was engaged to conduct investigation into the circumstances surrounding the fraudulent payments. Following the investigation, some individuals were arraigned in court. However, after court proceedings, the accused were acquitted.

After the acquittal of the accused, the amount involved of Kshs. 14,891,204.65, has been categorized as a loss. A loss report was prepared and we are in the process of writing it off.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer ensures full reconciliation within three (3) months of adoption of this report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**50. Incomplete Pension Records**

Note 7 to the financial statements discloses an amount of Kshs.67,582,563,409 paid as ordinary pensions during the year under review. However, in making the payments, Management did not confirm that the payees were alive as there was no mechanism put in place to remove pensioners from the payroll upon their demise.

Further, an amount of Kshs.350,736,433 included in the pension payments relates to pensioners with dummy and unconventional identification numbers. In addition, an amount of Kshs.242,936,971 relates to pension payments to pensioners who are below the age of 18 years.

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

**Submission by the Accounting Officer**

The Management wish to address the highlighted concerns regarding the pensioner's data and the mechanisms employed for pension processing. It is imperative to clarify that several comprehensive strategies have been implemented to ensure the accuracy and credibility of pensioner records and payments:

i. Confirmation of Pensioner lifeness: The Pensions Department has adopted multifaceted strategies to verify the status of pensioners. This includes cross-referencing the pension's database with the 2019 population census, conducting nationwide headcounts of pensioners, and initiating plans for biometric registration to establish a robust authentication framework.
   Additionally, the collaboration with pension disbursing banks and FOSAS ensures the immediate cessation of payments upon the demise of a pensioner;
ii. Data Integrity Enhancement: Acknowledging the challenge posed by legacy systems, the department introduced the Pension Management Information System (PMIS) in 2009. However, data migration led to the inclusion, into the PMIS, of dummy records due to disparities in data fields between systems. While partial data cleansing was conducted during migration, it is important to note that active efforts are now underway to rectify this situation. The ongoing process of addressing the incomplete records has already resolved 1,634 files with dummy and unconventional identification numbers; and
iii. Age Verification: The inclusion of pensioners apparently, below the legal retirement age was inadvertently due to data migration complexities, where the migration date was erroneously captured as the date of birth. This anomaly has since been recognized, and we are committed to resolving this issue through the ongoing data cleansing.

For the Ksh.350,736,433.00 paid to pensioners with dummy and unconventional identification numbers we wish to state as follows:

a) The dummy numbers were in the fields of ID numbers, first appointment date and date of birth. The process of updating these details into the PMIS is done manually and cumbersome. This would have taken a lot of time leading to delayed monthly pension payment. The management then decided to use dummy numbers in those fields for purpose of processing the pension;
b) The pension was paid using pension numbers allocated in the pensioners files and not the dummy numbers; and
c) Currently the Pensions Department is doing pension payroll cleansing which involves updating the fields with dummy, unconventional identification numbers and removing deceased pensioners from the system.

The amount of Kshs.242,936,971/- that relates to pension payments of pensioners perceived to be below the age of 18 years are pensioners whose files migration date in PMIS of 2009 was erroneously captured in the field as date of birth.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

## REVENUE STATEMENTS OF THE PENSIONS DEPARTMENT

REPORT ON THE REVENUE STATEMENTS

### 52. Budgetary Control and Performance

The statement of receipts and disbursements reflects an amount of Kshs.588,577,979 in respect of total contributions which, as disclosed in Note 12 to the financial statements, exceeded the budget of Kshs.369,993,817 by Kshs.218,584,162 or 159% of the budget. Budgets should be realistic in order to ensure commensurate efforts and resources are geared towards achievement of the set targets.

The over-realisation of contribution from Government employees to social and welfare schemes within Government is an indication of poor budgeting processes.

**Submission by the Accounting Officer**

The Management acknowledge the observations regarding the over-collection compared to the budgeted amount, and would wish to state that over- collection was due to;

i. Revised TSC Claims: The significant over-collection was a direct consequence of several revised Teachers Service Commission (TSC) claims that were processed and disbursed during the financial year. It's worth noting that the Widows & Children Pension Scheme (WCPS) contribution was recovered from the pensioners since they had not contributed within the revised period for them to qualify WCPS pension.

ii. Delayed Funding Impact: Revenue collection totaling Kshs.78,308,891.70,comprising Abatement Kshs.14,194,896.10, Government Liability Deduction through the Chief Accountant Pension Kshs.10,136,117.50, and WCPS deductions Kshs.53,977,878.05, was intended for the previous Financial Year 2020/2021. Due to a delay in exchequer funding, these funds were received in the financial year 2021/2022.

These outlined factors collectively contributed to the over-collection noted, which was not foreseen in the initial budget projection.

**Committee Observations and Findings;**

i) **The Committee noted that the submission by the Accounting Officer was satisfactory.**

ii) **The Committee found that the matter was resolved.**

## DONOR FUNDED PROJECTS

## FINANCIAL SECTOR SUPPORT PROJECT (IDA CREDIT NO.5627-KE)

REPORT ON THE FINANCIAL STATEMENTS

### 56. Uncertainty in Sustainability of Services

The statement of comparison of budget and actual amounts reflects an expenditure on compensation of employees amounting to Kshs.23,001,570 against a budget provision of Kshs.27,537,084 resulting to underexpenditure of Kshs.4,535,515 or 16% of the approved budget. Although Management has explained the underexpenditure was due to delayed project restructuring, available information indicates that the Project Implementation Unit contracted employees' terms lapsed in April, 2022 and they continued to offer services to the Project without compensation. Further, the Project disbursing period lapses in October, 2022 and lack of valid contracts of the Project Implementation Unit staff, exposes the project operations to the risk of external interference and casts doubt on the finalization of the project activities and subsequent closure.

**Submission by the Accounting Officer**

Contracts of staff of Project Implementation Unit (PIU) were ratified by the National Treasury for the period beginning 1st May 2022 to 28th February 2023. Compensation for the staff for the period was subsequently made by the project during the financial year 2022/2023. The project has since been closed and the Financial Statements prepared as at 30th June, 2023.

Extension of staff contracts will in future be considered prior to the lapse of the contract to enable continuity of services and project activities.

**Committee Observations and Findings;**

i) **The Committee noted that the project had since been closed.**

ii) **The Committee found that the matter was resolved.**

**57. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,816,346,218 and Kshs.267,192,000 respectively resulting to an underfunding of Kshs.1,549,154,218 or 85% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.1,816,346,220 and Kshs.271,002,735 respectively resulting to an under expenditure of Kshs.1,545,343,486 or 85% of the budget.

Based on the approved estimates, the underfunding and under expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

The invoice for goods delivered was received late and there was no time to pay the same hence the expenditure that was below the budget. Strict budgetary control provisions shall be observed and measures put in place to improve budget absorption.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**58. Pending Bills**

Note 9 and Annex 2 to the financial statements indicates that the Project had pending bill of Kshs.3,930,401 as at 30 June, 2022. Management has not explained why the bill was not settled during the year when it occurred. 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 to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

**Submission by the Accounting Officer**

The pending bill of Kshs. 3,930,401 was due to the late submission of vendor's invoice for goods delivered towards the end of the financial year and there was inadequate time to process the payments.

The IFMIS procurement module mandate had been closed by the time the invoice was presented for payment and could therefore not be received in the IFMIS system. However, the pending bill was settled as the first charge in F/Y 2022/2023 as per bank statement extracts.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**GLOBAL FUND - TO ACCELERATE THE REDUCTION OF TB, LEPROSY AND LUNG DISEASE BURDEN THROUGH PROVISION OF PEOPLE- CENTERED, UNIVERSALLY ACCESSIBLE, ACCEPTABLE AND AFFORDABLE QUALITY SERVICES IN KENYA PROGRA - KEN-T-TNT, GA 1548**

REPORT ON THE FINANCIAL STATEMENTS

**62. Failure to Analyze Counterpart Funding**

As previously reported, the statement of receipts and payments reflects Nil balance under transfers from Government (counterpart funding) and a comparative balance of Kshs.387,459,444 for the financial year ended 30 June, 2021 bringing the cumulative to-date balance from inception to Kshs.637,459,444. Management has however, not provided an analysis to indicate how the balance was built up since the inception of the Program. Further, the amount had previously been omitted from the audited financial statements for previous years and the balances were not marked as restated on the face of the financial statements.

In the circumstances, the accuracy and completeness of the reported cumulative transfers from Government of Kshs.637,459,444 could not be confirmed.

**Submission by the Accounting Officer**

It is true that the statement of receipts and payments reflected a Nil balance under Transfers from Government (counterpart funding) and a comparative balance of Kshs. 387,459,444/- for the financial year ended 30 June, 2021 bringing the cumulative to date balance from inception to Kshs. 637,459,444/-

During the financial year 2020/2021 and prior years, the counter funding was not being included in the project's financial statements. This was an oversight. The same was being incorporated in the main National Treasury's financial statements.

Further, we wish to state that at the time of audit, the Management did not provide an analysis to indicate how the balance of Kshs. 637,459, 444/- was built up since the inception of the Program.

The amount was being analyzed and the analysis had not been concluded. However, the same was completed and forwarded for audit review.

The expenditure since inception of the program is composed of;

| | | |
|---|---|---|
| a) | F/Y 2019/2020 | Kshs. 250,000,000.00 |
| b) | F/Y 2020/2021 | Kshs. 387,459,444.00 |
| | Totals | Kshs. 637,459,444.00 |

**Committee Observations and Findings;**

i) **The Committee noted that the submission by the Accounting Officer was satisfactory.**

ii) **The Committee found that the matter was resolved.**

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

REPORT ON THE FINANCIAL STATEMENTS

**67. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.495,638,120 and Kshs.126,024,642 respectively resulting to an underfunding of Kshs.369,613,478 or 75% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.495,638,120 and Kshs.65,165,272 respectively resulting to an underexpenditure of Kshs.430,472,848 or 87% of the budget.

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

**Submission by the Accounting Officer**

It is true that the statement of comparison of budget and actual amounts reflect final receipts budget and actual on comparable basis of Kshs.495,638,120 and Kshs.126,024,642 respectively that resulted to an underfunding of Kshs.369,613,478 or 75% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.495,638,120 and Kshs.65,165,272 respectively resulting to an under expenditure of Kshs.430,472,848 or 87% of the budget.

The under-expenditure was majorly caused by;

i. The delays in procurement processes which took longer than expected due to their unique nature and lengthy consultative requirements amongst the key stakeholders including Contracting Authorities, World Bank and The Government;
ii. Some operations required some specialized kind of expertise that are rare to find thus leading to delays in execution of the project; and
iii. A substantial amount in the budget was to be expended in engagement of PPP Transaction Advisors (TAs).

In order to avoid such under expenditures in future;

i. The Directorate has embarked on the re-evaluation of the PPP pipeline to ensure there is bankable and viable projects, before engaging the transaction advisors;
ii. The re-screening process has now been conducted and concluded which has led improvement in the engagement of transaction advisors;
iii. Restructuring process with the aim of improving in its capacity to deliver on its mandate; and
iv. Staff capacity to be addressed by engaging a number of key staff and is still working on further improvement of the same to strengthen its capacity.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer ensures that the unit is fully capacitated within three (3) months of adoption of this report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**68. Advance to Infrastructure Finance and Public Private Partnerships Project- Additional Financing Cr.6121-KE**

The statement of receipts and payments reflects advance to Infrastructure Finance and Public Private Partnerships Project-Additional Financing Cr.6121-KE of Kshs.20,682,665. Although Management has explained in Note 9 to the financial statements that the amount relates to salary payments for November, 2021, May, 2022 and June, 2022 and was reimbursed from Cr.6121-KE in July, 2022, it was not in the annual program of activities furnished to the Association and proposed for implementation as required under Section E I of schedule 2 of the Project financing agreement between the Republic of Kenya and the International Development Association dated 5 December, 2012.

Management was in breach of the financing agreement.

**Submission by the Accounting Officer**

It is true that the inter project funds transfers were done by the Directorate during the mentioned months.

The Directorate has a number of contracted staff with clear employment terms and conditions to be met by both parties. One of the conditions include timely payment of their monthly salaries to enable them meet their obligations.

In order to mitigate on the likelihood of breach of the employees' contracts by the management, it was only reasonable, considering the circumstances then, to pay the salaries from the other sister Project Account as it awaited refunds from IFPPP project additional financing Cr.6121-KE.

The delay in reimbursement of funds was occasioned by the closure of the financial year ending 30th June, 2022 before refund was made. The reimbursement was eventually effected and reflected in the bank statement for July 2022.

Utilization of project funds has been strictly in accordance with the Financing Agreement despite the above conditional slight deviation.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**69. Lack of Internal Audit Services**

During the year under review, there was no evidence of the Project having been reviewed by The National Treasury's internal audit function contrary to Section 73(1) of the Public Finance Management Act, 2012 requires all government entities to make appropriate arrangements for internal audit function. Further, paragraph 3.2.8 of Infrastructure Finance and Public Private Partnerships Project Implementation Manual provides for Internal Audit and the Audit Committee of The National Treasury to provide internal audit services and oversee the adequacy of internal control mechanisms over the Project.

In the circumstances, it has not been possible to confirm whether the Project has an effective and efficient internal control mechanism to safeguard against loss of public resources.

**Submission by the Accounting Officer**

It is true that internal auditors did not audit the project during the period under review. This was due to other official assignments they had. However, an internal auditor has been posted to the project.

**Committee Observations and Findings;**

**The Committee noted the admission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer.**

**PUBLIC FINANCIAL MANAGEMENT REFORMS PROGRAM (CREDIT NOS. DANIDA FY06, SIDA 51110081, IDA GESDEK-6133-KE, AFD/CKE 1130 & PASEDE CRISNO:041-658)**

REPORT ON THE FINANCIAL STATEMENTS

**72. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects a receipts budget and actual receipts on comparable basis of Kshs.757,639,703 and Kshs.339,166,280 respectively, resulting in a receipts shortfall of Kshs.418,473,423 or 56% of the budget. Similarly, the statement reflects expenditure budget and actual payments on a comparable basis of Kshs.757,639,703 and Kshs.556,803,181 respectively, resulting in under-absorption of Kshs.200,836,522 or 27% of the approved budget.

The underfunding and underperformance affected the planned activities and impacted adversely on service delivery to the public.

**Submission by the Accounting Officer**

The Project did not receive full Exchequer as per the approved budget and hence the under-absorption of budget. The Project keenly followed up with the exchequer department for timely & full exchequer releases but did not receive all exchequer issues due to cash flow constraints.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**74. Lack of a Risk Management Policy and Internal Audits**

During the year under review, it was revealed that the Program's audit services were to be offered by the internal audit of The National Treasury. However, no reports by the Internal Auditor-General on the Program were provided for audit review. As a result, the Program lacks appropriate arrangements for conducting internal audit services as provided in the guidelines by the Accounting Standards Board. Further, review of the internal control processes revealed that Management had not developed risk management strategies to fraud prevention mechanism and a system of risk management and internal control that builds robust business operations.

In the circumstances, the existence of an effective internal control mechanism could not be ascertained.

**Submission by the Accounting Officer**

There was no risk management policy at the time of audit, however, the Management has since developed a risk management policy which was validated by the stakeholders and ready for finalization to ensure the Secretariat's risk management, control and Governance processes are adequate and functional.

Management engaged an Internal Auditor and a report was done and submitted for audit review.

**Committee Observations and Findings;**

**The Committee noted the admission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer.**

**75. Failure to Fill Vacant Positions**

Review of the staff establishment revealed that the Program had in place twenty-eight (28) members of staff against the authorized establishment of forty-eight (48), resulting in a deficit of twenty (20). 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.

**Submission by the Accounting Officer**

This was occasioned by expiry of Contracts for most of the staff who had been on secondment. However, management wishes to confirm that since then a communication specialist position has been filled with support from European Union. Also, management forwarded a request for review and approval of a new organizational structure to Public service commission. Therefore, owing to the proposed organizational structure, management decided to put on hold the recruitment process based on the existing structure. Upon approval of new structure, management will ensure the Secretariat operates in full capacity.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that within three (3) months of adoption of this report, the Accounting Officer should ensure that the organizational structure and placements are implemented and submit a report to the Committee.**

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

REPORT ON THE FINANCIAL STATEMENTS

**78. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.18,700,000 and Kshs.15,827,126 respectively, resulting to an underfunding of Kshs.2,872,874 or 18% of the budget. Similarly, the Project expended Kshs.15,827,126 against an approved budget of Kshs.18,700,000 resulting to an underexpenditure of Kshs.2,872,874 or 18% of the budget. Management had attributed the underperformance on delay in procurement of process for computers and office furniture.

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

**Submission by the Accounting Officer**

The underfunding/underperformance of the Project is as a result of planned activities to procure equipment during the year which was not concluded. As a result, the Project's budget for equipment was not utilized resulting to under expenditure of Kshs.2,872,874 or 18%.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**79. Irregular Termination of Technical Assistant's Contract**

As previously reported, contrary to the provisions of Section 153(1) of the Public Procurement and Asset Disposal Act, 2015, the contract for a Technical Assistant (consultant) was terminated without the approval of the Accounting Officer. Further, no prior written notice was served to the consultant contrary to Clause 13 of the signed contract. The project may incur undetermined cost in form of damages and interests thereof in case of any litigation on the above.

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

**Submission by the Accounting Officer**

The Technical Assistant (Consultant) contract was single sourced based on his previous assignment and experience under Aids Effectiveness Program that was under AFD. This contract was subsequently cancelled in January 2020 as recommended in the Audit Report of F/Y 2018/2019 and the post re-advertised according to the Development Partners procurement guidelines. The termination and the re-advertisement of the post was with the concurrence of the Accounting Officer. Interviews were held between 29th April and 4th May, 2020 as per the attached copy of the National Treasury letter MOF/ERD/20/148/78/01 'B' of 29th May, 2020 and other supporting documents.

**Committee Observations and Findings;**

i) **The Committee noted that the matter was resolved in the previous audit report.**

ii) **The Committee found that the matter was resolved.**

**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

**82. Dormant Project Bank Account**

As reported in the previous year, the Project continues to maintain a local currency account in a local commercial bank which had a balances of Kshs.22,823,152 as at 30 June, 2022. The account did not have any transaction during the year under review. Although Management had stated that it was awaiting the finalization of project verification exercise by the European Union (EU) and subsequent issue of recovery order to transfer unspent funds to the EU, the continued maintenance of the dormant account exposes the Programme to risk of loss of funds.

**Submission by the Accounting Officer**

At the time of Audit, the account had not been closed since project verification by European Union (EU) had not been concluded. However European Union (EU) has since completed the Expenditure Verification exercise and issued a recovery order vide their letter dated 20/06/2023. As a result, the bank balance of Kshs. 22,823,151.50/- held in the Project Bank Account at Equity bank was transferred to the EU on 4th September, 2023 vide PA No. 131776 and the Project Bank Account closed.

The following are documents availed to confirm closure of account:

i. Certificate of Bank Balance as at 30 June, 2023.
ii. A letter requesting Equity Bank to deposit the Bank Balance to the National Treasury Deposit Bank Account for on-ward transfer to the EU.
iii. A Certified Zero Balance Bank Statement for Equity Bank Account No. 0240263824199.
iv. Payment Advice for refund of Kshs. 22,823,151.50 to the European Union

v. Central Bank of Kenya Swift Message making the refund.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

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

REPORT ON THE FINANCIAL STATEMENTS

**87. Amount Withdrawn but Unclaimed**

As reported in the previous year, Part B of the statement of special (designated) account reconciliation for the project reflects Euro 1,152,653.73 (Kshs.142,952,115.59) at the then exchange rate of 1 Euro at Kshs.124.02 as withdrawn but unclaimed as at 30 June, 2022. The amount represents cumulative funds transfers to the local project bank account but whose expenditure returns had not been submitted to The National Treasury by close of the financial year ended 30 June, 2022. Further, an additional Euro 30,000 (Kshs.3,720,600) cash advance to the project reflected in the list of advances which ought to have been justified by 31 December, 2015 was yet to be justified as at 30 June, 2022 under the Grant Facility CKE 6010.

**Submission by the Accounting Officer**

The Government made available through subsidiary agreements a loan facility to three wholesalers for on-lending to 2nd Tier SACCOs and MFIs.The 2nd Tier Institutions (SACCOs and MFIs) were expected to extend credit to final beneficiaries who were the non-banking population, thus enhancing credit delivery and access in Kenya. The loans have since been repaid and the project closed.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**88. Failure to Close the Project**

According to Clause 10 of the Financing Agreement, the Project was to end on 31th October, 2010 but the closing date was later extended to 31 December, 2014. However, as reported in the previous year, the Project Management is yet to formally prepare and submit the Project closure report. In the circumstances, the existence of the project is therefore not hinged on any formal agreement with Agence Francaise Development (AFD) and the outstanding balance risk being diverted to other purposes.

**Submission by the Accounting Officer**

The project closure is progressing well as the consultant has prepared the Final Audit Report that has been approved by Agence Francaise De Developpement (AFD) and other stakeholders.

Subsequently, the National Treasury wrote to AFD for No objection to transfer the surplus project funds to Rural Kenya Financial Inclusion Facility (RK-FINFA).

AFD has granted a No objection and forwarded to the National Treasury a draft Amendment Letter to the Credit Facility Agreement dated 25th May 2005 for purposes of reallocating funds from the Microfinance Sector Support Credit Project to the RK-FINFA.

The National Treasury reviewed the contents of the draft Amendment letter and found them to be in order. Subsequently, the National Treasury forwarded the draft Amendment letter to the Office of the Attorney General to review and issue clearance on the letter.

The Office of the Attorney General vide a letter Ref: AG/CONF/21/8/115 Vol. I dated January 22, 2024 confirmed that the draft Amendment letter was in order and granted the parties to proceed and execute the same.

Agence Francaise De Developpement (AFD) submitted a signed Amendment letter to the Management and which was executed.

A budget allocation will be made this Financial Year 2024/2025 through Supplementary Budget two to enable transfer of funds from Microfinance Sector Support Credit Project to Rural Financial Inclusion Facility Project.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**GLOBAL FUND - TO REDUCE MORBIDITY AND MORTALITY CAUSED BY MALARIA IN THE VARIOUS EPIDEMIOLOGICAL ZONES BY TWO-THIRDS OF THE 2015 LEVEL BY 2020 PROGRAM - KEN-M-TNT, GA 1546**

REPORT ON THE FINANCIAL STATEMENTS

**95. Unsupported Expenditure - Counterpart Funding**

As previously reported, the statement of receipts and payments reflects comparative receipts from the Government of Kenya (Counterpart funding) of Kshs.383,971,795 for the financial year ended 30 June, 2021 and cumulative to-date from inception balance of Kshs.633,971,795. However, Management had not analyzed the expenditure to indicate how the balance had been built up since the inception of the Program. Further, although the amount had previously been omitted in the audited financial statements for previous years, the balances had not been indicated as restated on the face of the financial statements.

In the circumstances, the accuracy and completeness of the reported cumulative receipts from Government of Kenya of Kshs.633,971,795 could not be confirmed.

**Submission by the Accounting Officer**

It is true that the statement of receipts and payments reflects comparative receipts from the Government of Kenya (Counterpart funding) of Kshs. 383,971,795/- for the financial year ended 30 June, 2021 and cumulative to-date from inception balance of Kshs. 633,971,795/-

During the financial year 2020/2021 and prior years, the counter funding was not being included in the project's financial statements. This was an oversight. The same was being incorporated in the main National Treasury's financial statements.

Further, we wish to state that at the time of audit the Management did not provide an analysis of the expenditure to indicate how the balance of Kshs. 633,971,795/- had been built up since the inception of the Program.

The amount was being analyzed and the exercise had not been concluded. However, the same was completed and forwarded for audit review.

The expenditure since inception of the program is composed of;

| | |
|---|---|
| a) F/Y 2019/2020 | Kshs. 250,000,000.00 |
| b) F/Y 2020/2021 | Kshs. 383,971,795.00 |
| Totals | Kshs. 633,971,795.00 |

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer failed to keep proper accounting records.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer.**

## GLOBAL FUND - TO CONTRIBUTE TO ACHIEVING VISION 2030 THROUGH UNIVERSAL ACCESS TO COMPREHENSIVE HIV PREVENTION, TREATMENT AND CARE (NFM 2) PROGRAM - KEN-H- TNT, GA 1547

REPORT ON THE FINANCIAL STATEMENTS

### 99. Unsupported Expenditure - Counterpart Funding

As previously reported, the statement of receipts and payments reflects comparative balance for transfer from Government entities (Counterpart funding) of Kshs.1,840,254,274 for the year ended 30 June, 2021 and cumulative to-date from inception balance of Kshs.3,454,700,355. However, Management had not analyzed the expenditure to indicate how the balance was built up since the inception of the Program. Further, although the amount had previously been omitted from the audited financial statements for previous years, the balances were not marked as restated on the face of the financial statements.

In the circumstances, the accuracy and completeness of the reported cumulative transfer from Government entities of Kshs.3,454,700,355 could not be confirmed.

**Submission by the Accounting Officer**

It is true that the statement of receipts and payments reflects comparative balance for transfer from Government entities (Counterpart funding) of Kshs. 1,840,254,274/- for the year ended 30 June, 2021 and cumulative to-date from inception balance of Kshs. 3,454,700,355/-

During the financial year 2020/2021 and prior years, the counter funding was not being included in the project's financial statements. This was an oversight. The same was being incorporated in the main National Treasury's financial statements.

Further, we wish to state that at the time of audit, the Management did not provide an analysis of expenditure to indicate how the balance of Kshs. 3,454,700,355/- was built up since the inception of the Program.

The amount was being analysed and the analysis had not been concluded. However, the same was completed and forwarded for audit review Appendix 61

The expenditure since inception of the program is composed of;

| | |
|---|---|
| a) F/Y 2019/2020 | Kshs. 1,614,446,081.00 |
| b) F/Y 2020/2021 | Kshs. 1,840,254,274.00 |
| Totals | Kshs. 3,454,700,355.00 |

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer failed to keep proper accounting records.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer.**

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

REPORT ON THE FINANCIAL STATEMENTS

**103. Irregular Recruitment of an Advisor**

The statement of receipts and payments reflects expenditure on purchase of goods and services of Kshs.121,590,772 which, as disclosed in Note 4 to the financial statements includes expenditure on consultancy services of Kshs.28,836,511. As reported in the previous year, The National Treasury, through the Project, procured the services of an advisor to the Cabinet Secretary – The National Treasury and Planning vide a contract dated 30 July, 2020 for a period of two (2) years effective 1 August, 2020 to 31 July, 2022 at a salary of Kshs.1,813,029 per month all amounting to Kshs.34,447,551 in addition to other undetermined allowances. It was however noted that the position was not provided for in the approved Project organization structure as outlined in the IFPPP Project Implementation Manual.

Although Management indicated that the advisor was recruited using direct selection method and based on "No objection" communication from the World Bank, the recruitment was contrary to Section 5(2) of the Employment Act, 2007 which state that an employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice.

Further, the advisor's salary was negotiated with a negotiation committee appointed by the Cabinet Secretary and was not subjected to the advisory by the Salaries and Remuneration Commission for salary grading of the officer nor was it pegged on the Public Service or other existing criteria.

The advisor subsequently resigned in February, 2022 before the lapse of the contract period. The circumstances under which the advisor resigned and when the terms of the contract were changed from employment to consultancy was not explained and the supporting documents for the consultancy services rendered to the project were not provided for audit.

In addition, examination of the terms of reference of the employment contract of the advisor revealed that the scope of service goes beyond the mandate of the project and workplans and progress reports detailing the deliverables of the advisor were not provided for audit verification.

In the circumstances, the Management was in breach of the law and may jeopardize the continued funding by the development partner.

**Submission by the Accounting Officer**

It is true that the advisor to the Cabinet Secretary (CS) was contracted by the Project on 30th July 2020 for a period of two years effective 1st August 2020, to 31st July 2022 to inter alia advise the CS, National Treasury on the PPP agenda and with an expanded scope to improve on project implementation across Government, with a focus on the Development Partner Portfolio.

The position was approved by the CS, National Treasury as the Authorized Officer. The World Bank gave a 'No Objection' to recruit the advisor through direct procurement on 30 April 2020, in line with the World Bank legal framework that permits direct procurement for urgent situations and when an individual consultant has the relevant experience and qualifications of exceptional worth to the assignment.

The World Bank issued a 'No Objection' to the terms of Reference for the advisor on 5th June, 2020.The Negotiation Committee for the recruitment of the advisor, comprising of six members, was appointed by the CS on 20th May 2020.

The salary of the advisor was negotiated with the negotiation committee and was based on his previous engagement with the United Nations Development Programme.

As an advisor to the National Treasury, the very wide scope of work for the advisor included providing advisory across more than 30 IDA projects, funds flow to County Governments associated with programs for devolution and support for revamping the moribund PPP framework in Kenya. The CS approved the negotiated terms on 30th July 2020.

The CS, National Treasury, and the World Bank, as signatories to the financing agreement of the Project, engaged and agreed on the recruitment of the advisor. Management undertook the exercise after obtaining the requisite authorization from the two authorities.

The recruitment was therefore within the legal framework as captured by the bilateral agreements in The Financing Agreement.

The deliverables were provided and the WB cleared the issue during their audit. The management wish to reaffirm its commitment to ensure compliance to Employment Act,2007 and with the guidelines of Salaries and Remuneration Commission in its future recruitment processes.

**Committee Observations and Findings;**

i) **The Committee noted that the matter was resolved in its previous audit report.**

ii) **The Committee found that the matter was resolved.**

**104. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects approved revenue budget of Kshs.529,053,924 and actual amounts realized of Kshs.831,635,238 resulting to an over-funding of Kshs.302,581,314 or 57% of the budget. Similarly, the Project spent Kshs.205, 539,545 out of the approved budget of Kshs.529,053,924 resulting to an under expenditure of Kshs.323,514,379 or 61% of the approved budget. Management has attributed the under expenditure to various delayed project activities.

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

**Submission by the Accounting Officer**

It is true that the statement of comparison of budget and actual amounts reflected approved revenue budget of Kshs.529,053,924 and actual amounts realized of Kshs.831,635,238 which resulted to an over-funding of Kshs.302,581,314 or 57% of the budget. Similarly, the Project spent Kshs.205, 539,545 out of the approved budget of Kshs.529,053,924 resulting to an under expenditure of Kshs.323,514,379 or 61% of the approved budget.

The reasons for the overfunding were due to:

1. IFPPP-AF receives its funding in Euros, then translated to equivalent Kshs at the CBK prevailing rate. At the time of planning, (May 2021) the exchange rate was lower comparing to the time of receiving the funds (May 2022). The Kenya shilling had really depreciated/weakened against the said currency leading to an increase in the actual amount received against the budgeted amount; and
2. Timing of budget - At the time the project received Kshs. 831,635,238 in May 2022, Supplementary Budget II was already in Parliament for approval making it impractical to revise the budget.

The Project original budget was Kshs. 2,372,070,000 against final budget of Kshs. 529,053,924.

Due to policy push to reduce the fiscal space to manage the under absorption of donor funded programs, The Ministry revised the budget downward during supplementary budget II approval.

The under-expenditure was majorly caused by:

a) The delay in procurement processes which took longer than expected due to their unique nature and lengthy consultative requirements amongst the key stakeholders including Contracting Authorities, World Bank and The Government;
b) Procurement challenges faced by the Directorate, this is due to PPP's nature of operations that require some specialized kind of expertise that are rare to find thus leading to delays in execution of the project; and
c) A substantial amount in the budget was to be expended in engagement of PPP Transaction Advisors (TAs).

In order to avoid such under expenditures in future, the Directorate embarked on:

- the re-evaluation of the PPP pipeline to ensure there is bankable and viable projects, before engaging the transaction advisors;

- The re-screening process has now been conducted and concluded which has led to improvement in the engagement of transaction advisors; and
- The Directorate has been undergoing a restructuring process with the aim of improving in its capacity to deliver on its mandate. Staff capacity has been one of the issues to be addressed. The Directorate has since engaged a number of key staff and is still working on further improvement of the same to strengthen its capacity.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**106. Lack of Internal Audit Services**

During the year under review, the Project was not subjected to review by The National Treasury internal audit unit. This was 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. Further, paragraph 3.2.8 of IFPPP Project Implementation Manual provides for Internal Audit and the Audit Committee of The National Treasury to provide internal audit services and oversee the adequacy of internal control mechanisms over the Project.

In the circumstances, the effectiveness of the Project's internal control system and risk management processes were not tested during the year under review.

**Submission by the Accounting Officer**

It is true that internal auditors did not audit the project during the period under review. This was due to other official assignments they had. However, a Principal Internal Auditor has been posted to the project.

**Committee Observations and Findings;**

**The Committee noted the admission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer.**

**FINANCING LOCALLY-LED CLIMATE ACTION PROGRAM CREDIT NO. IDA 6980; TF B6810 - KE (P173065)**

REPORT ON THE FINANCIAL STATEMENTS

**109. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.341,150,000 against actual receipts on comparable basis of Kshs.174,123,195 resulting in a shortfall of Kshs.167,026,805 or 49% of total budget.

Similarly, the Program spent a total of Kshs.184,186,961 against an approved budget of Kshs.341,150,000 resulting to an underexpenditure of Kshs.156,963,039 or 46% of the budget.

Management has attributed the under expenditure to delayed conclusion of procurement activities and the Project Coordinator and Project Manager Finance and Strategy having been sent on compulsory leave during the year under review.

The shortfall of receipts and the underexpenditure affected the planned activities of the Program and may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

The under expenditure was attributed to:

i. Delayed conclusion of procurement activities for the Programme consultancies and motor vehicles; and
ii. The Project experienced low implementation as the Coordinator and Project Manager Finance and Strategy had been sent on compulsory leave during the year under review.

Strict budgetary control provisions shall be observed and adherence to the procurement plan and work plans. Follow up meetings with the program beneficiaries will frequently be done.

**Committee Observations and Findings;**

**The Committee noted that the submission by the Accounting Officer was unsatisfactory.**

**Committee Recommendation:**

**The Committee reprimands the Accounting Officer for failure to ensure effective project management.**

**PUBLIC DEBT MANAGEMENT SUPPORT PROJECT - ADB GRANT AGREEMENT NO.5500155013708**

REPORT ON THE FINANCIAL STATEMENTS

**114. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects budgeted total receipts of Kshs.104,000,000 against the actual receipts of Kshs.72,727,976 resulting to an under-collection of Kshs.31,272,024 or 30% of the budget. Similarly, the statement reflects budgeted expenditure of Kshs.104,000,000 against the actual expenditure of Kshs.72,727,976 resulting to an under expenditure of Kshs.31,272,024 or 30% of the budget.

In the circumstances, the under-collection and the under expenditure imply that some of the budgeted programs and activities may not have been executed during the year.

**Submission by the Accounting Officer**

The project had planned to procure computers and other ICT equipment during the year. The procurement process was not concluded during the year under review. As a result, the project budget for computers and ICT equipment was not utilized resulting to under expenditure of Kshs.31,272,024 or 30% of the budget.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**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 - KEN-M-TNT, GA 2064**

REPORT ON THE FINANCIAL STATEMENTS

**118. Unsupported Counterpart Funding Balances**

The statement of receipts and payments reflects an amount of Kshs.407,869,725 with respect to transfer from Government entities (Counterpart funding) and a similar amount with respect to other grants and transfers/payments. The amount relates to the Government Counterpart funds drawn from the ledger as expenditure incurred by The National Treasury on behalf of the Program. However, supporting expenditure returns and schedule for expenditure amounting to Kshs.112,952,484 were not provided for audit.

In the circumstances, the eligibility and accuracy of the counterpart funding and other grants and transfers/payments of Kshs.112,952,484 could not be confirmed.

**Submission by the Accounting Officer**

It is true that the statement of receipts and payments reflected an amount of Kshs.407,869,725 with respect to transfer from Government entities (Counterpart funding) and a similar amount with respect to other grants and transfers/payments. The amount also relates to the Government Counterpart funds drawn from the ledger as expenditure incurred by The National Treasury on behalf of the Program.

At the time of audit, the Management did not provide an analysis supporting expenditure amounting to Kshs.112,952,484

The amount was being analyzed and the analysis had not been concluded. However, the same was completed and forwarded for audit review.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**119. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final total receipts budget of Kshs.671,212,074 against the actual receipts of Kshs.559,372,521 resulting into an underfunding of Kshs.111,839,553 or 17% of the budget. Similarly, the statement reflects budgeted expenditure of Kshs.671,212,074 against the actual expenditure of Kshs.557,199,867 resulting to an underexpenditure of Kshs.114,012,207 or 17% of the budget.

The underfunding and underperformance affected the planned activities and impacted adversely on service delivery to the public.

**Submission by the Accounting Officer**

It is true as observed by the auditor there was under absorption of the program's budget during the year under review.

The under-utilization was caused by:

i. The revising of the delivery schedules of the Artemether lumefantrine (ALs) in the country, whereby it was discovered that the stock in the country was enough and therefore need to push forward the delivery date. The medicines which were therefore to be delivered in April 2022, the dates were pushed forward to Financial Year 2022/2023 thus leading to low absorption of funds.
ii. Low activities including procurement were suspended due to the Covid-19 pandemic; and
iii. Decision to send KEMSA staff on leave/home in November 2021 due to KEMSA restructuring. This negatively affected procurement process for Global Fund funded commodities that was at various stages then.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**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

**123. Unsupported Counterpart Funding Balances**

The statement of receipts and payments reflects an amount of Kshs.1,245,777,523 with respect to transfer from Government (Counterpart funding) and a similar amount with respect to other capital grants and transfer payments. The amount relates to the Government Counterpart funds which was drawn from the ledger as expenditure incurred by The National Treasury on behalf of the Program. However, expenditure returns and supporting schedule amounting to Kshs.678,541,713 were provided for audit while supporting expenditure returns and schedule for expenditure amounting to Kshs.567,235,810 were not provided for audit.

In the circumstances, the eligibility and the accuracy of the counterpart funding and other grants and transfers/payments of Kshs.1,245,777,523 could not be confirmed.

**Submission by the Accounting Officer**

It is true that the statement of receipts and payments reflected an amount of Kshs.1,245,777,523 with respect to transfer from Government (Counterpart funding) and a similar amount with respect to other capital grants and transfer payments. The amount relates to the Government Counterpart funds which was drawn from the ledger as expenditure incurred by The National Treasury on behalf of the Program.

At the time of audit, the Management availed only analysis totaling Kshs. 678,541,713/-, but did not provide an analysis supporting expenditure amounting to Kshs.567,235,810/-.

The amount was being analyzed and the analysis had not been concluded. However, the same was completed and forwarded for audit review.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**124. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final total receipts budget of Kshs.6,495,340,220 against the actual receipts of Kshs.5,469,261,414 resulting into an underfunding of Kshs.1,026,078,806 or 16% of the budget. Similarly, the statement reflects budgeted expenditure of Kshs.6,495,340,220 against the actual expenditure of Kshs.5,464,880,474 resulting to an underexpenditure of Kshs.1,030,459,746 or 16% of the budget.

The underfunding and underperfomance affected the planned activities and impacted adversely on service delivery to the public.

**Submission by the Accounting Officer**

It is true there was low absorption of funds as observed by the auditor in the above subject. The major part of the budget was for procurement of ARVs and laboratory commodities. The deliveries delayed due to the following challenges cited by suppliers:

i. Delay in receiving shipping documents for procurement of ARVs which were to be in the country by April 2022, but due to delays in receiving shipping documents the ARVs were received at the close of the FY. A budget of Kes.800M had already been factored for this;
ii. Awaiting of the Narcotics permits approval for Opioids' Substitution Therapy Medicines. This is a requirement for such kind of medicines and the suppliers cited that there was a delay in getting the permit;
iii. Delay of National Quality Control Laboratory (NQCL) for male condoms test results to ship the consignment. These tests are requirements for all imported male condoms after the Office of the Inspector General (OIG) team raised the issue of quality testing of condoms during their audit last year;
iv. Decision to send KEMSA staff on leave/home in November 2021 due to KEMSA restructuring. This negatively affected procurement process for Global Fund funded commodities that was at various stages then;
v. Awaiting the test results led to under-expenditure as the expenditure was to be incurred in FY 2021/2022 but it had to be pushed forward to FY 2022/2023; and
vi. The figure of Kshs.4,295,100/- under acquisition of non-financial assets was for procurement of Laptops and Servers for the National Treasury. The deliveries were not made that financial year as the procurement process took long. This resulted to zero (0) expenditure thus contributing to the low absorption at the closure of the financial year.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

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

REPORT ON THE FINANCIAL STATEMENTS

**129. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.200,000,000 and Kshs.25,364,260 respectively resulting to an underfunding of Kshs.174,635,740 or 87% of the budget. Similarly, the Project spent a total of Kshs.20,512,676 against an approved budget of Kshs.200,000,000 resulting to an under expenditure of Kshs.179,487,324 or 90% of the budget.

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

**Submission by the Accounting Officer**

The underutilization of Kshs.179,487,324 or 90% of the budget was occasioned by the inability of the Project to procure four Consultancies (Technical Assistance) to assist the Ministry of Lands and Physical Planning address land matters to assist in provision of relevant land documents to facilitate affordable housing agenda. The Technical Assistance was meant to be utilized by the National Treasury/Kenya Mortgage Refinance Company and the Ministry of Lands and Physical Planning. As per the work plan, these consultancies were to cost approximately Kshs. 200 million.

However, the project implementation was delayed by one year, and by the time the adverts for consultancies were done, the Ministry indicated that the activities had been achieved using other resources. The project initiated the process of cancelling the advert.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

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

REPORT ON THE FINANCIAL STATEMENTS

**133. Omitted and Unsupported Expenditure - Extraneous Allowances**

During the year under review, a total of Kshs.1,140,000 was paid as extraneous allowances to the Co-ordinating Team for African Development Bank Appraisal Mission between 28 February, 2022 to 24 March, 2022. However, the expenditure was not included in the Project's financial statements and no documentary evidence was provided to justify payment of the extraneous allowances to officers who were performing their normal duties. Management has indicated that the amount was incurred on Public Debt Management Office (PDMO) activities but was erroneously captured under the Projectaccount. Further, the Project's Management has requested The National Treasury to raise a journal entry to reverse the erroneous expenditure. However, a copy of the Journal entry was not provided for audit review.

In the circumstances, the accuracy and completeness of the Project's financial statements could not be confirmed.

**Submission by the Accounting Officer**

It is true that an expenditure amounting to Kshs.1,140,000.00 was not included in the Project's Financial Statements 2021-2022 and no documentary evidence was provided to justify payment of the extraneous allowances to officers who were performing their normal duties. The amount was incurred on Public Debt Management Office (PDMO) activity which was not part of the project activities but was erroneously captured under the Project account. A journal entry (JE) to reverse the erroneous expenditure was raised and the expenditure appropriately captured.

**Committee Observations and Findings;**

**The Committee noted the admission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to keep proper accounting records.**

**134. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.13,000,000 and Kshs.8,684,571 respectively, resulting to an underfunding of Kshs.4,315,429 or 33% of the budget. Similarly, the project spent a total of Kshs.6,432,328 against an approved budget of Kshs.13,000,000 resulting to an under expenditure of Kshs.6,567,672 or 51% of the approved budget.

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

**Submission by the Accounting Officer**

It is true that the Project spent a total of Kshs.6,432,328 against an approved budget of Kshs.13,000,000 resulting to an under expenditure of Kshs.6,567,672 or 51% of the budget. The budgetary underperformance was occasioned by procurement process for planned purchases for the financial year which were not concluded.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer henceforth ensures prompt implementation of work-plans.**

## GLOBAL FUND - TO ENSURE PROVISION OF QUALITY CARE AND PREVENTION SERVICES FOR ALL PEOPLE IN KENYA WITH TB, LEPROSY AND LUNG DISEASES PROGRAM - KEN-T-TNT, GA 2067

REPORT ON THE FINANCIAL STATEMENTS

**138. Unsupported Counterpart Funding Balances**

The statement of receipts and payments reflects an amount of Kshs.351,984,277 with respect to counterpart funding and a similar amount of other grants and transfers/payments. The amount relates to the Government counterpart funds which was drawn from the ledger as expenditure incurred by The National Treasury on behalf of the Program. However, expenditure returns and supporting schedule amounting to Kshs.25,025,377 was provided for audit review while supporting expenditure returns and schedule for expenditure amounting to Kshs.326,958,900 were not provided.

In the circumstances, the eligibility and the accuracy of the counterpart funding and other grants and transfers/payments of Kshs.351,984,277 could not be confirmed.

**Submission by the Accounting Officer**

It is true that the statement of receipts and payments reflected an amount of Kshs.351,984,277 with respect to counterpart funding and a similar amount of other grants and transfers/payments. The amount relates to the Government counterpart funds which was drawn from the ledger as expenditure incurred by The National Treasury on behalf of the Program.

At the time of audit, the Management availed only analysis totaling Kshs. 25,025,377/-, but did not provide an analysis supporting expenditure amounting to Kshs.326,958,900/-.

The amount was being analyzed and the analysis had not been concluded at the time of Audit. However, the same was completed and forwarded for audit review.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**139. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final total receipts budget of Kshs.446,913,742 against the actual receipts of Kshs.370,996,060 resulting into an underfunding of Kshs.75,917,682 or 17% of the budget. Similarly, the statement reflects budgeted expenditure of Kshs.446,913,742 against the actual expenditure of Kshs.365,055,188 resulting to an under expenditure of Kshs.81,858,554 or 18% of the budget.

The underfunding and underperformance affected the planned activities and impacted adversely on service delivery to the public.

**Submission by the Accounting Officer**

It is true as observed by the auditor there was under absorption of the program's budget during the year under review.

The under-utilization was caused by:

i. Commencement of the new funding model 3, whereby there were delays in KEMSA procurement process for medical commodities that delayed signing of contracts. KEMSA procurement process normally takes six (6) to nine (9) months. By the time the process was being finalized, it was already end of the financial year and therefore most contracts spilled over to Financial Year 2022/2023;
ii. Non-responsive tenders/bids at KEMSA: and

iii. Decision to send KEMSA staff on leave/home in November 2021 due to KEMSA restructuring. This negatively affected procurement process for Global Fund funded commodities that was at various stages then.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**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

**144. Slow Absorption of Project Funds**

As disclosed under Note 1.7 on the Project information and overall performance, the Project was earmarked to close in December, 2021 but was restructured through an amended Finance Agreement extending the completion to 31 December, 2023. Further, the Projects' funding summary indicates that the Donor had made commitment amounting to Kshs.1,284,347,000 equivalent of USD10,900,000 as at 30 June, 2022. However, actual drawdowns during the Project life amounted to Kshs.316,707,000 equivalent to USD3,072,000 leaving out an amount totalling Kshs.922,374,000 or USD 7,828,000 undrawn. Management has indicated that planned initiatives will be fully implemented and allocated funds fully utilized before closure of the Project.

However, and considering the credit lapse period, the Project's planned deliverables earmarked for completion may not be realized.

**Submission by the Accounting Officer**

The EARTTDFP project was scheduled to be completed by 29th December 2023. However, the project was extended for another year on 3rd January 2024 and is expected to come to an end by 31st December 2024 as per World Bank letter due to the following;

i. As at 30th June 2024, KRA had drawn down a total of Kshs 915,536,000 (USD 7,316,000) out of the donor commitments amounting to Kshs 1,411,844,000 (USD 10,900,000) leaving an undrawn balance of Kshs 496,308,000 (USD 3,584,000);
ii. The remaining activities under implemented for FY 2024/25 work plan is Construction of RRU offices and Memorandum of Association (MOU) between Kenya Customs and South Sudan Customs;
iii. These are scheduled to be completed by 31st Dec 2024 as per the Work plan;
iv. The undrawn funding balance of Kshs 496,308,000 (USD 3,584,000) will be drawn down as we pay the construction of Rapid Response Units (RRU) in the completion milestones through Direct payment by World Bank; and
v. As at 31st Aug 2024 KRA paid a total of Kshs 234 Million (Advance payment and Certificate 1-5).

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

### 145. 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.416,696,000 and Kshs.146,488,000 respectively, resulting to an underfunding of Kshs.270,208,000 or 65% of the budget. Similarly, the Project spent a total of Kshs.142,413,000 against an approved budget of Kshs.416,696,000 resulting to an underexpenditure of Kshs.274,283,000 or 66% of the budget. Management has indicated that construction of Rapid Response Unit (RRU) offices will account for 60% of the proposed budget while the remaining funds will be utilized in procurement of enforcement equipment, annual training and payment to consultants.

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

**Submission by the Accounting Officer**

i. Underfunding

The cumulative project payments and commitments from inception as at 30th June 2024 is Kshs. 1,294,859,074 (equivalent to USD 9,996,827) which is 92% of the total Donor commitment of Kshs 1,411,844,000 (USD 10,900,000)

As at 30th June 2024, there were 2 remaining activities to completion of the project. These are the conclusion of Construction of Rapid Response Units and Signing of Memorandum of Association between Kenya Customs and South Sudan Customs, which are in progress and expected to be completed by 31st Dec 2024.

ii. Underperformance

The EARTTDFP project was scheduled to be completed by 29th December 2023. However due to the reasons below, the project was extended for another year and is expected to come to an end by 31st December 2024.

**Reasons for Under-Utilisation**

i. Construction of the Rapid Response Units (RRU) Offices (Kshs 590Million)

The Construction of RRU was scheduled to come at the end of the EARTTDFP Project after the construction of the road by KENHA. This activity accounts for 60% of the proposed budget. There were delays in the implementation of this component because of the following:

- Delay in land allocation by the County Government of Turkana for Construction of RRU's:- Construction was dependent on successful land acquisition. However, there was delay in beginning of this activity due to delay in land allocation by the Country Government of Turkana. The land allocation process was concluded followed by procurement of Contractor then construction commenced in August 2023;

- Security threats: - There was a delay in commencement of construction at Kainuk site due to insecurity. The site is bordering West Pokot and Turkana counties an area frequently faced with banditry;
- Challenges in material acquisition: - The project has experienced challenges in acquisition of construction materials which are scarce and have to be hauled from long distances;
- Introduction of dusk to dawn curfew: -. Locally security situation escalated and this forced the Cabinet Secretary for Interior and National Administration to impose a dusk to dawn curfew in Kainuk through Legal Notice no. 9 dated 15th February 2023. This affected the delivery of materials;
- Disruption of the works due to political interference: - The works have been disrupted on two separate occasions due to local county political interference; and
- Labour apathy due to insecurity: - Works on site were disrupted, as they were two incidences of gunshots exchanges in close proximity to the site. This led to loss of man-hours as the staff could not work optimally. Additionally, the fear of retaliatory attacks also led to labour apathy as staff were reluctant to work on site.

ii. Delays in the signing of the Memorandum of Understanding between KRA Customs and South Sudan Customs (Kshs. 10Million)

The MoU was approved by the National Treasury, The Office of the Attorney General and the Ministry of Foreign Affairs and subsequently submitted to South Sudan Customs for review and signing. Upon review, South Sudan Customs requested for inclusion of additional clauses. These comments were reviewed and resubmitted to South Sudan Customs for final concurrence. South Sudan Customs once again requested additional clauses, which were reviewed by the Technical Teams and submitted to South Sudan through the Ministry of Foreign Affairs in July 2024.

Following this submission, the NRA concurred with the draft MoU, and plans are underway for the official signing of the MoU in September 2024.

**Committee Observations and Findings;**

**i) The Committee noted the submission by the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

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

REPORT ON THE FINANCIAL STATEMENTS

**150. 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.142,241,000 and Kshs.70,066,000 respectively resulting to an underfunding of Kshs.72,175,000 or 51% of the budget. Similarly, the

Project spent a total of Kshs.297,000 against an approved budget of Kshs.142,241,000 resulting to an underexpenditure of Kshs.141,944,000 or 99% of the budget. Management has attributed the underfunding and underperformance to delayed implementation of the Project due to COVID-19 pandemic and delayed approval of the 'letter of no objection' from the World Bank.

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

**Submission by the Accounting Officer**

As at 30th June 2024, Kenya Revenue Authority utilized Kshs 131,379,000 out of Budget FY 2023/24 of Kshs 441,310,000. Activities of total budget Kshs 147M were under procurement process most activity's procurement process was concluded in Qrt 4 of FY 2023/24 as detailed below and are currently under implementation to be paid by Qrt 2 FY 2024/ 25.

During the year under review, the Authority undertook the following activities and implementation status is as per appendix below. World Bank approved KRA Work plan for the activities scheduled for FY 2023/24 Total of Kshs 489Million on 20th July 2023.

The initial KRA's budget FY 2023/24 as at 1st July 2023 was 65 Million which was insufficient as per the approved Work Plan. KRA requested for additional budget, which was increased to Kshs 441Million in the Supplementary II Budget in September 2023. The budget was further again reduced to Kshs 84Million in June 2024.

| **Activities Under Review** | | | |
|---|---|---|---|
| | **Implementation Activity** | **Costs (KES-M)** | **Reasons for Under Expenditure** |
| 1 | KRA Trainings Budget | Kshs. 84M | Delay in getting No objection a1212roval from World Bank |
| | - Kshs 36 Million: | | A "No Objection" Approval for the activity was not obtained<br>in time hence the under expenditure for FY 2022/23 of Kshs. 23M.<br>- No objection approval from World Bank on KRA annual training plan FY 2023/24 of Kshs 36Million was received on 20th July 2023 with a condition that KRA seeks approval a month prior to the scheduled training |
| | | | KRA had sought approval from World Bank for the trainings scheduled for October to December but were stopped via a circular from the Head of Public Service dated 29th June 2023.<br>**Current Status**<br>The Authority completed the trainings scheduled for FY 2022/23, 2023/24 and is currently rolling out training for FY 2024/25 (Kshs. 25M) following the approval by the World Bank, expected to by completed by Q3 of this<br>Financial year. |

| | | | |
|---|---|---|---|
| 2 | Study of Trade Flows | Budget- USD 626,400 **(87 Million}:** | The long process of procuring a Consultant led to the delay in under expenditure for the period under review.<br><br>**Current Status**<br><br>No objection approval from World Bank for Tender process received on 5th April 2024, contract signed on 7th June 2024.<br><br>Implementation is in progress and the 1st milestone<br><br>(inception report) was received in July 2024 and was approved, payment is currently in process. |
| 3 | Enforcement Equipment | Budget-USD 441,000 (61 Million}:<br><br>User requirements revised to include all the enforcement equipment amounting to Kshs. 120M | No objection approval from World Bank was received on 21st October 2022. KRA advertised for the equipment on 14th Feb 2023, tender closed in April 2023 and was non responsive, Bidders did not submit favourable bids. KRA to begin the procurement process again in Qrt 2 FY 2024/25. **Current Status**<br><br>To be Re-advertised. The user has revised the entire enforcement equipment requirements/needs which amounts to Kshs. 120M as per allocation. Procurement process to commence end of Q1 as per current workplan |
| | **Other Activities Completed Under KRA** | | |
| | Procurement of seven(7) Motor Vehicles | Kshs. 94M | No objection approval from World Bank was received on 21st October 2022.<br><br>-Approval from Head of Public Service to procure through open tender was received in February 2023.<br><br>-Tender evaluation completed in June 2023<br><br>-Contract signed on 29th December 2023.<br><br>-Exemption Letter from National Treasury received on 21st March 2024.<br><br>-Delivery and payment made in June 2024 |

| | | | |
|---|---|---|---|
| | **Implementation of PPRAActivities:- KRA Received WB No objection approval for transfer of implementation of PPRA activities from K.ENHA to KRA received on 13th March 2023.** | | |
| | PPRA Training and<br><br>Per diem Budget – Kshs 8 Million | | The final No objection approval from World Bank to<br><br>progress with Training was received on 28th March 2024.<br><br>8 Million Implementation began in Qrt 4 FY 2023/24, trainings and per diem of Kshs 5 Million already completed and paid. The remaining trainings completed in Qrt 1 FY 2024/25. |
| | Procurement of 4 PPRA Motor Vehicles Budget- Kshs 39Million | Kshs.47M | No objection approval from World Bank received on 13th March 2024.<br><br>Approval from Head of Public Service to procure through open tender received on 9th June 2023. Contract for Supply of 4 PPRA Motor Vehicles signed on 19th April 2024, 3 Vehicles delivered, a bus awaiting modification then<br><br>delivery and payment to be done by Qrt 1 FY 2024/25. |
| | Assessment of Public Procurement and Disposal System in Kenya using the Methodology for<br><br>Assessment of Procurement Systems (MAPS II) approach | (Kshs 49M) | Contract between KRA and Lead consultant and KRA and other Consultants (Assessors, Data Analysts & Legal consultants Budget) was signed on 21st March 2024 and 1st July, 2024 respectively. Implementation in progress, and the inception report has been received and is in review. Payments to be made as milestones are completed, with 1st payment expected in Qrt 1 FY 2024/25 |

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

## 4.2 VOTE 1072: STATE DEPARTMENT FOR PLANNING

**Mr. James Muhati**, the Principal Secretary and Accounting Officer for the State Department for Economic Planning appeared before the Committee on $15^{th}$ August & $12^{th}$ September 2023 accompanied by the following officers:

| | | | |
|---|---|---|---|
| i. | Mr. Joel Makori | - | Director, Administration |
| ii. | Mr. Macdonald G. Obudho | - | Director General, KNBS |
| iii. | Ms. Julia Wanjiru Ng'ang'a | - | Chief Finance Officer |
| iv. | Mr. Elijah Gathuthi | - | Senior Deputy Accountant General |
| v. | Dr.Lukalo Diana | - | Personal Assistant to the Principal Secretary |
| vi. | Mr. James Gatungu | - | Project Manager Kenya National Bureau of Statistics |
| vii. | Mr. Patrick Rotich | - | Head of Supply Chain |
| viii. | Mr. Musalia Eric | - | Senior Accountant |

and submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

**155: Pending Bills**

As disclosed in Note 17.2 and Annex 1 to the financial statements, the State Department had pending bills amounting to KSh.2,789,002 that were not settled during the year under review but were instead carried forward to the 2022/2023 financial year. However, the pending bills lacked the relevant supporting documentation including requisitions, local purchase/service orders, invoices and delivery notes.

No plausible 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.

Further, 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.

**Submission by the Accounting Officer**

We concur that the State Department for Economic Planning had pending bills amounting to KSh. 2,789,002 during the Financial Year under review. However, these were historical pending bills dating back from 2013 to 2021 amounting to KSh 5,377,937. The procedure of settling pending bills is to set up a pending bill taskforce to review the bills then the taskforce report is given to the internal audit for verification. Bills which qualify to be paid are forwarded to accounts for payment.

A task force on pending bills was established by the Principal Secretary State Department for Economic Planning on $13^{th}$ September 2021 to review and verify the pending bills.

The verification methodology adopted by the taskforce included: holding meetings to review and evaluate the pending bills, holding wide consultations with the suppliers, the User Directorates, Supply Chain Management Unit, Internal Audit Unit and Accounts Unit. The verification process also employed comprehensive document review from various sources including, payment vouchers, invoices, quotations, evaluation reports, inspections reports, purchase orders, contract agreements, supplier statements, cash books, bank statements and minutes. Other ways of generating information were through emails, one-on-one interviews and follow-up through phone calls.

The taskforce came up with the following criteria that was used in reviewing and verification of the pending bills which is consistent with the Public Finance Management Regulation 104 which require that payment vouchers shall be properly supported by appropriate authority and documentation.

Verification Criteria

| | Pending bill | Documents Verified |
|---|---|---|
| 1 | Air Tickets | Ensure that the Requisition Form, Local Service Order (LSO), E-Ticket, Boarding pass and the Invoice are genuine, approved, and the journey took place. |
| 2 | Hospitality | Ensure that the Requisition Form, Local Service Order (LSO), Meeting Attendance Register (the Hotel's register and the State Department's meeting attendance register) and the Invoice are genuine, approved and that the meeting took place. |
| 3 | Motor Vehicle Repairs | Ensure that the Requisition Form, Local Service Order (LSO), Mechanical Inspection Report and the Invoice are genuine, approved and the repairs were done. |

It is worth noting that on 30th November 2021, the State Department for Economic Planning requested the suppliers to provide the necessary support documents on their outstanding claims. Further, the state department invited the suppliers for a meeting on 2nd December 2021 to present their case before the taskforce. Some suppliers attended the meeting while others were not available.

The task force findings indicated the following; inadequate appropriate supporting documents and in some cases, discrepancies were noted.

Some of the recommendations made by the task force were as follows;

1. Pending bills with adequate supporting documents should be paid;
2. Pending bills with inadequate support documents should be forwarded to the Pending Bills Closure Committee for retirement at the National Treasury;
3. Proper record keeping be embraced by all departments/units concerned.

Upon the taskforce recommendation, the State Department for Economic Planning reduced its pending bills from the initial amount of KSh 5,377,937 to KSh 5,139,002 as at 6th January 2022.

A further KSh 2,350,000 was paid upon the suppliers providing the required appropriate documentation leaving a balance of KSh 2,789,002 as at 30th June, 2022.

On 15th March 2022, the Principal Secretary for Economic Planning through a letter Ref No. TNTP/SDP/12/7/68 requested the Principal Secretary of the National Treasury to submit historical pending bills amounting to KSh.2,789,002 to the Pending Bills Closure Committee. The National Treasury in their response via letter Ref No:AG3/87/1/VOL.XII(2) indicated that the Pending Bills Closure Committee was mandated to deal with pending bills that existed as at 14th January 2005 and consequently advised the State Department for Economic Planning to deal with the pending bills internally.

Whereas the request to the principal secretary to the National Treasury to retire the historical pending bills was of KSh.2,789,002, it was actually KSh 2,691,597 because two bills (Facts Travel Agencies KSh. 47,675 and Ride on Agencies Ltd KSh. 49,730) totaling to KSh. 97,405 had been paid.

Following our appearance before the Committee on 15th August 2023, and on the committee's advice, the State Department for Economic Planning once more invited the Suppliers with pending bills for a meeting vide emails. Two emails were sent, one on 25th August 2023 for a meeting on 28th August 2023 and the second email was sent on 28th August 2023 for another meeting on 30th August 2023. Only one supplier ( m/s Vercelli tour & travels agency) attended the first meeting and did not present any additional documents other than the ones which had earlier been presented to the task force. None of the five suppliers attended the second meeting.

There has not been any further justification or feedback from the suppliers to warrant any payment of the claims.

The State Department for Economic planning has exhausted the internal mechanism to pay the claims and is therefore requesting the Parliamentary Accounts Committee, Office of the Auditor General, and The National Treasury for concurrence in removing the claims listed below from the financial statements of the department.

**Committee Observation**

**The Committee observed that;**

i) **Despite efforts demonstrated by the state department to locate the suppliers, no supporting documentation was forthcoming;**
ii) **Invoices were lodged and accepted without supportive documentation.**

**Committee Recommendation**

**The Committee recommends that within three (3) months of adoption of this report, the Accounting Officer writes to Treasury and obtains authority to write off the total sum of KSh.2,789,002 from the books of the State Department.**

#### 156: 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 Effectiveness of Internal Controls, Risk Management and Governance. Management had indicated that the issues were responded to. However, the issues remained unresolved as Parliament had not met to deliberate on the same.

**Submission by the Accounting Officer**

The previous year issues raised were affecting paragraph 122. Management of Grounded Motor Vehicles.
The Committee is yet to table its report on the same.

**Committee Observation**

**The Committee observed that its report for the FY 2020/21 had since been adopted by the House.**

**Committee Recommendation**

**The Committee recommends that the Accounting Officer avails a status report of implementation of its recommendations within three (3) months of adoption of this report.**

#### 163: Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of KSh.140,000,000 and KSh.138,432,660 respectively resulting to underfunding of KSh.1,567,340 or 1% of the budget. Similarly, the Project spent an amount of KSh.82,296,910 against an approved budget of KSh.140,000,000 resulting to an under expenditure of KSh.57,703,090 or 41% of the budget. The under expenditure affected the Project's planned activities and impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

The National Information Platform for Food Security and Nutrition (NIPFN) is a country-owned and a country-led initiative funded by the European Union (EU). The initiative aims to promote stakeholders in food security and nutrition to dialogue and strengthen national capacity to manage and analyze the existing information and data at national and county levels to better inform decision making in improving the outcomes of food security and nutrition.

The project is currently being implemented by Kenya National Bureau of Statistics (KNBS) as the lead applicant to the grant in partnership with the Kenya Institute of Public Policy and Research Analysis (KIPPRA) as a co - applicant, and in collaboration with sectors that have a role in improving food security and nutrition in Kenya.

It is true that the project was allocated Kshs. 140,000,000 by the National Treasury in the approved estimates for the financial year 2021/2022.

It is also correct that as at 30th June 2022, the project had utilized an amount of Kshs 82,296,310 out of the approved budget of Kshs 140,000,000 resulting to an under expenditure of Kshs 57,703,090 or 41% of the budget.

The Bureau wrote to EU on 15th July 2021 requesting for disbursement of 1,459,209 Euros as per the pre-financing option budget. EU however reduced the amount to 1,409,864 Euros, the difference being the contingency amounting to 49,345 Euros. The same was communicated to its desk Officer at Treasury in February 2022. On 17th February 2022 EU disbursed a total amount of 1,409,807.50 Euros to The National Treasury, CBK account. This amount was equivalent to Kshs. 177,388,424.55, and was to cover activities for the period July 2021 to December 2022 as per Appendix 10.

Out of the KShs. 177,388,424.55, Kshs. 138,402,660 (equivalent to 1,100,000 Euros) was remitted on 12th April, 2022 to the NIPFN Project by The National Treasury while the balance of 309,807.50 Euros equivalent to KShs. 39,090,302 retained at The National Treasury was finally released to the Bureau on 29th November 2022.

The breakdown of the under-expenditure can be summarized as follows;

| **Budget Items** | **Printed estimate figures** | **Budget utilization** | **Budget Utilization Difference** | **% of Utilization** |
|---|---|---|---|---|
| | Kshs. | Kshs. | Kshs. | % |
| Compensation of Employees | 44,614,630 | 36,413,220 | 8,201,410 | 82% |
| Purchase of Goods and Services | 50,534,369 | 5,082,889 | 45,451,480 | 10% |
| Social Security Benefits | 24,000 | 22,000 | 1,400 | 92% |
| Transfers to KIPPRA | 39,827,001 | 39,827,001 | 0 | 100% |
| Acquisition of Non-financial assets | 5,000,000 | 951,200 | 4,048,800 | 19% |
| **Total** | **140,000,000** | **82,296,310** | **57,703,090** | **59%** |

The under-expenditure was occasioned by delays in pre-financing and disbursement of the available funds to undertake various project activities during the financial year. The Ksh 50,534,369 was earmarked for purchase of goods and implementation of project activities such as trainings for the various sectors, identification and hire of services of data cleaners and research institutions, extending and supporting the adoption of multisector information platform and repository and rolling out NIPFN activities to counties among others. These activities required proper logistics in terms of sourcing and verification of the available data, identification of the required consultants for various services and proper venues for these activities and could not have been undertaken fully within this limited time. The Bureau had also factored in this budget Kshs 5,000,000 for acquisition of laptops and various software to aid in both qualitative and quantitative data analysis and this was acquired in the subsequent period.

Further budget underutilization on compensation of employees amounting Kshs 8,201,410 was as a result of exit of one of the Project staff member (statistician) in September 2021 and replacement was effected in May 2022. In addition, the Project Compensation of Employees/Social Security benefits for the month of June had not been paid as at 30th June 2022, but was effected in the subsequent month.

From the above challenges, EU wrote to the Bureau in August 2022 after reviewing its various performance reports submitted earlier and suggested an option for a no cost extension to facilitate utilization of the under expenditures. The Bureau through State Department for Planning wrote to The National Treasury in October 2022 requesting for a no cost extension. Through correspondence from The National Treasury, EU on 29th December 2022, positively responded to this request and extension was granted through revised grant agreement to 78 months which is expected to come to an end in June 2024. This will ensure full utilization of the funds as per the revised signed agreement.

**Committee Observations and Findings;**

i) **The Committee observed that with the Treasury and EU approval and consent, the matter was satisfactorily addressed.**
ii) **The Committee found that the matter was resolved.**

## 4.3 VOTE 1011: EXECUTIVE OFFICE OF THE PRESIDENT

**Hon. Katoo Ole Metito, EGH**, the State House Comptroller and Accounting Officer for the Executive Office of the President appeared before the Committee on 3rd October 2023 and 12th October 2023 accompanied by the following officers:

| | | |
|---|---|---|
| i. | Ms. Rachel Maina | Secretary Infrastructure |
| ii. | Mr. Arthur Osiya | Principal Administrative Secretary |
| iii. | Mr. Patrick Mbogo | Principal Administrative Secretary |
| iv. | Mr. Mwikamba Mghenyi | Deputy Accountant General |
| v. | Mr. Michael Kamau | Principal Accountant |
| vi. | Mr. Diana Kiondo | Principal Accountant |
| vii. | Mr. Susan Nyambura | Director of Park and National Resources |
| viii. | Mr. Joel Langatt | Senior Deputy Accountant General |
| ix. | Mr. Waiganjo Waweru | Senior Chief Finance Officer |
| x. | Mr. Michael Ochieng | Chief Engineer |

and submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

**167: Pending Bills**

As disclosed in Note 20.1 to the financial statements, the Executive Office of the President had pending bills totalling Kshs. 15,950,133,545 as at 30 June, 2022 out of which, bills amounting to Kshs. 14,814,008,078 were related to Nairobi Metropolitan Services while the balance of Kshs. 1,136,125,467 was related to State House and other departments within the Executive Office of the President.

The Nairobi Metropolitan Services pending bills totaling Kshs. 14,814,008,078 consisted of amounts of Kshs.553,291,857.78, Kshs.267,696,314.2, Kshs.1,361,463,344.40 and Kshs.12,631,556,561.98 for the financial years 2018/2019, 2019/2020, 2020/2021 and 2021/2022, respectively.

The bills were not paid during the year under review but were instead carried forward to 2022/2023 financial year. Failure to settle bills during the year to which they relate distorts the budget implementation of the subsequent year as the outstanding bills form a first charge on resources available.

**Submission by the Accounting Officer**

It is true that the financial statements reflect pending accounts payable of Kshs. 15,950,133,545 as at 30th June 2022 which remained unpaid during the year under review.

The NMS pending bills as at 30th June 2022 amounting to Kshs. 14,814,008,078 consisted of, historical bills inherited from NCCG, bills for strategic interventions by The National Government and those for the transferred functions during the tenure of NMS.

The non-payment of the NMS bills was majorly due to inadequate exchequer disbursement from the Nairobi County Revenue fund (CRF) and The National Treasury (Consolidated Fund) among other reasons as described below;

a. Pursuant to the provisions as stipulated under the deed of transfer, the budgetary allocation for the transferred functions were to be appropriated in full by Parliament. Against the appropriated amount, the funds were to be provided for by NCCG (CRF).
However, the first disbursement to NMS was done on 28th April 2021 after the establishment and operationalization of the Funding Framework. Therefore, all other commitments from the beginning of the FY2020/21 until April 2021 that were done against the available budgetary provision an amount of Kshs 1,776,789,986 remained unfunded. This resulted to accumulation of pending bills.

b. The Nairobi City County Government transferred pending bills totaling to Kshs. 1,390,895,176 to NMS through a Post-Covid Recovery Strategy. The National Treasury then allocated the budget to clear these historical bills.
However, the exchequer provision against the provided budget was Kshs.885,425,858.10, leaving an amount Kshs. 505,469,317.95 unfunded.

c. NMS also inherited historical pending bills from health facilities of Kshs. 571,023,256.6 that had been incurred before the establishment of NMS and which remained outstanding as of 30th June 2022 due to inadequate exchequer provisions.

d. Additional bills were due to National Government, strategic interventions amounting to Kshs. 1,587,083,147.57 in FY 2021/2022 where by Ksh1,054,675,288.87 has remained unfunded due to Exchequer underfunding from the National Treasury thus leading to accrued pending bills. As per attached Strategic Intervention Analysis.

e. The major sources of revenue for NCCG were equitable share of revenue and own source revenue. The effects of Covid-19 led to the underperformance of own source revenue at NCCG thereby reducing the capacity of NCCG to fund the exchequer requests from the Nairobi County Revenue Fund as per attached Controller of budget Reports.

f. Budget rationalization during supplementary budgets II in the FY2020/2021 through the county appropriation act by Kshs12,747,424,340 which resulted to accumulation of bills since commitments had been incurred against the initial budgetary allocation as per the printed budget estimates.

The other bills of Kshs, 1,136,125,467 relating to State House and other departments within the Executive Office of the President were not paid due to inadequate exchequer provision.

**Committee Observations and Findings;**

**The Committee observed that**

i. **The pending bills kept compounding in the last four financial years, indicating inability to settle bills as first charge;**

ii. **The bulk of the bills were attributable to NMS county functions and had reverted to the County Government of Nairobi;**
iii. **Of the Kshs. 1,136,125,467 owed by the accounting unit as at end of financial year, Kshs. 220,971,363 had been settled;**
iv. **Kshs. 888,844,325 under Office of the Deputy President had undergone verification and were due for payment under the newly established independent vote head 1012 of the office.**

**Committee Recommendation**

**The Committee recommends that the respective Accounting Officers in the Offices of the President and Deputy President settle outstanding bills within the financial year, as first charge as per Regulation 42 of the Public Finance Management (National Government) Regulations, 2015.**

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**168: Inadequecies in Projects under Nairobi Metropolitan Services**

Review of the projects implemented under the Nairobi Metropolitan Services revealed the following anomalies;

**168.1 Construction and Equipping of Health Facilities**

During the year under review, the Ministry of Health entered into a contract with AMREF Health Africa for construction and equipping of Nineteen (19) level 2 and level three health facilities in Nairobi County at a contract sum of Kshs.869,400,000. The contract was to be implemented within a period of ninety (90) days.

AMREF Health Africa having obtained a license as a procurement agent of the Ministry of health, appointed Mega Scope Healthcare Africa to construct and equip construction and equipping Nineteen (19) level 2 and level 3 health facilities at a cost of Kshs. 900,000,000.00

Subsequently Nairobi Metropolitan Services (NMS) entered into a Deed of Assignment with the Ministry of Health for the construction of equipping Nineteen (19) level 2 and level 3 health facilities in Nairobi County.

Although the procuring agent (AMREF) had been paid the full cost of Kshs. 869,400,000 for constructing the 19 facilities, Sinai, Pumwani Majengo, Lucky Summer and Gumba/Mabatini were at 85%,15%,10% and 5% completion levels respectively at the time of audit. Further, no contract extension or reasons for the slow progress of work was provided despite the fact that full payment for the contract sum had been made.

From the foregoing, it is not possible to confirm that the contractor has the capacity to complete the projects given the long delay despite full payment in advance.

**Submission by the Accounting Officer**

The ten (10 No.) Level 2 health facilities and nine (9 No.) Level 3 health facilities were to be constructed and equipped as a turn-key project. In concurrence with the audit review, NMS's mandate in the deed of assignment was to transfer funds for the 19 level 2 and 3 health facilities to AMREF, the procuring agent. Payments to the contractor were therefore being handled by the agent as per presented certificates for works done.

Incomplete Health Centres

As at 15th August 2023, eight (8 No.) Level 3 health facilities and eight (8 No) Level 2 health facilities have been completed and operational. Therefore, only three (3) out of the Nineteen (19) facilities have not been completed and a summary of their status report is as below:

| | | | | |
|---|---|---|---|---|
| 1 | Lucky Summer Facility | Level 2 | 95% complete | Work in progress |
| 2 | Pumwani Majengo | Level 3 | 40% complete | Work in progress |
| 3 | Gumba Mathare | Level 2 | 10% complete | Groundslab - Stalled |

The delay in the completion of Gumba Mathare Level 2 was related to land acquisition and site preparation issues including a long-year court case between traders and NMS in which the court ruled in favour of NMS as per attached AMREF status report and court ruling.

Variation of Contract

The contract for the construction and equipping of nineteen level 2 and 3 health facilities in Nairobi was entered between the Ministry of Health and AMREF. In this contract, the Nairobi Metropolitan Services was required to facilitate the payment while the State Department for Public Works was the implementing agency. As the project implementation progressed, the Ministry of Public Works undertook a detailed evaluation, which resulted in a variation in project cost of Kshs. 76,342,409.45.

The contractor submitted a variation request of Kshs. 76,342,409.45 based on the valuation report of the Ministry of Public Works. NMS then submitted the request to the National Treasury to consider providing an additional budget for the increased project cost.
It would be key to note that;

1. For the contract to be completed, an additional Kshs.76,342,409.45 is required. The new contract price is therefore Kshs. 945,742,409.45
2. the contractor is on-site working to complete the construction pending the additional funding of Kshs. 76,342,409.45.
3. That AMREF still holds 5% retention of the project costs as defect liability in addition to a performance bond.

Amref has a balance of Kshs. 27M payable to the contractor as indicated in AMREF Status report.

**Committee Observations and Findings;**

**The Commtitee observed that equipping and construction of health facilities was one of the projects under the then Nairobi Metropolitan Service (NMS) that it has cited under the chapter of general observations and recommendations of this report.**

**Committee Recommendation;**

**The Committee recommends that the Auditor General conducts a special audit on accounts of the then Nairobi Metropolitan Service (NMS) and submits a report to the Committee within three (3) months of adoption of this report.**

**168.2 Irregular Procurement of Street Lights**

Audit examination of the payment voucher No.436 and the supporting documents amounting to Kshs. 66,576,000 paid on 8 November 2021 to Match Electrical Ltd for supply and installation along the Nairobi-Thika Super Highway (A2) road revealed that NMS used a contract between KeNHA and Match Electricals in the procurement 150/180W lights. On 8 Ju.ne 2020 a requisition was done for 2000 pcs of 150/180W LED at a cost of Kshs. 29,200 each as indicated in the contract obtained from KeNHA. However, NMS procured 2000 pcs at a unit cost of Kshs.33,288 resulting in a difference of Kshs. 4,088 each leading to an overpayment of Kshs.8,176,000.

Further, the contract used for the procurement was a three-year performance-based contract signed on 31 December 2018 at a contract sum of Kshs. 528,599,196 for the maintenance of street lighting on the Nairobi-Thika Super Highway(A2) road for a period of thirty-six (36) months. However, at the time NMS was procuring the lights for installation at the Nairobi -Thika Highway, the contract between KeNHA and Match Electricals was still active and no evidence was provided for audit review, to prove that KeNHA had transferred the contracted services to NMS.

From the foregoing, it is not possible to confirm with certainty the validity of the expenditure of Kshs. 66,576,000.

**Submission by the Accounting Officer**

From the Summary of Bills of Quantities for Performance Based Contracts for Thika Road Street Lighting Maintenance it is clear that the quoted unit costs are exclusive of VAT.

| **BILLS OF QUANTITIES-THIKA ROAD STREET LIGHTING MAINTENANCE** | | |
|---|---|---|
| BILL NO | Description | Amount KES |
| 1 | Preliminaries and General Items | 11,115,600.00 |
| 20 | **Instructed Works (exclusive of VAT)** | **256,842,800.00** |
| | Sub Total (1+20) | 267,958,400.00 |
| | Add 2.5% Contingency | 6,698,960.00 |
| Sub Total for Improvement Works | | 274,657,360.00 |

| | | |
|---|---|---|
| 26 | Performance Maintenance over the Contract period of 36 Months | 179,997,120.00 |
| | Provisional Sum for Emergency Works | 1,000,000.00 |
| SUB TOTAL for PBC Works | | 180,997,120.00 |
| SUB TOTAL(Improvement +PBC Works) | | 455,654,480.00 |
| Add 16% VAT | | 72,904,716.80 |
| GRAND TOTAL | | 528,559,196.80 |

| |
|---|
| ***Contract Unit Price*** |
| Unit Cost of 150w/180w LED light Kshs. 28,000 |
| Unit cost for retrofitting Kshs. 1,200 per light |
| Total Unit Cost (Exclusive VAT) Kshs.29,200 |
| ***ADD; 14% VAT*** (29,200 x 14%)=4,088 |
| Total Cost per Unit Kshs. 33,288 |
| ***Payable Amount*** |
| Kshs. 33,288 X 2000+ Kshs. 66,576,000 |

Further, Nairobi Metropolitan Services through one of the transferred functions; The Directorate of Energy Reticulation and Public Lighting was mandated to improve public lighting in a bid to Brighten Nairobi City County. At that time, NMS did not have its own established contracts to be able to deliver services.

At the inception of NMS operations in March 2020, NMS had been tasked to work with other government agencies to adopt related contracts to be able to deliver urgent assignments within the shortest period of time. Therefore, NMS wrote to KeNHA requesting contracts for public lighting. The letter of request to KeNHA from NMS is attached.

It is important to note that public lighting improvement was necessitated by the need to replace the old High-Pressure Sodium (HPS) along the Thika Superhighway (Nairobi area) because they were yellow, dim, and some non-functional, due to age, with energy-efficient, brighter and efficient LED 150/180W Lights.

KeNHA had an active contractor instructed to carry out maintenance and retrofitting of faulty lights along the Thika road section on the basis of instructed work, however, due to budgetary limitations, KeNHA could not engage the contractor to renew/replace the Thika super-highway with modern, energy-efficient LED lighting to brighten the Nairobi City as per NMS's need. Since the said contract had a provision for LED Lights and retrofitting, NMS sort to use the contract for retrofitting the HPS lights to LEDs. There was therefore no double instruction to the contractor by KeHNA and NMS for providing this service. A copy of the KeHNA contract with the contractor has been attached, alongside other supporting documents.

**Committee Observation**

i) **The Committee observed that the amount queried was exclusive of VAT and the Submission by the Accounting Officer was thus satisfactory.**

**ii) The Committee found that the matter was resolved.**

### 168.3 Construction of Kamitha Road

Review of procurement documents revealed that Nairobi City County entered into a contract with the contractor for the construction of Kamitha Road, Gatina at a contract price of Kshs.52,786,597 in 2020/21 financial year. On 27 January 2021, a deed of novation was entered into transferring the contract to NMS. The project start date was 27 March 2020 with a completion date of 27 March 2021. However audit verification of the project on 9 February 2022 revealed the following unsatisfactory issues,

i. The headwalls did not have a plaster finish as provided for in the bill of quantities
ii. Although the contractor laid the inverted block drainage, the drains were silted which caused the culverts to block completely.
iii. The road section between World Hope Stadium and the Lavington Estate had fresh asphaltic concrete an indication that the contractor may have not compacted the base as per the bills of quantities hence the development of potholes.
iv. The contractor had not done the road markings and road signs.

**Submission by the Accounting Officer**

It is true that Nairobi City County entered into a contract with the contractor for the construction of Kamitha Road, Gatina. The issues observed and highlighted by the auditor on the impaired status of the road had been raised by the Resident Engineer to the contractor during the inspection of the works. From the correspondence letters attached herewith between the resident engineer and the contractor, the contractor indicates an undertaking of works upon payment of certificate no.1.

The certificate's value was submitted for review and approval for payment to NMS but no payment was made to the contractor by the time of this report, therefore it is important to note that no public funds have been wasted to this effect. Additionally, the certificate presented to NMS for payment were interim certificates and not final/completion certificates. Usually, the final/completion certificate is prepared and presented for payment by the resident engineer upon satisfactory evidence of no defects to the works.

**Committee Observations and Findings;**

**The Committee observed that the Accounting Officer had failed to pay the contractor despite execution of 90% of the contract works. The contractor was thus unable to remedy defects noted.**

**Committee Recommendation**

**The Committee recommends that the contractor's dues be settled as part of the pending bills, as first charge as per Regulation 42 of the Public Finance Management (National Government) Regulations, 2015.**

### 168.4 Water Sewer Extensions and Street Lighting

Nairobi Metropolitan Services entered into a contract in 2021 with China Roads Corporations for the proposed water sewer extensions and street lighting in Dandora, Kangemi, Kawangware, Dagoretti Corner Waithaka Riruta, Kibera, Korogocho, Mathare, Zimmerman, Thome, Githurai

45 Mwihoko, Kasarani and Mwiki at a contract sum of Kshs. 4,475,766,419. The contract period was for twelve months starting 25 March 2021.

Review of records revealed that a total amount of Kshs. 1,640,073,278 had been paid out of which Kshs. 1,192,496,636 was paid during the 2021/2022 financial year and an advance of Kshs. 447,576,642 in the 2020/2021 financial year. However, the average combined progress of work was at 30% as per the Contract Implementation Team (CIT) site meeting held on 27 May 2022. No contract extension approval was provided for audit review.

In the circumstances, the delayed completion of the Project casts doubt on the realization of value for money incurred in the project.

**Submission by the Accounting Officer**

It is true that Nairobi Metropolitan Services entered into a contract with China Roads Corporation for the water sewer extension and lighting in Dandora, Kangemi, Kawangware, Dagoretti Corner, Waithaka, Riruta, Kibera, Korogocho, Mathare, Zimmerman, Thome, Githurai 45 Mwihoko, Kasarani and Mwiki at a contract sum of Kshs.4,475,766,419 (Contract No. NMS/SPP/0012020/2021) with a completion date of 25th March 2022. The total amount paid to the contractor so far is Kshs.1,640,073,278.25 and this amount is equivalent to the certified works already done.

The slow pace of the project has been as a result of delays in payments of supplier certificates attributed to insufficient exchequer releases.

As at the time of compiling this report, the contractor was owed Kshs. 665,265,352 as per the attached certificate summaries. Pending payments are reported in the 2021/2022 NMS Pending Bill report. The contractor has confirmed that he is willing to continue with work as long as his long-outstanding payments are made.

Based on the slow progress of this project, NMS sought an extension of the contract. The contractor was granted a six (6) months extension as per the attached approval by the Accounting Officer.

**Committee Observations and Findings;**

**The Commtitee observed that these were one of the projects under the then Nairobi Metropolitan Service (NMS) that it has cited under the chapter of general observations and recommendations of this report.**

**Committee Recommendation;**

**The Committee recommends that the Auditor General conducts a special audit on accounts of the then Nairobi Metropolitan Service (NMS) and submits a report to the Committee within three (3) months of adoption of this report.**

**168.5 Incomplete Rehabilitation of Jevanjee Park**

The Nairobi Metropolitan Services initiated the upgrading and maintenance of Jeevanjee Park at an estimated cost of Kshs.15 Million. The works were to be done in-house by NMS and materials were procured for the project. The project was to run for four (4) months commencing on 25 February 2020. However, Physical Inspection of the project revealed that the project was still incomplete despite NMS having procured materials some of which were still on site and exposed to theft.

The project was behind schedule and value for money for the expenditure incurred on the project may not be realized.

**Submission by the Accounting Officer**

As observed in the audit review, it is true that NMS undertook to upgrade and maintain the Jevanjee park at an estimated cost of Kshs.15M. These works were to be implemented using the internal capacity at NMS and the materials drawn from the central stores. One of the parks earmarked for retrofication was Jeevanjee Gardens under the Kazi Mtaani legacy project. The status of works done is as follows:

i. Erection of a porous steel fence with a concrete base-80%
ii. Excavation of the walkways for paving with cabro-70%
iii. Construction of an office block-20%
iv. Replacement of underproductive grass species with suitable species-80%
v. Establishment of a botanical garden-30%

The remaining works were not to be implemented in isolation but required other support materials for completion. The acquisition of additional materials was not possible due to budgetary constraints.

The project has since reverted to the Nairobi City County and necessary measures undertaken to secure the materials on sight, further the county has undertaken to complete the remaining works.

**Committee Observations and Findings;**

**The Commtitee observed that these were one of the projects under the then Nairobi Metropolitan Service (NMS) that it has cited under the chapter of general observations and recommendations of this report.**

**Committee Recommendation;**

**The Committee recommends that the Auditor General conducts a special audit on accounts of the then Nairobi Metropolitan Service (NMS) and submits a report to the Committee within three (3) months of adoption of this report.**

## 4.4 VOTE 1021: STATE DEPARTMENT FOR INTERIOR AND CITIZEN SERVICES

**Dr. Raymond Omollo, PhD., CBS,** the Principal Secretary and Accounting Officer for the State Department for Internal Security and National Administration and **Amb. Julius Bitok, CBS**, the Principal Secretary and Accounting Officer for State Department for Immigration and Citizen Services appeared before the Committee on 3rd August 2023 accompanied by the following officers:

| | | | |
|---|---|---|---|
| i. | Mr. John Nyabwari | – | Senior Chief Finance Officer |
| ii. | Mr. Fred Muhul | – | Deputy Accountant General |
| iii. | Mr. Nixon Nganga | – | Director, Communications |
| iv. | Ms. Phyllis Ouko | – | Director, Administration |
| v. | Ms. Rosemary Kamau | – | Director Human Capital Management |
| vi. | Mr. Joseph Kimani | – | Senior Principal Finance Officer |
| vii. | Mr. Paul Mwangemi | – | Secretary, Civil Register |
| viii. | Mr. Christopher Wanjau | – | Secretary, National Registration Bureau |
| ix. | Mr. Samuel Maina | – | Senior Deputy Accountant |
| x. | Mr. Peter Muita | – | Chief Finance Officer |
| xi. | Ms. Elizabeth Wangari | – | Deputy Internal Auditor |
| xii. | Mr. Stephen Riungo | – | Deputy Internal Auditor |
| xiii. | Ms. Emily Obimo | – | Ag. Head, Human Resource Management |
| xiv. | Mr. Jack Okula | – | Legal Advisor |
| xv. | Mr. Saul Abwao | – | Personal Secretary to the PS Interior |
| xvi. | Mr. Collins Okedi | – | Personal Assistant to the PS Interior |

and submitted as follows:

REPORT ON THE FINANCIAL STATEMENTS

**176. Long outstanding and unreconciled balances**

The statement of assets and liabilities reflects bank balances of Kshs.397,763,378 as disclosed in Note 20A to the financial statements. The balances include recurrent bank balance of Kshs.1,647,036. Review of recurrent bank reconciliation statement for June, 2022 revealed various unreconciled items that had been outstanding for more than one (1) year as indicated below:

| Description of Item | Amount (Kshs.) |
|---|---|
| Unpresented cheques | 678,479,199 |
| Receipts in bank not in cash book | 162,608,851 |

| | |
|---|---|
| Payments in bank not in cash book | 121,433,488 |
| Receipts in cash book not in bank | 576,458,443 |

In the circumstances, the accuracy and completeness of the bank balances of Kshs. 397,763,378 could not be confirmed.

**Submission by the Accounting Officer**

It is true that the bank reconciliation statement for June 2022 revealed various unreconciled items that had been outstanding for more than one (1) year. I wish to state that all unpresented cheques totaling to Kshs 678,479,199.00 have been cleared as per the bank reconciliation for the period ending 31st March, 2023. Receipt in bank not in cashbook amounting to Kshs 162,608,851 has been adjusted in the cash book on 31st March, 2023. Additionally, the payment in bank not in cash book amounting to Kshs 121,433,488.00 and receipt in cash book not in bank of Kshs 576,458,443 have been adjusted in cash book under folio 89 dated 31st March 2023.

**Committee Observations and Findings;**

**The Committee observed that the reconciliations have now been done.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to proper accounting records, as required by sections 81 & 83 of the PFM Act 2012.**

**177. Unsupported Pending Bills**

Note 28 to the financial statements reflects nil balance on pending bills. However, Annex 1 to the financial statements reflects pending bills balance of Kshs.5,508,101,204 resulting to unexplained variance of Kshs.5,508,101,204. Further, Management did not analyze the pending bills contrary to the Public Sector Accounting Standard Board prescribed reporting template for June, 2022.

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

**Submission by the Accounting Officer**

It is true there was a pending bill of Kshs.5,508,101,204 whose detailed analysis was not provided at the time of audit. Subsequently, the same was availed and formed the basis of settlement of the said bills in FY 2022/23.

Pending Bills totaling to Kshs 4,457,709,349.89 for FY 2021/22 had been settled by 30th June, 2023 leaving a balance of Kshs. 1,050,391,854.46. The unpaid balance was attributed to budget cuts.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation**

**The Committee recommends that the Accounting Officer prioritizes pending bills as first charge as provided for under Regulation 42 of the Public Finance Management (National Government) Regulations, 2015.**

**178. Unresolved prior year matters**

In the previous year's audit report, several issues were raised under the Reports on Financial Statements, Lawfulness and Effectiveness in Use of Public Resources, and Effectiveness of Internal Controls, Risk Management and Governance. Although Management had indicated in the progress on follow-up on prior year's auditor's recommendations that the matters were resolved, the matters remained unresolved as the Public Accounts Committee had not made recommendations and resolutions on the same.

**Submission by the Accounting Officer**

The previous year's matters were discussed with Public Accounts Committee (PAC) on 10th May 2022. PAC made recommendations and resolutions on the same and the matrix on implementation of PAC recommendations has been availed.

**Committee Observations and Findings;**

**The Committee observed that its report had since been adopted by the House.**

**Committee Recommendation**

**The Committee recommends that the Accounting Officer avails a status report on implementation of its recommendations within three (3) months of adoption of this report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**179. Provision of Enhanced Comprehensive Medical Group Cover**

The statement of receipts and payments reflects expenditure on use of goods and services of Kshs.33,238,685,883 as disclosed in Note 11 to the financial statements. The expenditure includes insurance costs of Kshs.5,581,452,440. Review of procurement documents revealed that the Ministry of Interior and Coordination of National Government entered into a one-year contract for provision of enhanced comprehensive group life cover for the National Police Service and the Kenya Prisons Service with National Hospital Insurance Fund for the period 1 January, 2021 to 31 December, 2021. The insurance cover was intended to cover principal members and dependents in employment at the commencement of the cover. The total agreed premium was Kshs.2,295,594,440 covering a total population of 131,816 officers. The contract ended on 22 December, 2021 and was extended for a period of three months to cover 1st January, 2022 to 31st March, 2022. However, review of records revealed the following unsatisfactory matters:

### 179.1 Non-Provision of Quarterly Reports

Comprehensive quarterly reports on claims from the service provider were not provided for audit. This was contrary to Clause 3.1.5 of the contract which provided that NHIF shall provide a comprehensive report to the National Police Service and the Kenya Prisons Service on claims under this scheme every three months. The report shall be submitted by the 15th day of the month following the lapse of the three months. It was therefore not possible to evaluate or analyze performance based on the claims paid, pending claims and any outstanding claim against the premiums paid by the State Department.

**Submission by the Accounting Officer**

Its true NHIF had not provided the quarterly reports at the time of the audit contrary to Clause 3.1.5 of the contract. However, NHIF has since provided the six (6) quarterly reports for the contract period after follow-ups. The template of the quarterly reports is included in the contract and it shows the required information, the timelines and the status of payment for the period.

**Committee Observations and Findings;**

i) **The Committee observed that the reports had since been obtained from NHIF.**
ii) **The Committee found that the matter was resolved.**

### 179.2 Unpaid Claims under Work Injury Benefits Act (WIBA)

Review of payment details and claims made to the service provider revealed that NHIF had not paid seventeen (17) employees who had suffered non-fatal injuries, amounting to **Kshs.4,856,237** contrary to Clause 13 of the contract which provides that death, illness /injury as a result of occupational causes (Employment -WIBA Act 2007) shall be paid at the rate of gross remuneration of the member for eight (8) years. Further, eighty-eight (88) members of staff had not been paid claims on WIBA death that occurred during the year 2021. No explanation was provided for the anomaly.

**Submission by the Accounting Officer**

*Unpaid Injury under WIBA*; It is true that at the time of audit 17 non-fatal claims had not been paid. The National Police Service submitted cases to Directorate of Occupational Safety and Health (DOSH) but response had not been received at the time of the audit. Delivery records to NHIF by the National Police Service for the claim documents have been availed. These claims have however been paid by NHIF;

*Unpaid WIBA Claims for accidental death;* The National Police Service submitted unpaid cases to Directorate of Occupational Safety and Health (DOSH) but the status report on payments had not been received at the time of the audit. However, the report has since then been provided as follows:

| Summary | No |
|---|---|
| Paid Claims | 13 |
| Pending Claims at NHIF | 37 |
| Pending Claims awaiting documents from Dependants | 25 |

| | |
|---|---|
| GPA not WIBA | 13 |
| **Total** | **88** |

As indicated above, 13 claims had been paid, 11 at the time of Audit and 2 as per latest NHIF update. In addition, 37 claims are pending payment at NHIF that were submitted on various dates as per attached claims transfer register. Further, 25 claims are awaiting documents from the dependants. NHIF declined 13 claims, stating that they fall under GPA and not WIBA. It is important to note that the cover did not have the provision for GPA.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**179.3 Unpaid Sums for Critical Illness-Group Life Benefit**

Audit verification of the contract document against the data provided by the Kenya Police Service indicated that NHIF had not paid any sums for Critical Illness-Group life benefit contrary to Clause 2.2.9.2 of the contract which states that where a beneficiary is diagnosed as suffering from critical illness including COVID related illness as certified by a specialist in the field, compensation shall be at a rate of 30% of the group life sum assured subject to a maximum of Kshs.3,000,000. Further, the contract for Group Life Cover, did not specify benefits under group personal accident such as disability benefit as required by the Public Service Superannuation Scheme Act.

**Submission by the Accounting Officer**

It is true that no sums for Critical Illness- Group Life Benefit had been paid as at the time of the audit. As at the time of the Audit, 20 claims had been notified to the NHIF. The status on settlement of the claims is as detailed below;

| Summary | No |
|---|---|
| Paid Claims | 4 |
| Rejected Claims | 6 |
| Pending Claims awaiting Reimbusment Form | 8 |
| Died – G.L Claim Launched | 2 |
| **Total** | **20** |

As indicated above;

- Four (4) claims have now been settled.
- Three (6) claims were rejected due to date of diagnosis of the illness falling before the cover period came into force.
- Nine (8) claims awaiting reimbursement form from the claimant (the form is provided directly to the claimant).
- Two (2) claimants have since died and group life claims have been launched.

It is true that in FY 2021/22 group life cover contract did not specify benefits under group personal life accident. With the available budget out of 4 benefits NHIF provided one benefit i.e. permanent disability benefit as a result of accident under GPA. The same was addressed in subsequent contracts which have been availed.

**Committee Observations and Findings;**

**The Committee noted that the NHIF was slow in settling payments due.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer liaises with NHIF and ensures settlement of all claims within period specified in contract.**

### 179.4 Under Budgeting for Comprehensive Group Life Cover

Review of records maintained by the State Department revealed that NHIF had quoted for a one-year contract for provision of the aforementioned services at an annual premium of Kshs.8,573,590,531 against an annual budget of Kshs.2,295,594,440. Negotiation meeting took place on 16 February, 2022. The total agreed premium after negotiations was Kshs.1,155,559,931 with a total population of 132,876 members as beneficiaries for a further extended period of three months from 1st April, 2022 to 30th June, 2022.

However, the budget allocation of Kshs.2,295,594,440 was not sufficient to cater for the annual premium as evidenced by the amount quoted for the contract in the year under review supported by the service provider quote of the previous financial years. This may affect the quality of services offered to the members of the scheme.

**Submission by the Accounting Officer**

It is true that NHIF quoted a total of Kshs.8,573,590,531 against an annual budget of Kshs.2,295,594,440. There was no adjustment made to the rates applicable in each category. The agreed benefits under the negotiated premiums remained the same and included death benefits as a result of illness. The negotiations agreement was in line with the available budget at the time with the comparative benefits between the quoted amount and annual budget.

The request for additional funds and the response by the National Treasury citing limited fiscal space is attached. The negotiations minutes and the contract have been provided.

**Committee Observations and Findings;**

**The Committee noted that the budget was inadequate to cater for all employees.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer and National Treasury ensures adequate coverage of all officers under the current Social Health Insurance Fund.**

### 179.5 Unsupported Adjustment of Premiums

The National Health Insurance Fund quoted an annual premium of Kshs.8,573,590,531 per annum to provide health insurance cover for both the National Police Service and the Kenya Prisons Service. This translates to Kshs.714,465,878 monthly and therefore for three months the premium for the cover would have been Kshs.2,143,397,633. However, the Department negotiated and the premium agreed was Kshs.1,155,559,931 for a period of three months. However, the negotiated premiums, which would have reduced the annual premium by Kshs.987,837,702 was not factored in the contract.

**Submission by the Accounting Officer**

It is true that the negotiating parties agreed to a premium totaling to Kshs. 2,295,594,440 for one (1) year for the period 1st January 2021 to 31st December 2021. The cover was extended from 1st January 2022 to 31st March, 2022. From 1st April to 30th June 2022, a cover was procured to enable officers to continue enjoying benefits that are within the law at Ksh. 1,155,559,931 as per availed minutes.

**Committee Observations and Findings;**

**The Committee noted the submission from the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the National Treasury and the Accounting officer rationalizes the premiums with the contract under the new Social Health Insurance Fund.**

### 179.6 Unpaid Claims on Last Expense

Review of details of claims made for funeral expenses covered in the Comprehensive Group Life cover in the months of April, 2022 to June, 2022 and up to the time of audit in November, 2022 revealed that one hundred and twelve (112) claims of principal members, spouses and children valued at Kshs.19,250,000 had been submitted to NHIF but had not been paid. This was contrary to Clause 5.2 of the contract agreement which provides that NHIF shall upon 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 may in writing direct the amount specified for funeral expenses within two (2) days subject to provision of a duly completed claim form and copy of burial permit

**Submission by the Accounting Officer**

It is true that 112 claims had not been paid at the time of audit. However, NHIF has since paid 101 claims as per the attached payment schedule. The remaining eleven (11) claims are attributed to;

- Two (2) claims are pending presentation of documents by the claimants
- Nine (9) claims relate to officers who had passed on before the contract was signed.

The Schedule of paid claims and pending claims is as detailed below;

| **Summary** | |
|---|---|
| **Claims** | **No** |
| Claims Paid | 101 |
| Claims Pending Presentation of Documents | 2 |
| Claims Pending at NHIF | 9 |
| **Total** | **112** |

As per Clause 5.2 of the contract agreement NHIF was required to fully process claims and last expense claims within two (2) days upon notification of death of a member or dependent upon submission of duly completed claim form and copy of burial permit. The delays were occasioned by non-submission of the requisite documents in time by claimants.

**Committee Observations and Findings:**

**The Committee observed that the NHIF was slow in settling payments due.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer liaises with NHIF/SHIF and ensures settlement of all claims within period specified in contract.**

**179.7 Lack of Standing Committee Reports**

The approved list of standing committee members, monitoring and evaluation reports, sensitization programmes reports, and quarterly reports or minutes to the client were not provided for audit. This was contrary to Clauses 13.1 and 13.2 of the contract agreement which provides that parties to the contract shall establish a standing committee for contract management under terms set out in the contract and shall comprise of representatives drawn from the National Police Service, the Kenya Prisons Service and NHIF. Further, clause 14 provides that the administrative expenses for the scheme shall not exceed 5% of the premium paid by the client. However, report on the administrative expenses was not provided to confirm how much had been spent and whether the expenditure limit was observed.

In the circumstances, the Ministry did not obtain value for money on expenditure for provision of enhanced comprehensive group life cover and expenditure on insurance costs of Kshs.5,581,452,440 could not be confirmed.

**Submission by the Accounting Officer**

It is true that the list of standing committee members, monitoring and evaluation reports, sensitization program reports and quarterly reports were not presented at the time of the audit. However, the reports have now been provided.

It is true the 5% administration expenses report was not available for audit. The report has been provided by NHIF showing a total expenditure of Ksh. 149,797,235 which translates to 2% of the total premiums. Therefore, value for money was realized.

**Committee Observation**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**180. Provision of Comprehensive Medical Cover**

The statement of receipts and payments reflects expenditure on use of goods and services of Kshs.33,238,685,883 as disclosed in Note 11 to the financial statements. The expenditure includes insurance costs of Kshs.5,581,452,440. Review of procurement records revealed that, the National Police Service entered into a contract with NHIF for provision of a comprehensive medical cover for one hundred and twenty eight thousands seven hundred and ninety seven (128,797) employees of the National Police Service and the Kenya Prisons Service for the period 1 July, 2021 to 30 June, 2022. The insurance cover was intended to cover principal members in employment at the commencement of the cover and was to be on family-shared basis covering the principal member and dependents at a contract sum of Kshs.4,785,805,560. However, the following matters were noted:

### 180.1 Comprehensive Medical Cover Last Expense Claims

Review of records relating to last expense claims made during the year under review revealed that two hundred and twenty-one (221) claims of principal members and dependent valued at Kshs. 34,600,000 were submitted to NHIF for payment but were yet to be paid. This was contrary to Clause 6.2 of the contract which provides that there shall be last expense paid for the principal members and one declared dependent of two hundred thousand (Kshs.200,000) and fifty thousand shillings (Kshs.50,000) respectively. The last expense payment shall be made within seventy-two (72) hours from the time of reporting subject to submission of properly filled claim documents.

**Submission by the Accounting Officer**

It is true the amount of Kshs 34,600,000 had not been paid to the claimants as at the time of the audit. NHIF has however paid all the 221 claims.

The payment for these claims was done outside the 72 hours as provided for in the contract mainly due to a delay in presentation of documents. It is notable that the last expense was to be paid subject to submission of properly filled claim documents.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

### 180.2 Ex-gratia/ Excess of Loss Benefits

Review of the contract documents and payment vouchers provided for audit revealed that the standing committee did not provide approval for payment of any ex-gratia claims for the year under review. This was contrary to Clause 6.21 of the agreement which states that there shall be ex-gratia of Kshs. 200,000,000 and the ex-gratia claims shall be approved by the standing committee of the client before any payment is made. Further, NHIF was required to submit detailed quarterly report on all ex-gratia claims including the value, beneficiary, background and status of the claims among others to the standing committee and any unspent amount of ex-gratia at the end of the contract period. However, NHIF did not provide quarterly reports or unspent ex-gratia amount during the year under review. In the circumstances, the State Department did not obtain value for money on expenditure for provision of comprehensive medical cover of Kshs. 4,785,805,560.

**Submission by the Accounting Officer**

It is true that the contract included ex gratia of Kshs. 200,000,000 and expenditure of such funds were to be approved by the Standing Committee before utilization. There were no requests from NHIF presented for discussion and approval by the Committee and yet the funds were utilized. This was in breach of clause 6.21 of the agreement.

There are correspondences between the Ministry and NHIF on accountability of the funds which NHIF has never responded to date.

**Committee Observations and Findings;**

i) **The Committee obtained evidence from the NHIF vide its letter ref. SHA/CNF/FIN/001 VOL I/26 dated 22nd September 2024 that they had indeed availed reports to the Inspector General of Police, and that the ex-gratia was depleted.**
ii) **The Committee found that the matter was resolved.**

**181. Non-compliance with One-third Rule on Basic Salary**

Review of the Human Resources Management Policy and the payroll provided for audit indicated that a total of one thousand three hundred and twenty-eight (1,328) officers were receiving less than a third of their respective basic salaries. This was contrary to Section C.1 (3) of the Human Resource Policies and Procedures Manual for the Public Service of May, 2016.

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

**Submission by the Accounting Officer**

It is true there were cases of officers receiving less than a third of their respective basic salaries. This was attributed to the fact that during the height of Covid–19, the Government of Kenya granted a tax relief to all Public Servants. Most of these officers committed the said relief on Sacco and commercial loans. When the tax relief window period was over their salaries went below a third of the basic salary.

In November 2021, Graduate Police Constable designation abolished in the IPPD system as per National Police Service Commission circular no NPSC/1/28/1/VOL. III (75) dated 23rd December 2021.Graduate Constables and non-commissioned officers reverted back to their substantive ranks. Most of these officers had committed their salary on Saccos and commercial loans. With the implementation of the circular, their net pay was affected to below a third.

**Committee Observation**

i) **The Committee observed that the matter had been litigated and settled.**
ii) **The Committee found that the matter was resolved.**

**182. Acquisition of Assets**

The statement of receipts and payments reflects expenditure on acquisition of assets of Kshs.5,430,216,381 as disclosed in Note 16 to the financial statements. However, the following observations were noted in relation to the expenditure:

**182.1. Delayed Construction of 100 PAX Hostel Block**

The Department entered into a contract with a firm, for the construction of one hundred (100) Pax hostel block at the Kenya School of Adventure and Leadership in Meru County at a contract sum of Kshs.198,109,780. The contract was signed on 20 March, 2020 for a period of two (2) years ending 20 March, 2022. As at 30 June, 2022, the contactor had been paid a total of Kshs.87,858,647.

Examination of the project records revealed that, the project had not been completed as at the time of the audit inspection in July, 2022. Further, inspection reports from the Department of Public Works relating to the certificates raised were not provided for audit. It was not possible to confirm whether the building conforms to the specifications. In addition, the delayed completion of the project may have denied the School the benefit derived from the completed project.

**Submission by the Accounting Officer**

It is true that the project was awarded to Ms. Corban Construction Company at a cost of Kshs. 198,109,780 in FY 2019/20 and the project was scheduled to be completed by 20th March, 2022.

In conformity with the projects estimates the following Certificates were paid;

| Certificate No. | Amount Certified | Paid Amount | (%) of Completion | Firm Paid | Dates of Payment |
|---|---|---|---|---|---|
| 1 | 21,760,150 | 21,760,150 | 10.98 | Coban Construction Co. | 24/06/2020 |
| 2 | 31,716,180 | 31,716,180 | 26.99 | Coban Construction Co. | 12/08/2020 |
| 3 | 19,770,154 | 19,770,154 | 36.97 | Coban Construction Co. | 22/12/2021 |
| 4 | 16,961,165.56 | 14,607,074 | 45 | Coban Construction Co. | 27/01/2022 |
| 5 | 10,034,002.50 | 0 | 50.5 | | |
| **TOTAL** | **100,241,653** | **87,853,557** | | | |

Due to inadequate budgetary provision the project delayed hence need for extensions. Payment Certificates, inspection reports, extension letters and request for budgetary provision have been provided.

Currently the Management has requested for budget provision to facilitate completion of all the stalled projects. The project is at 69% complete to date.

As per the Ministry of Public Works project appraisal report dated 8/8/2023, the project requires a budget of Kshs.107, 902,150.44 to complete. In the FY 2023/24 50 Million was allocated and subsequently it was revised to 27 Million through supplementary budget.

**Committee Observation**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation**

**The Committee recommends that the Accounting Officer avails a progress report within three (3) months of adoption of this report.**

### 182.2 Stalled Construction of Staff Houses

The Department entered into a contract with for the construction of staff houses at the Kenya School of Adventure and Leadership in Meru County at a contract sum of Kshs.24,367,350. The project commenced on 13 February, 2020 with a contract period of thirty-two (32) weeks. As at 30 June, 2022 the contractor had been paid a total amount of Kshs.6,490,978.

However, examination of the project records and audit verification revealed that the project had not been completed as at the time of the audit in July, 2022. Further, the audit verification revealed that construction had stopped at the lintel level and roofing works had not been carried out exposing the walls to damages and deteriorations.

**Submission by the Accounting Officer**

It is true that the project was awarded to Ms. Sanjemu Investment at a cost of Kshs. 24,367,350 and the project was scheduled to be completed by 13th September, 2020. The project was initiated as part of KESAL's expansion programmes to house KESAL's Staff.

In conformity with the projects estimates the following Certificates were paid;

| Certificate No. | Amount | Status (%) | Firm | Dates of Payment |
|---|---|---|---|---|
| 1 | 6,490,978.45 | 22.83 | Sanjemu Investment | 08/06/2020 |
| 2 | 6,110,285.41 | 44.31 | | 27/01/2021 |
| **TOTAL** | **12,601,263.86** | | | |

Due to inadequate budgetary provision, the project completion delayed resulting to continued extensions.

As per the Ministry of Public Works project appraisal report dated 11/8/2023, the project requires a budget of Kshs. 11,766,086.14 to complete. In the FY 2023/24 Kshs.12,000,000 has been allocated to complete the project.

**Committee Observation**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation**

**The Committee recommends that the Accounting Officer avails a progress report within three (3) months of adoption of this report.**

### 182.3 Incomplete Climbing & Rescue Tower

The Department entered into a contract with a firm for the construction of a climbing and rescue tower at the Kenya School of Adventure and Leadership in Meru County at a cost of Kshs.6,462,719. However, audit verification of the project carried out in July, 2022, revealed that the contractor had not completed the external timber cladding. Further, review of the project records revealed that the contractor had under quoted the cladding cost, and therefore was unable to proceed with the project to its practical completion. As at 30 June, 2022 the contractor had been paid an amount of Kshs.5,963,340.

**Submission by the Accounting Officer**

It is true that the project was awarded to Double Link at a cost of Kshs. 6,462,719 and the project was scheduled to be completed by 13th September, 2020. The project was initiated as part of KESAL expansion programmes as a training and rescue element.

In conformity with the project estimates the following Certificate was paid;

| Certificate No. | Amount | Status (%) | Firm | Dates of Payment |
|---|---|---|---|---|
| 1 | 5,963,339.60 | 92.27 | Double Link | 21/12/2021 |
| **TOTAL** | **5,963,339.60** | | | |

The Contractor abandoned the project and did not complete the cladding section of the Tower.

The project management team recommended for termination of the contract and termination has since been made and project appraisal for the remaining works undertaken.

**Committee Observation**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation**

**The Committee recommends that the Accounting Officer invokes contractual provisions against the contractor for breach of contract, and avails a progress report within three (3) months of adoption of this report.**

### 182.4 Stalled Construction of Deputy County Commissioner Office Block at Tigania Central Meru

Review of documents provided for audit indicated that, Construction of the Deputy County Commissioner's Office Block at Tigania Central Meru was allocated Kshs.30,000,000 on 8 May, 2018. The project commencement date was 6 May, 2019, with a contract period of twenty-four (24) weeks ending 21 October, 2019 which was extended to 30 January, 2020. The contractor has been paid Kshs.29,755,000 inclusive of retention money for Certificates No. 1 to 7. However, a certificate of completion had been issued but the project had not been completed. Further, audit verification carried out in November, 2022 revealed that the building was incomplete and had stalled. No explanation was provided on why the project had stalled for over four (4) years.

**Submission by the Accounting Officer**

It is true that the project is incomplete due to inadequate budget provision. The project required a budget of Kshs 33,478,760 but was allocated Kshs 30,000,000 in FY 2019/20. At the time of audit, the contractor had been paid Kshs 29,755,000 and a certificate of partial completion issued to allow occupation of the ground floor.

The project completion delayed due to inadequate budgetary provision over the years.

The State Department has therefore engaged the State Department for Public Works to undertake a project appraisal to inform the funding requirement for completion of the project.

**Committee Observations and Findings;**

**The Committee noted that the project stalled at 88% completion.**

**Committee Recommendation**

**The Committee recommends that the Accounting Officer prioritizes its completion and avails a progress report within three (3) months of adoption of this report.**

**182.5 Stalled Construction of Tigania East Sub-county Office Block at Muriri**

The construction of the Deputy County Commissioner office block commenced in 2011 and was carried out in phases. The project had at least five different contractors for the different phases up to the seventh phase. Management did not provide records of payments made to the different contractors up to the seventh phase. Inquiries from Management revealed that the project stalled in 2019. Audit verification in November, 2022 indicated that the ground floor and first floor were complete and in use. However, the remaining works on the second floor and the roof were incomplete. Further, the roofing works which were part of the Bills of Quantities in the sixth and seventh phase was partially carried out.

**Submission by the Accounting Officer**

It is true that the project was implemented in a phased out approach in line with the funding schedule. Phase I to III was implemented by the Ministry of Public Works through the Economic Stimulus Programme (ESP) with a budget of Kshs 30 Million during the 2009/10 FY. Phase IV to VII was implemented by the State Department for Interior and Citizen Services. Payment records have been availed to the Auditor for review.

**Committee Observations and Findings;**

**The Committee noted that the project had taken inordinately long to complete.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer scales down the scope to available resources and avails a completion roadmap within three (3) months of adoption of this report.**

### 182.6 Incomplete Igembe North Sub-County Offices at Laare

The Department entered into a contract with a firm for the construction of Igembe North Sub County Offices on 10 June, 2020 at a contract sum of Kshs.28,234,704 for a period of twenty four (24) weeks. As at 30 June, 2022 the contractor had been paid a total amount of Kshs.25,479,566. However, audit verification conducted in November, 2022 revealed that the project was incomplete with doors and some windows not installed. Further, painting was not complete and the roof was leaking while the contractor was not on site.

**Submission by the Accounting Officer**

It is true the project completion has been delayed due to budget cuts in the FY 2021/22 and is currently at 90% completion level.

The retention money has not been paid and will be used to make good the observed defects.

The State Department has engaged the State Department for Public Works to undertake a project appraisal to inform the funding requirement for completion of the project.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails a progress report within three (3) months of adoption of this report.**

### 182.7 Stalled Construction of Staff Houses (4 Units two-bedroom Each) Kigumo Police Station

The project was allocated Kshs.10,000,000 on 8 May, 2018 and commencement date for the project was 12 June, 2018, with completion date of 12 October, 2018. The records further indicate that an amount of Kshs.6,942,952 was paid and the unused balance of Kshs.3,057,048 returned to The National Treasury. However, inspection of the project in November, 2022 revealed that the project had stalled. Further, there were construction materials on site that were exposed to theft or further deterioration.

**Submission by the Accounting Officer**

It is true the project had stalled. The work certified and paid for the project was Kshs. 6,942,952. The amount of Kshs. 3,057,048 was returned to the National Treasury as per the Public Finance Management Regulations at the close of the financial year.

The project was labor-based where vendors were contracted to supply materials only while Kenya prisons supplied bricks and provided labor. There are building materials on site (sand, 12 door frames, 6 window frames and building bricks) The door frames, window frames and the wood are secured in the stores while the sand and bricks are covered to protect them from different weather patterns

National Police Service has engaged the State Department for Public Works to undertake a project appraisal to inform funding requirement for completion of the project.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails a progress report within three (3) months of adoption of this report.**

**182.8 Unoccupied County Police Headquarters in Kerugoya**

The Department constructed Kerugoya County Police Headquarters in phases at a contract sum of Kshs.9,995,180 and a certificate of practical completion was issued on 25 October, 2021. As at 30 June, 2022 the contractor had been paid a total amount of Kshs.8,432,330. However, audit verification of the project carried out in November, 2022 revealed that the building had not been occupied. Reasons for the non-occupation of the building were not provided casting doubt on the value for money on the expenditure of Kshs.8,432,330 incurred on the project.

**Submission by the Accounting Officer**

It's true that the building had not been occupied at the time of the audit. This was occasioned by the fact that the administration block had not been equipped

The office block has since been equipped and is currently in use

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**182.9 Stalled Construction of Kirinyaga West (Ndia East) Sub-county Police Station and Offcies in Baricho**

The first phase of construction of Kirinyaga West (Ndia East) Sub County Police Station at Baricho was awarded to a contractor at a contract sum of Kshs.9,440,155 for a period of 12 weeks. However, physical verification of the project conducted in November, 2022 revealed that although the ground floor had been constructed, finishing works, windows, doors and paintworks had not been carried out. Further, the design of the building included a first floor but the works on the first floor had not commenced. In addition, payment records and certificates issued for payment by works officers on the stalled project were not provided for audit. It was therefore not possible to confirm the amount paid up to the point when the project stalled.

**Submission by the Accounting Officer**

It is true the finishing works, windows, doors and paint works had not been carried out at the time of the audit. The phase one of the project which was completed to 100% as per the contract included the following

i) Substructure works
ii) Ground floor walling
iii) Ground floor columns

iv) First floor slab
v) Chain link fence
vi) Main gate
vii) Mechanical works
viii) Electrical works

The design of the project included first floor but the works on the first floor had not commenced due to lack of budget provision. Payment records and certificates relating to the project have since been availed to the auditors for verification.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer scales down the project and completes its phase 1.**

**182.10 Stalled Construction of Mwea East Sub-county Police Station and Offices**

Phase one of the construction of Mwea East Sub County Police Station was awarded on 8 June, 2020 at a contract sum of Kshs.9,939,130. However, audit verification of the project carried out in November, 2022 revealed that the project had stalled and no allocation had been made to the project for several financial years. Further, the slab had deteriorated and had visible cracks due to continuous exposure to different weather patterns. In addition, payment records and certificates issued for payment by works officers on the stalled project were not provided for audit.

**Submission by the Accounting Officer**

It is true that the construction stalled due to budget cuts. It's also true the payment records and certificates were not presented at the time of audit. However, the records are now available to the Auditors for verification.

The retention money has not been paid and will be used to make good the observed defects.

National Police Service has written to the State Department of Public Works for project appraisal to inform the allocation of financial resources for the completion of the project.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails a progress report within three (3) months of adoption of this report.**

**182.11 Delay in Completion of Construction of Mwea West Sub-county Headquarters Kandongu**

Review of records provided for audit revealed that phase one of the construction of Mwea West Sub County Headquarters was awarded at a contract sum of Kshs.22,997,670 while phase two works were awarded at a contract sum of Kshs.9,723,140. The contracts were to run for twenty (20) weeks from 14 March, 2022. Payments made for the first and second phase was Kshs.22,997,610 and Kshs.7,516,975 respectively. However, audit verification of the project conducted in November, 2022 revealed that works on the second floor had not been completed, the contractor was not on site and the contract period for second phase of project has already elapsed.

**Submission by the Accounting Officer**

It's true the project had not been completed at the time of audit. The project was done in a phased approach and the delay in completion was occasioned by budget cuts in FY 2021/2022. In the FY 2022/23, there was massive budget cuts in the development budget that led to the project not being funded. The building is partially occupied and therefore value for money is being realized since the services are being rendered from this building.

**Committee Observations and Findings;**

**The Committee noted that the project had taken inordinately long to complete.**

**Committee Recommendation**

**The Committee recommends that the Accounting Officer scales down the scope to available resources and avails a completion roadmap within three (3) months of adoption of this report.**

**182.12 Construction of Mwea West Sub-county Police Station & Offices**

Phase four (4) of the construction of Mwea West Sub County Police Station and Offices was awarded to a contractor at a contract sum of Kshs.19,697,540. The scope of works included electrical, paint, mechanical and external works. However, audit verification carried out in November, 2022 revealed that the although the contract period had elapsed, the contracted works were incomplete and contractor was still on site. Further, electrical ducts on the walls were left open, ceiling boards had cracks, the roof was leaking and the septic tank had cracks. In addition, payment records and certificates issued for payment by works officers on the stalled project were not provided for audit.

**Submission by the Accounting Officer**

It is true the phase 4 of the project included electrical, paint, mechanical and external works and that the contractor was on site at the time of the audit. As at the time of audit, the contractor had just completed the external works and was working on roofing, ceiling boards and other works which were all work in progress. The defects noted at the time of the audit have since been addressed and corrected. Currently the project is complete.

The payment records and certificates issued by works officers on the project have since been availed to the auditors.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**182.13 Proposed Renovation, Construction and Completion of Deputy County Commissioner's Office at Balambala Sub-County in Garissa County**

The Department, through the Deputy County Commissioner- Garissa County, entered into a contract for renovation, construction and completion of Deputy County Commissioner's Office at Balambala Sub County at an estimated cost of Kshs.13,115,000 on 13 April, 2022. As at the time of the audit in November, 2022 the contractor had been paid a total of Kshs.8,093,853. However, review of the project file revealed the following:

(i) The Tender Opening Committee signed a tender opening register that was incomplete and the registers did not include the firm's names and bid amounts.

(ii) The contractor provided an invalid tax compliance certificate number KRAEON0158252021 dated 10 October, 2021.

(iii) Although the expected completion date was 14 September, 2022, audit inspection in November, 2022 revealed that the project had not been completed and there was no recommendation by the Evaluation Committee or approval by the Accounting Officer for extension of the contract period.

The Deputy County Commissioner did not have deposit account to hold retention sums totaling to Kshs.899,317 which were being held in the recurrent account and were subject to irregular use particularly when there was delay in Exchequer issues.

**Submission by the Accounting Officer**

The State Department takes note of the irregularities in procurement processes and a cautionary letter has been issued to the committee.

It is true the project completion was behind schedule. This is attributed to inadequate budget provision.

The State Department for Interior and Citizen Services maintains one account in respect of Recurrent, Development and Deposit. For the purposes of Retention money, the DCC issues an official receipt to the contractor and the said receipts are entered into the deposit ledger for internal control purposes for payment on the expiry of the contract liability period.

**Committee Observations and Findings;**

**The Committee noted that;**

i) **The Accounting Officer had taken administrative action on the tender opening committee;**
ii) **There was inadequate budgetary provision.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer prioritizes completion of the project.**

**182.14 Construction and Completion of Danyere Assistant County Commissioner's Offcie at Balambala Sub-county in Garissa County**

The Department, through the Deputy County Commissioner (DCC) Garissa County, entered into a contract for the renovation, construction and completion of the Assistant County Commissioner's Office, Danyere Ward at an initial estimated cost of Kshs.14,990,685 on 13 April, 2022. As at the time of the audit in November, 2020, the contractor had been paid a total of Kshs.9,426,546. However, review of the project file revealed the following:

(i) Tender Opening Committee register dated 29 March, 2022 was incomplete with no names of companies participating and amounts quoted at the point of opening.

(ii) Although the contract period had elapsed, the project was incomplete as at the time of the audit in November, 2022.

(iii)There was no recommendation by the Evaluation Committee or approval by the Accounting Officer for extension of the contract period.

(iv)The office of the DCC did not have a deposit account to hold retention money totaling Kshs.1,047,394 which was held in the recurrent account and was at risk of use on normal operation activities or irregular use.

The land on which the office of the DCC Balambala was built had no title deed or proof of ownership.

**Submission by the Accounting Officer**

It is true that there was an omission in recording of the names of the bidders, amount quoted in the tender opening register. However, the same was recorded in the tender opening minutes.

i) The Project Committee will evaluate the works done against the Bill of Quantities, re-evaluate the remaining works for funding to completion.
ii) The State Department takes note of the irregularities in procurement processes and a cautionary letter has been issued to the Committee.
iii) The Ministry maintains one account at the Sub-County Treasury in respect of Recurrent, Development and Deposit funds. For the purposes of Retention money, the DCC issues an official receipt to the contractor and the said receipts are entered into the Deposit ledger for internal control purposes for payment on the expiry of the contract liability period.
iv) The Land on which the Deputy County Commissioners office is constructed is public land which has not been adjudicated. The process of formalization of ownership has commenced.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails a progress report on completion and titling within three (3) months of adoption of this report**

### 182.15 Proposed Construction of National Registration Office Block- Kakamega East Sub-county

The Department entered into a contract for the construction of the National Registration Office Block in Shinyalu Kakamega East, at an estimated cost of Kshs.4,164,138. The contract was signed on 3 March, 2022 for a period of 24 weeks. Review of documents provided for audit review revealed that payments made against AIE B133492 of 28 September, 2021 was Kshs.3,600,000. However, the project records and inspection carried out in November, 2022 indicated that the project was handed over to the State Department in May, 2022 but as at the time of the inspection, six months after completion, the office block was still not in use. Further, the inspection of the project revealed construction defects and non-adherence to provisions of the Bill of Quantities as detailed below:

i) Use of ordinary colored iron sheets instead of box profile iron sheets as per BQ specifications.
ii) Use of blue gum timber instead of cypress timber on trusses as per BQ specifications.
iii) The contractor did not use steel on the windows and did not install window fasteners.
iv) The contractor did not use steel doors, cypress frames for the doors and Union mortice locks.
v) Window curtain holders were not put in place and defects on walling were identified.

**Submission by the Accounting Officer**

It is true the project was handed over in May 2022 and at the time of inspection it was still not in use. This was occasioned by delay in installation of electricity.

It is true that some materials used in the project were different as per earlier specifications. The changes in materials was done through consultation with project management committee and approval granted.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

### 182.16 Dry Docking of Kenya Coast Guard Vessel

Examination of records at Kenya Coast Guard Service (KCGS) revealed that a contractor was engaged to provide dry docking services for the repair, service and maintenance of M/V KCGS DORIA at a contract price of Kshs.59,930,408. However, as at the time of the audit in November, 2022, the Department paid a total of Kshs.62,245,104 which was beyond the contracted amount. Further, audit verification of assets at the KCGS offices revealed that the vessel was not operational as at the time of audit in November, 2022 and was docked at the Shimoni Station despite the payment to the service provider.

In the circumstances, the Department may not have obtained value for money on expenditure incurred on projects and acquisition of assets expenditure of Kshs.5,430,216,381 could not be confirmed.

**Submission by the Accounting Officer**

It is true there was a variance of Kshs.2,314,696 which was beyond the contracted sum of Kshs. 59,930,408.

The variance was attributed to prolonged dry docking during the Covid Pandemic period resulting to increased costs of electricity and storage costs for the duration the works were being carried out. It is notable the repairs delayed due to reduction of workers working on the ship. Currently the vessel is in use.

A copy of variation and extract of minutes of the contract implementation committee and list of Assets have been availed.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**183. Lack of Ownership Documents for Police Land**

Review of records provided for audit indicated that the Kenya Police Service has over three thousand (3,000) parcels of land around the country. However, only approximately four hundred and sixty-four (464) parcels had title deeds which were under the custody of the Deputy Inspector General. The title documents for other parcels of land were said to be in the custody of The National Treasury but their details were not provided for audit. This implies that only approximately 20% of the parcels of land owned by the Kenya Police Services have ownership documents while approximately 80% do not have the same. Further, the Department did not budget for land title processing cost for the year under review.

In the absence of ownership documents, the land is exposed to the risk of encroachment.

**Submission by the Accounting Officer**

It is true that there are no ownership documents for most of the land owned by the Kenya Police Service. However, the Kenya Police Service maintains a record of parcels of land with necessary details and is available for audit verification. The exercise of documenting land entails a lot of administrative and different costs which include valuation fees, survey fees, advertisement costs, stamp duty, registration fees, laying of beacons and fencing /securing charges.

Further the issue requires a multi-agency approach which will incorporate key stakeholders, like Director of Survey, Ministry of Lands and NPS personnel. Correspondences with the NLC and EACC on some of the cases have been provided.

The National Police Service have written to NLC to declare these parcels of land as police land.

The Kenya Police Service, factored this activity in the 2023/2024 budgets proposal but was dropped by the National Treasury because it was treated as a new development project. After follow up with National Treasury over the 2024/2025 Financial Year budget, the National Treasury dropped the processing of titles as a new development project and classified it as recurrent expenditure. The Kenya Police Service has included this activity in the 2024/2025 financial year recurrent budget.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation**

**The Committee recommends that the Auditor General confirms status in the financial year 2024/25.**

**184. Defective Birth certificate Booklets**

Records at Civil Registration Services indicated that there were birth certificate booklets received from the Government Printer (GP) that were defective since they were double perforated and could easily tear. Further, the register for birth certificate booklets indicated that these booklets were returned to the Government Printer, however there was no records to confirm that the certificates were indeed returned and replaced.

The defective certificates may be irregularly issued to unsuspecting members of the public and therefore loss of revenue.

**Submission by the Accounting Officer**

The defective Birth Certificate books serial No.5628001-5629000 and 5629001- 5630000 (20 booklets) were returned to the Government Press on 30th September 2021 and a replacement was done vide dispatch note No.016624 dated 18th October 2021.

Due to the security nature of the Birth Certificates the serial numbers were not repeated for replacement as well as for accountability purposes.

The twenty defective booklets were destroyed and a confirmation letter from the Government Printer availed.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**185. Delay in Separation of Electricity Metres**

Following the Presidential directive on National Police Service policy framework and strategy for reorganization of the National Police Service and provision of decent housing for police officers and integration with the community in September, 2018, a policy change was made which necessitated the separation of electricity meters between the Kenya Police Service and individual police officers who are required to pay their electricity bills. In the financial years 2020/2021 and 2021/2022, the 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. However, during the year under review, the service provider had only fitted few housing units with separate meters at West Park Estate with prepaid meters in November, 2021 and no other works have been undertaken in other police lines. Explanation on why the separation of meters had not been completed was not provided.

Further, analysis of water and electricity budgetary allocation revealed that the State Department had reduced the budget provision to cater for electricity expenditure from Kshs.722,262,837 before policy change in the financial year 2018/2019 to Kshs.267,975,300 in the FY 2021/2022.

The reduction of the budgetary allocation for utilities was implemented before the meter separation exercise was completed by the State Department of Housing and the bills for the meters that were not separated were billed to the Kenya Police Service.

This has resulted to a pending bill of Kshs.179,000,000 owed to KPLC in regard to institutional houses occupied by police officers. However, a breakdown of the institutional houses and the pending electricity bills were not provided for audit.

In the circumstances, there exists a risk of loss public resources with the delayed separation of the meters

**Submission by the Accounting Officer**

It is true that a policy change was made in 2018 whose ultimate goal was to provide police officers with affordable and decent residential housing and enable them to integrate with civilians in the community in their residential areas and neighborhood which necessitated the separation of electricity meters between the National Police Service and individual police officers who are required to pay their electricity bills. The policy therefore recommended providing all police officers with house allowance.
To this effect and upon request by the Inspector General of Police, KPLC provided a quotation of Kshs. 78,323,943.00 for separation of electricity metres. This prompted the payment of Kshs. 78,323,943.00 to KPLC by the State Department of Housing and Urban Development and Kshs. 72,000,000 for Kenya Prison Service.

The Kenya Power has not provided the state department with explanation as to why the exercise has not been completed.

The pending bill of Kshs. 179,000,000 for the electricity bills has since been paid as the National Police Service has continuous use of electricity all year round. The process separation of electricity meters has since kicked off in Nairobi Region and Kiganjo Police Training College. This process has started with wiring of the houses which is necessary before the electricity meters are installed. A breakdown of institutional houses occupied by the police officers has been availed to the auditors.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer liaises with KPLC and ensures completion of the project, within three (3) months of adoption of this report.**

**186. Lack of Adequate Storage Space for Food and Ration at the National Police Service"B" Campus Embakasi**

Inspection of stores at the National Police Service "B" Campus Embakasi revealed that the stores facilities which were built approximately fifty (50) years ago were still in use and were unable to accommodate food and ration requirement for the College.

In the circumstances, the inadequate storage space could result to inadequate controls and loss of stocks.

**Submission by the Accounting Officer**

The General Service Unit lacks adequate storage space for Food and Ration as observed during the audit. However, the Unit has been budgeting for expansion of storage space and a modern kitchen at the NPC 'B' Campus but due to budget constraints through austerity measures, this has not materialized.

Despite the inadequate space, there are adequate internal controls which include among others sufficient stock records which are updated regularly. The perishable goods are requested on demand and in broken bulks.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer prioritizes provision of adequate space in the FY 2024/25.**

**187. Stations Operating Without AIE Allocations**

Review of records and physical verification revealed that forty-nine (49) gazetted police stations and nine (9) Coast Guard field stations were operating without funding (AIE). The stations were meeting their recurrent expenditures through support from the mother stations.

The lack of funding may affect the ability of the stations to adequately deliver services to the public.

**Submission by the Accounting Officer**

It is true that 49 gazetted police stations were operating without funding (AIE) and were meeting their expenditures through support from the mother stations at the time of the audit. Request for funds to the National Treasury has been made but due to limited fiscal space, these police stations have not been funded.

The NPS is engaging with the National Treasury to facilitate the stations with funds amounting to Kshs 60 Million.

Kenya Coast Guard services is at the formative stages and therefore the nine (9) coast guard field stations were being funded directly from the Headquarters.

**Committee Observations and Findings;**

**The Committee noted that the submission of the Accounting Officer was unsatisfactory as the stations were operational.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer National Police Service issues AIEs to the stations, equal to the amount they expend from the mother stations.**

**188. Kenya Coast Guard Service-Assets with no Ownership Documents**

The assets register of the Kenya Coast Guard Service (KCGS) revealed that the Service has a total of fifty-nine (59) boats without proof of title ownership despite custody, regular use, repair and maintenance of the vessels by KCGS. In addition, some of the vessels had been transferred to KCGS from other government Agencies without ownership documents or official transfer deed documentation.

In the circumstances, effective control and use of the assets without ownership documents increases the risk of assets loss.

**Submission by the Accounting Officer**

The Kenya Coast Guard service is at the formative stage and operates on a Multi-Agency approach.

A total of 59 boats have been donated by various agencies like National Police Service (NPS), Immigration, Kenya Forest Services (KFS) who still retain the ownership.

**Committee Observations and Findings;**

**The Committee noted the explanation was unsatisfactory as the ownership documents could be obtained from the donating agencies.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer obtains certified copies of ownership documents within three (3) months of adoption of this report, and that the Auditor General verifies in subsequent audit.**

REPORT ON THE REVENUE STATEMENTS

**189. Long Outstanding Arrears of Revenue**

As disclosed in Note 7 to the revenue statements, the statement of arrears of revenue reflects arrears of Kshs.547,823,400 at 30 June, 2022 which includes a total of Kshs.453,872,900 that has been outstanding for over three years as detailed below:

| Description | Amount (Kshs.) |
|---|---|
| Security of Government Buildings | 246,827,500 |
| Kenya Police Service (Nairobi Area) | 517,600 |
| Certificate of Good Conduct (DCI) | 206,527,800 |
| **Total** | **453,872,900** |

Although the matter had been raised in previous audit reports and discussed by the Public Accounts Committee, the Committee recommendations and action taken by Management were not provided.

In the circumstances, the recoverability of the long outstanding arrears of Kshs.453,872,900 owed by various Government Agencies could not be confirmed.

**Submission by the Accounting Officer**

It is true that the revenue statements of arrears reflects arrears of Kshs.547,823,400 at 30 June, 2022 which includes a total of Kshs.453,872,900 that has been outstanding for over three years. The Kshs. 246,827,500 is a long outstanding debt due from KRA. The National Police Service has continued to write demand letters (Ref No. SGB/QM/009/VOL.VIII/79, Ref No. SGB/KRA/20/VOL.VI/50 and NPS/APS/FIN/2/2/VOL.11/(8). KRA, VIDE letter Ref NO. KRA/CSSD/24/7/Vol.IV/128 dated 10th April 2019 acknowledged the amount owed as at that date.

However, they cited that the National Treasury was yet to fund their request to settle the debt.

In February 2021, The Deputy Inspector General, Administration Police Service wrote to the Commissioner General requesting for the settlement of the bill per the services rendered. A follow-up letter was done on 16th August 2023. The Commissioner General has not responded to date.

The Kshs. 517,600 is a long outstanding debt due from United Bank of Africa (UBA). The Kenya Police Service has continued pursuing the debt through letters to the client with no response through letters reference number C/ORG/2/6/VOL III/70.

The amount of Kshs. 206,527,800 is a debt owed by Postal Corporation of Kenya who served as an agent for DCI for issuance of police clearance certificates in Huduma Centers across the country. Correspondences of demands for settlement of the debt have been made with Postal Corporation of Kenya with no response.

**Committee Observations and Findings;**

**The Committee noted the submission from the Accounting Officer.**

**Committee Recommendation:**

**The Committee recommends that the Accounting Officer issues notice of termination of provision of security services to the owing agencies (unless paid), within three (3) months of adoption of this report.**

**190. Budgetary Control and Performance**

The State Department had budgeted to collect revenue amounting to Kshs.18,676,624,068 in the financial year 2021/2022 as detailed in Notes 1,2,3 and 4 of the revenue statements. However, a total of Kshs.14,423,267,175 was collected resulting to an unrealized revenue of Kshs.4,253,356,893 or 29% of the budgeted amounts.

The under collection of revenue adversely affected Exchequer releases, budget execution and the overall performance of the Government programmes.

**Submission by the Accounting Officer**

It is true there was a total unrealised receipt of Kshs.4,253,356,893.00 against a budget of Kshs. 18,676,624,068.00 or 29% of budgeted amounts.

| Description | Final Budget (Kshs.) | Actual Amount Collected (Kshs.) | Variance (Kshs.) | % Unrealised |
|---|---|---|---|---|
| Fees on Use of Goods/Services | 306,663,415 | 198,953,214 | 107,710,201 | 35% |
| Sale of Goods and Services | 18,096,966,320 | 14,197,040,956 | 3,899,925,363 | 22% |
| Other Receipts not Classified | 273,003,333 | 18,511,903 | 254,491,428 | 93% |
| Receipt from Sale of Non-financial assets | - | 8,761,100.00 | (8,761,100.00) | 0% |
| **Total** | **18,676,624,068** | **14,423,267,175** | **4,253,356,893** | **29%** |

On fees for use of goods/services (Betting) –It is notable that in the 2021-2022 financial year the country was preparing for the 2022 general elections and due to uncertainties associated with electioneering period, the betting activities declined lowering the revenue collection.

Other receipts not classified - Some items like verification fees were initially classified under unclassified receipts, however in the year under review they were given distinct classification in the budget, but the figure was inadvertently not revised downwards.

On sale of goods and services (Work permit fees and other immigration fees) are combined under the ecitizen online revenue collection. As reported a total of Kshs.6,010,358,000.00 was collected against a combined budget of Kshs.8,455,998,208.00. This indicates that 71% of the two combined items was realized leaving 29% unrealized.

During the financial year 2021/2022 due to Covid Pandemic a number of countries had not fully opened up or allowed their citizens to travel to Kenya

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**192. Manual Collection of Revenue by Civil Registration Service**

As reported in the previous year, inquiry from the Civil Registration Service on the revenue collection from births and deaths revealed that the Service continued to use manual system in the collection and accounting of revenue. In addition, there were no effective controls in place to mitigate against the risk associated with the manual system. For instance, data on the various categories of the certificates issued during the year was not provided for audit in order to confirm the accuracy of the reported revenue.

In the circumstances, it was not possible to confirm the effectiveness of the internal -controls system in place.

**Submission by the Accounting Officer**

Its true revenue collection for Birth and Death Certificate applications Countrywide is manual since the department operations are semi- automated.

In Nairobi County Registry, the department has a Civil Registration and Vital Statistics System (CRVSS) for online processing applications. This is the main system meant to automate Civil Registration operations and is linked to e-Citizen platform and hence revenue collection is automated.

The rest of Civil registries countrywide are not automated due to budgetary constraints for infrastructure and digitization of records. Further, the already existing CRVSS is slow with frequent down times hence need upgrading.

However, the management has embarked on a process of automating the department operations and is currently upgrading CRVSS for roll out.

The department has existing controls using a cash register where the revenue collected is recorded as per the type and category of certificates issued, and a reconciliation is done on a monthly basis through the National office.

**Committee Observations and Findings;**

**The Committee noted that the submission of the Accounting Officer was unsatisfactory.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer fully automates operations at the registration service in liaison with the state department for ICT, within six (6) months of adoption of this report.**

NATIONAL COHESION AND INTEGRATION COMMISSION

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**194. Irregular Expenditure on Taskforce Allowance**

During the year under review, the Commission incurred an expenditure of Kshs.2,165,000 on taskforce allowances. However, there was no specific duration of the assignment stated contrary to the guidelines in the appointment and management of taskforce allowances in the public service as provided for in the circular from the Head of Public Service Ref.MSPS.2/1A VOL.XLVIII(119) of 2 August, 2013.

In the circumstances, the Commission was in breach of the provisions of the circular and regularity of the expenditure could not be confirmed.

**Submission by the Accounting Officer**

The Commission notes the observation and wishes to confirm that it appoints task forces / committees vide letters that clearly stipulate the terms of reference and timelines for the exercise. However, there were omissions in two cases which the Commission undertakes to address in future assignments.

**Committee Observations and Findings;**

**The Committee observed that the explanation was unsatisfactory.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to abide by the appropriate guidelines.**

## 4.5 VOTE 1023: STATE DEPARTMENT FOR CORRECTIONAL SERVICES

**Dr. Salome Beacco, CBS**, the Principal Secretary and Accounting Officer for State Department for Correctional Services, appeared before the Committee on 6th June 2024, accompanied by the following officers:

| | | |
|---|---|---|
| i) Brig (Rtd) John Kibaso Warioba | – | Commissioner General of Prisons |
| ii) Mr. Johson W. Njuguna | – | Senior Deputy Accountant General |
| iii) Mr. Walter J. Oselu | – | Senior Chief Finance Officer |
| iv) Mr. Nicholas Thairu | – | Director of Planning |
| v) Mr. Patrick Aranduh | – | Director of Planning |
| vi) Mr. Jackob Ogur | – | Chief Inspector of Prisons |
| vii) Mrs. Christine A. Obindi | – | Secretary |

And submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

**200. Inaccuracies in the Financial Statements**

The statement of receipts and payments reflects total payments of Kshs. 28,626,720,359. Review of the Integrated Financial Management System (IFMIS) payment reports processed against the payments made in bank revealed that 605 transactions amounting to Kshs. 207,096,701 were paid in bank but not captured in payment details in the IFMIS.

In the circumstances, the propriety, accuracy and completeness of the payments of Kshs. 207,096,701 could not be confirmed.

**Submission by the Accounting Officer**

It is true that payments amounting to Kshs. 207,096,701 relating to 605 transactions were included in the statement of receipts and payments for the year under review. These payments were paid in the month of July 2022 and appeared in the bank statements for the same month.

The 605 transactions were processed in the IFMIS system in the month of July 2022 and therefore appeared in the IFMIS payment detail for July 2022.This was attributed to an extension period provided by the National Treasury to clear the outstanding bills incurred in the financial year under review.

All payments made by the state Department are processed and paid through two automated systems i.e. IFMIS and Central Bank of Kenya (CBK) Internet banking system. The two systems are interfaced to ensure that all payments made through CBK Internet Banking have been processed through the IFMIS system.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**201. Unsupported Cash and Cash Equivalents**

As disclosed in Note 9A to the financial statements, the statement of assets and liabilities reflects a balance of Kshs. 187,143,716 in respect of total cash and cash equivalents. However, the bank reconciliations and cash book presented for audit had the following inaccuracies and inconsistencies;

i) Payments amounting to Kshs.7,726,653 were made in the bank but not recorded in the cash book with some dating as far back as 9th September, 2021;
ii) The reconciliation statement for the pending bills accounts as at 30th June, 2022 reflected unpresented cheques amounting to Kshs. 55,157,766, out of which payments of Kshs. 10,801,430 related to outstanding payments from previous financial years were yet to be written back to the cash book;
iii) Unpresented cheques amounted to Kshs.29,718,182, even though the State Department makes payments through Real Time Gross Settlement System (RTGS). No explanation was given for the long outstanding payments;
iv) The bank reconciliation statement for the pending bills account reflected receipts in the bank statement not recorded in the cash book of Kshs.4,385,459 out of which receipts amounting to Kshs.2,967,744 were related to the previous financial year. It was not explained why these amounts were yet to be recorded in the cash book;
v) Further, the statement reflected payments in bank not recorded in the cash book amounting to Kshs.27,593,051 indicating that payments may have been made in bank without processing them through IFMIS;
vi) Review of cash books held at various Sub-County Treasuries revealed an amount of Kshs.2,238,451 which remained unspent as at 30 June, 2022 but was not returned to the exchequer account.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs. 187,143,716 as at 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

(i) Payments amounting to Kshs. 7,726,653 were made in the bank and had not been recorded in the cashbook. However, the anomaly has since been addressed and the payments recorded in the cashbook;
(ii) It is true that the reconciliation statement for the pending bills account as at 30th June ,2022 reflected payments in cash book not in bank amounting to Kshs. 55,157,756 out of which payments of kshs. 10,801,430 related to the outstanding payments from the previous financial years, and were yet to be written back to the cash book. These payments had been made to various suppliers but were returned due to various reasons which include invalid bank account details, wrong bank accounts, inactive bank details and wrong definition in the system. The cashbook has since been adjusted;
(iii)It is true that the payments in cash book not in bank amounting to Kshs. 29,718,182 was outstanding. However, Kshs. 11,035,819.40 was cleared in July 2022 as per the schedule attached while the balance of Kshs. 18,682,362.20 was returned by the bank and received back in the cashbook;
(iv)It is true that the bank reconciliation statement for the pending bills account reflected receipts in the bank statement not recorded in the cashbook amounting to Kshs. 4,385,459 out of which receipts amounting to Kshs. 2,967,744 were related to the previous financial

year. These receipts related to pending bills that could not be paid since they had various bank detail issues although the funds had already been received. The funds were therefore transferred to the pending bills account until the issues were sorted and the payments were made in the subsequent year as per the attached schedule. The adjustments have since been made in the cashbook;

(v) Payments in the bank not recorded in the cash book amounting to Kshs. 27,593,051 have so far been posted in the cash book. In addition, these payments had been processed through the IFMIS and paid in Internet Banking hence reflected in the bank statement for the period under review;

(vi) The Kshs. 2,400,500 unspent balances relate to AIE's from Trans Nzioa, Kisumu and Nakuru and others were surrendered to the exchequer account in the subsequent financial year.

**Committee Observations and Findings;**

**The Committee observed that the reconciliations have now been done.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to keep proper accounting records, as required by sections 81 & 83 of the PFM Act 2012.**

**202. Understated Pending Bills**

Disclosed in Note 17.1 and Annexure 1 to the financial statements are pending accounts payable amounting to Kshs. 200,444,053. Further, examination of the supporting schedules indicates that the pending accounts payable excludes balances of Kshs. 265,331,826 and Kshs. 71,251,080 owed to Kenya Revenue Authority (KRA) unpaid PAYE from September, 2014 and suppliers to various correctional facilities, respectively. Although Management had requested for funds from The National Treasury for settlement of the debts owed to KRA, The National Treasury had declined the request.

In addition, as disclosed in Note 17.2 and Annexure 4 to the financial statements, the State Department had contingent liabilities amounting to Kshs. 65,822,046 relating to twenty-eight (28) determined court cases whose liabilities have not been settled. Although there were no active appeals filed against the court's determination, Management did not provide any evidence on the measure being taken to clear these outstanding liabilities.

In the circumstances, the accuracy of the reported pending account payables balance of Kshs.200,444,053 could not be confirmed.

**Submission by the Accounting Officer**

It is true that the pending bills accounts payable as at 30th June 2022 amounting to Kshs. 200,444,053 excluded the following amounts; -

(i) Kshs 265,331,826 being unpaid PAYE owed to KRA
(ii) Kshs 71,251,080 being outstanding bills attributed to various correctional facilities.

It is also true that a request for funding was submitted to the National Treasury and declined.

In the Financial Year 2022/2023 the State Department prioritized payment of the outstanding PAYE for the month of September 2014 which was paid on 22nd August 2022. The State Department subsequently paid the principal amount of Kshs. 126,983,027 and written to KRA for waiver of the penalties and interest amounting to Kshs 138,348,799 as per ref. letter SDC/SEC/ORG/10/17/VOLII/ (56) dated 8th February 2023.

It's true that an amount of Kshs. 71,251,080 was owed to suppliers in various correctional facilities at the end of the Financial Year under review. This was as a result of delay in disclosure of the pending bills by the stations at the time of financial reporting. However, bills totaling to Kshs 23,550,518 were settled as a first charge to the FY2022/2023 budget allocation and the balance of Kshs. 47,700,562 submitted to the National Treasury's Pending Bill verification Committee. The State Department is waiting for further direction from the National Treasury.

The details of paid and outstanding bills as per below summary;

| PENDING BILLS INCURRED BY VARIOUS STATIONS | | | | |
|---|---|---|---|---|
| **STATION** | **TOTAL PENDING BILLS KES** | **AMOUNT PAID IN 2022/2023** | **UNPAID** | **REMARKS** |
| Malindi Main Prison | 15,266,800 | 10,814,450 | 4,452,350 | The State Department has submitted the unpaid bills to the National Treasury Pending Bill verification Committee. |
| Shimo la Tewa Women | 6,853,840 | 694,060 | 6,159,780 | |
| Shimo la Tewa Medium | 2,111,353 | 2,111,353 | 0 | |
| Shimo la Tewa Maximum | 43,617,232 | 6,681,040 | 36,936,192 | |
| Kibos Medium Prison | 3,401,855 | 3,249,615 | 152,240 | |
| **Total** | **71,251,080** | **23,550,518** | **47,700,562** | |

It's also true that the pending accounts payable as at 30 June 2022 amounting to Kshs. 200,444,053 excluded contingent liabilities amounting to Kshs. 65,822,046 as at 30th June 2022 relating to twenty-eight (28) determined court cases whose liabilities had not been settled. However, the budget has been provided for in the current FY 2023/24 and the bills amounting to Kshs. 46,976,168 have since been paid while processed bills totaling to Kshs. 18,845,878 are awaiting exchequer funding.

**Committee Observations and Findings;**

**The Committee observed that;**

i) **The Accounting Officer at the time was negligent in not remitting PAYE despite withholding the same from staff; and**

ii) **The resultant interest accrued had been outstanding since 2022 with appeals from the Accounting Officer to KRA for waiver not responded to.**

**Committee Recommendation**

**The Committee reprimands the Accounting Officer and recommends that the engagement with KRA be settled within three (3) months of adoption of this report.**

**203. Encroachment on Prisons Land**

Annex 2 to the financial statements on summary of fixed assets register reflects assets with historical total cost of Kshs. 3,114,336,538. However, the balance excludes undetermined values of parcels of land spread all over the Country whose details of ownership could not be determined. Audit inspection conducted in July, 2022 revealed various parcels belonging to five sampled correctional facilities of which four measured 2,483.4601 acres while one had unknown value, currently occupied by informal settlers such as people, churches and other Government institutions who continue to use such land for residential and commercial purposes.

Further, Management did not provide a report prepared by the Inter-Ministerial Committee on Narok Prison Land (16.1881 acres) pursuant to the Attorney General advice to the Commissioner General of Prison on informal settlers of 7 March, 2022 and evidence of the action taken so far as to evict the illegal occupants in compliance with Government directives among them the PAC directive issued on 28 May, 2022.

In the circumstances, the completeness, ownership and security of the assets of Kshs. 3,114,336,538 could not be confirmed.

**Submission by the Accounting Officer**

It is true that the historical cost of assets amounting to Kshs. 3,114,336,538 excludes undetermined values of parcels of land spread all over the country as at 30th June, 2022.

The Kenya Prisons Service has 117 parcels of land spread throughout the Country out of which 15 title deeds have been obtained. (Kitengela Prison, Naivasha Prison, Kamiti Prison, Murang'a Prison, Nyahururu Prison, Busia Prison, Kilgoris Prison, Maralal Prison, Ruiru Prison, Bura farm Prison, Makueni Prison, Ngeria Prison, Woodley Staff Quarters, Lumumba Farm Eldoret and Kibos).

(i) Total Prison land is 9,187.51Ha (22,693.15 acres)
(ii) Total encroached land is 1,717.00Ha (4,242.707acres)

Some of the Kenya Prison Service parcels of land were irregularly acquired in the 1990s by informal settlers. There are 36 active court cases at the various Environment and Land Courts. The court cases have however taken long to be concluded occasioning delay in surveying and titling.

Sampled parcels of land illegally acquired is shown below;

| Correctional facility/GK.Prison | Amount of land alienated(acres) | Remarks |
|---|---|---|
| Kitale | 2321.09 | Occupied by unknown number of persons. |

| | | |
|---|---|---|
| Shimo la Tewa Medium | 141.24 | Occupied by unknown occupants |
| Nakuru GK prison | 21 | Occupied by churches and Government Institutions. Recently the environment and land courts Nakuru made a ruling in favour of prison on 15 march,2024. |
| Narok | 16.1881 | Alienated and allocated by the County Council to private individuals. |
| Kitui G.K Prison | 4.942 | Occupied by a church and private individuals |

Narok Prison Land

The original acreage of Narok Prison was 64.8 acres out of which twenty (20) has been encroached by private developers. At the moment, the County Government of Narok is regularizing Part Development Plan of 2016 that does not reflect the original acreage of Narok prison land. An objection filed against the same led to formulation of an Inter-Ministerial Committee to establish the original status of the land and the validity of the allotment of part of the land to private developers. The Inter-Ministerial Committee has not finalised their report.

In addition, there are two active court cases at the Narok Environment and Land Court (ELC 036 OF 2022 and ELC 97 OF 2023) where the private developers have sued the Commissioner General of Prisons, the Attorney General and the Officer-in-Charge Narok Prison for preventing them from putting up structures on the prison land.

Kitale GK Prison

It is true as indicated by Audit Inspection Report that the land occupied by both Kitale Main and Kitale Medium Prisons was occupied by illegal settlers thirty years ago. The Gazette Notice No. 359 of 1943 established Kitale Main Prison in L.R Plot No. 2197/2/2 measuring approximately 3,000 Acres and Legal notice 721 of 1961 Established Kitale Medium Prison approximately 159.01 Acres.

The ownership of the two parcels of land mentioned above has been the subject of court litigations between Kenya Prison Service (KPS) and other parties (encroachers). To date approximately 2,321.09 Acres of Kitale Main Prison Farm LR No. KAPKOI/MABONDE BLOCK 1/EX-PRISON-(LR2197/2/2) has been illegally acquired by private individuals.

a) Though the Parliamentary Accounts Committee directed the Commissioner General of Prisons to urgently evict the persons who are in occupation of Kitale Prison land and secure the same through a permanent fence, the service was deterred from taking any action due to the pending court cases.
b) It is true encroachment and alienation of Kitale Main and Kitale Medium prison land has led to continued decrease in size of Prisons land. Additionally, the Kenya Prisons may be limited in achieving its corrective mandate effectively.
c) Kenya Prisons Service has partnered with National Land Commission and Ethics and Anti -Corruption Commission to recover encroached parcels of land.

d) The State Department for correctional Services has set set aside Kshs. 4,188,600 for survey and titling of the various parcels of land in the FY 2024-2025.

The State Department has initiated the process of documenting, surveying and acquiring titles for the remaining parcels through an Inter-Ministerial Committee involving the Ministry of Land & Physical Planning and the National Land Commission.

**Committee Observations and Findings;**

**The Committee observed that the prisons service had failed to secure its total land acreage.**

**Committee Recommendation;**

**The Committee recommends that;**

i) **The Accounting Officer ensures the inter-ministerial committee on the Narok prison land submits its report with an action plan within three (3) months of adoption of this report;**
ii) **The Accounting Officer liases with the National Land Commission and obtains ownership documents for all gazetted prison land within six (6) months of adoption of this report;**
iii) **The Accounting Officer liaises with the Chief Land Valuer and establishes value of total land acreage owned by the department;**
iv) **The DCI immediately investigates circumstances under which encroachers have settled on prison land and ensures reposession and prosecution, within six (6) months of adoption of this report.**

**204. Poor Maintenance of Motor Vehicles, Plant, Machinery and Equipment in Prisons**

Review of motor vehicle, plant, machinery and equipment record in respect of repairs and maintenance provided for audit revealed that the Service has forty-one (41) departmental owned vehicles which are recorded as economical to repair. However, the vehicles were grounded due to lack of funds to purchase spare parts, carry out repairs or pay dealers were involved in major repairs. During the financial year under review, an annual procurement plan was prepared detailing various spare parts required for repairs of serviceable grounded vehicles and which are economical to repair at an estimated cost of Kshs. 13,975,784.

However, the State Department only funded the repairs totaling to Kshs. 6,156,656 during the year representing 44% of the estimated total cost. Further, several leased ambulance vehicles deployed to various stations in Kisii, Eldoret and Bungoma were grounded due to various mechanical problems.

In the circumstances, the inefficiencies in motor repair and maintenance may affect service delivery to both the inmates and other Government agencies that depend on the Prisons Service.

**Submission by the Accounting Officer**

It is true that the audit inspection report carried out in the month of July and August, 2022 indicated that the Service has got forty-one (41) owned vehicles which were grounded and economical to repair. It is also true that the Prisons' Central workshop in its FY 2021/2022 annual procurement plan detailed the various spare parts required to repair the serviceable grounded vehicles which were economical to repair with a total estimated cost of Kshs. 13,975,784.

However, the State Department utilized Kshs. 6,156,656 to procure spare parts for operational vehicles. Kshs. 5,339,773 was used to settle pending bills for FY 2020-2021 and the balance of Kshs. 2,479,355 was paid to Toyota Kenya and DT Dobie for normal routine maintenance and repair. The budget received was inadequate hence the State Department had to clear the pending bills as first charge as per the regulations. However, in FY 2022/2023 the state department received an additional budget of Kshs. 24,981,850 for maintenance of motor vehicle. It is worth noting that all the 41 vehicles have since been repaired.

It is also true that during the time of audit several vehicles had been leased and deployed to various stations and were grounded due to various mechanical problems. This is because Urysia Kenya Limited which is the leasing company for the Ambulances, Peugeot Boxer had delayed maintenance and repair of these vehicles which compromised the service response to emergency health constraints.

The State Department has written to the National Treasury raising concerns on delay by the leasing company to repair these ambulances. Nevertheless, Urysia Kenya Limited repaired the ambulances and finally returned them to their respective stations.

Further, Kenya Prisons Service surrendered GKB 207M for Bungoma Prison to the leasing company alongside other nine (9) ambulances on replacement under GOK motor vehicle leasing programme vide our office letter REF: PRIS3/27/VOL.I/74 dated 17th November, 2021.

**Committee Observations and Findings:**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation:**

**The National Treasury henceforth ensures lessors abide by terms of contract.**

**205. Poor Living Conditions at Various Prisons**

**205.1 Poor Maintenance of Buildings at Nairobi Medium Security and Nairobi Remand Prison**

Audit inspection conducted in September, 2022 revealed that Nairobi Medium Security Prison has inadequate office accommodation for staff. The Prison has three (3) office rooms utilized by the Officer in Charge (OIC), general office and accounts office. It was also observed that the floors to the prisoners' wards are dilapidated with rough floors,

potholes, dirty marks on the walls with some sections of the roof leaking when it rains. Further, the prison did not have adequate budget for repairs and maintenance of building, purchase of generator and installation of CCTV cameras for monitoring activities within the prisons.

In the circumstances, lack of adequate budget provision may lead to further deterioration of prisons assets and inefficient service delivery.

**Submission by the Accounting Officer**

It is true that audit and inspection conducted in September 2022 revealed that Nairobi medium security prison has inadequate office accommodation for the staff.

The station has three (3) office rooms which are utilized by the Officer in charge, General office and Accounts office. It is also true that floors to the prisoner's wards are dilapidated with rough floor, potholes, dirty marks on the wall with some section of the roof leaking when it rains and the station lacks standby generator and CCTV.

In order to prioritize and address the maintenance challenges at Nairobi Medium the station submitted BQS for prioritization and allocation of funds within the MTEF period 2024/2025 to 2026/2027.

However, it is important to note that most of the prisons facilities across the country have old and dilapidated infrastructure having been built either during the colonial era or early in the post-independence in which Nairobi Medium forms part of the stations that require urgent refurbishment. This has not been effectively achieved by the Service since its budget allocation on maintenance of buildings is insufficient to accommodate all the needy stations (In order to prioritize and address the noted maintenance challenges at Nairobi medium and other stations with similar or worse needs. The State Department for Correctional services has factored Kshs. 502,044,636 for Maintenance of buildings in FY 2025/2026 budget for maintenance of buildings).

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer makes adequate annual proposals for renovation and maintenance of prison facilities.**

**205.2. Poor Sanitation and Lack of Water at Migori Main Prison**

Review of records provided for audit and an audit verification carried out in October, 2022 revealed that, Migori GK Prison is holding approximately 700 inmates and 230 members of staff. The main source of water for the facility is a seasonal unprotected well situated within the Institution and roof catchment with storage reservoirs. Reports of 17 June, 2022 and of 2 March, 2022 by Public Health and NEMA Inspectors respectively indicates that the available source of water for drinking and general use was non-compliant with national standards for safety. Further, the prison does not have in place appropriate safeguards for waste water management.

In the circumstances, the inmates, staff and the community may be exposed to contagious and other water borne diseases.

**Submission by the Accounting Officer**

It is true that records provided for audit and an audit verification carried out in October, 2022 revealed that, Migori GK Prison is holding approximately 700 inmates and 230 members of staff. It is also true that the main source of water for the facility is a seasonal well situated within the Institution and roof catchment with storage reservoirs.

In order to address the noted challenges, the station was allocated a total of Kshs. 4,509,600 for acquisition of water treatment chemicals and payment of water service providers in FY 2022/2023 and FY 2023/2024. In addition, during FY 2022/2023 the Service constructed a septic tank, a water tower and installed three 10,000ltrs water tanks to enhance water storage and waste water management. The project is complete and operational. Following the installation, the water provided to the prisons service is adequate and safe for consumption.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**206. Stalled Projects**

Physical inspection at various sampled correctional facilities revealed abandoned projects at different levels of completion in nine (9) correctional facilities with contracts sum and payments to date of Kshs. 116,655,736 and Kshs. 21,889,077 respectively.

In the circumstances, and with lack of adequate budgetary allocation, it was not possible to confirm that these projects will be completed in time to deliver the intended services and value for money.

**Submission by the Accounting Officer**

It's true that there are stalled projects at different levels of completion in nine correctional facilities with contract and payment to date of Ksh. 116,655,546.00 and 21,889,077 respectively due to inadequate budgetary allocation and frequent budget cuts.

The State Department has continuously budgeted for the projects with a view of completing them to offer the intended service and value for money. However, the projects' implementation has always been affected by supplementary budget cuts. The State Department has prioritized the completion of the mentioned project in 2024/2025 FY budget. The current status of the projects is as follows;

| S/NO. | Project name | Contract sum | Cumulative expenditure | Completion status | Remarks |
|---|---|---|---|---|---|
| 1. | 1023102914 Construction of two bedroomed units staff houses Shimo medium Prison | 7,071,700 | 5,000,000 | 70.70% | Prioritized for funding in FY 2024/2025 |
| 2. | 1023100703 Construction of Classrooms Shimo Medium | 2,000,000 | 1,000,000.00 | 50.00% | |
| 3. | 1023100125 Construction of Perimeter wall Shimo Medium Prison | 18,030,000 | 14,819,893.00 | 82.20% | |

| | | | | |
|---|---|---|---|---|
| 4. | 1023101223 Completion of main gate and gate lodge at Shimo Medium prison | 5,637,316 | 1,500,000 | 26.61% |
| 5. | 1023100134 Construction of Perimeter Wall at Kajiado Prison | 3,822,500 | 2,000,000 | 52.32% |
| 6. | 1023100599 Completion of Staff House at Kajiado Prison | 2,000,000 | 885,000 | 44.25% |
| 7. | 1023102814 Construction of prisoner's multipurpose hall at Kibos Maximum Prison | 6,100,000 | 2,500,000 | 40.98% |
| 8. | 1023102820 Overhaul of sewerage system Kisumu Main | 34,999,005 | 11,876,521 | 33.93% |
| 9. | 1023102937 Construction of Administration Thika women Prison | 8,500,000 | 3,000,000 | 35.29% |
| 10. | 1023100264 Construction of New Prison at Thika Women (Completion of storied blocks of prisoners' wards) | 23,111,093 | 7,000,000 | 30.29% |
| 11. | 1023100197 Construction of administration block at Siaya | 3,164,977 | 1,000,000 | 31.60% |

| | | | | | |
|---|---|---|---|---|---|
| | prison (siaya women prison) | | | | |
| 12. | Construction of 10 units houses at Siaya prison (Siaya women prison) | 2,219,055 | 1,500,000.00 | 67.60% | |

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation**

**The Committee recommends that;**

i) **The Accounting Officer submits a status report on all the projects within three (3) months of adoption of this report;**
ii) **The Accounting Officer to liaise with State Department for Housing to provide for institutional housing for prisons officers under the affordable housing programme.**

**207. Poor Construction of a Perimeter Wall at Busia G.K. Prison**

During the year under review, the State Department entered into a contract for the construction of a perimeter wall at Busia G.K Prison at a contract sum of Kshs. 20,549,887. The contractor handed over the Project to the State Department without completing the following items in the contract:

(i) Counterfort walls had not been done to provide lateral support.
(ii) Inaccuracies in the original Bill of Quantities, where ground beams and ring beams were not captured. The said items had a big implication on the overall cost of the Project. The Project implementation team agreed to exchange the plaster work with ground beams and ring beams.

Further, the following deficiencies were noted in the project implementation phase:

(i) The Bill of Quantities provided for 300mm wide *75mm thick precast concrete coping bended which was not done.
(ii) The Bill of Quantities further provided for application of three coats of crown permacote paint on rendered surface externally which was not done.
(iii)The Bill of Quantities provided for two steel double gates of 5000mm x 2400mm high fabricated on 50 *5000mm R.H.S in framing and box 25mm R.H.S in fills at 100mm centers and with 100*100mm R.H.S side posts coat into mass which was not done.

No approved variations to the contract were provided for audit. Further, the Management did not explain the circumstances under which the above contracted works were omitted at the execution stage.

In the circumstances, the value for money for the expenditure of Kshs. 20,549,887incurred could not be confirmed.

**Submission by the Accounting Officer**

It is true the State Department for Correctional Services entered into contract with AMSTARD Engineering Company limited on 7th February 2022 for the construction of a perimeter wall at Busia GK Prison at a contract sum of Kshs. 20,549,887.20. Site handing over meeting was held on 4th March 2022 for a contract period of 24 weeks.

The noted omissions were cited by the project manager during the site handing over meeting held on 4th March, 2022. In order to address the structural integrity of the wall the Project Manager gave site instruction which had adverse cost implication on the overall project implementation.

The Project Manager noted that the site was swampy and needed a strong foundation to accommodate the weight of the wall. The site instruction included omission of;

(i) 300mm wide *75mm thick precast concrete coping bended,
(ii) Application of three coats of crown permacote paint on rendered surface externally,
(iii)Two steel double gates of 5000mm x 2400mm high fabricated on 50 *5000mm R.H.S in framing and box 25mm R.H.S in fills at 100mm centers and with 100*100mm R.H.S side posts coat into mass.

The omitted works were to cater for additional works required to reinforce the wall.

These additional works included;

(i) Hardcore filing 300mm (average) hand packed broken stones hardcore,
(ii) Class 20/20 concrete institution reinforced concrete class 20/20 in ground and ring,
(iii)Steel reinforcement deformed high tensile bar to BS 4461(different rates) and
(iv)Re-routing solid waste pipes and backfill to side of substructures.

The value of omitted and additional works was Kshs. 4,049,600.

The project manager (Western Regional Works office) documented and quantified all the variations and instructed the contractor on the envisaged changes with a view to ensuring that the intended objective of the project is achieved at the right cost without compromising the quality and workmanship.

**Committee Observations and Findings;**

**The Committee observed that;**

i) **The variations were not approved by the Accounting Officer and should have been foreseen at design stage as per section 139 of the PPADA 2015;**
ii) **The omitted works were curiously equal to the varied works, despite technical differences.**

**Committee Recommendation**

**The Committee reprimands the Accounting Officer and recommends administrative action on the project manager.**

**208. Failure to Produce Offenders in Courts on Time**

During the year under review, the Homa Bay Prison Management failed, on several occasions to produce offenders to various courts within Homa Bay County as and when required to do so. This was due to the existing official transport challenges whereby the Prison had one vehicle only to serve seven courts.

In the circumstances, failure to produce offenders in court frustrates the fair administration of justice and denies the offenders their constitutional rights to defend themselves in court.

**Submission by the Accounting Officer**

It is true that Homabay Main Prison on several occasions failed to produce offenders to various courts within Homabay county as and when required due to shortage of vehicles. The Station has only one vehicle, GK B273U Toyota land cruiser, against seven courts which are geographically far apart. This makes it difficult to timely produce remandees to courts as and when required.

It is worth noting that the State Department has experienced serious transport challenges due to acute shortage of vehicles meant to facilitate the transportation of the inmates to various courts, hospitals and security transfers across the country. This has been occasioned by the drastic expansion of the Court Stations across the country and the efficiency of the National Police Service in responding to various criminal activities that has led to the influx of inmates in the Prisons.

However, while the other institutions within the criminal justice has quite expanded and undergone infrastructural changes, the Service has remained static with few, old and unreliable motor vehicles that cannot support the timely production of the inmates to courts, thus the resultant delay or sometimes failure to promptly produce the offenders to courts as required. Homa-Bay GK prison has been utilizing county security to compliment transport services as a stop gap measure to ensure the inmates are timely produced in court awaiting additional vehicles under lease program by the National Treasury.

The State Department has engaged the National Treasury for allocation of additional leased vehicles that can match the various station needs since most of them serve at least seven courts which are geographically far apart with one or no vehicles.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation**

**The Committee recommends that the National Treasury avails adequate vehicles to the department under the vehicle leasing programme.**

## 4.6 VOTE 1032: STATE DEPARTMENT FOR DEVOLUTION

**Ms. Teresia M. Malokwe**, the Principal Secretary and Accounting Officer for State Department for Devolution, appeared before the Committee on 22nd August 2024, accompanied by the following officers:

| | | |
|---|---|---|
| i) Ms. Mary Mwiti | – | CEO, Council of Governors |
| ii) Mr. Stanely Mwaura | – | Head of Accounting Unit |
| iii) Mr. Nyambati Kennedy | – | D/CBS |
| iv) Ms. Emmy Mabwanga | – | IDEAS - DEV |
| v) Ms. Joyce Chepkoech | – | Head of Finance |
| vi) Mr. Paul Masinde | – | Chief Finance Officer |
| vii) Mr. Alfonso Munyali | – | Ag. Secretary Devolution |
| viii) Mr. Kagali lumasei | – | Deputy Chief Finance Officer |
| ix) Mr. Nicodemus Mbwika | – | Principal Planner |

And submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

**209. Unaccounted for District Suspense**

The Statement of assets and liabilities and as disclosed in Note 11 to the Financial Statements reflect accounts receivables outstanding imprest and clearance accounts balance of Kshs.85,782,292.00 relating to district suspense. However, no documents in form of returns were provided for audit, to explain the requisition process, evidence of receipt by the respective recipients and the usage.

In the circumstances, the accuracy, validity and completeness of the District suspense balance of Kshs. 85,782,292.00 could not be confirmed.

**Submission by the Accounting Officer**

The State Department for Devolution had an accumulated amount of Kshs.85,782,292 in the Suspense account. The amount represented Authority to Incur Expenditure (AIEs) issued to various Sub Counties and State Departments for distribution of relief food across the Country.

However, the affected State Departments and Sub Counties had not submitted expenditure returns during the time of audit. The State Department for Devolution in Partnership with the State Department for Interior, State Department for Arid and Semi Arid Lands, State Department for Social Protection and The National Treasury has managed to get all the expenditure returns and distribution schedule of relief food. We have written to the State Department for Asals and Regional Development to provide us with a list of beneficiaries of the relief food since the Directorate of Special Programme is no longer with us.

**Committee Observations and Findings;**

**The Committee observed that the submission of the Accounting Officer was unsatisfactory.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer and recommends that the Accounting officer liaises with the State Department for Asals and Regional Development and avails the list of beneficiaries, within three (3) months of adoption of this report.**

**210. Non-payment of Pending Bills**

Note 18.1 and 18.2 to the Financial Statements reflects pending bills totaling Kshs. 1,373,260,296 comprising of pending accounts payables of Kshs.1,034,991,583 and other pending payables of Kshs.338,268,713 respectively as detailed in Annex1 and 2. Management had not explained why the bills were not settled during the year when they occurred. The State Department is at risk of incurring significant interest costs and penalties with their continued delay in payment. Further, failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

In the circumstances, completeness and accuracy of the pending accounts payables amounting to Kshs.1,373,260,296 could not be confirmed.

**Submission by the Accounting Officer**

During the financial year under consideration the total amount of pending bills was Kshs.1,373,260,296 as captured in Financial Statement. The State Department for Devolution was unable to settle the pending bills because the budget allocation for the Department was rationalized and some exchequer requests were not honoured.

However, in September, 2023 the Cabinet Secretary for National Treasury vide Kenya Gazettee No.13355 appointed Pending Bills Verification Committee to scrutinize pending bills for National Government entities. We undertook a verification exercise to establish the final figure for the pending bills and it was established that the final figure for pending bill was Kshs.2,824,133,581. The variance between the figure for pending bills reported during audit and the final figure submitted to the Pending Bill verification Committee was due to penalties on suspended construction at Kisumu Convention which has attached fine and penalties for delayed works, court award and other pending not captured during audit.

The analysis of variance is analyzed as follows:

| **Details** | **Amount (Kshs).** |
|---|---|
| Pending bills reported by the auditor | 1,373,260,296.00 |
| Court award Spencon Ltd | 219,276,542.00 |
| Fine and penalties on stalled construction | 1,134,100,586.00 |
| M/S. China Jiangix | 14,198,154.56 |
| M/S. China Jiangix | 6,905,841.65 |
| Other pending bills | 76,387,072.8 |

| | |
|---|---|
| Pending bills Report to Pending Bills Verification Committee | 2,824,133,492.00 |

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the matter awaits verification by the said pending bills verification committee.**

**211. 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.4,802,396,610 and Kshs. 4,336,273,421 respectively resulting to an underfunding of Kshs.466,123,189 or 10% of the approved 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.

**Submission by the Accounting Officer**

The State Department's budget was revised and therefore necessitated rationalization of our work plan.

**Committee Observations and Findings;**

**The Committee noted that the submission of the Accounting Officer was unsatisfactory as pending bills submitted to the Auditor General, the pending bills verification committee and the Committee, were inconsistent.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer and recommends submission of a reconciled pending bills report within three (3) months of adoption of this report.**

**212. Unresolved Prior Year Matters**

Various prior year audit issues remained unresolved as at 30 June, 2022. Management had not provided reasons for the delay in resolving prior year audit issues.

**Submission by the Accounting Officer**

The Accounting Officer appeared before The Public Accounts Committee on 23rd May, 2023. The Committee made several recommendations whose status of implementation has been availed.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### 213. Delay in Completion of the Proposed AFRICITIES Convention Centre

The statement of receipts and payments and as disclosed in Note 9 to the Financial Statements reflect acquisition of assets expenditure of Kshs.344,015,400. The expenditure includes an amount of Kshs.280,000,000 for construction of buildings which further includes Kshs.250,000,000 which was paid to a contractor being part-payment for construction of proposed AFRICITIES convention Centre in Kisumu County. The contract was awarded at a contract sum of Kshs. 890,829,345 for a duration of thirty-eight (38) weeks commencing on 16 July, 2021. An extension period was granted where the contract period was revised to seventy-three (73) weeks with the new completion date of 16 December, 2022. However, physical verification carried out in the month of November, 2022 revealed that the Project was only fifty-five (55) percent complete. Although Management attributed the delay to lack of funding, the Project was behind schedule.

In the circumstances, the regularity and value for money realized from the expenditure of Kshs.250,000,000 incurred on the delayed Project could not be confirmed.

**Submission by the Accounting Officer**

The State Department received a Cabinet approval to undertake the construction of Kisumu convention Centre for use during the Africities Conference. The contract for the construction was awarded to M/S China Janggix for a period of 38 weeks at a total cost of Kshs.890,829,345. Further, the State Department requested for a budget from the National Treasury to finance the project but was only allocated Kshs.250,000,000 which was not sufficient to complete the project.

The project has since stalled due to lack of funding in the subsequent financial the years and the State Department has made several requests to the National Treasury for funding without success.

**Committee Observations and Findings;**

**The Committee noted that the amounts spent thus far were at risk of waste.**

**Committee Recommendation;**

**The Committee recommends that the Cabinet Secretary National Treasury avails funds to complete the project within the next two (2) financial years.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### 214. Lack of Audit Committee and Public Finance Management Committee

The State Department did not have an independent Audit Committee and Public Finance Management Committee as required by Regulations 174(1) and 18(1) of the Public Finance Management (National Government) Regulations, 2015 respectively. An Audit Committee forms a key component in the governance process by providing an independent expert assessment of the organization's activities, quality of the risk

management, financial reporting and management to the top management, while the Public Finance Management Standing Committee provides strategic guidance to the entity on public finance management matters.

In the circumstance, the effectiveness of the internal controls, risk management and overall governance for the State Department could not be confirmed.

**Submission by the Accounting Officer**

The State Department for Devolution did not have an active Audit Committee during the time of Audit since the term of the previous Audit Committee had come to an end. However, Gazette Notice No. 40 dated 15th April, 2016 (page 1406 paragraph 4.2.1 guides that Audit Committees can only be appointed at a Ministerial level. The State Department is under the Executive office of the Deputy President and the Accounting Officer cannot appoint an Audit Committee for the Department. The State Department is therefore awaiting the establishment of a new Audit Committee under the Executive of the Deputy President which is currently in the process.

Further, the Accounting officer vide letter Ref. No. MDP/DD/FIN 10/VOL.I(29) dated 20th February, 2024 appointed members of Public Finance Standing Committee and is currently in place and active.

**Committee Observations and Findings;**

**The Committee noted that the submission of the Accounting Officer was unsatisfactory.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer and recommends that the Accounting Officer ensures an audit and Public Finance Management committee is in place within one (1) month of adoption of this report.**

**215. Lack of Approved Information Technology Security Policy**

The State Department was using did not have an approved Information Communication Technology (ICT) Policy for governance and management of its ICT resources. In addition, there is no ICT steering committee in place to assist in the development of ICT policy framework to enable the Department to realize long-term ICT strategic goals. Lack of an approved ICT Policy may result in an unclear direction regarding maintenance of information security across the organization and safeguarding the Department's ICT assets. Further, without a sound and approved framework, users do 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 Information Communication Technology could not be confirmed.

**Submission by the Accounting Officer**

During the year under review, the State Department was using the National Information Communications and technology (ICT) Policy from Ministry of Information Communication and Technology. The State Department for Devolution has since developed a draft ICT Policy. The draft Policy is awaiting Stakeholders validation to be operationalized. Further the State Department has Department has also constituted and operationalized an ICT steering committee to spearhead ICT agenda wholesomely.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer ensures adoption of the ICT policy within three (3) months of adoption of this report.**

**DONOR FUNDED PROJECTS**

**INSTRUMENTS FOR DEVOLUTION ADVICE AND SUPPORT (IDEAS) CREDIT NO.KE/FED/024-230**

REPORT ON THE FINANCIAL STATEMENTS

**216. Double Payment for Supplies**

The statement of receipts and payments reflects transfers to other Government entities expenditure of Kshs.100,438,873 as disclosed in Note 4 to the financial statements which includes an amount of Kshs.31,676,176 transferred to Kisumu County. However, review of contract documents revealed the following anomalies:

i. The contract for the supply and delivery of tractor, trailer and 3-Disc plough was awarded to a Company on 5 May, 2021. Payment were made vide PV NO.5060 dated 23 February, 2022 of Kshs.4,548,462 and PV No.5060 dated 13 October, 2021 of Kshs.5,276,216, resulting to double payments for the same supply.
ii. In addition, a proforma invoice from the Company attached to the payment voucher was for Kshs.5,276,210 and dated 20 September, 2021. The bank statement of the project confirmed that two payments were made to the Company on 14th February, 2022 of Kshs.4,548,462 for Local Purchase Order (LPO) Number 10778 and on 13 April, 2022 of Kshs.4,548,462 for the same LPO Number 10778.
iii. Further, another payment of Kshs.510,703 was made to the Company on 21 June, 2022 being refund of 16% VAT deducted. However, the supporting documents to confirm that withholding tax was deducted and remitted to the relevant authority were not provided for audit.
iv. Audit verification of the assets revealed that, a trailer was missing and no explanation was provided for the anomaly.

In the circumstances the propriety, accuracy and completeness of the expenditure of Kshs.10, 335,381 incurred could not be confirmed.

**Submission by the Accounting Officer**

The County Government of Kisumu received conditional grants to implement a LED Grant Project "Diary Enterprise Development". Implementation and disbursement of the grants was per the provisions of the IDEAS Financing Agreement (FA) and the County Grant Contract signed between State Department for Devolution, European Union (EU) and County Government of Kisumu.

The County was fully responsible for the grants received as per Article 1 of the General and Administrative provisions of the Contract and this included budget execution, procurement of works and services, expenditure control and reporting on overall Contract Actions to the Contracting Authority (SDD) and European Union.

The issues raised by the audit exercise were noted by the Contracting Authority and communicated to the County (leadership and project implementation unit) during the field monitoring and technical support meetings by the IDEAS Technical Team and LED Advisors. Since the project implementation period was coming to an end on 24th February, 2022, SDD and EU commissioned a final Expenditure Verification of the project for the period 25th September 2018 to 31st March 2021 and 1st April 2021 to 24th March 2022 in accord with Article 5.2 of the Special Conditions and Article 15.7 of Annex II General Conditions.

The expenditure verification revealed a number of errors related to missing and inadequate documentation, expenditure outside the contractual period and expenditure outside the approved budget. Based on the findings of the EV report, the EU has initiated a recovery of the Ineligible expenses as per the provisions of Article 16 of the FA and Article 18 of Annex II to the Grant Contract. The recovery amount is from the received first and second pre-financing totaling to KES 89,981,777.

**Committee Observations and Findings;**

**The Committee noted the impropriety admitted by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that;**

i. **The Accounting Officer ensures full recovery of double payments and surcharge/ recoveries be instituted on those liable, subject to Article 226(5) of the Constitution;**
ii. **The EACC conducts investigations on the payments and takes necessary action on any impropriety;**

**217. Unapproved Expenditure on Transfers to Other Government Entities**

The statement of receipts and payments reflects transfers to other Government entities of Kshs.100,438,873 as disclosed in Note 4 to the financial statements. However, review of the approved budget revealed Kshs. Nil amount for transfers to other Government entities resulting to an over expenditure of Kshs.100,438,873. No documents were provided for audit to explain the reallocation of funds. Failure to specify the expenditure in the budget as estimates is a contravention of the provision of Section 72(6) of the Public Financial Management (National Government) Regulations, 2015 which states that National Government shall ensure grants are factored in the budgets and counterpart funds appropriated accordingly.

In the circumstances, the propriety and approval of the expenditure of Kshs.100,438,873 transferred to other Government entities could not be confirmed.

**Submission by the Accounting Officer**

During the Period under consideration, the Project had a total budget of Kshs. 230,730,934 under expenditure item other Capital Grants and Transfers (2640503). Though the budget was domiciled in the State Department for Devolution as Appropriation in Aid, the actual transfer to the beneficiary County was done by the European Union directly. The European Union in the period 2021/2022 transferred Ksh.100, 438,873 to the beneficiary Counties. However, before the communication was made to the State Department for Devolution the budget was rationalized and the whole amount of Kshs.230,730,934 was removed from the budget of the State Department.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**218. Delay in Completion of Projects**

Review of documents revealed that the European Union (EU) had transferred a cumulative total of Kshs.1, 251,492,628 to fifteen (15) Counties in two (2) tranches for the implementation of seventeen (17) Local Economic Development (LED) Projects as at 30 June, 2022. However, out of the 17 Projects, four (4) Projects worth Kshs.440,000,000 had not been completed and commissioned while seven (7) Projects valued at Kshs.660,000,000 did not receive the second tranche due to failure to adhere to the conditions of the Financing Agreement which included poor workmanship, utilization of funds in ineligible expenditure and misuse of the funds.

In the circumstances, the regularity and value for money realized from the expenditure of Kshs.1,100,000,000 incurred on the eleven (11) delayed Projects could not be confirmed.

**Submission by the Accounting Officer**

On incomplete projects amounting to Ksh.440,000,000.00, disbursements and transfer of the EU conditional grants to the 15 beneficiary counties (Baringo, Kisumu, Kisii, Kwale, Marsabit, Migori, Makueni, Nyandarua, Wajir, Tana River, West Pokot, Uasin Gishu, Laikipia, Samburu and Taita Taveta) were effected in two pre-financing and one final payment during the implementation period between the years 2018 – 2023. This transfers were made after the county complying with the conditions set for accessing the grants. Implementation of the County LED Projects was a responsibility of the beneficiary counties as provided in the Article 1 of the General and Administrative Provisions of the respective Contracts.

At the time of the audit, most of the County projects were still ongoing and in their last Phase of the implementation period. In line with the FA Annex II (1.2), SDD through the technical Assistance Team provided technical support towards the implementation of the projects. This included coordination and management of the grant in line with the guidelines for the management of EU grants and provision of technical support in financial management, procurement and product processing and standards.

Since the implementation period for ALL the LED projects was coming to an end between January 2021 and 24th September 2022, an Expenditure Verification provided in respective Contracts - Article 5.2 of the Special Conditions and Article 15.7 of Annex II General Conditions were carried out. Findings of the EV informed the payments of all pending payments to the counties.

Towards the end of the contracts, the PS issued an advisory on the need to ensure the completion of the projects within the contract period and also guided the counties on allocating budget provision for the works that would have not been completed by the end of the project period.

On delayed disbursements of Ksh.660,000,000.00, Article 4 of the Special conditions and article 15 of the respective Grant Contract Agreement provided that before a subsequent grant payment could be given an expenditure verification by external audit firm commissioned by the European Union (EU) would be conducted to inform further disbursements. During the time of audit exercise most of the projects were still ongoing and had not received their subsequent and final payments. However, at the end of the project implementation period, most of the EV had been concluded and a total of Kshs.1,385,522,777 disbursed to the project counties.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report.**

**219. Failure to Transfer Grants to Specific Project Account in Wajir County**

The statement of receipts and payments reflects transfers to other government entities expenditure of Kshs.100,438,873 as disclosed in Note 4 to the financial statements. The expenditure includes transfers to Wajir County of Kshs.19,908,166 which further includes an amount of Kshs.784,381 allocated for a milk project. However, review of supporting documents provided revealed that the money was not transferred to the specific project account. This was contrary to the provisions of Section 74(5) of Public Finance Management (County Governments) Regulations, 2015 which states that monies received for specified projects which have been paid into the County Revenue Fund, shall be released when required to the appropriate project bank account.

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

**Submission by the Accounting Officer**

The State Department for Devolution received acknowledgement letter from Wajir County dated 17/3/2022 confirming receipt of grants from the European Union (EU in the County Revenue Fund account as per the requirements of the PFM Act (Section 109 (2)). This funds were later transferred to the Project Account where all expenditures were transacted from. Copy of the bank statement for the CRF and the Project Account at National Bank have been availed.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**220. Irregular Procurement of Construction of Camel Slaughter House**

The statement of receipts and payments reflects transfers to other Government entities expenditure of Kshs.100, 438,873 as disclosed in Note 4 to the financial statements. The expenditure includes transfers to Wajir County of Kshs.19,908,166 which further includes the amount of Kshs.2,912,242 which was paid to a Company for the construction of a camel slaughter house including holding pen, concrete pathway and the rehabilitation of an alternative slaughter area. However, the slaughter house had a poor disposal system for by-products from slaughtered camels which might be an indication of poor workmanship. Further, purchase of construction materials were not supported with adequate relevant procurement documents such as stores register, goods received and issued vouchers, bin cards, procurement professional opinion, invoices, receipts, delivery notes, inspection and acceptance committee report and the stores ledger.

In the circumstances, the regularity and value for money realized from the expenditure of Kshs.2,912,242 incurred could not be confirmed.

**Submission by the Accounting Officer**

The County Government of Wajir received conditional grants to implement a LED Grant for LED Grant for "Camel Meat". Implementation and disbursement of the grants was in line with the provisions of the IDEAS Financing Agreement and the County Grant Contract signed between State Department for Devolution, European Union (EU) and County Government of Wajir.

The County Government of Wajir was fully responsible for the grants received as per Article 1 of the "General and Administrative provisions" of the Contract. This included budgeting, procurement, expenditure and reporting on contract Actions to the Contracting Authority (SDD) and EU respectively.

The issues raised by the audit exercise were duly noted by SDD and communicated to the county leadership during the field monitoring and technical support meetings by the IDEAS Technical Team and LED Advisors. This was followed with project circulars on fastracking implementation and closure of the grant contracts.

Since the project implementation period was coming to an end on 24th February 2022, SDD and EU commissioned a Final Expenditure Verification for the period starting 1st February, 2021 to 24th January, 2022 in accord with Article 5.2 of the Special Conditions and Article 15.7 of Annex II General Conditions. There were no major findings or errors detected and therefore the final payments were computed and paid. The Contract has since closed.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Auditor General assesses the completion status in the subsequent audit.**

**221. Irregular Procurement of Dairy Cows**

The statement of receipts and payments reflects transfers to other Government entities expenditure of Kshs.100,438,873 as disclosed in Note 4 to the financial statements. The expenditure includes transfers to Kisumu County of Kshs.31,676,176 which further includes an amount of Kshs.2,900,000 incurred on purchase of dairy cows. However, review of contract documents revealed that a Company was paid Kshs.2,900,000 for supply and delivery of sixteen (16) dairy cows. However, audit verification conducted revealed that there were twelve (12) dairy cows and seven (7) calves as opposed to sixteen (16) dairy cows stated in the bill of quantities, delivery note, invoice, and inspection and acceptance committee minutes resulting to variance of four (4) dairy cows. No explanation was provided for the anomaly.

In the circumstances, the regularity and value for money realized from the expenditure of Kshs.2,900,000 incurred could not be confirmed.

**Submission by the Accounting Officer**

The County Government of Kisumu received conditional grants to implement a LED Grant for "Diary Enterprise Development". Implementation and disbursement of the grants was per the provisions of the IDEAS Financing Agreement (FA) and the County Grant Contract signed between State Department for Devolution, European Union (EU) and County Government of Kisumu.

The County was fully responsible for the grants received as per Article 1 of the General and Administrative provisions of the Contract and this included budget execution, procurement of works and services, expenditure control and reporting on overall Contract Actions to the Contracting Authority (SDD) and European Union.

The issues raised by the audit exercise were noted by the Contracting Authority and communicated to the county (leadership and project implementation unit) during the field monitoring and technical support meetings by the IDEAS Technical Team and LED Advisors. Since the project implementation period was coming to an end on 24th February 2022, SDD and EU commissioned a final Expenditure Verification of the project for the period 25th September 2018 to 31 March 2021 and 01 April 2021 to 24th March 22 in accord with Article 5.2 of the Special Conditions and Article 15.7 of Annex II General Conditions.

The expenditure verification revealed a number of errors related to missing and inadequate documentation, expenditure outside the contractual period and expenditure outside the approved budget. Based on the findings of the EV report, the EU has initiated a recovery of the Ineligible expenses as per the provisions of Article 16 of the FA and Article 18 of Annex II to the Grant Contract. The recovery amount is from the received first and second pre-financing.

**Committee Observations and Findings;**

**The Committee noted that the submission by the Accounting Officer was unsatisfactory as it did not address the query.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer and recommends that;**

i. **The Accounting Officer ensures those liable are surcharged within three (3) months of adoption of this report;**
ii. **The EACC conducts investigations on the procurement and takes necessary action on any impropriety.**

**222. Irregular Procurement of Goods and Services**

The statement of receipts and payments reflects transfers to other Government entities expenditure of Kshs.100,438,873 as disclosed in Note 4 to the financial statements. The expenditure includes transfers to Kisumu County of Kshs.31,676,176 which further includes an amount of Kshs.11,588,565 incurred on purchase of assorted office items, farm equipment and electricity services at Muhoroni Milk Plant. However, the electricity connection to the Project had not been done despite the full payment of connection fees. Further, procurement documents supporting purchase of farm equipment were not provided for audit. In addition, Information Communication Technology equipment had not been delivered.

In the circumstances, the regularity and value for money from the expenditure of Kshs.11,588,565 incurred could not be confirmed.

**Submission by the Accounting Officer**

The County Government of Kisumu received conditional grants to implement a LED Grant for "Diary Enterprise Development". Implementation and disbursement of the grants was per the provisions of the IDEAS Financing Agreement (FA) and the County Grant Contract signed between State Department for Devolution, European Union (EU) and County Government of Kisumu.

The County was fully responsible for the grants received as per Article 1 of the General and Administrative provisions of the Contract and this included budget execution, procurement of works and services, expenditure control and reporting on overall Contract Actions to the Contracting Authority (SDD) and European Union.

The issues raised by the audit exercise were noted by the Contracting Authority and communicated to the county (leadership and project implementation unit) during the field monitoring and technical support meetings by the IDEAS Technical Team and LED Advisors. Since the project implementation period was coming to an end on 24th February 2022, SDD and EU commissioned a final Expenditure Verification of the project for the period 25th September 2018 to 31 March 2021 and 1st April 2021 to 24th March 2022 in accord with Article 5.2 of the Special Conditions and Article 15.7 of Annex II General Conditions.

The expenditure verification revealed a number of errors related to missing and inadequate documentation, expenditure outside the contractual period and expenditure outside the approved budget. Based on the findings of the EV report, the EU has initiated a recovery of the Ineligible expenses as per the provisions of Article 16 of the FA and Article 18 of Annex II to the Grant Contract. The recovery amount is from the received first and second pre-financing.

**Committee Observations and Findings;**

**The Committee noted that the submission by the Accounting Officer was unsatisfactory as it did not address the query.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer and recommends that;**

i. **The Accounting Officer ensures those liable are surcharged within three (3) months of adoption of this report;**
ii. **The EACC conducts investigations on the procurement and takes necessary action on any impropriety.**

## KENYA COOPERATION AND PARTNERSHIP FACILITY (KCPF) PROJECT NO. KE/FED 2019/041-712, CREDIT NO.FED/2021/423-175

REPORT ON THE FINANCIAL STATEMENTS

**225. Inaccuracies in the Statement of Receipts and Payments**

Review of the financial statements revealed variances between the figures reflected in The statement of receipts and payments with the ledgers and supporting documents as indicated below;

| Component | Financial Statements Amount (Kshs.) | Ledgers Amount (Kshs.) | Variance (Kshs.) |
|---|---|---|---|
| Purchase of Goods and Services | 4,594,500 | 4,686,835 | 92,335 |
| Compensation of Employees | 5,425,901 | 7,096,717 | 1,670,816 |
| **Total** | **10,020,401** | **11,783,552** | **1,763,151** |

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

**Submission by the Accounting Officer**

The errors were noted and corrected and a new set of Financial Statements submitted;

| Component | Verified Payment Voucher Amount | Ledger Figure | Financial Statement Figure |
|---|---|---|---|
| Purchase of Goods and Services | 4,594,500 | 4,594,500 | 4,595,500 |
| Compensation of Employees | 5,425,901 | 5,425,901 | 5,425,901 |
| Total | **10,020,401** | **10,020,401** | **10,020,401** |

**Committee Observations and Findings;**

**The Committee noted the admission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to keep proper accounting records.**

**226. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.30,000,000 against actual receipts of Kshs.31,534,900 resulting to overfunding of Kshs.1,534,900 or 5% of the approved budget. Similarly, the Project expended an amount of Kshs.10,020,401 against final budget expenditure of Kshs.30,000,000 resulting to under expenditure of Kshs.19,979,599 or 67% of the budget.

The underperformance affected the planned activities and programmes which may have impacted negatively on service delivery to the citizens.

**Submission by the Accounting Officer**

The auditor's observations were noted and we clarify as follows;

- The KCPF Programme Estimate (PE) for the Ministry of Devolution was a grant to support SDD as Contracting Authority for the IDEAS projects in the 15 beneficiary counties. The PE implementation period started on 16th August 2021 to 15th May 2023. The total amount of the PE budget was KES46,634,700 to be expended within a period of 23months. The initial pre-financing received for PE was KES31,534,900.
- The PE Contract total amount was KES45,634,700 for the period 16th August 2021 to 16th May 2023 which cuts across two (2) financial years (2021/2022 and 2022/2023). Therefore, to facilitate expenditure in the Budget Estimate for FY 2021/2022, SDD estimated an amount of KES30,000,000 out of 45,634,700. The balance of KES 15,634,700 was to be budgeted in the FY 2022/2023 and this would include the queried overfunding of Kshs.1, 534,900.
- The under expenditure on the programme budget estimate was because some of Activities related to the Devolution and LED/ Closure conferences were not undertaken as planned. This was attributed to Covid 19 related restriction for the COG Devolution Conference in 2021 and delayed approval of the extension of the implementation period by the EU respectively to allow the closure workshop to take place.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**228. Lack of Internal Audit Unit and an Audit Committee**

The Project does not have in place an Internal Audit Unit and Audit Committee contrary to the provisions of Section 73(1) and (5) of the Public Finance Management Act, 2012 which requires every public entity to have arrangements in place for internal audit unit for the purpose of carrying out in depth reviews of Management operations and internal controls. As such the Project did not benefit from the assurance and advisory services from the internal audit unit as well as oversight from the Audit Committee.

In the circumstances, the effectiveness of the internal controls could not be confirmed.

**Submission by the Accounting Officer**

The project was designed and created under the state department and by extension the Internal Audit Unit of the State Department had the responsibility to perform audit assurance services for the project activities that was included in its annual work plan.

The Ministry of Devolution when it was called the Ministry of Devolution and Planning made effort of setting up the Ministerial Audit Committee that was driven primarily by the State

Department for Planning but the process aborted at the stage of appointment of committee members when the Ministry was split and named the Ministry of Devolution and ASALs and which is now The State Department for Devolution under the Executive Office of the Deputy President and is in the process of establishing a new audit Committee as earlier explained.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails evidence of constitution of the committee within three (3) months of adoption of this report.**

**OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AN AGENCY UNDER THE STATE DEPARTMENT FOR DEVOLUTION KENYA SYMBIOCITY PROGRAMME - PROJECT NO. SIDA 51110060 - COUNCIL OF GOVERNORS**

REPORT ON THE FINANCIAL STATEMENTS

**230. Unverified Assets**

Note 5 to the financial statements reflects acquisition of non-financial assets cumulative balance of Kshs.9,592,060. However, analysis of the assets register reflected that fifteen (15) laptops and seven (7) projectors with a combined value of Kshs.1,444,100 held by the various County Governments and Project Programme Officers could not be physically verified during an audit inspection carried out in the month of October, 2022.

In the circumstances, the existence and ownership of the fixed assets totaling to Kshs.1,444,100 could not be confirmed.

**Submission by the Accounting Officer**

The Council of Governors issued the stated laptops and projectors to the respective Symbiocity pilot coordinators for the respective 7 pilot County Governments under the programme and the technical staff supporting the programme. Out of the 15 Laptops, 7 laptops were issued to the pilot Coordinators and 8 laptops issued to the technical officers who were supporting the programme implementation in different capacities. The laptops for technical officers were availed for Audit verification at the Council of Governors offices during the Audit exercise.

The other 7(seven) laptops and 7(seven) projectors are domiciled with the County Government under the custody of the relevant Symbiocity Programme Pilot coordinator whom the equipment was issued to. However, the Council wrote to the respective County Government to avail the equipment for audit verification.

**Committee Observations and Findings;**

**The Committee noted the abstracts availed by the Accounting Officer were obtained years after the alleged loss, and did not provide information on any efforts towards recovery.**

**Committee Recommendation:**

**The Committee reprimands the Accounting Officer for negligence and recommends that those who had the lost equipment under their custody be surcharged the cost of purchase, within three (3) months of adoption of this report by the House.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**231. Irregular Procurement of Laptops and Printers**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflect an expenditure of Kshs.1,129,200 in respect to acquisition of non-financial assets which includes an amount of Kshs.969,200 which was incurred on purchase of laptops and printers. However, review of procurement documents revealed that two (2) bidders who did not pass the technical evaluation stage were allowed to proceed to the financial evaluation stage. Further, the winning bidder supplied laptops and printers whose specifications differed with the specifications contained in the quotation. In the circumstances, the regularity and value for money realized from the expenditure of Kshs.969,200 could not be confirmed.

**Submission by the Accounting Officer**

The technical evaluation carried out on the procurement of laptops and printers had an error of omission in the technical evaluation matrix where the marking of Yes/No entries was missing on one of the criterion (Warranty item). Further, one of the bidders was marked no (N) instead of yes (Y) under specification item 10th Gen Intel Core i7 but the brochure the vendor had provided indicated the correct specification as requested by the user unit. Also, the subject error of omission was highlighted as an observation by the Head of procurement in the professional opinion report.

Therefore, the mentioned bidders had qualified to proceed for Financial Evaluation stage.

On the aspect of specifications, the variance noted was on the brand-name for the quoted laptop in which the brand name as per the brochure is not the same as the brand that was supplied. Of important to note is that, whereas the brand name varied the relevant specifications as required were met. Further, the award was based on specification and not the brand. Refer to vendor brochure and Specifications as required. Further, this is in line with section 60 (4) of the Public Procurement Asset and Disposal Act 2015 that stipulates that "the technical requirements shall not refer to a particular trademark, name, patent, design, type, producer or service provider or to a specific origin unless;

i) there is no other sufficiently precise or intelligible way of describing the requirements; and
ii) the requirements allow equivalents to what is referred to.

**Committee Observations and Findings;**

**i) The Committee noted the submission of the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

**232. Purchase of Goods and Services**

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflect purchase of goods and services expenditure of Kshs.97,466,233.

However, the following anomalies were noted in procurement:

### 232.1. Irregular Procurement of Consultancy Services

Review of the contract documents revealed that Kshs.199,800 was paid in respect of consultancy services for Environmental and Social Impact Assessment (ESIA) for the proposed Butere Multi-purpose Eco Park in Kakamega County. However, the procurement was undertaken through request for quotation instead of request for proposal method. Further, technical proposals submitted by bidders were not provided for audit to ascertain the validity of the award.

**Submission by the Accounting Officer**

The procurement of the consultancy services was through request for proposal in which the bidders expressed their interest by submitting Technical and Financial proposals. Refer to Request for proposal Bids. Further, the bid that was sent out is a request for proposal bid (RFP) and not a request for quotation(RFQ).

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

### 232.2. Inconistencies in Procurement of Metal Containers for Market Stalls

Review of the contract documents revealed that an amount of Kshs.18,543,319 was paid for procurement of metal containers in Mbita - Homabay County. However, the approved budget for the works was Kshs.10,256,701 while the actual expenditure was Kshs.10,678,892 leading to an over expenditure of Kshs.422,191 of the approved budget. This was contrary to the provisions of Section 45(3)(a) of the Public Procurement and Asset Disposal Act, 2015. Further restricted tender method was used instead of open tender method which was indicated in the procurement plan and the contractor failed to provide performance security. This was contrary to Section 142(1) and (3) of the Public Procurement and Asset Disposal Act, 2015 which states that a successful tenderer shall submit a performance security equivalent to not more than ten per cent of the contract amount before signing of the contract.

**Submission by the Accounting Officer**

The County Government of Homabay wrote to the Project Manager, Kenya Symbiocity Programme requesting for variation of the procurement plan vide letter Ref:HBCG/LHPPUD/SYMBIO/020(02) dated 29th January 2020. The variation request included variation of supply, modification and installation of metal containers of initial total budget of Kshs.10,256,704 to proposed varied amount of Kshs.10,678,892. This request was considered and approved and the approval reflected in the procurement plan for the year under review.

Further, the initial procurement plan had indicated the method of procurement to be through open tender method, however, in the revised approved procurement plan, the method of procurement indicated is through restricted tender. Therefore, under the restricted tendering method, Performance security was not part of the bid requirement. Refer to revised Procurement plan.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**232.3. Unprocedural Procurement of Air Tickets**

Included in domestic travel and subsistence expenditure of Kshs.6,272,730 was an amount of Kshs.541,030 which was paid for purchase of air tickets for various officers.

However, the award was skewed in favor of a single service provider since there was no rotation of service providers despite the Project having prequalified a total of twenty-nine (29) firms for the provision of air ticketing services. This was contrary to the provisions of Section 91(5) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the rotation of service providers while sending request for quotations.

**Submission by the Accounting Officer**

The procurement of air tickets under the programme for the year under review were sourced competitively with the best evaluated bidder awarded for provision of services as requested taking note that the criterion used was the lowest quoted price. Further, the procurements for the programme undertaken in the year under review with respect to air ticket were quite minimal to qualify for several rotations. Further, it is worth noting that the approved prequalified lists do not only apply to the program procurement but it also applies to the Council of Governors procurements at large.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**232.4. Irregular Purchase of Fuels and Lubricants**

Review of the expenditure documents revealed that an amount of Kshs.375,000 was paid for purchase of fuels and lubricants. The fuel and lubricants were drawn from National Oil Corporation Kenya (NOCK) through fuel cards and payments were made in advance. However, the contract agreement between the National Oil Corporation of Kenya and the Council of Governors was not provided for audit review. In the circumstances, the regularity and value for money realized from the expenditure of Kshs.375,000 could not be confirmed.

**Submission by the Accounting Officer**

The engagement between Council of Governors and National Oil Corporation of Kenya was through Government to Government procurement. The subject agreement to render services at regulated Energy & Petroleum Regulatory Authority has been availed.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**232.5. Construction of Modern Mixed-Use Integrated Market**

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflect purchase of goods and services expenditure of Kshs.97,466,233 which includes an amount of Kshs.77,541,491 in respect to Change Project – Consultancy which further includes an amount of Kshs.20,843,743 which was paid in respect of proposed construction of a modern mixed - use integrated market in Ontulili Town, Meru County (Phase 1). However, review of tender documents revealed that the Contractor had provided performance bond of Kshs.2,045,671 dated 7 October, 2021 which was four (4) months after the receipt of letter of acceptance and over one (1) month after the signing of the contract. This was contrary to the provisions of Section 142(1) of the Public Procurement and Asset Disposal Act, 2015 which requires the performance security to be provided by the contractor before signing of the contract.

**Submission by the Accounting Officer**

As observed by the auditor, there was an erroneous mistake as stated, however, the risk was averted in time before commencement of works by the fact that the contractor provided the performance bond of Kshs.2,045,671 dated 7 October, 2021 before commencement of works as per clause 4.8 of the engagement contract. Also, the site handover was done after signing of the contract in line with the contract terms.

**Committee Observations and Findings;**

i) **The Committee noted the admission by the Accounting Officer.**

ii) **The Committee reprimands the Accounting Officer.**

**232.6. Construction of Drainage Works at Jewathu Settlement**

The statement of receipts and payments and as disclosed in Note 4 to the Financial Statements reflect purchase of goods and services expenditure of Kshs.97,466,233 which includes Change Project - Consultancy fees amounting to Kshs.77,541,491. The expenditure further includes an amount of Kshs.14,111,582 which was paid in respect to construction of proposed drainage works at Jewathu settlement in Njoro Sub County, Nakuru County. However, review of the tender documents revealed an over expenditure of Kshs.1,706,901 since the approved annual procurement plan had a budget of Kshs.12,404,681 for the works. This was contrary to the provisions of Section 45(3a) of the Public Procurement and Asset Disposal Act, 2015 which stipulates 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 procurement law.

**Submission by the Accounting Officer**

The Kenya Symbiocity program had a multiyear procurement plan from 2019-2020- 2020-2021. The initial procurement plan had a budget of Kshs.12,404,682, however, there was a budget revision for the programme as per the Engineer's estimate and this resulted in variation of the Procurement Plan for the period under review. The approval was granted and the revised budget for the procurement of drainage construction works was adjusted to Kshs.15,263,000. Under this circumstance the procurement undertaken was within the approved budget for the year under review.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

## 4.7 VOTE 1035: STATE DEPARTMENT FOR DEVELOPMENT OF THE ARID AND SEMI-ARID LANDS (ASALS)

**Mr. Kello Harsama**, the Principal Secretary/Accounting Officer for the State Department for ASALs appeared before the Committee on 21st November 2023 and 16th April 2024, accompanied by the following officers:

| | | |
|---|---|---|
| i. | Mr. Wilfred Omari | Project Manager |
| ii. | Mr. James Sakwa | Ag. Head of Accounting |
| iii. | Ms. Wanjiku Manyatta | Ag. Director Regional Development |
| iv. | Mr. Paul Masinde | Chief Finance Officer |
| v. | Mr. Wilson Omulo | Project Manager |
| vi. | Mr. Kigen Kieti | Senior Deputy Director Supplies |
| vii. | Mr. Richard Misati | Project Accountant |
| viii. | Mr. Fredrick Juma | Senior Economist |
| ix. | Mr. Fred Nyakundi | Internal Auditor |
| x. | Mr. Charles Matacho | Public Communication Officer |

and submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

**235. Unsupported Expenditure**

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects use of goods and services expenditure of Kshs. 1,118,267,287. The expenditure includes the amounts of Kshs. 28,493,878, Kshs.157,539,125 and Kshs.2,626,886 for routine maintenance-vehicles and other transport equipment, routine maintenance-other assets and printing and advertising respectively all totaling Kshs. 188,659,889 which were not supported with adequate relevant documents.

In the circumstances, the accuracy and completeness of the expenditure of Kshs. 188,659,889 on use of goods and services could not be confirmed.

**Submission by the Accounting Officer**

The total expenditure Kshs. 188,659,889, constituted Kshs 2,762,082 incurred at the State Department Headquarters, Kshs. 28,132,806 at the project coordinating Unit -Headquarters and Kshs. 157,765,000 transferred to the KDRDIP project field stations which are involved in the supervision of projects in various regions. However, within the expenditure of motor vehicles there was a misclassification of expenditure while accounting for field returns where Kshs. 20,000,000 was classified as routine maintenance–motor Vehicles and other transport costs. The amount relates to other infrastructure and civil works.

The detailed Summary on funds utilization is as per the table below:

| Description | Amount as per Trial Balance | State Department | KDRDIP Headquarters | Adjustment to civil works | Restated KDRDIP HQ | KDRDIP field |
|---|---|---|---|---|---|---|

| | | | | | | |
|---|---|---|---|---|---|---|
| Routine Maintenance - Vehicles | 28,493,878 | 1,085,081 | 23,053,796 | (20,000,000) | 3,053,796 | 4,355,000 |
| Routine Maintenance-Other Assets | 157,539,125 | 1,279,875 | 2,879,250 | - | 2,879,250 | 153,380,000 |
| Printing And Advertising | 2,626,886 | 397,125 | 2,199,760 | - | 2,199,760 | 30,000 |
| **Total** | **188,659,889** | **2,762,082** | **24,992,358** | **(20,000,000)** | 8,132,806 | **157,765,000** |

| | | | |
|---|---|---|---|
| Adjustment Journal Voucher | | | |
| civil works | | | 20,000,000 |
| Routine Maintenance - Vehicles | | | (20,000,000) |
| Total | | | - |

Account analysis (ledgers) for the expenditure that was incurred at the State Department Headquarters amounting to Kshs. 2,762,082 and the expenditure incurred at Project Headquarters-Kshs. 8,132,806 and amount of Kshs. 157,765,000 that was transferred to KDRDIP field Stations. The supporting AIEs for funds transferred to regional field stations were accounted for through the Sub- County treasuries.

The item Routine Maintenance-Other assets includes expenditures on; maintenance of computers, softwares and networks, maintenance of office furniture and equipments, maintenance of buildings and stations non-residential.

**Committee Observations and Findings;**

**The Committee noted that there was a delay by the Sub-county treasuries in accounting for the funds transferred to them in time.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents during the audit in breach of Section 9 (1) (e) of the Public Audit Act, 2015.**

**236. Unsupported Accounts Payables**

The statement of assets and liabilities and Note 7 to the financial statements reflects accounts payables retention balance of Kshs. 7,714,520 relating to retention for construction contracts. However, details of the constructions undertaken and their contracts that form the basis of the balance were not provided for audit. Further, no explanation was provided for the delay to refund the outstanding balances, some dating back to March, 2014.

In the circumstances, the accuracy, completeness and validity of the accounts payable balance of Kshs. 7,714,520 could not be confirmed.

**Submission by the Accounting Officer**

The details of the retention money held as that date is disclosed in the table below. The retention monies related the projects undertaken under the World Bank Project Western Kenya Community Development and Flood Mitigation Programme which ended in June 2017 under the Ministry of Special Programme. Retention monies relating to the Projects were later transferred to the State Department for Arid and Semi-Arid Lands. Details of the Constructions undertaken and their contracts are as per the table below:

| S/NO | SUPPLIER | RETENTION AMOUNT | DESCRIPTION OF WORK | FORM OF AGREEMENT |
|---|---|---|---|---|
| 1 | Amaja Holding Ltd | 148,860.00 | Construction of block and chain link fence at wamono tomato processing plant | BGM/S/CSDCU/36/2015-2016 |
| 2. | Keromatt Ltd | 1,806,258.90 | Construction and completion of Kaimosi mini hydropower plant in Vihiga County | OOP/MOD&P/WKCDD&FMP/NCB/3/2014 |
| 3. | Keromatt Ltd | 347,779.00 | Erection and Completion of Kaimosi mini Hydro power plant in Vihiga County | |
| 4. | Broadcore Construction | 91,719.90 | Construction and Completion of Agro and honey processing plant at Shinyalu | KAK/COU/SDCU/SDCU/MKCDD/FMP/53/2/013-2014 |
| 5. | Sharkles Construction Ltd | 159,118.35 | Construction of sorting shade at Kitapani coffee factory | ELG/005/2014 |
| 6. | Boneco Contractors | 270,413.00 | Construction of block and chain link fence at Chwele ICT centre and Muses Coffee Factory | BGM/S/CSDCU/45/2014-2025 |
| 7 | Somu General Contractors | 28,024.40 | Construction of Wananga Box Culvert | VHG/CNTY/33/2014-2025 |
| 8. | Mosaic Company Ltd | 45,234.00 | Construction of Shihimba Manuna Foot Bridge in Shinyalu constituency | KAK/COU/SDCU/SDCU/MKCDD/FMP/48/2/013-2014-2015 |
| 9. | Mwamogusii Building contractors | 146,388.15 | Construction of Banana ripening Stores at Chepkube | WPITEN NO.D35NB801 JOB NO.8365A |
| 10. | Stangen Construction | 113,718.30 | Electrical Works District Project Co-ordinators office block at Pan Paper | KAK/COU/SDCU/SDCU/MKCDD/FMP/51/2/013-2014-2015 |
| 11. | Trasjudy | 9,554.00 | Constriction and completion of Banan Repening stores at Chepkube | ELG/53/2013-2014 |
| 12 | Jowk Enterprises | 39,084.30 | Election and Completion of coffee factor at Mwai Mwai sango | Note. After adding MR Receipts the balance of 39,084.3 was over as result of |

| S/NO | SUPPLIER | RETENTION AMOUNT | DESCRIPTION OF WORK | FORM OF AGREEMENT |
|---|---|---|---|---|
| | | | | valuation of work done |
| 13 | Mavil Emporium | 3,765.30 | Construction of workshop for physically challenged at Musemwa-Likuyani Sub County | LUG/SBCOUNTY/PT/2013-2014 |
| 14 | Davis and Shirtiff | 153,212.00 | Supply and installation of Ebubayi solar pumping unit and plumbing works (Vihiga County) | Vihiga/CNTY/35/2014-2015 |
| 15. | Davis and Shirtiff | 387,585.00 | | |
| 16 | Resco Construction | 542,740.80 | Construction and completion of Resource Centre for Bunyala Centre of excellent in Busia County | OOP/MOD&P/WKCDD&FMP/NCB/06/2014-2015 |
| 17 | Resco Construction | 557,651.50 | | |
| 18 | Resco Construction | 700,988.40 | | |
| 19 | Resco Construction | 586,519.20 | | |
| 20 | Resco Construction | 374,005.90 | | |
| 21. | Urban Option Ltd | 242,568.00 | Erection and completion of coffee factory at Musese in Bungoma County | PAID |
| 22. | Ambe General Contactors | 400,869.38 | Erection and completion of Labaa Aqua Farm | PAID |
| 23. | Citam Enterprises | 128,481.50 | Construction and completion of Ablution block and chain link fence at Tongaren Artificial insemination centre | PAID |
| 24. | Open Yard Developers | 724,189.22 | Construction and completion of Ablution block and chain link fence at.e.g. Sanglalo,Wembuye Animal feeds and tailoring Centre at Bumula | PAID |
| 25. | Wintech Limited | 279,298.30 | Construction of Khwisro fish hatchery, extraction of 6ft fish ponds holding tanks | PAID |
| 26. | Wintech Limited | 288,649.20 | Erection and completion of Khwisro fish Hatcher at Mwitumbi | PAID |
| 27. | Masera | 96,837.30 | Construction of sorting shade at Kitaban Coffee Factory | PAID |
| 28. | Masera | 76,167.90 | Construction of chainlink fence at Chebukwabi animal feeds plant | PAID |
| 29 | Highway Emporium | 49,171.00 | Construction of Tigo-Sinogo Church water pipeline extension | PAID |

| S/NO | SUPPLIER | RETENTION AMOUNT | DESCRIPTION OF WORK | FORM OF AGREEMENT |
|---|---|---|---|---|
| 30 | Highway emporium | 332,833.00 | Construction of Masonry water tank at Mahanga Beach water supply | PAID |
| 31. | | 92,311.00 | Construction | PAID |
| 32. | Highway Emporium | 54,938.90 | Junction Kooro-tiga-sinogo water | PAID |
| 33. | Jonesmy Construction | 296,193.50 | Construction of mahanga beach water supply project | PAID |
| 34. | Jonesmy Construction | 112,868.00 | Exta works for construction of mahanga beach water supply project | PAID |
| 35. | Jonesmy Construction | 182,120.00 | Construction of mahanga beach water supply project | PAID |
| 36. | Nyamasera | 92,406.00 | Construction to completion of Angulo tomato processing plant | PAID |
| 37. | Nyamasera | 88,989.40 | Construction to completion of Angulo tomato processing plant | PAID |
| 38. | Nyamasera | 135,893.00 | Construction to completion of Angulo tomato processing plant (Electrical works) | PAID |
| **TOTAL** | | **10,187,405** | | |
| **TOTAL PAID 2021/22** | | **2,472,885** | | |
| **BALANCE** | | **7,714,520** | | |

Retention money is payable on certification by the relevant technical departments after ascertaining that the works have been completed as per the specifications in the contract signed between the two parties.

The National Treasury vide letter Ref AG.3/88 Vol.7 (24) dated 15th February 2023 directed State Departments to surrender all deposits held for more than 5 years.

**Committee Observations and Findings;**

**The Committee noted that requisite documents were not availed to auditors on time.**

**Committee Recommendations;**

**The Accounting Officer is reprimanded for failure to provide information within reasonable time to the Auditor General pursuant to Section 62 (1) of the Public Audit Act, 2015.**

**237. Pending Accounts Payable**

Note 12.1 to the financial statements reflects pending accounts payables of Kshs.30,632,211 and other pending payables of Kshs.7,714,520 both totaling Kshs.38,346,731 which were not settled during the year but instead carried forward to 2022/2023 financial year. Management has not explained why the bills were not settled during the year they occurred. Further, pending bills reflected in Note 12.1 to the financial statements was at variance with Annex 1 to the financial statements which reflects pending accounts payable amount of Kshs. 29,703,310. The variance of Kshs. 8,643,421 was explained.

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

**Submission by the Accounting Officer**

At the close of the financial year, the state Department had Pending bill owed to providers of goods and services totaling to Kshs. 29,257,911.00 and claimable retention monies owed to contractors totaling to Kshs. 7,714,520.

The pending bills remained outstanding due to low receipts of exchequers and lack of budgetary provision due to the budget cuts that were effected during the financial year. Bills amounting Kshs. 20,962,505.00 were paid in the financial year 2022/2023 under first charge as guided by the National Treasury. The variance of Kshs. 8,643,421 consists of the amount of Kshs. 7,714,520 being deposits payable to Contractors and Kshs. 928,901 which was a proforma invoices from Safaricom for supply of airtime which had not been delivered.

The statue of the bills during the year is indicated in the table below:

| Liability | Nature of Goods and Services | Total | Paid 2022/2023 | Remarks |
|---|---|---|---|---|
| Regional Centre of Mapping-Consultancy | Training on maintenance and operation of ASAL GIS System | 4,995,406.00 | - | Unpaid |
| Unicomm Technologies | Supply of toners 410 and E250 series | 2,175,000.00 | 2,175,000.00 | paid |
| Annay Agencies Software | Toner 26A | 418,619.00 | 418,619.00 | paid |
| Graphics Investments Ltd | Toner 64A | 325,000.00 | 325,000.00 | paid |
| Kerio Valley Development Authority | Certified Grass seeds | 375,000.00 | 375,000.00 | paid |
| Regional Centre for Mapping | Training on maintenance and operation of ASAL GIS System | 3,300,000.00 | - | Unpaid |
| Bestline Systems K limited | Supply of ICT Equipment, Laptop, UOS and Scanner | 2,149,260.00 | 2,149,260.00 | paid |
| Jaypa Enterprises | Supply of assorted toners | 2,030,000.00 | 2,030,000.00 | paid |
| Gelian Investment Ltd | Conference | 105,000.00 | 105,000.00 | paid |
| Oakar Services Limited | Supply of GIS specialized equipment | 1,416,940.00 | 1,416,940.00 | paid |
| Unicon Technologies Enterprise | Supply of Desktop Computers | 1,054,900.00 | 1,054,900.00 | paid |
| Trenchmax Solutions | Supply of hp toners | 1,406,500.00 | 1,406,500.00 | paid |

| Liability | Nature of Goods and Services | Total | Paid 2022/2023 | Remarks |
|---|---|---|---|---|
| Simlaw Seeds Company | Certified assorted Seeds | 1,796,000.00 | 1,796,000.00 | paid |
| Trawell Company Ltd | Travel and Air Ticketing Services | 165,600.00 | 165,600.00 | paid |
| Trawell Company Ltd | Travel and Air Ticketing Services | 24,990.00 | 24,990.00 | paid |
| Attic Tours & Travel Ltd | Travel and Air Ticketing Services | 52,900.00 | 52,900.00 | paid |
| Ventag Enterprise Limited | General stores | 834,075.00 | 834,075.00 | paid |
| Alkeb Tour & Travel | Travel and Air Ticketing Services | 142,000.00 | 142,000.00 | paid |
| Raigways Tyres & Automart | Tyres | 192,250.00 | 192,250.00 | paid |
| Credos Supplies Ltd | Supply of assorted toners | 574,750.00 | 574,750.00 | paid |
| PS Broadcasting & Telecom | Advertisement | 212,115.00 | 212,115.00 | paid |
| Telecommunication Today Ltd | Repair and service of IPBX telephone lines | 576,874.00 | 576,874.00 | paid |
| Staing Enterprise Ltd | Cleaning services | 486,300.00 | 486,300.00 | paid |
| Arindo Enterprises | Supply of staff Uniform | 308,580.00 | 308,580.00 | paid |
| Maflex Limited | Supply of tyres | 283,825.00 | 283,825.00 | paid |
| Kentriah Enterprises | Supply of photocopying paper A4 size | 418,500.00 | 418,500.00 | paid |
| Davil Traders | Supply of envelopes | 357,000.00 | 357,000.00 | paid |
| Sharosen Enterprises | Toner TK6115 hp | 145,000.00 | 145,000.00 | paid |
| Sweet Lake Resort | Conference | 836,500.00 | 836,500.00 | paid |
| Alkab Tour & Travel | Travel and Air Ticketing Services | 88,800.00 | 88,800.00 | paid |
| Kenya School of Government Mombasa | Training | 57,400.00 | 57,400.00 | paid |
| Intermass Stationers | Repair and servicing of ICT Equipment | 499,361.00 | 499,361.00 | paid |
| Trawell Company Ltd | Travel and Air Ticketing Services | 213,340.00 | 213,340.00 | paid |
| Attic Tours & Travel Ltd | Travel and Air Ticketing Services | 156,600.00 | 156,600.00 | paid |
| Attic Tours & Travel Ltd | Travel and Air Ticketing Services | 50,500.00 | 50,500.00 | paid |

| Liability | Nature of Goods and Services | Total | Paid 2022/2023 | Remarks |
|---|---|---|---|---|
| Attic Tours & Travel Ltd | Travel and Air Ticketing Services | 190,400.00 | 190,400.00 | paid |
| Attic Tours & Travel Ltd | Travel and Air Ticketing Services | 175,000.00 | 175,000.00 | paid |
| Attic Tours & Travel Ltd | Travel and Air Ticketing Services | 13,790.00 | 13,790.00 | paid |
| Shodsam Motors | Motor vehicle repair | 25,636.00 | 25,636.00 | paid |
| Kenya School of Government Mombasa | Training | 243,600.00 | 243,600.00 | paid |
| Kenya School of Revenue Administration | Training | 185,600.00 | 185,600.00 | paid |
| Kenya School of Government Mombasa | Training | 47,800.00 | 47,800.00 | paid |
| Attic Tours & Travel Ltd | Travel and Air Ticketing Services | 151,200.00 | 151,200.00 | paid |
| **Total** | | 29,257,911.00 | 20,962,505.00 | 8,295,406 |
| | | | | |
| Total Pending Bills | | 29,257,911.00 | | |
| Total Pending Bills Paid 2022/2023 | | 20,962,505.00 | | |
| **Outstanding balance to providers of goods and services** | | **8,643,421** | | |
| **Less Outstanding proforma invoice from Safaricom** | | **928,901** | | |
| **Balance Outstanding for Retention Money claimable by contractors** | | **7,714,520** | | |

**Summary**

| Description | Amount Kshs |
|---|---|
| Pending bills 2021/2022 | 38,346,731 |
| As per analysis | 29,703,310 |

| | |
|---|---|
| Variance | 8,643,421 |
| Deposit | 7,714,520 |
| Unserviced Proforma from Safaricom Ltd | 928,901 |

**Committee Observations and Findings:**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer settles pending bills as first charge as per the provisions of Regulation 42 of the Public Finance Management (National Government) Regulations, 2015.**

**238. Unresolved Prior Year Matters**

Various prior year audit issues remained unresolved as at 30 June, 2022. Management has not provided reasons for the delay in resolving prior year audit issues.

**Submission by the Accounting Officer**

The State Department is awaiting Parliamentary Accounts Committee (PAC) recommendations for the financial year 2020/2021.

**Committee Observations and Findings;**

**The Committee noted that its report for FY 2020/21 had since been adopted by the House.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report on implementation of its recommendations within three (3) months of adoption of this report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**240. Lack of an Effective Internal Audit Function**

The State Department does not have an effective internal audit function and an active Audit Committee contrary to the provisions of Section 73(1) and (5) of the Public Finance Management Act, 2012 which requires every public entity to have arrangements in place for internal audit function and Audit Committee for the purpose of carrying out in depth reviews of Management operations and internal controls.

In the circumstances, the State Department did not benefit from the assurance and advisory services from the internal audit function as well as oversight from the Audit Committee.

**Submission by the Accounting Officer**

The State Department for the Development of the ASALs had insufficient staff at the time of the audit. However, after the Reorganization of Government, the State Department was merged with the State Department for Regional Development thus increasing the manpower in internal Audit Unit by three officers. Other officers were also posted to the Internal Audit unit.

The department has since prepared a risk based work plan for the FY 2023/2024 The Internal Audit Unit has prepared its work plan and risk assessment reports and is currently executing its mandate related to reviewing budgetary performance, giving assurance on risk management and reviewing the effectiveness of the financial and non-financial performances management systems

The Unit recently conducted a sensitization workshop to all Head of sections on the role of Internal Audit as an aid to management and Risk management process.

The Re-appointment process of the Audit Committee through the Ministry is in progress and the Committee is expected to be in place by December 2023.

**Committee Observations and Findings;**

i) **The Committee observed that the explanation and documents provided by the Accounting Officer were satisfactory.**

ii) **The Committee found that the matter was resolved.**

**DONOR FUNDED PROJECT**

**KENYA DEVELOPMENT RESPONSE TO DISPLACEMENT IMPACTS PROJECT (KRDIP) IDA CREDIT NO.6021-KE AND GRANT NO. TFOA 7762-KE**

REPORT ON THE FINANCIAL STATEMENTS

**241. Inconsistencies in the Financial Statements**

The statement of comparison of budget and actual amounts reflects miscellaneous receipts balance of Kshs. 1,503,027,234. However, the amount has not been disclosed in both the statement of receipts and payments and statement of cashflows for the year under review. In addition, there was no note in the financial statements to show the breakdown or composition of the miscellaneous receipts balance.

In the circumstances, the accuracy and completeness of the miscellaneous receipts of Kshs. 1,503,027,234 reflected in the statement of comparison of budget and actual amounts could not be confirmed.

**Submission by the Accounting Officer**

It is true the statement of comparison of budget and actual amounts reflected a miscellaneous receipts balance of Kshs. 1,503,027,234.

This was Cash and Cash Equivalent brought forward of Kshs 145,125,454 and Kshs 1,357,901,780 recognized as a prior year adjustment. The following figures were separately disclosed in the Statement of Receipts and payment page one, Statement of Cash flow page 5, Cash and Cash equivalent page 19 and prior year adjustment Annex 6, page 31 of the Financial Statement for the year ended June 30th 2022.

The above figures were recognized as miscellaneous receipts in the statement of comparative budget and actual amount as it's related to a prior period. This was a disclosure for an unutilized balance at the County Coordinator Bank Accounts, Sub Projects and Community Groups bank accounts as at June 30th 2021 which was reinstated in the subsequent financial year 2021-2022 and recognized as prior year adjustment.

**Committee Observations and findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**242. Unsupported Compensation of Employees Expenditure**

The statement of receipts and payments reflects compensation of employees' expenditure of Kshs. 620,893,048 as disclosed in Note 3 to the financial statements. The expenditure includes an amount of Kshs. 284,277,134 which was paid to temporary employees working under the Labour Intensive Public Works (LIPW) Program in Turkana West, Wajir South and Garissa. However, Needs Assessment Reports, Workplans, Soil Texture Tests, Site History Reports, Soil Fractional Tests or Jar Test Reports and Distribution of Seedlings Reports were not provided for audit review to confirm the effectiveness of the activities.

Further, the visited land reclaimed areas had invasive Prosopis and other overgrown invasive vegetation and the irrigation schemes have not been implemented due to heavy reliance on rains which had not materialized causing lack of any visible tangible agricultural activity on the sites.

In the circumstances, the accuracy and completeness of the expenditure of Kshs. 284,277,134 incurred could not be confirmed.

**Submission by the Accounting Officer**

It's true that several issues were raised about Compensation of Employees -Labour Intensive Public Works. The related explanations are presented in the table below;

| S/NO | Issue | Response |
|---|---|---|
| i. | No needs assessment reports availed for audit review to guide the audit on the intended purpose of the exercise.<br><br>The work-plan availed by the Facilitating Partner Turkana West sub-county was for the 2019/2020 financial year. | The Need assessment was only carried once during the development of Community Development Plans (CDPs). Every village developed a CDP upon which all the village Sub projects are based. PIST usually conducts a feasibility study of a sub project before it is forwarded for approval.<br><br>The 2019-2020 work plan formed part of the implementation in the FY 2020-2021 which had been ratified and implemented since in 2019-2020 only component 0ne subprojects and community groups for component three were implemented.<br><br>However, all sub county AWPs are available at the Sub County, County, NPIU and World Bank levels. |

| S/NO | Issue | Response |
|---|---|---|
| ii. | No soil texture tests, no site history reports to show what past activities have taken place on the land, no soil fractional test or jar test to determine the composition of the soil and how much sand, silt and clay is available were availed for audit review to determine the viability of the soil to agriculture repurposing. | All these are outside the scope of the project. The component supported construction of assets that have communal benefits and the focus on farmlands were to support a build-up of soil conservation and water harvesting structures from a watershed perspective.<br><br>Depending on the sub project being implemented, soil properties may form (but not necessarily) be part of the feasibility assessment.<br><br>The Component focuses interventions on renovation of already existing structures and expansion of land that is already dedicated for farming and is under agricultural productivity. |
| iii. | No evidence on the provision for seedlings to use in the planting exercise | Each sub project has its own implementation work plan and not all required seedlings. |
| V | The land reclaimed areas sampled and visited had the invasive Prosopis and other invasive vegetation outgrown again therefore, no visible impact. | The presence of new growth of the prosopis may not indicate lack of impact In the period under review, it is possible to find the invasive prosopis have grown depending on how long it took before the audit was done. Clearing prosopis is only a part of the initial process allowing for construction of the Structures. Visible regrowth of vegetation therefore could actually be a clear indication that sufficient water was retained to support a crop and regrowth of weeds-a natural phenomenon expected in farming. |
| vi. | The irrigation schemes have not been implemented due to the heavy reliance of rains which have not materialized. | KDRDIP mainly deals with "land rehabilitation through flood-based irrigation using runoff geared towards sustaining the natural resources. By design this naturally relies on flood waters once it rains.<br><br>The component mainly deals with "land rehabilitation through flood-based irrigation taking advantage of surface runoff.<br><br>By design these sub projects naturally rely on rain water. In cases where the design is different, and use of flood water is not relied upon as an approach but instead |

| S/NO | Issue | Response |
|---|---|---|
| | | irrigation is supported through water from pans and boreholes. |
| Vii | No tangible agricultural productivity was visible. | The visit referred to here was made in the middle of the worst droughts in the country with no reliable rain in these arid lands for more than 3 seasons. It is also important to note that spate irrigation/flood-based farming is only expected when there are floods. The project aims to provided water harvesting structures<br><br>It's therefore natural that no tangible agricultural activity could be found. Further, the Project does not directly deal with agricultural production. It aims to provide irrigation services in order to enhance agriculture productivity through bush clearing in order to provide access roads to community lands, Soil conservation measures to check on soil erosion and flood water harvesting by digging holding holes, terraces, canals and planting pasture, Construction of canals and water distribution mainly in Fafi along Tana River among others.. |

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Auditor General establishes current status in subsequent audit.**

**243. Budgetary Control and Performance**

The statement of receipts and payments reflects compensation of employees' expenditure of Kshs. 620,893,048 as disclosed in Note 3 to the financial statements. The expenditure includes an amount of Kshs. 284,277,134 which was paid to temporary employees working under the Labour Intensive Public Works (LIPW) Program in Turkana West, Wajir South and Garissa. However, Needs Assessment Reports, Workplans, Soil Texture Tests, Site History Reports, Soil Fractional Tests or Jar Test Reports and Distribution of Seedlings Reports were not provided for audit review to confirm the effectiveness of the activities.

Further, the visited land reclaimed areas had invasive Prosopis and other overgrown invasive vegetation and the irrigation schemes have not been implemented due to heavy reliance on rains which had not materialized causing lack of any visible tangible agricultural activity on the sites.

In the circumstances, the accuracy and completeness of the expenditure of Kshs. 284,277,134 incurred could not be confirmed.

**Submission by the Accounting Officer**

The over expenditure noted in the statement of comparative budget amount was due to the prior year adjustments which was unutilized bank balances and cash and cash equivalent brought forward for financial year 2020/2021. This formed part of receipts for the financial year 2021/2022. See the tabulation below;

| Source Of Funding | Approved Budget | Actual Receipts | Over Funded of 30% |
|---|---|---|---|
| GRANT | 178,239,137.00 | 142,927,810.00 | - |
| LOAN | 3,700,000,000.00 | 3,403,403,059.00 | - |
| CASH AND CASH EQUIVALENT B/F | - | 145,125,454.00 | |
| PRIOR YEAR ADJUSTMENTS | - | 1,357,901,780.00 | - |
| **TOTAL** | **3,878,239,137.00** | **5,049,358,103.00** | **1,171,118,966.00** |

The under absorption of 9% was caused by the delayed project implementation by the community as the project design is a Community Driven Development (CDD) whereby the communities are required to come up with their project proposals and implement the Sub projects through

Community Project Management Committees (CPMCs) and Community Groups Management Committee (CGMCs).

The project implementation process is also done under government stipulated procurement guidelines which are very lengthy and takes time to implement, bearing in mind that the community has the mandate to procure their own services. The project is funded as a loan and disbursement is through advances.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Auditor General monitors project progress in subsequent audit.**

**244. Lack of Monitoring and Evaluation of the Community Groups**

The statement of receipts and payments reflects purchase of goods and services expenditure of Kshs 1,795,961,678 as disclosed in Note 4 to the financial statements. The expenditure includes capital grants to community groups totalling to Kshs. 1,156,852,378 which further includes an amount of Kshs. 315,000,000 which was disbursed to community groups in Turkana County. However, the audit revealed that there were no regular meetings and monitoring and evaluation reports were not provided for audit.

Further, the community groups could not be verified since most of them are pastoralists and were not available for engagement and thus it could not be confirmed whether the project had a social and economic impact on them.

This is contrary to the provisions of the Community Operational Manual, which states that the CGs should receive grants after adhering to the five core group principles which are regular meetings, proper record keeping, inter-loaning and regular repayments and thereafter approval of their business plans.

In the circumstances, the projects management was in breach of the COM and the value for the funds spent could not be confirmed.

**Submission by the Accounting Officer**

The disbursement for capital grants for community groups for FY 2021/2022 had not been disbursed to community groups Bank accounts as by the first week on of July 2022. This was due to the fact that CGs were undergoing preparations and training to start spending. The schedule was not available when the audit team was on the ground, but now the funds have been disbursed to Community Groups banks accounts. The beneficiaries Sub Counties are pastoralist who could not be contacted in one place for audit verification to take place, because some of the groups deals with livestock trading and they had gone to search for greener pastures. These groups can be verified in future. Disbursements schedules, sampled bank statements, Monitoring and evaluation reports are available for review.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Auditor General reviews status in the subsequent FY audit.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**245. Lack of an Approved ICT Policy**

Review of the Project's information technology systems revealed that the Project did not have an approved IT policy for governance and management of its ICT resources. In addition, there is no ICT steering committee in place to assist in the development of ICT policy framework to enable the Project to realize long-term ICT strategic goals. Lack of an approved IT policy may result in an unclear direction regarding maintenance of information security across the organization and safeguarding the Project's ICT assets. Further, without a sound and approved framework, users do 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 security, confidentiality and integrity of the Project's data could not be confirmed.

**Submission by the Accounting Officer**

The Project is domiciled in the State Department for Development of the ASALs. Therefore, the Project uses the existing Government structures on financial, procurement and ICT cascading certain issues for use at various levels. As such, in terms of the IT Security Policy, the Project borrowed from what is at the State Department. Currently, the State Department implements the Information Security Standard (Second Edition 2019) developed by the Information Communication Authority (ICTA) on issues related to safeguarding information. Subsequently, the Project continues to utilize that standard for anything related to information confidentiality and integrity among many other issues therein.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

## 4.8 VOTE 1041: MINISTRY OF DEFENCE

**Hon. Patrick Mariru, CBS**, the Principal Secretary and Accounting Officer for the Ministry of Defence appeared before the Committee on 21st August 2023 accompanied by the following officers:

| | | |
|---|---|---|
| i. | Lt. General J.M. Mwangi | Vice Chief of the Defence Forces |
| ii. | Mr. Joseph Mutuma | Head of Finance |
| iii. | Ms. Electina W. Wanyonyi | Head of Accounting Unit |
| iv. | Ms. Daniel Mukolwe | Principal Supply Chain Management Service |
| v. | Brig. Sammy Kipng'etich | Chief of Finance |
| vi. | Brig. Titus Sokobe | Chief of Infrastructure |
| vii. | Brig. Yvonne Kerubo | Chief of Legal |
| viii. | Mr. Bogita W. Ongeri | Parliament Liaison |
| ix. | Mr. Emmanuel Masikonte | Personal Assistant to the Principal Secretary |

and submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

### 248. Pending Bills

Note 17.2 and Annex 1 to the financial statements reflects pending bills balance of Kshs.1,755,046,240 as at 30 June, 2022 owed to suppliers of goods and services which were not paid in the year under review but were carried forward to 2022/2023 financial year. 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.

**Submission by the Accounting Officer**

The Ministry of Defence had an approved budget of Kshs. 130,608,604,247.00 under the Recurrent Vote R1041. The Ministry requested for and received Recurrent exchequer as detailed below:

| DETAILS | AMOUNT (KSHS) |
|---|---|
| Exchequer Requisitioned | 130,352,373,533.00 |
| Exchequer Issued | (128,597,327,292.85) |
| Under - Issue | 1,755,046,240.60 |

The Ministry therefore suffered an exchequer under-issue of Kshs. 1,755,046,240.60 as at 30 June 2022 and disclosed the same in the Financial Statements of the Ministry for the Financial Year under review.

Due to exchequer under-issue, the Ministry could not meet the financial obligations that had already been committed to as at the closure of the financial year 2021/2022. Had the exchequer of Kshs. 1,755,046,240.60 been availed, the Ministry could not have reflected the pending bills in question.

The Ministry would however wish to confirm that the pending bills were treated as *'first charge'* in the Financial Year 2022/2023 and were settled in full despite the resultant adverse effect of distorting the budget for the year.

**Committee Observations and Findings;**

**The Committee observed that the ministry had since settled the pending bills occasioned by under-exchequer issues.**

**Committee Recommendation**

**The Committee recommends that Treasury releases exchequer in a timely manner once funds have been committed by implementing agencies.**

**249. Contingent Liabilities**

As disclosed in Note 17.4 to the financial statements, the Ministry of Defence had contingent liabilities amounting to Kshs.1,807,350,099 as at 30 June, 2022. The contingent liabilities related to court cases against the Ministry. Detailed analysis of the balance provided for audit indicated that the total courts awards amounted to Kshs.2,171,750,099, out of which an amount of Kshs.364,400,000 was paid during the year, leaving a balance of Kshs.1,807,350,099 outstanding. No explanation was provided for failure to pay the outstanding balance of Kshs.1,807,350,099 in compliance with the court rulings.

**Submission by the Accounting Officer**

It is true that the Ministry under Note 17.4 to the Financial Statements for the Financial Year under review disclosed contingent liabilities totaling Kshs. 1,807,350,099.00 as at 30 June, 2022 related to court cases against the Ministry of Defence. It is also true that an amount of Kshs. 364,400,000.00 had been paid out in the course of the Financial Year, reducing the total judgement awards from Kshs. 2,171,750,099.00 to the balance outstanding of Kshs. 1,807,350,099.00.

Cognizant of the colossal amounts of some of the judgments and limited allocations from National Treasury to settle the awards, the MoD continues to engage National Treasury for additional funds to settle the judgments. In the financial year 2022/2023 MoD settled a further Kshs 22,352,475.98 and will continue to do so as and when the funds are availed.

To also manage the Ministry's exposure to legal liability, MoD negotiated with the Attorney General to appoint the Ministry's Legal Officers as Special State Counsel in 2017. Owing to the dedicated litigation management, the Ministry has noted a decline in the number of frivolous claims being filed against MoD as well as adverse judgments.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the ministry settles the outstanding liabilities totaling Kshs. 1,807,350,099 and give a status report within three (3) months of adoption of this report.**

**250. Unbudgeted Expenditure Incurred on Projects**

During the year under review, Ministry of Defence received funding for infrastructure projects procured and supervised by the Ministry on behalf of another Ministry/Agency as detailed below:

| | Ministry/ Agency | Project Description | Contract Amount (Kshs.) | Amount Paid (Kshs.) | Unbudgeted Expenditure (Kshs.) |
|---|---|---|---|---|---|
| 1 | Ministry of Interior & Citizen Services | National Police Service - Level IV Hospital | 824,928,279 | 400,000,000 | 424,928,279 |
| 2 | Ministry of Interior & Citizen Services | State Department for Correctional Services – Level IV Hospital | 999,628,135 | 400,000,000 | 599,628,135 |
| 3 | State House - Nairobi Metropolitan Service | Uhuru & Central Park Rehabilitation Project | 1,183,494,712 | 778,192,768 | 405,301,944 |
| | **Total** | | **3,008,051,126** | **1,578,192,768** | **1,429,858,358** |

However, Ministry of Defence signed contracts for amounts above the actual funds received for the respective projects resulting to an unbudgeted expenditure of Kshs.1,429,858,358. 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 proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in the approved budget estimates.

Further, although physical verification done in the month of October, 2022 confirmed that the projects were completed, the unpaid amounts totalling to Kshs.1,429,858,358 were not included as pending bills as at the end of the financial year. Ministry of Defence had continuously requested for the outstanding balances from the respective Ministry/Agency without success due to unavailability of funds. However, Management did not disclose how the extra expenditure of Kshs.1,429,858,358 committed by the Ministry would be funded in the absence of an approved budget.

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

**Submission by the Accounting Officer**

It is true that during the financial year 2021/2022, the Ministry of Defence received funding for infrastructure projects from another Ministry/Agency. It is also true that the projects were procured and supervised by the Ministry of Defence on behalf of another Ministry/Agency as indicated in the table.

a) The National Police Service Level IV Hospital Mbagathi:

The National Police Service (NPS) required to improve the organization of their medical referral system in line with the Universal Healthcare Programme to provide affordable healthcare for their personnel and families. Hence the NPS Hospital was conceptualized and a directive issued in which MOD was directed to construct a Level IV Hospital for the NPS having successfully established a regional hospital of similar scope and design (Nairobi Regional Hospital in Kahawa Garrison). The National Treasury was also directed to disburse Kshs 450 Million towards the project. This is shown by the letter from the Head of Public Service attached here as Annex 'A'.

The cost of the project was Kshs. 999,628,135.00 with a duration of six (6) months commencing on 27th April, 2022, cutting across two financial years 2021/2022 and 2022/2023. Consequently, the Ministry of Interior and Coordination of National Government disbursed Kshs. 400 Million leaving a balance of Kshs. 599,628,135.00. The Ministry has requested for the remaining balance from the Ministry of Interior.

The Ministry of Interior and National Administration has since requested that the project be handed over and the process is ongoing.

b) The Kenya Prisons Service Wanini Kireri Magereza Level IV Hospital at PSTC Ruiru:

The Cabinet Secretary for Interior and Coordination of National Government presented a memorandum to Government on the state of healthcare for prisoners and staff. It was directed that the National Treasury to release Kshs 200 Million from the Prison Enterprise Fund and an additional Kshs 600 Million towards implementation of the project. This is shown at Annex 'B'.

The cost of the project was Kshs. 824,928,279.00 with a duration of six (6) months, commencing on 4th March, 2022, cutting across two financial years 2021/2022 and 2022/2023. Consequently, the Ministry of Interior and Coordination of National Government disbursed Kshs 200 Million leaving a balance of Kshs 624,928,279.00. Additional funding amounting to Kshs 200 million was transferred by the Ministry of Interior and Coordination of National Government.

The Ministry of Interior and National Administration has since requested that the project be handed over and the process is ongoing.

c) Proposed Rehabilitation and Upgrading of Green Spaces in Uhuru Park and Central Park Project:

A directive was given to accelerate the upgrading and development of green spaces in Nairobi County i.e. Uhuru and Central park where a joint technical team was formed between Kenya Defence Forces and Nairobi Metropolitan Services (NMS) to redesign, cost and implement the project.

The cost of the project was Kshs 1,183,494,711.77 with a duration of six (6) months, commencing on 8th March, 2022, cutting across two financial years 2021/2022 and 2022/2023. Consequently, the State House disbursed Kshs 778,192,768.13 leaving a balance of Kshs 405,301,943.64. The Ministry has requested for the remaining balance from State House.

**Committee Observations and Findings;**

**The Committee observed that these were one of the projects under the then Nairobi Metropolitan Service (NMS) that it has cited under the chapter of general observations and recommendations of this report.**

**Committee Recommendation;**

**The Committee recommends that the Auditor General conducts a special audit on accounts of the then Nairobi Metropolitan Service (NMS) and submits a report to the Committee within three (3) months of adoption of this report.**

REVENUE STATEMENTS

**253. Irregular Transfer of Revenue**

The statement of receipts and disbursements reflects total tax receipts of Kshs.4,417,951,213 for the year ended 30 June, 2022. The statement also reflects disbursements of Kshs.496,791,300 and Kshs.3,921,159,913 to MOD Escrow Account and Exchequer Account, respectively. However, the disbursement of Kshs.496,791,300 to the Escrow Account was contrary to the provisions of Article 206(1) of the Constitution of Kenya, 2010 which established a Consolidated Fund, "into which shall be paid all money raised or received by or on behalf of the National Government, except when reasonably excluded from the Fund by an Act of Parliament and payable into another public fund established for a specific purpose; or under an Act of Parliament, retained by the State organ that received it for the purpose of defraying the expenses of the State organ".

Although Management provided authorization from the National Treasury for opening and operating the escrow account at the Central Bank of Kenya, there was no enabling legislation to support the transfer of revenue into an account other than the Consolidated Fund Account.

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

**Submission by the Accounting Officer**

It is true that the statement of receipts and disbursements reflects total tax receipts of Kshs. 4,417,951,213.00 and disbursements of Kshs. 496,791,300.00 and Kshs. 3,921,159,913.00 to Ministry of Defence Escrow Account and Exchequer Account respectively.

The Ministry of Defence faces acute shortfalls in housing for Military personnel, both officers and service members at all Barracks across the country. The shortfalls are for both single Quarters (for individual personnel) and married Quarters (for families), which translates into an overall requirement of 35,000 single Quarters and 10,000 Married Quarters.

The deficit greatly impairs mission readiness and the general welfare of the Defence Forces. In an effort to seek to bridge the gap in housing provision, the Ministry of Defence decided to explore the possibility of pursuing a Public Private Partnership (PPP) solution for the provision of housing of its uniformed staff.

Based on this background, a Memorandum on the Kenya Defence Forces Residential Accommodation project was submitted by the Cabinet Secretary for Defence jointly with the

Cabinet Secretary for the National Treasury and Planning and the Attorney General to the Government. The main objective was to appraise the Government on a proposal for Kenya Defence Forces Residential Accommodation project anticipated to be financed through the Public Private Partnership (PPP) model to address the shortfalls. The proposal was approved in order for the Ministry of Defence to proceed with the project.

Upon approval, The National Treasury and Planning in May 2021 further approved opening of an ESCROW Account for the purposes of ring-fencing a minimum of Kshs. 500 million in annual revenue collected from the Ministry of Defence GoK Housing Unit. During the Financial Year under review the Ministry collected revenue amounting to Kshs. 4,417,951,213 out of which Kshs. 496,791,300 was transferred to the ESCROW Account.

After the Auditor General observed that the Management was in breach of the law for lack of enabling legislation to support the transfer of revenue to an account other than the Consolidated Fund, the Ministry surrendered the funds to the Consolidated Fund Account in December 2022.

**Committee Observations and Findings;**

i) **The Committee observed that the matter had since been settled as the Kshs. 496,791,300 had since been remitted to the consolidated fund.**
ii) **The Committee found that the matter was resolved.**

## 4.9 VOTE 1052: MINISTRY OF FOREIGN AFFAIRS

**Dr. Korir Sing'oei, PhD, EBS**, the Principal Secretary and Accounting Officer for the State Department for Foreign Affairs appeared before the Committee on 12th September 2023 accompanied by the following officers:

| | | |
|---|---|---|
| i. | Mr. James Aloyo | Senior Finance Officer |
| ii. | Mr. Billy Mathu | Principal Accountant |
| iii. | Mr. James Nyange | Head, Internal Audit |
| iv. | Amb. Margaret gichuru | Deputy Global Assets |
| v. | Amb. Josphat K. Maikara | Secretary, Foreign Service Administration |
| vi. | Mr. Kenneth Karani | Head Supply Chain |
| vii. | Mr. Vincent Kirwa | Senior Deputy Accountant General |
| viii. | Ms. Anita Chepseba | Deputy Chief State Counsel |
| ix. | Ms. Ochieng Jackogango | Senior Human Resource Officer |
| x. | Ms. Dorcas Rukunga | Ag. Director, Parliamentary Affairs |

and submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

**255: Long Outstanding Reconciling Items**

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs. 1,737,179,819 which includes bank balances totaling Kshs. 1,736,879,371 as disclosed in Note 11A to the financial statements. Review of the Ministry's bank reconciliation statements for the month of June, 2022 revealed long outstanding reconciling items which include; payments in cash book not in bank statements of Kshs. 233,210,044, receipts in bank statements not in cash book of Kshs. 50,815,226, payments in bank statement not in cash book of Kshs. 280,157,533 and receipts in cash book not in bank statement of Kshs. 13,030,179. No documentary evidence was provided for audit to confirm efforts made by Management to clear these long outstanding reconciling items.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs. 1,737,179,819 as at 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

It is true that bank reconciliation statements for various Missions had long outstanding items totaling Kshs 577,212,982.25 as at 30th June 2022. These balances are explained as below: -

- Payments in cash book not in bank statements – These are unpresented cheques that have remained in the books of the Missions for more than six (6) months hence have gone stale. The Missions have been instructed to reverse the transactions by entering the same as credits in their cash books and to clear them from the bank reconciliation statements until the payees renew their claims. Schedules of the claimants for each mission are to be maintained separately, awaiting the payees to renew their claims.
- Receipts in bank statements not in cash book – These represents direct credits into the Missions bank accounts which have been awaiting the depositors to claim the same or to

provide details for which the deposits were been made. There are being cleared as and when the depositors come forward for the services for which the payments have been made.

- Payments in bank statements not in cash book – These represents direct debits in respect of utility bills in a number of Missions which had been placed as standing orders to avoid pending bills or delayed payments on the same. The relevant missions have been instructed to obtain the supporting documents for these payments from the service providers, use the same to update the cash books and clear the same from the Reconciliation Statements.
- Receipts in cash book not in bank statement – These represents cash collections on consular services utilized at source to support the consular services. The receipts were utilized directly as cash in hand and not through the bank. These transactions were regularized through relevant budgetary provisions in the supplementary estimates.

The National Treasury established a committee on resolution of long outstanding balances, recommendations from which are still awaited to guide the Ministry to resolve such long outstanding cases.

**Committee Observations and Findings;**

i) **The Committee observed that the ministry had written to missions abroad to do reconcilliations, and had made progress.**
ii) **The Accounting Officer submitted that the amounts received by the missions were AIA as per approved budget and not 'revenue' requiring an appointment as receiver of revenue.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer ensures the outstanding discrepancies are reconciled within three (3) months of adoption of this report by the House.**

**256: Pending Bills**

Note 19.2 to the financial statements reflects pending accounts payables totaling Kshs. 701,161,995 as at 30 June, 2022. These bills were not paid during the year under review but were instead carried forward to the financial year 2022/2023.

Failure to settle bills during the year to which they relate distorts the budget implementation of the subsequent year as the outstanding bills form a first charge on resources available.

**Submission by the Accounting Officer**

It is true that claims from the Ministry (delayed payments) stood at Kshs. 701,161,995.72 as at $30^{th}$ June 2022. These bills were processed in IFMIS and loaded into Internet Banking platform awaiting exchequer release. Treasury was unable to release the exchequer by closure of 2021/2022 Financial Year thus forcing the Ministry to carry forward the bills to the next financial year 2022/2023.

The Ministry at the commencement of 2022/2023 Financial Year, verified the bills and settled the same (to the extent manageable within the budget and exchequer availed by the National Treasury) as a 1st charge on the 2022/2023 Financial Year's budget in accordance with the financial regulations. The remaining bills were carried forward to be cleared hopefully in the subsequent (2023/24 FY), finances permitting.

**Committee Observations and Findings;**

**The Committee observed that Kshs. 149,627,501 remained outstanding.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer settles all valid pending bills promptly.**

**257: Contingent Liabilities**

Disclosed in Note 19.4 to the financial statements are contingent liabilities totaling Kshs. 112,013,123 arising from court cases and awards against the Ministry. Review of the Ministry's records indicate that the Government of Kenya through the missions abroad had been sued by local staff employed by the missions. Further, in some cases the Ministry was yet to pay the court awards and has not appealed the decision of the courts.

In the circumstances, the court cases may attract further charges which may lead to loss of public funds.

**Submission by the Accounting Officer**

It is true that in the financial statements of the Ministry for the year ended 30th June 2022 there was a disclosure of contingent liability amounting to Kshs 112,013,123 arising from court cases and awards against the Ministry from various Missions abroad.

It should be noted that a majority of the suits against the various Missions abroad arose out of implementation of Guidelines on the Recruitment of Local Staff in Kenya Missions abroad contained in a Circular dated 27th June 2014 circulated to all Missions.

The Guidelines require Missions abroad to engage all local staff on Local Agreement Terms of Service of not more than three (3) years, renewable on performance. This therefore meant that the Missions had to convert permanent contracts to 3-year contracts or alternatively have the permanent contracts terminated, which has given rise to multiple suits in various countries.

Its is also true that some of these cases, which had reached the court award stage, were yet to be paid by the Ministry as at the time of audit. The Ministry requested the Attorney General's office to explore the possibility of appeal and the Attorney General's office after exploring all appeals options reverted back to the Ministry later on with a recommendation to settle.

The Ministry proceeded to settled the claims soon thereafter as advised by the Attorney General's Office.

**Committee Observations and Findings;**

**The Committee observed that most of the claims arose from adoption of a policy that changed terms of service for foreign recruited employees to three years. The ministry ought to have negotiated with affected staff for mutually acceptable resolution considering some legal costs exceeded the court awards.**

*Committee Recommendation*

**i) The Committee recommends that the ministry negotiates with petitioners of those cases that are yet to be determined with a view to amicable resolutions.**

**ii) Further, the Committee recommends that awards not appealed against should be correctly classified as pending bills/ payables, and not contingent liabilities.**

## 4.10 VOTE 1064: STATE DEPARTMENT FOR VOCATIONAL AND TECHNICAL TRAINING

**Dr. Esther Muoria, PhD,** the Principal Secretary and Accounting Officer for the State Department for Technical. Vocational Education and Training appeared before the Committee on 9th October 2023 and 19th October 2023, accompanied by the following officers:

| | | |
|---|---|---|
| i. | Ms. Joyce Mwale | Director Administration |
| ii. | Mr. Joseph Mwangi Kiraita | Deputy Accountant General |
| iii. | Dr. Meshack Opwora | Director TVET |
| iv. | Eng. Mwaa Mutinda | Director TVET |
| v. | Mr. Elkanah Mosiori | Director Human Resource Management |
| vi. | Ms. Risper Makasi | Chief Finance Officer |
| vii. | Mr. John Tuwei | Deputy Director TVET |
| viii. | Nelson Gitau | Deputy Director TVET |
| ix. | Ms. Joan Omuruli | Deputy Director TVET |
| x. | Mr. Peter Kamau | Assistant Director TVET |
| xi. | Mr. James Nyambune | Assistant Director TVET |
| xii. | Ms. Carolyne Nyambok | Principal Accountant |
| xiii. | Ms. Mary Muthoka | Chief Principal |
| xiv. | Ms. Catherine Kelonye | Chief Principal |
| xv. | Mr. Vincent Mayaka | Accountant |
| xvi. | Evan Kimari | Accountant |

and submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

**260: Unsupported Other Revenues**

The statement of receipts and payments reflects other revenues amounting to Ksh. 4,676,474,119 being Appropriations-In-Aid collected by Vocational and Technical Training institutions. However, no supporting documents were provided to confirm the revenue earned, received and reported in the financial statements. Further, the amounts captured were extracted from the budget estimates and not the actual revenue from the institutions. In addition, no evidence was provided to show that revenue collected was surrendered to the Receiver of Revenue as required.

In the circumstances, the accuracy and completeness of other revenues amounting to Kshs.4,676,474,119 for the year ended 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

The Appropriation-in-Aid collected by Vocational and Technical Training institutions that was captured by the IFMIS system amounted to Kshs. 4,676,474,119. However, the actual revenue collected amounted to Ksh. 6,210,339,300, while the approved AIA budget was Kshs.4,919,177,254.

The IFMIS system is configured in such a way that it does not allow over collected revenue to be captured, thus limiting revenue capture to the approved budget. This explains why the amounts were extracts from the budget and not the actual revenue from the institutions.

Out of the 26 institutions that collected AIA in the year under review, five of them sought for approval and were granted revision of their AIA budget.

The 13 institutions that did not revise their AIA budget realized over collection at the end of the financial year thus they could not seek for review as the Supplementary budget window was closed.

However, the State Department has since sought for authority from The National Treasury for Institutions to spend the extra revenues collected over and above the budget estimates in the Financial Year 2022/23, resulting to the revision of AIA budget to Ksh.5,795,218,628. This will subsequently solve the problem of over collection of revenues above the budget ceiling.

**Committee Observations and Findings;**

**The Committee observed that the Accounting Officer under-projected revenue and proceeded to spend above approved ceiling.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for use of revenue unappropriated, at source, contrary to section 74 of the PFM Act.**

**261: Unsupported Procurement of Equipment under Kenya- China Project**

The statement of receipts and payments reflects proceeds from foreign borrowings amounting to Kshs.895,820,309 as disclosed in Note 3 to the financial statements. The Government of Kenya through the then Ministry of Education, Science and Technology entered into a contract with a firm for supply of equipment. The project was for establishment of Technical and Vocational Training (TVET) workshops through an addendum dated 25 May, 2016 that includes an amount of Kshs.149,799,955 paid under the Kenya China Project for the installation of low voltage boards in fifteen (15) TVET institutions. However, Management did not provide the disbursement schedule, payment vouchers and information on how the firm was identified, selected and awarded, casting doubt on whether the payments were actually made and received. Further, no information was provided on how the beneficiary institutions were identified.

In the circumstances, the accuracy, completeness and regularity of the expenditure of Kshs.149,799,955 for the year ended 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

The Government of Kenya entered into an agreement with the Government of China where the Ministry of Education was the implementing agency for the Government of Kenya, while AVIC International Holding Corporation was the implementing agency for the Government of China. The scope of the contract was to supply, install and commission the training equipment's to the TVET institutions in Kenya. They were also to train the trainers on the use of the supplied training equipment and carry out maintenance of the same during the contract period, among other obligations as reflected in the addendum 1 to the main commercial contract provided in Annex 261a. The training equipment was supplied to one hundred and forty-four (144) TVET institutions.

As per the signed contract (Annex 261a) and the professional opinion (Annex 261c) the Ministry of Education engaged Ms. AVIC International Holding Corporation to install low voltage (LV) boards in fifteen (15) TVET institutions which was part of the 144 TVET institutions that received the training equipments. The installation of the L.V. boards allow the TVET institutions to be connected to three phase power to run the training equipments. This ensures that there is value for money for the supplied training equipments.

An amount of Kshs.149,799,955 was paid to the Contractor for the installation of LV boards in the fifteen (15) TVET institutions as per the copy of the voucher (Annex 261d). The award of the tender to Ms. AVIC International Holding Corporation was done in line with the professional opinion.

The payment of Kshs.149,799,955 was made by the National Treasury and Planning to the financier of the project (EXIM Bank of China) as per the irrevocable drawdown.

AVIC International Holding Corporation vide a letter Ref. MSTE/AVIC/22/12/2022 dated 22nd December 2022 confirmed to the Ministry of Education that the Contractor received Kshs.149,799,955 from the financier in respect to installation of LV boards in fifteen (15) TVET institutions. This amount was 70% of the sub- contract price since an advance payment of 30% had been made to the financier by the Ministry of Education as per the signed contract.

The fifteen (15) beneficiary TVET institutions were identified as per the clustering of the TVET institutions by the project manager (Ministry of Transport and Public Works). The Ministry of Education started with the first two LOTS which had a total of fifteen (15) TVET institutions due to limitation of funds. The clustering had a total of seven (7) LOTS as reflected in communication Ref. MOE/DTE/6/5/1 VOL.XVII (64) dated 4th April, 2022.

**Committee Observations and Findings:**

i) **The Committee observed that the financing agreement expressly provided for AVIC International to be China's implementing agency for the project, as a condition for concessionary terms;**
ii) **Payment was made directly by National Treasury.**

**Committee Recommendation:**

**The Committee recommends that Treasury and the Attorney General competently negotiates financing agreements allowing for competitive bidding for all future projects.**

**262: Loss of Cash through use of Duplicate Bank Account Details in the IFMIS System**

The statement of assets and liabilities reflects a bank balance of Kshs.84,898,890 as disclosed in Note 10 to the financial statements. However, review of IFMIS details, bank reconciliations and cash books revealed that the State Department lost a total of Kshs.356,000 due to an account in IFMIS created under an individual's name. No explanation was provided on how the account was created under the shared name without authority and how the State Department planned to recover the lost funds.

In addition, recovery of the amount is in doubt. Further, key processes and internal controls put in place to mitigate against theft, embezzlement, fraud or errors could be weak.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.84,898,890 as at 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

The imprests payable to Tabitha Kimani were not totaling to Ksh.356,000 but Ksh.188,200, and there was no other individual defined in the IFMIS with the same name. Payments to Tabitha Kimani were meant to cater for Tender opening (Ksh.100,800), site visit (Ksh. 52,400), airtime (Ksh.5,000), utensils (Ksh.15,000) and Staff tea (Ksh.15,000). Although the officer details were correctly selected for payment, the system picked different bank accounts as follows:

i.) Three payments of Ksh.158,200 (Tender opening, site visit and airtime) went to Co-operative Bank account in Central Bank of Kenya, and we subsequently wrote to the manager to do an inter entity transfer to our bank account in Central Bank.
ii.) Two payments of Ksh.30,000 (Utensils and Staff Tea) went to NCBA, and we equally wrote to the management to reverse the transactions into our bank account in Central Bank of Kenya.

The officer has since been paid her rightful amount.

**Committee Observations and Findings;**

**The Committee observed that despite the rightful officer being eventually paid her dues, the erroneous payment was a result of negligence.**

**Committee Recommendation;**

**The Committee recommends that;**

i) **The Accounting Officer takes administrative action on the IFMIS user(s) that made the erroneous entries, within three (3) months of adoption of this report by the House;**
ii) **The Auditor General confirms through the State Department's statements that the erronoues payments had indeed been received back to the State Department in full and reports in subsequent audit.**

**263: Expenditure on Rent made without valid Lease Agreements**

The statement of receipts and payments reflects use of goods and services amounting to Kshs.867,132,447 as disclosed in Note 6 to the financial statements. Included in this amount is Kshs.52,317,911 in respect of rentals of produced assets. The amount includes Kshs.50,052,418 in respect of rent of office space for the various departments whose lease agreements did not indicate the lease period and date signed.

In the circumstances, the accuracy and validity of the rent amounting to Kshs.50,052,418 could not be confirmed.

**Submission by the Accounting Officer**

During the financial year under review, there was rent paid that didn't have supporting lease agreements from landlords and property managers. Payments by the State Department are normally done using invoices. The State Department wish to state the lease agreements have since been availed with the required details for audit verification.

**Committee Observations and Findings;**

**The Committee noted that the lease agreements were belatedly availed.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents on time, contrary to section 9 (I) (e) of the Public Audit Act, 2015.**

**264: Long Outstanding Receivables- District Suspense**

The statement of assets and liabilities and Note 11 to the financial statements reflects accounts receivables of Kshs.856,570 relating to the district suspense which was not supported with the relevant supporting documents or schedules. Further, excluded from the balance is a district suspense balance of Kshs.1,012,351 brought forward in respect of disbursements to the districts to support their operations. However, the respective districts did not account for the amounts disbursed.

In the circumstances, the validity, accuracy, completeness and recoverability of the accounts receivables balance of Kshs.856,570 as at 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

The statement of Assets and Liabilities reflects an account receivable relating to District Suspense has a brought forward figure of Ksh. 1,012,351 from year 2021/2022 which has been reduced by surrenders to Ksh. 856,870.00 that was not adequately supported with documents as at the time of audit. The State Department wish to state that the schedule supporting the above district suspense has since been availed as captured in the revised Financial Statements.

The un-surrendered District Suspense figure of Ksh.1,012,351 as at 30th June, 2021 was the opening balance of the Financial Year 2021/2022. The un-surrendered District AIEs' during the Financial Year under review were amounting to Ksh.856,570.05 as per the schedule below;

| S/NO | COUNTY | BAL C/F |
|---|---|---|
| 1 | BUSIA | - |
| 2 | EMBU | 1,259.15 |
| 3 | GARISSA | 120,348.00 |
| 4 | HOMABAY | - |
| 5 | ISIOLO | 67,079.80 |
| 6 | KAJIADO | 4,811.00 |
| 7 | KAKAMEGA | 5,280.00 |
| 8 | KERICHO | - |
| 9 | KILIFI | 67,189.00 |
| 10 | KISII | 67,363.00 |
| 11 | KISUMU | - |
| 12 | LAIKIPIA | - |
| 13 | MAKUENI | - |
| 14 | MANDERA | 5,704.00 |
| 15 | MOMBASA | 4,164.00 |
| 16 | NAKURU | 133,452.00 |
| 17 | NYERI | 48,794.50 |
| 18 | SAMBURU | 331,125.60 |
| 19 | TRANSNZOIA | - |
| 20 | UASIN GISHU | - |
| 21 | NAIROBI | - |
| | **TOTALS** | **856,570.05** |
| | | |

This amount has further been surrendered during the subsequent financial year as below;

| | COUNTY | AMOUNT | |
|---|---|---|---|
| 1 | GARISSA | 120,348.00 | |
| 2 | NAKURU | 133,452.00 | |
| | | | |

In order to clear the remaining balance in the books of accounts, the Accounting Officer wrote a letter to the respective County Directors on the same matter. In order to close the issue, a team of officers will be sent to the respective county headquarters during this financial year, so as to reconcile the balances and avail the correct status of the same.

**Committee Observations and Findings;**

**The Committee observed that the State Department through its county officers had taken inordinately long to reconcile the outstanding figures.**

**Committee Recommendation:**

**The Committee recommends that the Accounting Officer ensures full reconciliation within three (3) months of adoption of this report by the House.**

**265: Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.23,053,129,473 and Kshs.20,412,015,477 respectively, resulting to an underfunding of Kshs.2,641,113,996 (or 11%) of the budget. Similarly, the State Department spent Kshs.20,494,170,177 against an approved budget of Kshs.23,053,129,473 resulting to an under absorption of Kshs.2,558,959,297 (or 11%) of the budget.

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

**Submission by the Accounting Officer**

The State Department was underfunded by The National Treasury with the stated amount of money which resulted into under absorption of the budget.
The Management has been following up on exchequer funding from the National Treasury so as to meet its targets and hence bridge the gap between the budget and the actual expenditures; thus, improving service delivery to the public. However, The National Treasury could not release the expected exchequer because of limitation of funds, hence the underfunding.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**266: Lack of Public Finance Management Standing Committee**

Review of documents provided for audit revealed that the State Department did not have a Public Finance Management Standing Committee in place as required by Regulation 18 (1) of the Public Finance Management (National Government) Regulations, 2015 that would have provided strategic guidance on Public Finance Management matters.

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

**Submission by the Accounting Officer**

The State Department wish to state that the State Department has a Public Finance Management Standing Committee appointed by the Principal Secretary, with a mandate to execute its duties.

**Committee Observations and Findings;**

**The Committee noted the admission by the Accounting Officer that there was a lack of a PFM Standing Committee as at time of audit.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for breach of Regulation 18 (1) of the Public Finance Management (National Government) Regulations, 2015.**

**267: Mentorship Program and Construction of New Technical and Vocational Colleges**

The state department-initiated construction of thirty (30) new Technical and Vocational Colleges (TVC's) across the Country to enhance technical training. To oversee these constructions a number of existing institutions were appointed to mentor the new institutes. Review of financial and contractual records as well as physical of these projects in the month of November,2022 revealed the following unsatisfactory matters:

**267.1: Construction of the Kakrao Technical Training Institute (TTI)**

Records examined at Rongo University College indicated that a contract was signed on 24 October 2014 between the College and a local contractor for construction of the proposed Kakrao Technical Training Institute at a contract sum of Kshs.48,720,833 for a period of 52 weeks ending on 14 October, 2015. Physical verification of the project in September ,2022 revealed that although the Project was handed over, it was still incomplete. Further, no explanation was provided for the significant delay in completion of the Project.

**Submission by the Accounting Officer**

Kakrao TVC contract sum was totaling Kshs. 53,720,833.50 out of which the State Department's contribution was Kshs.43,720,833.50. The construction was to be co-funded by Suna East National Government Constituency Development Fund (NG-CDF) that was to contribute Kshs.10 Million. Lack of contribution of Kshs 10 Million caused the delay in completion of the project. To date Suna East NG-CDF has not contributed its pledge, despite of several reminders made to the Funds Manager, Suna East NG-CDF by the mentor institution to that effect.

The project has been implemented by three contractors namely; Manya Investment Ltd, M/S Mbingo Enterprises Ltd and Unami Construction Company Ltd as per the tender evaluation reports availed.

The partial handing over of the institution was occasioned by the commitment by the County Government to contribute Kshs. 10 million towards the completion of the project due to pressure from the community. The initial contribution of Kshs. 2.5 million signaled a commitment by the County Government leading to the partial handing over of the site.

The State Department wish to state that there is no potential interest accrual since the first and second contracts were terminated while the third contract was handed over as per the contract. The building is currently being used partially because the ground-floor is complete.

**Committee Observations and Findings;**

**The Committee observed that lack of a coherent policy on partnership with other levels of government had seen ambiguity in financing and the lack of uniform standards of TVETs across the country.**

**Committee Recommendation;**

**The Committee recommends that;**

i) **The State Department funds the remaining balance of Kshs. 7.5 million of the Kakrao TTI within the next financial year;**

ii) **The State Department avails a policy towards construction of TVETs/ TTIs in liaison with other levels of government, within three (3) months of adoption of this report by the house.**

**267.2: Kilifi North Technical Vocational College**

The contract was awarded to a firm on 30 September, 2019 at a contract sum of Kshs.59,062,876 for construction and completion of twin workshop, classrooms and office block-2 storey under the mentorship of Kenya Coast National Polytechnic. The agreed contract period was 52 weeks. At the time of audit, the amount paid was Kshs.44,421,301 and the project had stalled at 60% completion.

**Submission by the Accounting Officer**

The County Government of Kilifi had closed down the quarries during the Covid 19 period during which the Contractor could not get the construction materials (Annex 267.2a). The contractor, namely Taxman Investment Ltd. resumed construction works and currently the project is at 75% completion. The contractor was given extension of contract period by project manager as per Clause 17.1 of the contract and is currently on site.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer. The project was at 95% completion as at time of appearance of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report by the House.**

**267.3: Matuga Technical Vocational College**

The contract was awarded to a firm on 17 May 2019 at a contract sum of Kshs.57,794,573 for a period of 52 weeks. The total amount paid as at the time of audit was Kshs.45,487,514. The project had stalled at 70% completion as the contractor was waiting for funds to enable him proceed with the remaining part of the project. Further, the provisional sum of Kshs.2,072,000 paid to the contractor was not justified as required by Section 139(2)(e) of the Public Procurement and Asset Disposal Act, 2015 which provides that an Accounting Officer of a procuring entity, on the recommendation of an Evaluation Committee, may approve request for use of prime cost, provisional sum and contingencies which request shall be accompanied by a certificate from the tenderer making a justification for such cost.

**Submission by the Accounting Officer**

The project which commenced on 12th June, 2019, was affected by the Covid 19 whereby the works slowed down due to limited movement in the Country. The architect retired, leaving the project manager's office with only one officer while the electrical engineer had also died. It took time to appoint another Project management team which caused a delay also in the project implementation.

During the implementation of the project there has been a change of principals which necessitated change of signatories . The provisional sum of Kshs. 2,072,000.00 was never paid. The contractual agreement provides that the project manager gives direction on the use of prime cost, provisional sum and contingencies. The project manager had to be changed from Kwale County Works Officer to Mombasa Regional Works Officer. There was delay in disbursement of funds leading to late payment of works done. This was caused by a budget cut and lack of release of exchequer. By the time of the Audit, the contractor (Rumad Investment Ltd) had been paid a total of Kshs.40,984,694.00 which represents 70.94% and not 78% of the contract sum.

The project is progressing well with 85% work done.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report by the House.**

**267.4: Igembe Central Technical Vocational College**

The mentor institution for this project was Mukiria Technical and Vocational Training College. The construction and completion of a two-storey twin workshop, classrooms and office block at Igembe Central TVC had received development funds from the Ministry amounting to Kshs. 33,097,400 from inception. Further the National Government Constituencies Development Fund had contributed Kshs.10,000,000 for the Project, bringing the total receipts to Kshs. 43,097,400. The project was 50% complete and had stalled for 2 years due to delayed funding from the National Government. The Project manager complained of defects noted due to poor workmanship. In addition, the financial evaluation for the contractor awarded this contract was also in doubt since works could only proceed once payments were received.

**Submission by the Accounting Officer**

The project at Igembe Central TVC commenced on 8th August, 2019 but was affected by the Covid 19 whereby, the works slowed down due to limited movement in the Country. There was delay in disbursement of funds leading to late payment of works done. The mentoring institution was instructed not to pay the contractor (Taxman Investment Ltd) by Kenya Revenue Authority since he had issues and his bank accounts were frozen. However, all necessary documents were availed by the contractor during the tendering process. The physical completion of the project stands at 70 %. The Contractor has since rectified the defects and committed to complete the works. The payment certificates were withheld until defects were rectified as a penalty.

The State Department wish to state that the contractor was the lowest evaluated bidder. As at the time of the tender evaluation, the contractor had a valid tax compliance certificate.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report by the House.**

### 267.5: Kisii National Polytechnic

The Kisii National Polytechnic Mentors South Mugirango and Kitutu Chache South (KIAMWASI) technical and vocational colleges.

### 267.5.1: South Mugirango Technical and Vocation Training College

South Mugirango Technical and Vocation Training College construction project was awarded at a contract sum of Kshs.55,241,205. The Kisii National Polytechnic had paid Kshs.45,241,205 by the time the Project stalled at 60% completion level. At the time of the audit, the contractor was not on site. Further, the building was dilapidated, infested with weeds, site was not fenced which made the building prone to vandalism and rain water was dripping on the walls and the floor slab.

**Submission by the Accounting Officer**

The construction of South Mugirango TVC commenced on 9th June, 2019 but was affected by Covid 19. There was delay in disbursement of funds leading to late payment of works done. The Contractor (M/S Galaxy Ltd ) requested for temporary closure of the site due to pending certificate No.2. The mentoring institution had paid the contractor two certificates totaling to Kshs.43,274,601.97. Two certificates of payment for South Mugirango TVC totaling to Kshs. 43,274,601 translates to (43,274,601x100)/55,241,601 =78.34% and not 82% as indicated. As at 18th August 2023, the percentage of work done was at 75% completion. The Contractor was instructed to resume and complete the remaining works by the project manager within 5 months from the date of commencement of works during a site meeting held on 18th August, 2023.

**Committee Observations and Findings;**

**The Committee noted that the payment of 78.34% (including retention money) was beyond works done at 75%.**

**Committee Recommendation;**

i) **The Committee reprimands the Accounting Officer for payment of certificates beyond works done; and**
ii) **Recommends that the Accounting Officer takes administrative action on the project manager and submits a status report within three (3) months of adoption of this report by the House.**

### 267.5.2: Kitutu Chache South Technical and Vocational Training College

Kitutu Chache South Technical and Vocation Training College project was awarded at a contract sum of Kshs.57,053,885 out of which an amount of Kshs.47,053,885 was paid. Audit verification revealed that works had stalled with floor, electrical works, ceiling, staircase, septic tank and soak pits, internal wooden doors, landscaping, and parking not completed.

In the circumstances, value for money may not be realized from the incomplete projects.

**Submission by the Accounting Officer**

The issue is that the same project money had gone to the construction of the basement which was a variation and the contractor demanded for a joint re-measurement of works which delayed to be accomplished. The project manager instructed the contractor to carry out additional works on the basement amounting to Kshs.10,048,225.00 due to a sloppy site. The joint re-measurement of works report indicated that the Mentoring institution owed the Contractor (Damtech Enterprises Ltd) Kshs.7, 565,323.79 which has been paid and he was instructed to resume works by the Project Manager. The physical completion of the project is 85% complete as per the project manager's report of 23rd March, 2021.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report by the House.**

### 268: Excess Disbursements to Mentor Institutions

The statement of receipts and payments and Note 7 to the financial statements reflects transfers to other Government units amounting to Kshs.12,559,152,267. Included in the amount is Kshs.927,500,000 disbursed as development grants to various Technical Training Institutions and Technical Vocational Mentor Centres. It was however, noted that an amount of Kshs.11,300,600 out of a total of Kshs.927,500,000 disbursed to three (3) mentor institutions was above the Ministry's contribution to the projects. Further, no documents were provided to prove that the excess amount was recovered from the respective three (3) Mentor Institutions.

In the circumstances, value for money and regularity of the excess disbursement of Kshs.11,300,600.00 could not be confirmed.

**Submission by the Accounting Officer**

The Ministry disbursed Kshs.11,300,600 to two mentor institutions namely; (1) Machakos TIB for Yatta TVC (Kshs.8,300,600) and (2) Nairobi TTI for Gilgil TVC (Kshs.3,000,000) for payment for building works and not three(3) as stated in the query.

Machakos TIB had requested for funding for extra works which included fascia board and rain water goods, firefighting installations and external works which was granted. The works were approved, advertised, evaluated and completed thus the extra disbursement.

Nairobi TTI received an excess amount of Kshs. 3,000,000.00 for the construction of Gilgil TVC. The amount was later noticed and the Ministry instructed Nairobi TTI to refund the amount as per the attached letter, and the amount has since been refunded. The State Department wish to state the Institutions are complete and operational as per the attached copies of certificates of practical completion.

**Committee Observations and Findings;**

**The Committee noted that the overdisbursement of Kshs. 3 million to Nairobi TTI was negligent. The refund was not evidenced.**

**Committee Recommendation**

- **(i) The Committee reprimands the Accounting Officer and recommends that evidence of the refund is availed within three (3) months of adoption of this report by the House.**
- **(ii) The Committee recommends that the Accounting Officer takes administrative action on officers involved in processing the overdisbursement within three (3) months of adoption of this report.**

**269: Allocation of Capital Grants to Non-Existent Technical and Vocational Centres**

The statement of receipts and payments and Note 7 to the financial statements reflects an amount of Kshs.12,559,152,267 in respect of transfers to other Government units.

Included in this amount was capital disbursement to twelve (12) Technical Institutes of Kshs. 271,500,000 out of which Sigalagala National Polytechnic and Nairobi technical training Institute received Kshs.20,000,000 each for the construction of mentee institutions namely Emalulu and Mathare Technical and Vocational Colleges respectively. However, audit verifications carried out in the month of November, 2022 revealed that the sites for construction were yet to be identified and therefore, the amounts sent for the (2) institutions were not utilized. Further, the State Department did not provide evidence that funds were retained for future use.

In the circumstances, value for money may not be realized on the transfer of Kshs.40,000,000 for the construction of mentee institutions.

**Submission by the Accounting Officer**

Luanda and Mathare Constituencies didn't have TVCs as per the government policy for establishing a TVC in every constituency. Based on that, the Government allocated Kshs. 20,000,000.00 for each TVC for construction of the two TVCs, mentored by Sigalagala NP and Nairobi TTI respectively. Therefore, The State Department disbursed funds as per the budget allocation.

Luanda (Emululu TVC) in Luanda Constituency project commenced on 2nd May, 2023. During the time of audit, the Bill of Quantities were being revised by Public Works and so the construction had not been started. However, the works have since commenced and are at 38% completion. The contractor has also been paid for two certificates.

Mathare National Government Constituency Development Fund in collaboration with Nairobi Technical Training Institute has identified a site for the construction of Mathare TVC in Mathare Constituency. The State Department for Public Works were requested to revise the drawings and Bills of Quantities. However, the State Department wish to state that the amount of Kshs.20 million disbursed to Nairobi TTI for construction of Mathare TVC is available in the Institutes bank account.

**Committee Observations and Findings;**

**The Committee observed that the Accounting Officer set aside idle funds for TVCs that were yet to be identified, while others like Kakrao TTI cited in paragraph 267.1 above had been starved of much needed funds.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer and recommends that available funds be channeled to TVCs/ TTIs in need.**

**270: Failure to Enforce One Third Rule on Basic Salary**

Review of compensation of employees' documents revealed that in the month of June, 2022, seven (7) officers earned less than one-third (1/3) of their basic salaries. This was contrary to Section 19(3) of the Employment Act, 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.

**Submission by the Accounting Officer**

As at 30th June 2022, seven (7) employees out of six thousand, six hundred and thirty-eight (6,638) in the State Department were earning less than one third of their basic salaries. This was caused by the following factors:

(i) During the Covid -19 pandemic period the government reviewed the PAYE rate downward which enhanced employee net pay, and some of them took advantage of these enhanced net incomes to acquire extra loans. When the tax rate was reviewed upwards, employees who had already over-committed their salary found themselves earning below one third of net income;

(ii) The implementation of the superannuation pension scheme which started with 2.5% in the year 2021, 5% in 2022 and later 7.5% in year 2023. Officers whose salaries were already at one third found themselves dropping below the required bracket due to these statutory deductions;

(iii)One (1) officer retired on 18th June, 2022 hence was not paid full salary for the month; and two (2) officers had statutory deductions implemented in the same month (HELB and over payment recovery). These statutory deductions are mandatory.

To curb the non-compliance, the State Department issued a letter to all employees through their supervisors and cautioned them to always adhere to the regulation of one-third and requested all those affected to take necessary action to ensure compliance. The officers in charge of payroll have since been constantly monitoring compliance of all the officers and taken corrective measures every month.

Additionally, we confirm that the affected seven (7) officers who were still in the service in the month of July 2022 had already rectified and complied.

Finally, the government has developed the Unified Human Resource System which is internet based and allows third party organizations to key in their requests for deductions directly to the system.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer ensures incremental compliance to the law.**

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

**271: Processing of Payments**

**271.1: Kilifi North Technical Vocational College**

Analysis of the system payments indicated that twenty-seven (27) transactions of Kshs. 405,309,396.00 were voided during the year 2021/2022. No approval was given from the Controller of Budget approving the payments and the voiding.

**Submission by the Accounting Officer**

When payments are processed in IFMIS and transmitted to Internet Banking (IB) and, the exchequer is not received by The State Department, the same has to be stopped in IB and subsequently voided in IFMIS in order to reverse the expenditure already captured in the budget. The above stated transactions relate to internal suppliers who are not considered as pending bills;

thus, do not warrant further approval by the Controller of Budget as no expenditures would be incurred on them, at the beginning of a financial year. In order to clear the system of such unpaid transactions, voiding responsibility has been inbuilt in the IFMIS system.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee found that the matter was resolved.**

### 271.2: Transactions in System Payments not Processed in Payment Details

Analysis of the IFMIS system payment reports processed against the payments made, revealed sixty-nine (69) transactions amounting to Kshs.63,953,049 that were paid but not captured in IFMIS payment details as at 30 June, 2022.

In the circumstances, the effectiveness of key processes and internal controls put in place to process payments could not be confirmed.

**Submission by the Accounting Officer**

The above stated payments could not be captured in payment details as at June 30, 2022 because the actual payments were remitted during that last day of the month and so they appeared in the following month of July 2022, despite having been registered and captured within the Financial Year under review. In the bank reconciliation for the month of July 2022, these payments were reconciled to the transactions in the bank statements.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Auditor General confirms the details in subsequent audit.**

### 272: Failure to Update Pending Bills Annexure

During the year under review, there were no pending bills disclosed in the financial statements except for an amount of Kshs.58,702,226 which was disclosed in Note 12 as deposits. However, IFMIS data indicated accounts payable of Ksh.161,095,556 (recurrent accounts Kshs.1,393,888 and development accounts Kshs.159,701,668) that were not disclosed in the financial statements and whose supporting documents were not provided for audit review.

In the circumstances, the effectiveness of the key processes and controls put in place to capture accurately the accounts payables could not be confirmed.

**Submission by the Accounting Officer**

The schedule supporting the above deposits amounting to Kshs. 58,702,226 have since been availed as captured in the final revised financial statements for audit review.

The IFMIS data had accounts payables totaling Ksh.161,095,556.00 comprising of (recurrent account Kshs.1,393,888.00 and development account Kshs,159,701,668.00). We wish to state that these refer to payments that were processed after 30th June, 2022, due to late release of exchequer that was received in the month of July 2022, but with respect to transactions for the financial year ending 30th June, 2022. The same transactions were subsequently cleared in bank reconciliation statements for the month of July 2022.

**Committee Observations and Findings;**

**The Committee noted that the supporting documents were belatedly availed.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to keep proper accounting records as per section 68 (2)(b) of the PFM Act 2012.**

**DONOR FUNDED PROJECTS**
**KENYA ITALY DEBT FOR DEVELOPMENT PROGRAM**

REPORT ON THE FINANCIAL STATEMENTS

**273: Unsupported Prior Year Adjustments**

The statement of financial assets reflects a prior year adjustment amounting to Kshs.442,821. However, this has not been disclosed in the Notes to the financial statements on the nature of the error that relates to the prior period and the fact that comparative information has been restated or that it is impracticable to do so. Further, the cash at the beginning of the period has not been adjusted by the amount of error and journal entries signed by the Accounting Officer or an officer designated by him.
This was contrary to Regulation 103 of the Public Finance Management (National Government) Regulations, 2015 which provides that journal entries prepared for all adjustments to be authorized by the accounting officer or an officer designated by him or her before posting them in a financial record. Further, the Regulations requires that the journal vouchers to be supported by sufficient explanations, authorizations, and documentation to facilitate accounting adjustments to be understood.

In the circumstances, the accuracy and completeness of the prior year adjustments balance of Kshs.442,821 could not be confirmed.

**Submission by the Accounting Officer**

The State Department wish to state that the observation made on the statement of financial assets reflecting a prior year adjustment amounting to Kshs. 442,821.00 has now been disclosed under the notes in the revised financial statements as per the Public Sector Accounting Standard Board (PSASB) reporting requirements and National Treasury Circular AG.4/16/2/Vol.II (66) of 6 July, 2022 which is in line with the prescription of the International Public Sector Accounting Standards (IPSAS) on cash basis of accounting.

**Committee Observations and Findings;**

**The Committee noted that the disclosures were belatedly made.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to keep proper accounting records as per section 68 (2)(b) of the PFM Act 2012.**

**274: Unsupported Domestic Travel and Subsistence**

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.6,348,978 as disclosed in Note 2 to the financial statements. Included in this amount is an amount of Kshs.6,319,400 in respect of domestic travel and subsistence allowances on monitoring and evaluation activities for the project. However, Management did not provide work plans and an imprest register for audit. Further, Note 2 to the financial statements reflects domestic travel and subsistence cumulative to date comparative amount of Kshs.28,904,902 which was at variance with the previous year audited amount of Kshs.24,015,759 resulting in an unreconciled variance of Kshs.4,889,143.

In the circumstances, the accuracy, completeness and regularity of domestic travel and subsistence expenditure amount of Kshs.6,319,400 and the cumulative to-date amount of Kshs.35,224,302 for the year ended 30 June,2022 could not be confirmed.

**Submission by the Accounting Officer**

The work plans pertaining to the monitoring and evaluation activities for the project have now been availed for audit verification.

Further, the amount of Kshs. 28,904,902.00 under domestic travel and subsistence was the cumulative figure for the prior year, and the cumulative figure for the year ended 30 June, 2022 amounted to Kshs. 35,224,302.00.

**Committee Observations and Findings;**

**The Committee noted that the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to promptly avail work plans and imprest register.**

**275: Omitted Donor Commitment**

The project information and overall performance reflect the source and application of funds on pages vii and viii. The summary does not reflect the donor commitment, amounts received, amounts undrawn and unutilized balances, and amounts received to date in donor currency as prescribed by the reporting template by the Public Sector Accounting Standard Board.

In the circumstances, the annual report and financial statements for the year ended 30 June, 2022 are not fairly stated in respect of the source and the application of funds.

**Submission by the Accounting Officer**

The observations made regarding the disclosure of donor commitment, amounts received, amounts undrawn and unutilized balances, and amounts received to date in donor currency is contained in the financing agreement which details how the entire amount of the Italian Government's development grants, applied across five different State Departments in Kenya.

However, The State Department for Technical, Vocational Education and Training's share of the fund, the KIDDP funds were apportioned in Kenyan shilling as detailed in the Funding summary.

**Committee Observations and Findings;**

i) **The Committee noted the explanation by the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**SUPPORT TO TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING FOR RELEVANT SKILLS DEVELOPMENT PROJECT-PHASE II (LOAN NO.2100150033295)**

REPORT ON THE FINANCIAL STATEMENTS

**280: Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects a final budget and actual receipts on a comparable basis of Kshs.848,500,00 and Kshs.790,803,552 respectively, resulting to an underfunding of Kshs.57,696,448 (7%) of the budget. of Kshs.848,500,000, resulting to an under expenditure of Kshs.57,696,448 (7%) of the budget.

**Submission by the Accounting Officer**

The underfunding of Kshs. 57,696,448.00 (7%) of the budget of Kshs. 848,500,000.00 and the under absorption affected the planned activities and may have impacted negatively on service delivery to the public. The Management subsequently has been following up exchequer funding from the National Treasury to bridge the gap between the budget and the actual expenditures and improve service delivery to the public. The AFDB phase II construction projects that are paid through direct payments by the donor are also being fast tracked so that the consultant submits the certificates on time to improve on budget absorption.

**Committee Observations and Findings;**

i) **The Committee noted the explanation by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

**281: Delay in Completion of Training Institutes**
The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.541,222,628 as disclosed in Note 4 to the financial statements. The expenditure includes an amount of Kshs.426,222,628 in respect of overhaul, refurbishment of construction, and civil works for training institutions for contracts engaged in the year 2016/2017 whose performance bonds had expired. Review of these projects revealed that construction works in four (4) Institutions with a combined contract cost of Kshs.798,608,059 and payments of Kshs.629,578,884 had not been completed. The Project is scheduled to come to an end on 30 December, 2022 by which time the projects will be incomplete and not put to the intended use.

In the circumstances, value for money has not been realized.

**Submission by the Accounting Officer**

The Project management has noted the delays in the constructions in the four institutions. The issue has been addressed with the consultant/contractors and a plan on how to complete the project before the no cost extension contract expires is on course.

The contractors to the stated institutes were Sunrays Distributors Ltd, Napoleon Star Services, Eagle Scientific Ltd. and Xponcis Limited for St. Joseph Nyang'oma Technical Training Institute for the Deaf, Machakos Technical Training Institute for the Blind, Karen Technical Training Institute for the Deaf and Sikri Technical Training Institute for the Deaf and Blind respectively.

Below is a review of the project manager status report for the month of July 2023 indicating construction works in the four (4) Institutions with a combined contract price of Kshs.798,608,059 as shown in the table below. There is no cost extension as the manager do envisage completing the projects on time;

| INSTITUTE | CONTRACT SUM (KSHS) | AMOUNT PROCESSED (KSHS) | COMPLETION STATUS AS AT JULY 2023 |
|---|---|---|---|
| Mukurweini TTI | 175,090,801.96 | 114,882,691.75 | 65% |
| Butere TTI | 216,270,706.36 | 196,840,076.22 | 91% |
| Sikri TTIBD | 291,775,174.48 | 259,820,510.06 | 89% |
| St. Josephs TTID | 231,186,827.81 | 165,776,833.15 | 71% |

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report by the House.**

**282: Delay in Supply, Delivery, Installation, Commissioning, Learning and Training Assistive Devices and Equipment**

The Project Management entered into a contract for supply, delivery, installation, and commissioning of learning and training in the use of assistive devices and equipment to four (4) Special Technical Training Institutes at a contract sum of Kshs.119,989,397 in August, 2017. However, records to confirm receipt of the devices and equipment by the receiving institutions were not provided for audit.

In the circumstances, it was not possible to confirm whether value for money was achieved in the procurement.

**Submission by the Accounting Officer**

The project Management entered into a contract in August 2017 for the supply, delivery, installation, and commissioning of learning and training in the use of assistive devices and equipment to four (4) special Technical Training Institutes for a combined contract sum of Ksh.119,989,397. The delays in the execution of the project were occasioned by challenges in the manufacture of the assistive devices from abroad since they are specialized.

The current state of implementation of the contracts for Karen TTIB, Machakos TTIB, St. Joseph's TTID and Sikri TTIBD is as follows;

| Institution | Type of Devices | Status |
|---|---|---|
| Karen TTID | Learning and Assistive Devices for Hearing impaired | The equipment has been delivered, inspected and handed over to the institution |
| Machakos STTIB | Learning and Assistive for Visually impaired | The equipment has been delivered, inspected and handed over to the institution |
| Sikri TTIBD | Learning and Assistive Devices for-Visual and Hearing | The equipment has been delivered, inspected and handed over to the institution |
| St. Joseph Nyangoma TTID | Learning and Assistive Device for the Deaf | The equipment has been delivered, inspected and handed over to the institution |

**Committee Observations and Findings;**

**The Committee noted that evidence of receipt was not availed by the recipient schools.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to provide documentation and recommends that the Accounting Officer avails to the Committee evidence and acknowledgement of receipt by the schools within three (3) months of adoption of this report by the House.**

### 283: Failure to Open and Maintain a Separate Project Bank Account

The Project Management did not maintain a specific project bank account as funds received were credited to the Ministry's development bank account instead of a separate project account. It was therefore not possible to trace the receipts to the cash book and in the bank statement. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides 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, into which all funds shall be kept and such an account shall be known by the name of the project it is opened and each project shall maintain only one bank account.

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

**Submission by the Accounting Officer**

There was no separate project account because the donor funds (loans and grants Appropriation - In-Aid) are not disbursed to Consolidated Funds Account at the Central Bank of Kenya. The funding is held by the donor bank account where they are disbursed directly to the suppliers and contractors as Direct Payments. The State Department's responsibility regarding processing of direct payments is to pass journals to capture expenditure from the department's budget. The payment documents are then forwarded to The National Treasury by the Accounting Officer for onward transmission to the AfDB bank for eventual payment to the suppliers.

The AfDB (TVET project phase II) project therefore, the same cash book and bank account with the government fund. Equally, the exchequers come as a consolidated figure and captured in the IFMIS Accounts Receivables Module and subsequently recorded in the cashbook.

The Accounting Officer wrote to the National Treasury requesting for separation of the project's development bank account from the development account of the State Department at the Central Bank of Kenya, so as to ensure that each Development Project has its own dedicated Special Deposit Account in order to ring fence the project funds. The State Department wish to state that the project's funds come in form of Appropriation in Aid from foreign grants, or borrowings from AFDB bank and are disbursed directly to the consultants, suppliers and contractors without passing through the Consolidated Account at the Central Bank of Kenya. The State Department then pass journals to capture expenditure and forward the same to The National Treasury Disbursement Unit. Only the GoK counterpart funding which is a percentage of the loan that comes to the State

Department bank account at the Central Bank of Kenya, which is spent on financing administrative work of the project.

The exchequer receipts have now been supported with the respective development exchequer notifications and receipt vouchers (FO 17) in order to confirm the receipt of the funds.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer henceforth seeks exemption from the Cabinet Secretary National Treasury, as provided for under section 76(1) of PFM Regulations.**

## EAST AFRICA SKILLS FOR TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (EASTRIP) IDA LOAN CREDIT NO.6334-KE

REPORT ON THE FINANCIAL STATEMENTS

**287: Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final expenditure budget and actual on comparable basis of Kshs.700,000,000 and Kshs.87,107,119 resulting in an under expenditure of Kshs.612,892,881 (88%) of the budget.

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

**Submission by the Accounting Officer**

The Statement of Comparison of Budget and Actual amounts reflect final expenditure budget and actual on comparable basis of Kshs.700,000,000.00 and expenditure Kshs. 87,107,119.00 resulting in an under expenditure of Kshs.612,892,881.00 (88%) of the budget. I wish to state that the Kshs.700,000,000.00 is the total budget which includes the amounts for the Regional Flagship Technical Institutions (RFTIs) of Kshs. 550,000,000.00 which the RFTIs were not able to request from the World Bank.

The National Project Coordinating Unit (NPCU) had disbursed amount totaling Kshs.945million in two batches of Kshs.200m and Kshs.115million to each of the RFTIs in the financial year 2020/2021. The country went into lockdown due to Covid 19 immediately after receiving the first batch of funds in the month of March 2020. The RFTIs could not undertake any physical activities such as construction of the Institutes and Curriculum Development and hence no withdrawal application of funds was done from the World Bank.

The disbursement balances the RFTIs brought forward from previous financial year were able to cater for their expenses in the financial year 2021/2022.

The headquarters budget was Kshs. 150,000,000.00 out of which Kshs.87,107,119.00 (58%) was utilized. The headquarters carried forward Kshs. 98,160,028.00 from the FY 2020/2021, which was utilized in the FY2021/2022.

**Committee Observations and Findings;**

i) **The Committee noted the explanation by the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

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

**289: Failure to Tag Assets**

The summary of the fixed assets register reflects fixed assets valued at Kshs.30,632,223 as disclosed in Annex 2 to the financial statements. Included in this balance is Kshs.6,315,200 and Kshs.11,065,423 in respect to office equipment, furniture and fittings, and ICT equipment, software and other ICT assets respectively. Verification of the assets revealed that the assets had not been tagged or serialized for ease of identification and management.

In the circumstances, the security and custody of the assets may not be assured raising the likelihood of misuse, theft and loss.

**Submission by the Accounting Officer**

It was observed that various assets of The State Department had not been tagged as at the time of audit. However, the office equipment, furniture and fittings, ICT equipments, software and other ICT assets in the Asset Register are now tagged/ serialized as required and ready for inspection.

**Committee Observations and Findings;**

**The Committee noted the admission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer and recommends that the Auditor General ascertains compliance in subsequent audit.**

**PROMOTION OF YOUTH EMPLOYMENT AND VOCATIONAL TRAINING IN KENYA (TVET PHASE I) PROJECT LOAN REFERENCE: BMZ NO.2016 67 211 & BMZ NO.2016 65 298 AND PROJECT GRANT REFERENCE NO.1930 05 527**

REPORT ON THE FINANCIAL STATEMENTS

**292: Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects a final budget and actual receipts on a comparable basis of Kshs.633,000,000 and Kshs.135,196,299 respectively, resulting in an underfunding of Kshs. 497,803,701 (79%) of the budget similarly, the project spent an amount of Kshs. 135,196,299 against an approved budget of Kshs. 633,000,000, resulting in an under expenditure of Kshs. 497,803,701 (79%) of the budget.

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

**Submission by the Accounting Officer**

There was a budgetary underfunding and underperformance of Kshs.497,803,701.00 (79%) of the budget during the Financial Year under review. The State Department wish to state that this was caused by the lengthy procurement processes. The State Department through the Consultant Niras Africa Limited has since identified contractors to implement the construction works in the Centers of Excellence and to furnish the same with specialized equipment. In the current financial year 2023/2024, the Project Management is fast tracking budgetary performance and ensure that all the activities planned for are undertaken in order to improve on budget absorption.

**Committee Observations and Findings;**

**The Committee noted that the explanation by the Accounting Officer was unsatisfactory.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to effectively implement work plans, and recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report by the House.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**293: Slow Pace of Project Implementation**

The Financing Agreement dated 21 February, 2020 indicated that Phase I of the Project had twelve (12) activities. The activities were meant to construct, equip and upgrade three (3) Institutions identified as Centres of Excellence through training of trainers on the use and maintenance of equipment, development, and procurement of teaching, learning and assessment materials and tools as well as provision of scholarships to disadvantaged youths. However, the project is at the third activity, an indication that nine (9) activities had not been implemented as of the time of the audit in October, 2022. Further, the Project has only fourteen (14) months remaining before the expiry of the three (3) year period casting doubt on the completion of the project.

In the circumstances, value for money may not be realized in the implementation of the project due to the slow implementation.

**Submission by the Accounting Officer**

The slow pace of project implementation was occasioned by the COVID-19 pandemic that caused a worldwide lockdown on movement and activities of people; Kenya included.

The pace of implementation of Phase I was further impacted by the lengthy procurement procedures arising from the project requirement of adhering to the Public Procurement and Disposal Act and the KFW procurement guidelines. The State Department wish to state that all the planned activities and procurements have since been undertaken and others are on course. The implementation of the project is within the planned financing timelines and will be completed as planned.

**Committee Observations and Findings;**

**The Committee noted that the explanation by the Accounting Officer was unsatisfactory.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to effectively implement work plans, and recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report by the House.**

**294: Irregular Procurement and Payment for Consultancy Services**

As previously reported, the State Department requested assistance from the Development Partner in undertaking the procurement of a consultant on 22 August, 2017. The consultancy service contract was awarded at a contract sum of Kshs. 446,041,869 on 9 September, 2020. However, this was done before the Project financier was identified.

The following anomalies were also noted: -

(i) A Tender Agent based in Germany was engaged on an unidentified date to undertake the evaluation on behalf of the State Department;
(ii) The terms of engagement of the Tender Agent including the contract, procurement process, appointment, remuneration if any, and the contractual obligations were not provided for audit review;
(iii)The engagement with KfW to assist in the procurement of the consultant was on 22 August, 2017 which was more than two years before the signing of the Financial Agreement on 21 February, 2020;
(iv)The notification of the award was made on 17 July, 2018 to the successful consultant based in Germany while the contract was signed on 9 September, 2020 which was more than two years after the notification of the award;

(v) The contract was signed between the State Department and a locally incorporated company that was not part of the bidding consortium and which was not the one notified of the award; and,

(vi)The payments were made to the local company that did the invoicing even though they were not a party to the contract and there was no apparent contractual obligation.

In the circumstances, the Project Management and the State Department were in breach of the law of procurement and value for money has not been realized. Further, the payments made were irregular as the Company was not part of the consortium at bidding for the service.

**Submission by the Accounting Officer**

The Tender Agent for the KfW phase I project is based in Germany and was contracted by Kreditanstalt fur Wiederaufbau Bank, (KfW) (German Development Bank) who is the financier of the project. The State Department wish to state the following:

The Tender Agent was procured on 5th July, 2017 on behalf of the Ministry of Education. The request for the tender Agent was reached upon during the Project Appraisal Mission held on 26th May 2017. Minutes of Appraisal Mission and confirmation of the Tender Agent Procurement process by KfW have been availed. The Consulting Agreement between the Tender Agent and the KfW bank was availed; itemizing the terms of reference, remuneration and contractual obligations of each party.

The Tender Agent initiated the procurement process in August 2017 in line with the KfW procurement guidelines and Kenya Procurement law (PPOA 2015) and concluded the process in 2018. However, the signing of the contract for the provision of consulting services was done after the signing of the Financing Agreement. The delay between the award of the contract and the notification was occasioned by a delay in meeting a pre-condition of the financial co-operation which stated that each beneficiary institution possesses a title deed. The resolution to this requirement was protracted and lasted from 2017 to 2019. On acquisition of the title deed by Kiambu Institute of Science and Technology, the Financing Agreement was signed on 21st February 2020 and the Consultancy Contract on 9th September, 2020.

The Consultant (NIRAS) is a consortium of companies with the parent company in Germany of which NIRAS Africa (Kenya) is a member. The contract for the Project Promotion of Youth Employment and Vocation Training was awarded to the successful bidder, NIRAS IP Consult GmbH which is a legal entity registered in Germany. Both NIRAS African Limited and NIRAS IP consult GmbH are owned 100% by the same shareholder (NIRAS Gruppen A/S). Communication regarding implementation of the project by the NIRAS Kenya have been availed. In addition, KfW - the financier gave a No Objection letter to NIRAS Africa to sign the contract on behalf of NIRAS IP of which a Copy of No Objection letter and group structure were availed.

**Committee Observations and Findings;**

**The Committee observed that;**

**(i) The State Department had no reason to outsource procurement to an agent as it is a procuring entity itself;**

(ii) **The financing agreement was skewed in favor of the domicile country of the financier, evidenced by the fact that the winning bidder eventually came from there;**

(iii)**Evidence of shareholding of the local implementing company by the winning bidder was not availed, and it may have been a vehicle to secure the tender and sub-contract.**

**Committee Recommendation;**

**The Committee recommends that the EACC conducts investigations to the procurement.**

**295: Failure to Open and Maintain a Separate Project Bank Account**

The Project Management did not maintain a specific project account as funds received were credited to the Ministry's development bank account instead of separate project account. It was therefore, not possible to trace the receipts to the cashbook and in the bank statement.

This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides 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, into which it is opened, and each project shall maintain only one bank account.

In the circumstances, the project management was in breach of the law.

**Submission by the Accounting Officer**

The project management did not maintain a separate bank account because donor funds (loans and grants Appropriation -In-Aid) are not disbursed to Consolidated Fund Account at the Central Bank of Kenya. The funding is held by the donor bank account to be disbursed directly to the suppliers and /or contractors as Direct Payments. The State department's responsibility regarding payments processing is to pass journals in the IFMIS system so as to capture expenditure from the State department's budget. The payment documents are then forwarded to The National Treasury by the Accounting Officer for onward transmission to the KFW bank for eventual payment to the suppliers.

The KFW phase I project shares both development cash book and bank account with the GoK. The exchequers come in bulk for the entire development vote for the State Department and the same captured in the IFMIS using module of Accounts Receivables and subsequently recorded in the cashbook.

The Accounting Officer wrote to the National Treasury requesting for separation of the project's bank account from that of the State Department at the Central Bank of Kenya in order to ensure that Development Project has its own dedicated Special Deposit Account so as to ring fence the project's funds.

The project funds come in form of Appropriation-in-Aid from foreign grants or borrowings from KFW bank and then the funds are disbursed directly to the consultants, suppliers and contractors without passing through the Consolidated Account at the Central Bank of Kenya. It is only the

GoK counterpart funding which is a percentage of the loan that comes to the State department bank account at the Central Bank of Kenya, and is spent on financing administrative part of the project.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer henceforth seeks exemption from the Cabinet Secretary National Treasury, as provided for under section 76(1) of PFM Regulations.**

## PROMOTION OF YOUTH EMPLOYMENT AND VOCATIONAL TRAINING PHASE II IN KENYA LOAN NO.BMZ 2018 65 120

REPORT ON THE FINANCIAL STATEMENTS

### 299: Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final budget and actual receipts on a comparable basis of Kshs.217,000,000 and Kshs.14,559,774, respectively, resulting in an underfunding of Kshs.202,440,226 (93%) of the budget. Similarly, the Project spent an amount of Kshs.14,559,774 against an approved budget of Kshs.217,000,000 resulting in an under expenditure of Kshs.202,440,226 (93%) of the budget.
The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

There was an under-expenditure/absorption of Kshs. 202,440,226.00 (93%) of the budget) during the period under review. This was occasioned by delays in implementing the lengthy procurement processes in the phase II of the KFW project. The processes have now been fast tracked and everything put on course. The consultant for project implementation has since been procured and the contractors are now on board; hence the direct payments by KFW are now being effected, thus improving on budget absorption.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report by the House.**

**300: Failure to Open and Maintain a Separate Project Bank Account**

The Project Management did not maintain a specific project bank account as funds received were credited to the Ministry's development bank account instead of a separate project account. It was therefore not possible to trace the receipts to the cashbook in the bank statement. This is contrary to Regulation 76(1) of the Public Finance management (National Government) Regulations , 2015 which provides 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, 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. Further, the receipts were not supported with respective itemized exchequer issue notifications and receipt vouchers to confirm the receipt of funds.

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

**Submission by the Accounting Officer**

The project management didn't maintain a separate bank account for the donor funds (loans and grants Appropriation-In-Aid) because the funds are not disbursed to the Consolidated Fund Account at the Central Bank of Kenya. The funding function is held by the donor bank account, hence disbursed directly to the suppliers and /or contractors as Direct Payments. The State departments then pass journals in the IFMIS to capture expenditure from the department's budget. The payment documents are then forwarded to The National Treasury by the Accounting Officer for onward transmission to the KFW bank for eventual payment to the suppliers.
The KFW phase II project shares development cash book and bank account, with the GOK proportion of funding. The exchequers also come in bulk and captured in the IFMIS Accounts Receivables Module, and subsequently recorded in the cashbook.

The Accounting Officer wrote to the National Treasury requesting for separation of the project's bank account from that of the State Department at the Central Bank of Kenya, so as to ensure that each Project has its own dedicated Special Deposit Account in order to ring fence the project's funds.

However, the State Department wish to state that the project funds come in form of Appropriation-in- Aid from foreign grants, or borrowings from KfW bank and the funds are then disbursed directly to the consultants, suppliers and contractors without passing through the Consolidated Account at the Central Bank of Kenya. Only the GoK counterpart funding which is a percentage of the loan that comes to the State Department's bank account which is spent on administrative work of the project. Copies of receipts (FO17) and exchequer notification have been availed.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer henceforth seeks exemption from the Cabinet Secretary National Treasury, as provided for under section 76(1) of PFM Regulations.**

**SUPPORT TO TECHNICAL AND VOCATIONAL EDUCATION TRAINING AND ENTREPRENEURSHIP (TVETE PROJECT PHASE III) (LOAN NO. 2100150042254)**

REPORT ON THE FINANCIAL STATEMENTS

**304: Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects a final budget and actual receipts on a comparable basis of Kshs.445,000,000 and Kshs,52,749,532 respectively, resulting in an underfunding of Kshs.392,250,468 (88%) of the budget. Similarly, the Project spent an amount of Kshs.52,749,532 against an approved budget of Kshs.445,000,000, resulting in an under expenditure of Kshs.392,250,468 (88%) of the budget.

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

**Submission by the Accounting Officer**

This was an underfunding of Kshs.392,250,468.00 (88%) of the budget, thus the Project only spent an amount of Kshs.52,749,532.00(12%) against the approved budget of Kshs.445,000,000 thus resulting to an under-expenditure of Kshs.392,250,468.00 (12%) of the budget. The project was still at the inception stage due to the lengthy process of procurement of consultants and contractors to implement the development project. The project management confirms that the project is now on course and all the activities projected to be completed within the project cycle timelines as per the financing agreement and the African Development Fund approved procurement plan.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report by the House.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

**305: Failure to Open and Maintain a Separate Project Bank Account**

The Project Management did not maintain a separate Project bank account instead funds received were credited to the Ministry's development bank account. 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 the 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 itis opened and each Project shall maintain only one bank account.

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

**Submission by the Accounting Officer**

The project management didn't maintain a separate bank account for the donor funds (loans and grants Appropriation-In-Aid) because the funds are not disbursed to the Consolidated Fund Account at the Central Bank of Kenya. The funds are held by the donor bank account which are disbursed directly to the suppliers/contractors as Direct Payments. The State Department then pass journals in the IFMIS to capture expenditure from the department's budget. The payment documents are later forwarded to The National Treasury by the Accounting Officer for onward transmission to the AfDB bank for eventual payment to the suppliers.

The AfDB (TVETE project phase III) project shares the cash book and bank account with the Gok counterpart. The exchequers come in bulk and the same are captured in the IFMIS, Accounts Receivables Module, and subsequently recorded in the development cashbook.

The Accounting Officer wrote to the National Treasury requesting for separation of the project's bank account from the account of the State Department at the Central Bank of Kenya, so as to ensure that each Project has its own dedicated Special Deposit Account in order to ring fence the project's funds.

However, the State Department wish to state that the project funds come in form of Appropriation-in-Aid from foreign grants, or borrowings from AfDB bank and the funds are disbursed directly to the consultants, suppliers and contractors without passing through the Consolidated Account at the Central Bank of Kenya. Only the GoK counterpart funding which is a percentage of the loan that comes to the State Department's bank account at the Central Bank of Kenya, which is spent on the administrative work of the project.

The receipts have now been supported with respective exchequer notifications and receipt vouchers (FO17).

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer henceforth seeks exemption from the Cabinet Secretary National Treasury, as provided for under section 76(1) of PFM Regulations.**

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

**306: Failure to Constitute Procurement Committees**

Review of documents revealed that during the year, the accounting officer did not establish ad hoc opening and evaluation Committees to open, evaluate and record the procurement proceedings. This is contrary to Section 44(1) and 2(b) of the Public Procurement and Asset Disposal Act, 2015 which states that, In the performance of the responsibility under subsection (I), an accounting officer shall constitute all procurement and asset disposal committees within a procuring entity in accordance with the Act.

In the circumstances, governance systems of the Project were not effective.

**Submission by the Accounting Officer**

The AfDB (TVETE project phase III) has only undertaken procurement of upskilling of trainers at the Technical University of Mombasa (TUM) and procurement of a motor vehicle and office consumables since its inception. All these procurement activities have ad hoc committees appointed by the Accounting Officer.

The ad hoc committee appointment letters for evaluation of upskilling of TVET Trainers at TUM, evaluation report and professional opinion have been availed.

The opening and evaluation for office consumables responsibilities are inbuilt in the IFMIS. The procurement officers are given rights by The National Treasury to access and sign the documents in the IFMIS.

The State Department wish to state that the opening and evaluation for purchase of motor vehicle responsibilities are inbuilt in the IFMIS. The procurement officers are given rights by The National Treasury to access and sign the documents in the system, and guided by Ministry of Public works supplies Branch which runs for two years renewable.

**Committee Observations and Findings;**

i. **The Committee noted the explanation by the Accounting Officer.**
ii. **The Committee found that the matter was resolved.**

## OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR VOCATIONAL AND TECHNICAL TRAINING

## EAST AFRICA SKILLS FOR TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (EASTRIP) (IDA LOAN NO.6334-KE) - MERU NATIONAL POLYTECHNIC

REPORT ON THE FINANCIAL STATEMENTS

**308: Inaccuracies in the Financial Statements**

**308.1: Statement of Cash Flows**

The statement of cash flows reflects net cash flow from operating activities of Kshs.61,625,064 which is incorrectly stated due to the following;

(i) Increase in accounts receivables of Kshs.2,815,000 which ought to be subtracted was added to payments from operating activities.
(ii) Recomputation of net cash flows from operating activities revealed that the increase of accounts receivables of Kshs.2,815,000 was not included in the total of Kshs.61,625,064.
(iii)The statement reflects Nil balance on change in accounts payable. However, note 17 reflect increase in accounts payable of Kshs.13,483,335.

**Submission by the Accounting Officer**

The cash flow statement and the other disclosures have been revised to reflect the correct position, by reversing the amount of Ksh.2,815,000.00 which had been recognized as a receivable in the cash flow statement. The stated amount was an imprest issued on 1st July, 2022 which has since been surrendered.

**Committee Observations and Findings;**

**The Committee noted the admission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to keep proper accounting records as per section 68 (2)(b) of the PFM Act 2012.**

**308.2: Changes in Accounts Receivables**

Note 16 to the financial statements reflects changes in accounts receivables which was wrongly described as follows;

(i) Opening receivables as at 1 July, 2021 was wrongly described as deposit and retentions as at 1 July, 2021.
(ii) Closing accounts receivables as at 30 June, 2022 was wrongly described as closing accounts payable as at 30 June, 2022.

(iii)Change in receivables of Kshs.2,815,000 was wrongly described as change in payables.

**Submission by the Accounting Officer**

The financial statement's description notes on changes in receivables and payables have been adjusted to reflect the correct position.

**Committee Observations and Findings;**

**The Committee noted the admission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to keep proper accounting records as per section 68 (2)(b) of the PFM Act 2012.**

**308.3: Changes in Accounts Payable**

TNote 17 to the financial statements reflects Kshs.13,483,335 in respect of changes in accounts payable. However, recomputation revealed a balance of Kshs.13,904,223 resulting to a variance of Kshs.420,888 which was not reconciled or explained.
In the circumstances, the accuracy of the financial statements for the year ended 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

The note has been re-casted accordingly to reflect the correct position. The closing accounts payables was disclosed as Kshs 13,483,335.41 which was as a result of a casting error, and has been adjusted.

**Committee Observations and Findings;**

**The Committee noted the admission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to keep proper accounting records as per section 68 (2)(b) of the PFM Act 2012.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**309: Cost Variation to the Construction Project**

Management advertised works in June 2021 for the construction of building technology Flagship Center and other facilities where a contract was signed on 8 October, 2021 at a contract sum of Kshs.444,473,290 with a project duration of eighteen (18) months. However, review of site meeting minutes of the Project Implementation Team dated 10 June, 2022 revealed that the progress of works was behind schedule and the contractor was advised to provide project status report and give recovery plan for the lost time, which was not provided for audit verification.

Further, the Quantity Surveyor for the project at the same meeting, acknowledged receipt of cost variation claims from the contractor amounting to Kshs. 96,372,034 which was a variation of 21.67 % of the original contract sum. The Quantity Surveyor indicated that the claim was being reviewed for onward transmission to the client. However, it was not possible to confirm what percentage of the claim was payable.

In addition, audit verification carried out in October, 2022 revealed that the works were progressing at a slow pace since the contractor appeared to have slowed down the works awaiting the decision from the Project Management on the cost escalation claims.

Further, there was no evidence to show that the cost variation was reviewed by the Project Implementation Team and submitted through the head of procurement function to the Project Coordinator for approval as required by law.

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

**Submission by the Accounting Officer**

The contractor submitted a variation claim amounting to Kshs. 96,372,034.00 which was a variation of 21.67 % of the original contract sum. It was noted that this was a fixed sum contract and as such any request for variation needed the approval of the World Bank.

Audit verification carried out in October 2022 revealed that the works were progressing at a slow pace since the contractor appeared to have slowed down the works awaiting the decision from the Project Management on the cost escalation claims.

In a virtual meeting, the World Bank advised that the Contract was not subject to any variation. However, the contractor kept disputing the advice of the World Bank. This forced the institution to seek the intervention of the Attorney General.

The Attorney General has since advised on arbitration and the construction is proceeding.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report by the House.**

**310: Non-Compliance with Ethnicity and Regional Distribution**

Review of personal files revealed that all project employees were from the same ethnic community. This was 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.

**Submission by the Accounting Officer**

The project recruited three officers namely:-

- Project Assistant
- Office Assistant
- Driver

The Project assistant attracted 11 applicants. Of the 11, three met the advert requirements of possession of a degree in Project Management/ related field and at least three years administrative/project management experience. Coincidentally, the three came from the same ethnicity.

The position of Office Assistant attracted 9 applicants, 8 from the same ethnic community (Meru). The only candidate that was from a different ethnicity (Luo) did not attach the required documents for the application, hence was not shortlisted.

The position of a Driver attracted 10 applicants, 9 from the same ethnicity (Meru). The candidate from a different ethnic community (Kalenjin) did not provide a valid driving license hence not shortlisted.

It is worth noting that two of these positions were lower cadre positions which mainly attracted locals despite the advert being circulated.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer ensures compliance with section 7(2) of the National Cohesion and Integration Act, 2008 and re-advertises unresponsive advertisements.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**311: Failure to Insure Project Assets**

During the year under review, the Project Management only procured insurance services for two project vehicles but did not insure ICT equipment, office equipment and furniture and fittings all appearing in the assets register and valued at Kshs. 17,084,714 as required by law and EASTRIP risk policy.

In the circumstances, the safety and security of the Project assets could not be confirmed.

**Submission by the Accounting Officer**

Although at the time of audit the project had not insured some assets of the project, The State Department wish to state that the management shall procure insurance cover for the office equipment, Furniture and fittings, and ICT equipment as soon as The State Department gets a budget clearance for the same from The National Treasury. A request letter was written to the National Treasury by The State Department requesting to be allowed to insure the assets.

**Committee Observations and Findings;**

**The Committee noted that the explanation by the Accounting Officer was unsatisfactory.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report on compliance within three (3) months of adoption of this report by the House.**

## EAST AFRICA SKILLS TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (EASTRIP) GRANT/CREDIT NO.IDA 6334-KE-KISUMU NATIONAL POLYTECHNIC

REPORT ON THE FINANCIAL STATEMENTS

**314: Budgetary Control and Performance**

Section 1.2 of the financial statements on project information and overall performance indicates that the Project duration is five (5) years or 60 months from 2020 to 2024, with a donor commitment of EUR 9,280,000 equivalent to Kshs. 1,080,000,000, However, as at 30 June, 2022, the Project had received EUR 2,715,517 equivalent to Kshs.315,000,000 or 29% of total budgeted funds despite 30 months or 50% of the project timeline having lapsed. Further, out of the Kshs.315,000,000 total amount received as at 30 June, 2022 only Kshs.274,390,015 had been spent on project activities representing 25.4% of the donor project commitment amount of Kshs,1,080,000,000 and an 87% absorption rate of the received funds.

This was an Indication of delay in project implementation and Management had not explained interventions that were put in place to recover the lost time.

Further, the statement of comparison of budget and actual amounts reflects nil actual receipts against budgeted amount of Kshs.509,122,906 resulting to a 100% underfunding. Similarly, the statement reflects an actual expenditure of Kshs.158,681,506 against budgeted amount of Kshs.509,122,906 resulting to under expenditure of Kshs.350,441,401 or 69% of the budget. Although, the Management attributes the underfunding and under absorption to the effects of COVID-19 pandemic, it is an indication that the goals and objectives of the Project may not have been achieved.

**Submission by the Accounting Officer**

The statement of comparative budget and actual amounts reflects nil actual receipts against budgeted amount. The State Department wish to state that the institution had not spent the advance payment of Kshs. 200,000,000.00 granted to them at the beginning of the project. The funds could not be absorbed because both curriculum development and construction that needed physical contact could not take place. Equally, the achievements of the Disbursement Linked Indicators (DLIs) had not been verified to enable them receive their entitlements. During the financial year under review, DLIs were not used as a basis for funding. All the Regional Flagship Technical Institutions (RFTIs) received Kshs. 315,000,000.00 from The National Treasury.

The State Department wish also to state that the prevailing COVID-19 pandemic in the country occasioned a lockdown on people's movement and activities. This was however fast tracked after COVID-19. Currently the institution has achieved the deliverables and has embarked on completion of construction and acquisition of equipments.

**Committee Observations and Findings:**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report by the House.**

**EAST AFRICA SKILLS TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (CREDIT NUMBER 6334 - KE) - KENYA COAST NATIONAL POLYTECHNIC**

REPORT ON THE FINANCIAL STATEMENTS

**319: 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 nil respectively resulting to 100% underfunding. Similarly, the project spent Kshs.46,907,550 against the budgeted expenditure of Kshs.300,000,000 resulting to under expenditure of Kshs. 253,092,450 or 84 % of the budget. Management attributed underfunding and related under expenditure to lengthy approval and contract signing process for acquisition of equipment.

**Submission by the Accounting Officer**

The approved budget was Kshs. 300,000,000.00 with an absorption of Kshs. 46,907,550 (15.64%). At the time of formulation of the budget it was accurately estimated that the budget was going to be absorbed but contract approval and signing of the acquisition of equipment took a long time than expected.

The process of acquiring the equipment started in October 2021 as per evidence Marked NTE1 and after following the recommended procedure by the World Bank, the Contract was signed after the end of the financial year 2021/2022, on 4th July, 2022 as per the attached Marked CA/INT/KCNP1.

The cost of these equipment is over Kshs. 200,000,000.00 or agreed amount in USD 1,675,160.00 The process of Contraction also started in May 2022 as per evidence Marked ETN 1, and as at now the Polytechnic is waiting for the World Bank to approve evaluation report.

Payment for Equipment is done in % as per the signed contract. The contract was being executed across two (2) financial years with part payment in the year under review. Had the whole procurement been executed within the financial year, then the whole amount could have been absorbed as was envisioned.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report by the House.**

## 4.11 VOTE 1065: STATE DEPARTMENT FOR UNIVERSITY EDUCATION AND RESEARCH

**Dr. Beatrice Muganda Inyangala**, the Principal Secretary and Accounting Officer for the State Department for Higher Education and Research appeared before the Committee on 25th September 2023 and on 13th May 2024 accompanied by the following officers:

| | | |
|---|---|---|
| i. | Ms. Margaret Kariuki | Head of Accounting Unit |
| ii. | Mr. Maina Chira | Head of Finance |
| iii. | Mr. Geoffrey Monari | CEO, Universities Funding Board |
| iv. | Prof. Darius Andika | Centre Leader, World Back Centre of Excellence |
| v. | Mr. Cheboriot Julius | Accountant, Moi University |
| vi. | Prof. Samuel Mwonga | Deputy Centre Leader, Egerton University |
| vii. | Mr. George Aduda | Chief Finance Officer, Jaramogi University |
| viii. | Mr. Robert Gicheru | Deputy Project manager |

and submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

**322: Unsupported Other Grants and Transfers**

The statement of receipts and payments reflects other grants and transfers amount of Kshs.251,964,581 as disclosed in Note 7 to the financial statements. Included in the amount is an expenditure of Kshs.14,964,580 which was not supported with relevant records and documents including receipts, minutes, committee appointment letters, back-to-office reports, invitations and travel documents. Further, an amount of Kshs.2,286,800 was spent on payment for tea, snacks, security and training and Management had not explained how the expenditure relates to scholarships and other educational benefits.

In the circumstances, the regularity of the expenditure of Kshs. 17,251,380 for the year ended 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

Kshs 14,964,580 which was included in other grants and transfers figure of Kshs. 251,964,581 related to Scholarships and other Educational Benefits - Tertiary Education under recurrent budget on Bursaries; Scholarships; Subsidies and Education Attachments. The amount of Kshs.2,286,800 spent on payment for tea, snacks, security and training was expenditure incurred by the committee members. The payment vouchers with the relevant records and documents including receipts, minutes, committee appointment letters, back to office reports, invitations and travel documents have now been availed for audit review.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**323: Failure to prepare Bank Reconcilliations**

The statement of financial assets reflects a bank balance of Kshs.182,274,170 asdisclosed in Note 10A to the financial statements. Review of records revealed that the State Department did not prepare monthly bank reconciliations for deposit and recurrentaccounts except for the month of June, 2022. Further, the bank reconciliation statementsfor the month of June, 2022 reflects payments in the recurrent and development cash books not in the bank statements of Kshs.166,163,553 and Kshs.84,413,082 respectivelywhose dates of clearance by the bank was not indicated.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.182,274,170 as at 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

The payment amounting to Kshs.166,163,553 and Kshs.84,413,082 respectively which were reflected as payments in recurrent and development cashbooks but not in the Bank statements as of 30th June 2022 were payments whose exchequer was received after 30th June. These payments related to period ending 30th June 2022. They were cleared in the Bank reconciliation for July 2022.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**324: Undisclosed Foreign Travel**

The statement of receipts and payments reflects use of goods and services amount of Kshs.136,047,476 as disclosed in Note 5 to the financial statements. The amountincludes Kshs.8,774,221 in respect of foreign travel and subsistence which was not captured in the financial year's expenditure work plan.

In the circumstances, the accuracy and completeness of foreign travel and subsistence expenditure of Kshs.8,774,221 for the year ended 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

The Amount of Kshs. 8,774,221.00 relating to foreign travel and subsistence was not captured in the Financial Years workplan. These amounts relate to foreign travel and subsistence by officers who were instructed to represent the Ministry/State Department on invitation to various

International forums and meetings. Therefore, it was not possible to plan for such forums in advance. The state department workplans only include programmed/planned activities.

**Committee Observations and Findings;**

**The Committee observed that despite the expenditure falling under foreign travel, the state department's work plan did not provide for contingency to cater for unforeseen travels as had been explained by the accounting officer.**

**Committee Recommendation;**

**The Committee recommends that the accounting officer provides for projected unforeseen travels, based on past trends, in future work plans.**

**325: Other Operating Expenses**

**325.1 Expenditure not Disclosed as a Pending Bill**

The statement of receipts and payments reflects Kshs.136,047,476 in respect to use of goods and services as disclosed in Note 5 to the financial statements. Included in the expenditure is an amount of Kshs.5,117,748 in respect of other operating expenses out of which Kshs.814,320 was for the provision of garbage collection and disposal for the months of July, 2020 to June, 2021. However, the amount was not disclosed as a pendingbill in the 2020/2021 financial year.

**Submission by the Accounting Officer**

The Ministry of Education has three State Departments which are all housed at Jogoo House "B". Considering that there are some common services required by all the three State Departments and, to cut on the Administrative costs of having several Service Providers for the same service within the same Building, the State Departments agreed on sharing the costs for such services. Provision of garbage collection services is among the shared service and this expense was forwarded to the State Department towards the end of the subsequent Financial Year.

**Committee Observations and Findings;**

**The Committee observed that despite being a shared service, each state department ought to have its definitive services to cater for, and budget for it and make payment within the financial year. Garbage collection was not unforeseen.**

**Committee Recommendation;**

**The Committee recommends that the accounting officer in liaison with the accounting officer State Department for Basic Education budget for and provide for the shared services, per state department.**

**325.2 Expenditure Wrongly Classified**

Included in other operating expenses are transactions amounting to Kshs.621,890 wrongly classified and posted under other operating expenses instead of conference facilities and domestic travel.

In the circumstances, the validity and accuracy of other operating expenses amounting to Kshs.5,117,748 could not be confirmed.

**Submission by the Accounting Officer**

During the financial year under review, the State Department suffered budget cuts as a result of the austerity measures instituted by the National Treasury. The expenditure had already been incurred by the time of the budget cuts and therefore the State Department charged on other operating expenses to clear the negative balances.

**Committee Observations and Findings;**

**The Committee observed that this was a case of irregular re-allocation of finances.**

**Committee Recommendation**

**The Committee reprimands the Accounting Officer for breach of the law.**

**326: Compensation of Employees**

The statement of receipts and payments reflects Kshs.258,008,361 in respect of compensation of employees as disclosed in Note 4 to the financial statements. The expenditure increased from Kshs.209,477,209 in previous year to Kshs.258,008,361 by Kshs.48,531,152 (or 23.2%) which was not explained. Further, the verified payment vouchers total was Kshs.244,939,158 resulting into an unreconciled and unexplained variance of Kshs.13,069,203. In addition, the statement of comparison of budget and actual amounts reflects employee compensation over-expenditure of Kshs.16,408,361 that was not supported by an approved budget contrary to Regulation 43(2) of Public Finance Management (National Governments) Regulations, 2015 which states thatNational Government entities shall execute their approved budgets based on the annualappropriation 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 accuracy, completeness and regularity of compensation of employee's expenditure of Kshs.258,008,361 could not be confirmed.

**Submission by the Accounting Officer**

The variance of Kshs. 13,069,202.65 was as a result of errors in posting salary journals for the financial year 2021-2022.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to keep proper accounting records.**

**327: Transfers to Other Government Entities**

**327.1 Current Grants to Government Agencies and Other Levels of Government**

The statement of receipts and payments reflects transfers to other Government units of Kshs.85,016,468,678 as disclosed in Note 6 to the financial statements. The amount includes Kshs.78,128,307,412 in respect of current grants to Government Agencies andother levels of Government. Included in the amount is a transfer of Kshs.42,057,700 to Biosafety Appeals Board whose supporting documents was not provided for audit.

Further, the board is not functional as a separate entity and was also not included in the authorized schedule for disbursements to Semi-Autonomous Government Agencies(SAGAS).

Transfer to other government units also includes a total of Kshs.448,473,444 disbursed to two (2) Institutions in which the institutions only acknowledged receipts amounting to Kshs.363,629,885 resulting in an unexplained and unreconciled variance of Kshs.84,843,559. In addition, the transfers included an expenditure of Kshs.11,290,000 in respect of the procurement of motor vehicles whose log books were not provided for audit.

**Submission by the Accounting Officer**

The supporting documents relating to the expenditure amounting to Kshs. 42,057,700 for Biosafety Appeals Board for the financial year under review have now been availed.

Biosafety appeals board was envisaged to be a SAGA and in the interim as they were setting up the structures their budget was utilized from the headquarters.

With respect to Kshs.448,473,444 disbursed to two (2) Institutions in which the institutions only acknowledged receipts amounting to Kshs.363,629,885 the response is as below;

a) Gatundu University college.

Mama Ngina University, which was formerly known as Gatundu University college was initially being mentored by Kenyatta University. Recurrent and capital grants for the college were therefore being channeled through Kenyatta University. The amount of kshs 84,373,505 which appears as variance was acknowledged by Kenyatta university through which the grants were channeled before Mama Ngina University was granted permission to open a bank account.

b) Tharaka University College

The amount disbursed to Tharaka university college was kshs 303,833,150 as disclosed in annex 4 on inter entity confirmations. However, the university had sent a confirmation for Kshs. 303,363,096. Upon realizing the error, the university sent a confirmation on 10/6/2022 acknowledging the correct amount of 303,833,150 Attached is the correct confirmation.

With regards to the expenditure of Kshs.11,290,000, the motor vehicle was procured as per availed supporting documents.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

### 327.2 Unsupported Capital Grants to Government Agencies

The statement of receipts and payments reflects transfers to other Government units of Kshs.85,016,468,678 as disclosed in Note 6 to the financial statements. Included in the transfers is Kshs.3,513,369,663 in respect to capital grants to Government Agencies. Review of the transfers revealed that an amount of Kshs.412,933,116 was disbursed to Kenya Advanced Institute of Science and Technology (KAIST) and Eastern and SouthernAfrica Higher Education Centres of Excellence (ACE II) projects. However, the Project'sfinancial statements for the year ended 30 June, 2022 reflected receipts of Kshs.97,521,005 and Kshs.313,477,533 respectively totalling to Kshs.410,998,538 resulting to an unexplained and unreconciled variance of Kshs.1,934,578.

Further, the supporting schedule provided indicated that an amount of Kshs.170,594,181was used by the State Department to purchase a motor vehicle, subsistence allowances,hire of conference facilities, purchase of air tickets, purchase of fuel, and other unrelatedexpenses and not disbursed to Government agencies. This was contrary to Section 43(1)(b) of the Public Finance Management Act, 2012 which prohibits the reallocation offunds appropriated for capital expenditure.

**Submission by the Accounting Officer**

During the financial year under review, Kshs.97,521,005 was utilized for KAIST project – GOK component out of a budget allocation of Kshs. 100, 000.000 while Kshs. 5,440,260.00 was utilized for ACEII project out of a budget allocation of Kshs. 10,000,000. All the payment vouchers and supporting documents have been availed for audit review.

**Committee Observation**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

### 327.3 Unsupported Transfers to Private Universities

The statement of receipts and payments reflects Kshs.85,016,468,678 in respect of transfers to other Government units which as disclosed in Note 6 to the financial statements includes Kshs.3,374,791,603 in respect of transfers to private universities. However, the following anomalies were noted:

i. Kshs.265,301,319 was disbursed to five (5) universities. However, no acknowledgment letters and receipts from the universities were provided to confirm receipt of the funds.
ii. An amount of Kshs.198,500,261 was disbursed to three (3) universities which confirmed to have only received a total of Kshs.183,339,074 resulting in an unreconciled and unexplained variance of Kshs.15,161,187;
iii. An amount of Kshs.22,591,680 was disbursed to thirteen (13) universities for 404 students. However, analysis of the supporting schedules revealed that these students had been duplicated in the schedules resulting to an overpayment of Kshs.22,591,680;
iv. A transfer to private universities of Kshs.136,295,811 was made for 3,357 students who had graduated by November, 2021 and, therefore, Management may have disbursed funds for students who had already completed studies and exited the Universities;
v. An amount of Kshs. 376,990,032 was disbursed for a total of 8,964 students who were not active in the period July, 2021 to June, 2022 as they had not registered to sit for the scheduled exams in their respective Universities. Management may have disbursed funds for students who had deferred or quit the universities; and,

vi. An amount of Kshs.337,207,284 was disbursed for a total of 7,828 students who had been in the Universities for more than four (4) years which is the normal period undertaken for most undergraduate programs. Management may have paid tuition fees to non-existent students in private universities.

In the circumstances, the accuracy, completeness and regularity of transfers to other Government units of Kshs.85,016,468,678 could not be confirmed.

**Submission by the Accounting Officer**

i. Management wishes to confirm that Ksh.265,301,319 was disbursed to the 5 Private Universities as provided in the table below. Confirmation of receipts have been provided;

| University | Amount |
|---|---|
| Africa International University | 35,190,991 |
| AMREF International University | 1,038,856 |
| Pioneer International University | 63,021,629 |
| Presbyterian University of East Africa | 160,806,734 |
| Raf International University | 5,243,109 |
| **Total** | **265,301,319** |

ii. International Leadership University confirmed the balance of Kshs.73,646 as per the table below and receipts availed;

| Date | Receipt No | Amount |
|---|---|---|
| 10 August 2021 | 27297 | 73,646.10 |
| 14 March 2022 | 27294 | 52,902.30 |
| 11 May 2022 | 27300 | 398,402.00 |
| **Total** | | **577,852.70** |

iii. With regards to issues iii-vi, the Management wishes to state that the University Funding Board after receiving the audit findings wrote to the affected Private Universities. Most of the affected Universities have disputed the findings indicating that the data they submitted to the Funding Board was correct and without any duplications, inactive students or students who had overstayed in the Universities

**Committee Observations and Findings;**

**The Committee noted that a special audit report had been conducted on the entire programme and was before the Public Investments Committee on Governance and Education.**

**Committee Recommendation;**

**The Committee recommends that the report of PIC-G&E cited above be considered by the House.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**328: Lack of an Audit Committee**

The State Department did not have an Audit Committee in place. Further, the internal audit reports were not provided for review. This was contrary to Section 73(5) of the Public Finance Management Act, 2012 which provides that every national government public entity shall establish an audit committee whose composition and functions shall be as prescribed by the regulations.

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

**Submission by the Accounting Officer**

There existed an Audit committee whose appointment was renewed on 1st September 2021 as per availed Renewal of Appointment letter – Ref: MOE.CONF/G6/16 (68). The Audit Committee was active as evidenced by minutes provided.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**329: Non-Compliance with One-Third Basic Pay Rule**

Review of monthly payrolls revealed that fifteen (15) officers had committed their salariesover and above the required two-thirds of the basic pay contrary to the policy on paymentof salaries. This was contrary to Section 19(3) of the Employment Act, 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 generallyor in relation to a specified employer or employee or class of employers or employees orany trade or industry

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

**Submission by the Accounting Officer**

The Management agrees with the audit finding that a total of 14 officers had committed their salaries over and above the required two thirds of the basic pay at the time of audit. In the year 2020 income tax was reduced to cushion against the effects of COVID-19. This reflected an increase on the basic pay and also the allowable two thirds of the salary available. In January 2021, the income tax was reinstated back. This occasioned over commitment of salaries by the officers.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**330: Lack of Fixed Asset Register**

Annex 2 on fixed assets schedule reflects historical cost of assets amounting to Kshs.6,305,853,289. However, Management did not provide a detailed asset register to support the balance of Kshs.6,305,853,289 and confirm the existence of the assets. Thiswas contrary to Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015 which requires that the Accounting Officer be responsible for maintaining a register of assets under his or her control or possession asprescribed by the relevant laws.

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

**Submission by the Accounting Officer**

The management states that the State Department had prepared an asset catalogue in February 2020 which had captured its assets. A detailed register is now maintained by the State Department in the recently prescribed format by the National Treasury.

**Committee Observations and Findings;**

**The Committee observed that the Accounting Officer failed to meet the requirements of Regulation 143(1) of the PFM (National Government) Regulations, 2015 by not providing an assets' register to support the assets valued at Kshs. 6,305,853,289 at the time of audit.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**331: Non-Conformity to the Staff Establishment**

Examination of the State Department's approved staff establishment revealed that it had a capacity of one hundred and fifteen (115) officers in sixty-one (61) cadres. However, there were variations between the staff in post and the approved establishment. The State Department exceeded the approved staff establishment in various cadres by ninety-eight (98) staff and understaffed other cadres by seventeen (17) staff. No justifiable explanation was provided for the overstaffing and understaffing of staff.

In the circumstances, internal controls on staffing were not effective.

**Submission by the Accounting Officer**

Staff establishment is approved by the Public Service Commission. The different cadres are managed by different administrators. Posting in and out of the State Department is entirely dependent on different scheme administrators and the department has no control. The succession management that was carried out within the period across majority of the cadres also resulted in some grades being overstaffed or understaffed.

**Committee Observations and Findings**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation**

**The Committee recommends that the Accounting Officer liaises with the Public Service Commission and aligns staff in-post to the approved establishment, within three (3) months of adoption of this report.**

### 332: Employees in Biodata but not in Payroll

Review of payroll and the biodata revealed that names of forty-five (45) officers appearedin the biodata but were not in the IPPD payroll system. No explanation was provided for the anomaly.

In the circumstances, controls over the complement control are weak and may expose the State Department to fraud and other irregularities.

**Submission by the Accounting Officer**

Transfer out, secondment of officers to other institutions and exit are not immediately reflected in the payroll but are reflected in the staff compliment register which is used normally to generate bio data. Payroll only reflects staff who are eligible for salary and allowances payment (in post). The names of 45 officers that appeared in the biodata and not in the IPPD payroll system was as a result of transfers out, secondment of officers to other institutions and officers who had exited from service. These names were however reflected in Staff Compliment Register which was used to generate Bio-data.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**DONOR FUNDED PROJECTS**

**SUPPORT TO ENHANCEMENT OF QUALITY AND RELEVANCE IN HIGHER EDUCATION, SCIENCE AND TECHNOLOGY PROJECT (ID NO. P-KE-IAD-001-LOAN AGREEMENT NO.2100150027993)**

REPORT ON THE FINANCIAL STATEMENTS

### 333: Inaccuracies in the Financial Statements

Review of statement of receipts and payments for the year ended 30 June, 2022 revealedcomparative cumulative to date balances that are at variance with the balances reflected in the audited financial statements for the year ended 30 June, 2021 as here under:

| Item | Financial Statements | | Variance (Kshs.) |
|---|---|---|---|
| | 2021/2022 (Kshs.) | 2020/2021 (Kshs.) | |
| Loan from External Development Partners | 3,757,627,736 | 3,576,020,39 7 | 181,607,339 |
| Acquisition of Non-Financial Assets | 3,364,346,908 | 3,182,739,56 9 | 181,607,339 |

Further, review of Note 1.7A of the funding summary under the Project Information and Overall Performance revealed current year's cumulative donor receipts balance of 27,270,803 unit of accounts equivalent to Kshs 3,757,627,740 which is at variance with the respective previous year's balance of 27,270,803 unit of accounts equivalent to Kshs.3,576,020,397 which should otherwise have remained constant since no funding was received during the year under review. Management has not given any explanation for the discrepancies.

In absence of any restatement of balances, the accuracy of the financial statements could not be ascertained.

**Submission by the Accounting Officer**

The error was noted and financial statements amended to reflect the correct cumulative figures for the financial year ended 30 June 2021.

**Committee Observations and Findings;**

**The Committee noted failure by the State Department to keep accurate financial statements.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to perform duties bestowed upon the office.**

**334: Defects and Delays in Delivery of Equipment to Various Universities**

As previously reported, the Project entered into supply contracts with various vendors forsupply of specialized science and engineering equipment to selected public universities.Under the terms of the contracts, the vendors were to receive advance payments of 20%of their respective contract values upon submission of bank guarantees of equivalent amounts. A further 60% of the contract sum was to be paid after the equipment was shipped and relevant documents submitted to Management. The remaining 20% was to be paid upon receipt and acceptance of the items supplied.

As at 30 June, 2022, the Project's cumulative expenditure from 2013/2014 financial yearon procurement of specialized plant, equipment and machinery totaled Kshs.2,799,042,159. However, records provided for audit revealed that the project was expected to end by 31 December, 2021 and that equipment totaling Kshs.112,598,346 were rejected by the respective inspection and acceptance committees.

The Project Management explained that the State Department finalized the status of delivery and acceptance of equipment and wrote to the Attorney General in July and August, 2021 seeking for an advisory on payment of any outstanding balances due to thesuppliers, refund of advance guarantees recovered and levying of liquidated damages from any payments to the suppliers. The State Department is awaiting the final advisory on the mode of recovery of the liquidated damages from the Office of the Attorney General.

In view of the defective and unfulfilled supplies, the validity of the cumulative expenditureof Kshs.2,799,042,159 at Note 4 to the financial statements reported under purchase of specialized plant, equipment and machinery could not be confirmed. Further, value for money has not been realized on the project.

**Submission by the Accounting Officer**

The matter was discussed by the Public Accounts Committee (PAC) in the 2016/2017 and 2017/2018, 2018/2019, 2019/2020 and 2020/21 financial years report of the Auditor General on the audited financial statements of this State Department and the matter the issue was resolved.

**Committee Observations and Findings;**

**The Committee noted that this matter was recurring in the FY 2016/17, 2017/18, 2018/19, 2019/2020 and 2020/21 and recommendations issued therein.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails a matrix on implementation of various recommendations, within three (3) months of adoption of this report.**

### 335: Uncorrected Prior Periods Error on Recall of Performance Securities

Review of records revealed that sums of Kshs.138,568,038 for performance bonds for the project were recovered from several suppliers for breach of contract and were deposited at Central Bank of Kenya in an account owned by the State Department for University Education on 17 September, 2019. These transactions have not been disclosed in the statement of financial assets as at 30 June, 2020, 30 June, 2021 and 30 June, 2022. Management did not make any correction in the financial statements for these prior periods' errors.

Further, explanation for the errors and their adjustment have not been included in the notes to the financial statements as indicated below;

| Contract Date | Contract Number | Supplier | Amount Recovered (Kshs.) |
|---|---|---|---|
| 08 January, 2015 | ICB/HEST/17/2013-2014 | Limited Company | 13,985,209 |
| 14 October, 2013 | ICB/HEST/08/2012-2013 | Trading Company | 25,164,584 |
| 23 October, 2013 | ICB/HEST/07/2012-2013 | Trading Company | 27,002,395 |
| 23 October, 2013 | ICB/HEST/06/2012-2013 | Aviation Company | 15,500,422 |
| 14 October, 2013 | ICB/HEST/17/2012-2013 | Services Company | 22,896,093 |
| 28 November, 2013 | ICB/HEST/26/2012-2013 | Limited Company | 10,315,262 |
| 23 October, 2013 | ICB/HEST/13/2013-2014 | Commercial Agencies | 12,425,613 |
| 23 October, 2013 | ICB/HEST/14/2013-2014 | Commercial Agencies | 11,278,458 |
| **TOTAL** | | | **138,568,037** |

In the circumstances, the accuracy and completeness of the annual report and financial statements could not be confirmed.

**Submission by the Accounting Officer**

The figures mentioned have always been disclosed to the Auditors and the African development Bank as these were performance securities that were released in the financial year 2022 - 2023. The funds were reflected and disclosed in the State Department's financial statements for the years ended 2019/2020, 2020/2021 and 2021/2022.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

### 336: Undisclosed Pending Accounts Payables

During the year under review, the Project Management entered into a contract for consultancy services with two firms at a contract cost of Kshs. 15,532,287. However, review of the financial statements submitted for audit revealed that these pending accounts payables had not been disclosed in the financial statements.

In the circumstances, the accuracy and completeness of the annual report and financial statements could not be confirmed.

**Submission by the Accounting Officer**

As the Project did not have a budget in 2021/2022 financial year the payments/refund requests could not be presented for payment as there were no funds to settle them. The State Department sought allocation for budget to fund the payments during the period but was unsuccessful. Provision of Budget for the project was successful in the financial year 2022/2023.

**Committee Observations and Findings;**

i) **The Committee noted the explanation of the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**337: Late Submission of Financial Statements**

The financial statements were submitted to the Auditor General on 29 November, 2022. This was contrary to Section 47(1) of the Public Audit Act, 2015 which requires that financial statements should be submitted to the Auditor-General within three months afterthe end of the fiscal year to which the accounts relate.

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

**Submission by the Accounting Officer**

In the financial year under review there were no financial transactions as the Project was not allocated any budget. The State Department requested for Allocation of budget under Supplementary Budget II of 2021/2022 financial year but was not successful. As such there were no financial transactions to be reported in the year. The Auditor General wrote to State Department on 13th October 2022 seeking confirmation whether the Project had closed. Upon the State Department response on the matter sent to Auditor General on 7th November, 2022, the Auditor General directed those financial statements be prepared and submitted. The State Department complied and submitted the financial statements on 29th November, 2022.

**Committee Observations and Findings;**

**The Committee noted the delay by the State Department in availing complete financial statements.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for breach of section 47(1) of the Public Audit Act.**

**338: Irregular Signing of Contract**

The State Department for University Education entered into a contract for the provision of consultancy services on the conduct of end-of-project evaluation. The validity period for the said tender was 120 days starting from 12 May, 2021. The Project Management entered into a contract on 22 October, 2021 while the validity in respect of this tender lapsed on 9 September, 2021. This was contrary to Clause 12.1 of the Request for Proposal Document and Section 135(3) of the Public Procurement and Asset Disposal Act, 2015. Further, in the absence of a valid contract, disputes arising will not be legally enforceable.

In the circumstances, the regularity of the contract entered into could not be confirmed.

**Submission by the Accounting Officer**

The African Development Bank required that the State Department forwards all documents for review at every stage of the procurement process of the consultancy for consideration and approval before proceeding to the next stage thereby leading to overall delay in the final contract signing.

The State Department did everything possible to execute the processes leading to the Procurement of the consultancy. For instance, the technical and financial proposal evaluation was finalized on 17th June, 2021 and negotiations for the contract were completed on 29th June, 2021 as advised by the African Development Bank in its letter of "no objection" dated 3rd June, 2021. The State Department submitted the combined evaluation report, minutes of negotiation, and draft contract for review and approval by ADB on 5th July, 2021.

The approval was granted on 16th July, 2021 and communicated on 26th July, 2021 and thereafter we submitted an initialed copy of the draft contract document.

The Award of consultancy was made on 31st August, 2021 which was still within the proposal validity period as envisaged in Section 12.4 of the Request for Proposal Document on extension of proposal validity period which inter alia States that "the Client will make its best efforts to complete the negotiations and award the contract within the proposal's validity period".

The Consultant, M/S 3D Africa Communications Limited accepted the offer and undertook to execute the task as per the deliverables communicated through their letter received in the State Department on 2nd September, 2021.

The approval of the initialed draft copy of the contract document earlier submitted was cleared for signing by ADB on 18th August 2021. This necessitated the contract to be signed on 19th October, 2021 by the Accounting Officer and the Consultant on 22/10/2022.

**Committee Observations and Findings;and Findings**

i) **The Committee noted the explanation of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**339: Failure to Open and Maintain a Separate Project Bank Account**

The Project Management did not maintain a specific project bank account as funds received were credited to the Ministry's development bank account instead of a separateproject account. It was therefore not possible to trace the receipts to the cash book and in the bank statement. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides for the purpose of disbursement of project funds, there shall be opened and maintained a project accountfor every project at the 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 knownby the name of the project for which it is opened and each project shall maintain only onebank account.

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

**Submission by the Accounting Officer**

The project was designed to allow direct payments by the donor and the expenditure were being journalized and the payment documents submitted to the National Treasury. The GoK counter funds were channeled through the State Department development account.

**Committee Observations and Findings;**

**The Committee observed that the Accounting Officer admitted that a separate project bank account had not been opened at the time of the audit in breach of Regulation 76 of the PFM National Government Regulations, 2015.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to maintain separate project bank accounts as required by Regulation 76 of the Public Finance Management (National Government) Regulation, 2015.**

## ESTABLISHMENT OF KENYA ADVANCED INSTITUTE OF SCIENCE AND TECHNOLOGY PROJECT NO KEN-4

REPORT ON THE FINANCIAL STATEMENTS

### 342: Unsupported and Unaccounted for Expenditure on Fuel and Lubricants for Motor Vehicles

The statement of receipts and payments reflects an amount of Kshs.86,231,005 in respect of purchase of goods and services as disclosed in Note 3 to the financial statements. Included in the amount is Kshs.499,999 in respect of fuel and lubricants for motor vehicles. However, the following anomalies were noted: -

i. The fuel was not recorded in the Project's motor vehicle work tickets;
ii. A number of work tickets for vehicles used by the Project were not provided for audit in support of the expenditure; and,
iii. The contract between the Project Management and the service provider was not provided for audit review.

In the circumstances, the regularity of the expenditure of Kshs.499,999 in respect of fuel and lubricants for motor vehicles could not be confirmed.

**Submission by the Accounting Officer**

KAIST project's administrative costs which includes financial, accounting and procurement functions are carried out by employees of the State Department for University and Research. In the course of undertaking these functions there are common costs, which includes fuel and lubricants that are shared by the project and the State Department for University Education and Research.

The amount of Kshs. 499,999.00 relating to fuel and lubricants for motor vehicles were recorded in the work tickets, as required by law and the work tickets were availed for audit verification. The contract documents between State Department for University Education and Research and the service provider were availed for Audit review.

**Committee Observations and Findings;**

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

**Committee Recommendation;**
**The Committee reprimands the Accounting Officer.**

**343: Payment for Undelivered Goods and Irregular Charge of Unrelated Expenditure**
The statement of receipts and payments reflects acquisition of non-financial assets - purchase of vehicles and other transport equipment amounting to Kshs.11,290,000 as disclosed in Note 4 to the financial statements which had not been delivered and could not be physically verified. Further, as previously reported, the Project incurred an expenditure of Kshs.25,030,000 on the purchase of vehicles and other transport equipment which had not been delivered to the Project. However, available information revealed that the vehicles were being used by Ministry officials for non-project activities.

In the circumstances, the regularity of the expenditure of Kshs.36,320,000 on purchase of vehicles and other transport equipment could not be confirmed and value for money may not have been realized.

**Submission by the Accounting Officer**
During the year under review, Kshs. 11,290,000 in respect of purchase of a Project Vehicle was made but the vehicle had not been delivered as at the date of audit. The Dealer, M/S CFAO (Formerly Toyota Kenya Ltd) had committed in writing in the letter dated 14th July 2022 indicating that communication on the targeted delivery date for the vehicle would be communicated by mid November 2022. The firm had confirmed that the vehicle had already been cleared and the process of registration was in progress. So far, the vehicle has been delivered and it is in use by the project.

KAIST Project's implementation activities are carried out by employees of the State Department for University and Research. The project does not have a separate implementation unit and it is therefore in the course of undertaking the project functions that there are common costs, which includes transport expenses that are shared by the project and the State Department.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**344: Lack of Fixed Asset Register and Ownership Documents**
The statement of receipts and payments reflects the acquisition of non-financial assets cumulative expenditure amounting to Kshs. 1,934,423,523 as disclosed in Note 4 to the financial statements. However, the Management did not provide for audit review a fixed asset register and logbooks for the two vehicles owned by the project.

In the circumstances, the existence, ownership, and valuation of assets with a cumulativebalance of Kshs. 1,934,423,523 could not be confirmed.

**Submission by the Accounting Officer**
The management has since provided a copy of the fixed asset register.

**Committee Observations and Findings;**
**The Committee observed that the Accounting Officer failed to meet the requirements of Regulation 143(1) of the PFM (National Government) Regulations, 2015 by not providing an assets' register to support the assets valued at Kshs. 1,934,423,523 at the time of audit.**

**Committee Recommendation;**
**The Committee reprimands the Accounting Officer.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

**345: Delayed Construction Works**

The Project's financial records indicate that the project has been ongoing for five (5) yearssince the loan agreement was signed on 28 December, 2017. The project has recorded an accumulated expenditure on the acquisition of non-financial assets amounting to Kshs. 1,934,423,523 with the summary of fixed assets register reflecting buildings and structures of Kshs. 1,897,510,523 for which the value of work done has not been measured. Further, the project Management ought to have made four (4) semi-annual consecutive repayments of the loan on February, 2020, August, 2020, February, 2021, and August, 2021 in compliance with the provisions of Article 1 Section 1.02 on general terms and conditions of the loan agreement. The project therefore continues to attract interest on the unutilized amounts.

In the circumstances, value for money has not been realized in the implementation of theproject. In addition, the project continues to attract interest on the unspent amounts.

**Submission by the Accounting Officer**

The Loan agreement was signed on 28th December 2017. However, the Contract for the Consultant was signed on 30th November 2018. The Consultant was to work in three phases as follows:

**Phase 1:** Drawing and designs for Kenya-AIST

**Phase 2:** Bidding assistance for the Contractor for Kenya-AIST

**Phase 3:** Supervision for the contraction works, equipment delivery and development of ERP for Kenya-AIST which were to be done by the Contractor.

The final designs were submitted by consortium of KAIST (Korea Advanced Institute of Science and Technology), SAMOO and SUNJIN in December 2019. The advertisement for a building contractor was made in March 2020. The signing of the contract between the Ministry of Education (MoE) and BOMI Engineering and Construction Consortium from Korea (Contractor) was done in April 2021. The construction works commenced on 24th September 2021 because of COVID-19.

The payment for phase 1 and 2 were done accordingly as per the availed payment schedule. The payment for Phase 3 which is for supervision started when the contract for the main Contractor had been signed. The payment was done accordingly as outlined in the payment schedule. All the payments to the Consultant and Contractor were guided by the Contracts which were signed by the Parties.

**Committee Observations and Findings**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

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

**346: Lack of Internal Audit on the Project**

Review of internal audit function revealed that no audit was carried out. Further, the Audit Committee did not sit to deliberate on matters relating to the project.

In the circumstances, the project did not benefit from the assurance and advisory services from the internal audit function as well as oversight from the Audit Committee.

**Submission by the Accounting Officer**

During the year under review 2021-2022, the audit of the project had not been undertaken as a result of delays in the implementation of the project. However, the audit of the project was carried out in the financial year 2022-2023 which covered operations for period 2021-2022 and 2022-2023.

**Committee Observations and Findings**

**The Committee noted the failure by the Accounting Officer to submit the internal audit reports during the audit contrary to Section 62 of the Public Audit Act, 2015.**

**Committee Recommendation**

**The Committee reprimands the Accounting Officer.**

## EASTERN AND SOUTHERN AFRICA HIGHER EDUCATION CENTRES OF EXCELLENCE (ACE II) PROJECT (CREDIT NO.5798-KE)

REPORT ON THE FINANCIAL STATEMENTS

**349: 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.313,477,533 respectively, resulting in an underfunding of Kshs.46,522,467 (or 13%) of the budget. Similarly, the Project spent Kshs.313,477,533 against an approved budget of Kshs.360,000,000 resulting in an underperformance of Kshs.46,522,467 (or 13%) of thebudget.

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

**Submission by the Accounting Officer**

The underutilization of the budget was occasioned by delay in release of the verifier's report on attainment of direct linked result as stipulated in the financing agreement. During the year under review, the three centres of excellence attained direct linked result 2.2 and 2.6 by which the independent verifier's report was released on 28th June 2022 and it was not possible to process and seek for funding to utilize during the financial year given that the financial year was ending on 30th June 2022.

**Committee Observations and Findings**

i) **The Committee noted the submission by the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

**350: Failure to Open and Maintain a Separate Project Bank Account**

The Project Management did not maintain a specific project bank account as funds received were credited to the Ministry's development bank account instead of a separateproject account. It was, therefore, not possible to trace the receipts to the cash book andin the bank statement. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides for the purpose of disbursement of project funds, there shall be opened and maintained a project accountfor every project at the 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 knownby the name of the project for which it is opened and each project shall maintain only onebank account.

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

**Submission by the Accounting Officer**

The State Department did not open and maintain a separate project bank account for the project since the financing agreement between the Republic of Kenya and the International Development Association (IDA) states that, counterpart funds for the project shall be deposited in the main State Department's development account at CBK and that availability of budget will be adequate confirmation of the deposit in the said development account.

**Committee Observations and Findings;**

**The Committee observed that the Accounting Officer admitted that separate project bank account had not been opened at the time of the audit in breach of Regulation 76 of the PFM National Government Regulations, 2015.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to maintain separate project bank accounts as required by Regulation 76 of the Public Finance Management (National Government) Regulation, 2015.**

## OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR UNIVERSITY EDUCATION

## AFRICA CENTER OF EXCELLENCE IN SUSTAINABLE USE OF INSECTS AS FOOD AND FEEDS PROJECT (IDA CREDIT NO.5798-KE) -JARAMOGI OGINGA ODINGA UNIVERSITY OF SCIENCE AND TECHNOLOGY

REPORT ON THE FINANCIAL STATEMENTS

**353: Unsupported Adjustments in the Financial Statements**

The statement of receipts and payments reflects purchase of goods and services expenditure amounting to Kshs.110,825,981 which, as disclosed in Note 11.5 to the financial statements includes an amount of Kshs.28,628,210 relating to domestic travel and allowances. However, the ledger relating to domestic travel and allowances reflects an amount of Kshs.29,167,834, resulting to a variance of Kshs.539,624, which was explained as a reversal of amounts paid but expenditure recognized fully. Management has not explained why the revised amount was not updated in the ledger.

In the circumstances, the completeness and accuracy of the amount of Kshs.28,628,210 under purchase of goods and services could not be confirmed.

**Submission by the Accounting Officer**
The variance of Kshs 539,624 was an adjustment arising out of funds that were refunded back to the Project bank account from unutilized travel funds. The funds had initially been expensed but an adjustment was passed in order to correctly state the expenditure. The Project thus amended the financial records and submitted the updated ledger for domestic travel and subsistence amounting to Kshs 28,628,210 that is in agreement with the financial statements before the finalization of the audit. The amended ledger was provided with the responses to the Draft Audit Report.

**Committee Observations and Findings;**
**The Committee noted that the Accounting Officer failed to provide complete financial records to the Auditor General within the stipulated period of three (3) months after close of the Financial Year as provided for in Article 229 (4)(h), and Section 81 4(a) of the Public Finance Management Act.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to perform duties bestowed upon the office.**

**354: Ineligible Expenditure**
The statement of receipts and payments reflects an amount of Kshs.110,825,981 under purchase of goods and services and which, as disclosed in Note 11.5 to the financial statements includes amounts of Kshs.28,628,210, Kshs.12,173,652 and Kshs.29,269,897 in respect of domestic travel and subsistence, training expenses and research expenses, respectively. However, examination of records revealed that amounts of Kshs.10,565,694, Kshs.6,832,510 and Kshs.9,783,762 in respect of domestic and subsistence, training expenses and research expenses, respectively which did not directly relate to the Project. The relevance of the expenditure to the Project were not demonstrated and no evidence was provided to indicate that the expenditures were in the annual work plan and had been budgeted for.

In the circumstances, the regularity of the expenditure amounting to Kshs.27,553,123 under research expenditure could not be confirmed.

**Submission by the Accounting Officer**
The various expenditures amounting to Kshs 27,553,123 under research expenditure contributed to specific Disbursement Linked Results (DLRs) that the Project is based on. The Project provided documentation, evidence and explanations demonstrating the relevance of the expenditures to the Project and also indicated the specific DLRs that the expenditures were contributing to. We have provided the Annual Work Plan with clear references to indicate that the activities had been budgeted for.

The details of the specific expenditures are detailed below:

| S/No | Description | Amount | Submission by the Accounting Officer |
|---|---|---|---|
| 1 | Council payment meeting and retreat with UMB members to be held at Kenya School of Govt | 2,229,500.00 | The University Management Board (UMB) is the Center Advisory Board that spearheads the oversight authority for the project. There was thus the need for retreat with the University Council to update them on the progress of the project and to ensure that the project is on course. This activity was duly budgeted for in the Annual Work Plan (AWP) 2021-2022:5.8.1 Facilitate Center Advisory Meeting. |
| 2 | Payment for JOOUST ACE II Project financial statement for FY 2020/2021 | 592,564.00 | This expenditure was made to facilitate the preparation of the project financial statements in a timely manner. It directly contributes to DLR#3.1: Timely Withdrawal Applications supported by interim unaudited financial reports for each ACE. |
| 3 | PASET activity meeting in Kisumu | 922,500.00 | DLR#2.8: Institution participating in benchmarking exercise. The DLR is disbursed if the ACE hosting university participates in the Partnership of Applied Sciences, Engineering and Technology (PASET) benchmarking exercise. This payment was, therefore, made to facilitate attendance of the meeting and to achieve the DLR as stated above. |
| 4 | Allowances while in Kisumu for development of AWP 2022/2023 | 1,118,800.00 | The Annual Work Plan (AWP) is the fundamental tool that guides the operations of the center and in this several stakeholders (Task Leaders) are engaged in ensuring allocation of funds in various vote heads in regards to achievement of DLRs. A workshop was thus organized to discuss and approve the AWP. |
| 5 | Facilitation for attending to Procurement Queries | 162,400.00 | This expenditure contributed to achievement of DLR# 4.1 Timely procurement audit report for each ACE. The center retreated to respond to PPRA audit queries for submission before the deadline date. |
| 6 | Facilitation while auditing procurement | 214,820.00 | This contributed to achievement of DLR#4.2: Timely and satisfactory procurement progress report for each ACE |
| 7 | Review and implementation of performance and final audit report findings | 184,310.00 | This expenditure relates to review of the recommendations made by PPRA in the FY 2019/20 for preparation of PPRA audit for FY 2020/21. This audit from PPRA contributes to DLR# 4.1 Timely procurement audit report for each ACE. See PV No. 20004-22-00012 |
| 8 | Kenya ACE II Phase funding | 366,900.00 | This expenditure was initiated by the Ministry of Higher education in the quest to seek for phase II funding from the world bank. The 3 ACE's met to draft proposals in that regard. The expenditure was therefore necessary to facilitate attendance of the meeting. |

| S/No | Description | Amount | Submission by the Accounting Officer |
|---|---|---|---|
| 9 | Capacity Building for Council, UMB and Internal Audit staff | 896,700.00 | This activity was necessary as it contributes to DLR#3.3: Functioning internal audit unit for each Eastern and Southern African Higher Education Institution. This was a Capacity Building meeting held to ensure that the University has a functioning Internal Audit Unit that meets the requirements of the World Bank and other bodies. |
| 10 | Payment to Facilitators during Council, UMB and Internal audit retreat. | 300,000.00 | This contributes to achievement of DLR#3.3: Functioning internal audit unit for each Eastern and Southern African Higher Education Institution. The payment was made to various facilitators who provided the technical knowledge during the retreat. |
| 11 | Capacity Building for council members | 676,200.00 | The University Council is the highest oversight organ in the University. To enable the Council execute its duties and have capacity to oversight the management of the University and by extension oversees the progress of the project and ensure that it is on track there was a need for capacity building for the Council Members. |
| 12 | Daily subsistence allowances to council members while attending Capacity Building and audit staffs | 127,400.00 | This contributed to achievement of DLR#3.3: Functioning internal audit unit for each Eastern and Southern African Higher Education Institution |
| 13 | Participation in Kenya ACE II Project NSC Meeting. | 825,800.00 | The National Steering Committee, SC, is mandated to oversee the project implementation of all the ACEs in the country. The expenditure was incurred to facilitate this meeting and for the Center to benchmark with the other ACEs in the country i.e. CESSAM and PTRE during the NSC visits. |
| 14 | Daily subsistence allowance to Ciala resort for council UMB and Audit staffs | 37,800.00 | This contributed to achievement of DLR#3.3: Functioning internal audit unit for each Eastern and Southern African Higher Education Institution |
| 15 | Daily subsistence allowance to undertake financial procedure | 529,000.00 | Directly contribute to DLR#3.1: Timely Withdrawal Applications supported by interim unaudited financial reports for each ACE. The expenditure was incurred to facilitate undertaking of various financial procedures necessary for the preparation of the annual financial statements in good time to achieve the DLR. |
| 16 | Payment for review of Annual work plan 2021/2022 | 212,800.00 | The center retreated to revise the Annual Work Plan for 2021/2022 and this relates to DLR#3.4: Transparency of financial management (audit reports, interim unaudited financial reports, budgets and Annual Work Programs are all web accessible) |

| S/No | Description | Amount | Submission by the Accounting Officer |
|---|---|---|---|
| 17 | Daily subsistence allowance to NMK for training | 530,600.00 | DLR#2.4 relates to Partnerships for collaboration in applied research and training and it is in this that the center entered into partnership with NMK in construction of repository and training our staff on maintenance of the same since they are the professional in that field. In addition, they are also engaged in the insect collection, pinning and identification |
| 18 | Kenya Revenue Authority | 300,000.00 | This relates to taxes withheld from payment of staff allowances in Participation of TAM meeting and capacity building for Council members. See attached PV No. 20004-22-00356 |
| 19 | Honorarium during virtual meeting | 136,800.00 | These are payment made in regard to project staffs who participated in the virtual Technical Advisory Meeting which discusses the project execution and make recommendations. TAM is a body comprising all the ACEs in the region, is coordinated by the World Bank, hence the importance of attending the meeting. |
| 20 | Payment for clearance of Audit queries | 60,800.00 | The center had paid directly NMK Kshs. 514,096, (see attached PV) to facilitate the response to an Internal Audit query concerning expertise facilitation of Ksh. 102,150 and thus there was need for clarity on how the same funds was utilized from NMK side |
| 21 | Payment of daily subsistence allowance for proposal development for FAO | 140,000.00 | Proposal development is geared towards income generating activities for the Center from donors. This expenditure was, therefore, done to facilitate writing of the proposal to FAO. This proposal was successful and the University has received funding of Kshs 5 million in FY 2022/2023. This expenditure was budgeted for under Sustainability in expenditure line 6.1.1: Facilitate Income Generating Activities |

**B. Training Expenses**

This related to an expenditure of Kshs 5,783,710 incurred on training in United Arabs Emirates and an amount of Kshs. 1,048,800 that was also for training in ESAMI. One of the Project's key strategic objectives is to build human resource and infrastructural capacity for research, training and technology development. Training of staff is, therefore, very vital in enhancing skills and knowledge of project staff in ensuring efficient and effective execution of the project's mandate and objectives.

ESAMI (Eastern and Southern Africa Management Institute) is mandated to offer trainings and it is in this regard that the Center selected staff for training on "Strategic Negotiation Programme" that was held in Hilton Garden Inn in Muraquabat, Dubai and a course in "Leadership, Good Governance and Financial Management in the Public Sector". The trainings were relevant to the Project and in line with the objective of building human capacity by enhancing skills and knowledge of staff.

This expenditure was budgeted for under the Center's Annual Work plan 5.2: Adopt Best Practices in Financial Management and 5.3: Establish fiduciary practices. The AWP 2021-2022 was provided to the Auditor General for verification that the expenditures were budgeted and provided for in the Annual Work Plan, contrary to the assertions in the audit report.

**C: Research Expenses**

The Project is required under the agreement to attract externally generated funds. The Project also, as part of its revenue generating activities and sustainability plans, attracts research funds which have been reported in the financial statements. These are research projects that are not funded by the World Bank but whose proposals have been done and funds attracted under the aegis of the Project. The World Bank matches the attracted funds under the financing agreement.

The expenditures have, therefore, been reported under the various donor funded research projects that they relate to as indicated below:

| S/No | Description | Amount in Kshs. | Response |
|---|---|---|---|
| 1 | Training workshop in Karbanet | 1,099,600.00 | Relates to WHO One Health project whose expenditure was geared towards training stakeholders towards mitigation of Vector borne disease outbreak. See Imprest 20004-21-IMP-01212 with its surrender No. 00526 |
| 2 | Daily subsistence allowances to Kisumu | 176,050.00 | This expenditure relates to COVID 19 Containment Project for joint workshop with stakeholders to receive projects implementation progress |
| 3 | Repair and maintenance of doors | 91,636.00 | This relates to expenses for the Healthynsect for the Quarter ended Jan- Mar 2022 |
| 4 | Partition of doors fitted with locks | 873,672.00 | This relates to expenditure under NRF Infrastructure grants in refurbishment of University Research Laboratory |
| 5 | Payment for tuition fees PhD Students | 922,000.00 | This relates to payment of tuition fees for a student under Africa Centre for Technology Studies Project. |
| 6 | Remittance of 15% admin fees for EDCTP, PACKS Participatory | 2,631,246.00 | The withheld 15% admin cost relates to EDCTP-CDAE, PACKS, Safewaters and Participatory Projects |
| 7 | Daily subsistence allowance during PACKs Project activities | 748,400.00 | This expenditure is linked to PACKS Project and relates to payment of activities for the 1st quarter Jan- June 2022. See imprest 20004-21-IMP-01340 with the surrender No. 00727 |
| 8 | 15% Administrative fees paid to JOOUST | 3,141,158.00 | This expenditure entail deduction of 15% admin cost for ACTs, Participatory, One Health and Healthy sects Projects as per the university policies |
| 9 | Payment for Audit services | 70,000.00 | This relates to audit services offered by Obwanga and Associates to Healthynsect Project for the year 2021 |
| | **Total** | **9,753,762.00** | |

The Project has contract agreements for the aforementioned projects to support the expenditures. As indicated above, these expenditures related to the various research projects and since the project categorizes the expenditures by function, they were categorized as research expenses. The expenditures are relevant expenditures to the Project and they were budgeted for and included in the Annual Work Plan.

**Committee Observations and Findings;**

**The Committee observed that the Accounting Officer failed to present work plans to the Auditor General during audit in breach of Section 9 (1) (e) of the Public Audit Act, 2015.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**355: Non-Compliance with the Public Finance Management Regulations, 2015 - Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budgetand actual on comparable basis of Kshs.144,731,861 and Kshs.225,609,176, respectively resulting to an over-funding of Kshs.80,877,315 or 56% of the budget. The Management attributed the increased actual receipts to receipt of Kshs.87,051,520 towards the tail end of the financial year which could not be absorbed and receipt of more foreign grants as a result of MOU'S that had been signed in the previous year but funds remitted in the current year under review.

Similarly, the Fund expended Kshs.136,408,010 against an approved budget of Kshs.231,783,381 resulting to an under expenditure of Kshs.95,375,371 or 41 % of the budget. The Project therefore had a deficit budget of Kshs.6,174,205. Management has not indicated how it intended to finance the deficit. This is contrary to Regulation 33(c) of the Public Finance Management Regulations, 2015 which stipulates that the budget mustbe balanced.

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

**Submission by the Accounting Officer**

The Project received Kshs 87,051,520 in the last quarter of the financial year. Due to the late receipt of the funds, the Project could not absorb the funds fully within the financial year. The Project also received externally mobilized funds from various donors that were remitted in the current year, hence contributing to the total funds of Kshs 80,877,315 that was received above the budgeted amount.

The Project, therefore, put in place plans to absorb the funds fully in FY 2022/2023.

The actual expenditure for the year was Kshs 136,408,010 against a budgeted amount of Kshs 231,783,381. The total budgeted amount included the funds received in the last quarter of the year and therefore the Project was not able to fully absorb them due to the limited time that was left to the end of the financial year. The Project thus re-budgeted for the funds in order to absorb them in FY 2022/2023.

The Project had an initial final balanced budget of Kshs 144,731,861 that was approved for the financial year 2021/2022. The breakdown of the initial budget is shown in the table below;

| Details | Amount |
|---|---|
| **Income** | |
| Transfers from foreign entities | 122,703,000 |
| Other Foreign Grants | 20,528,861 |
| Miscellaneous receipts | 1,500,000 |
| **Total Income** | **144,731,861** |
| **Expenditure** | |
| Compensation of employees | 11,978,000 |
| Purchase of goods and services | 112,753,861 |
| Acquisition of assets | 20,000,000 |
| **Total Expenditure** | **144,731,861** |

The Project, therefore, complied with the law in preparing a balanced budget that was in use during the financial year. The actual expenditure for the year of Kshs 136,408,010 was in line with this budget.

However, at the end of the year, the Project revised the budget to incorporate Kshs 87,051,520 that was received in the tail end of the last quarter but which had not been anticipated in the initial budget. The Kshs 6,174,205 is the difference between the total actual income of Kshs 225,609,176 and the budgeted expenditure of Kshs 231,783,381. The Project's actual expenditure was Kshs 138,408,010, which was lower than the total budgeted expenditure. Had the full budgeted expenditure been achieved, the Project had planned to use the funds brought forward amounting to Kshs 107,954,145 to finance the difference.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**356: Delays in Project Implementation**

The Project was to run for 83 months from 1 February, 2017 to 31 December, 2023. As at 30 June, 2022, the project had been in existence for 65 months or 78.3% of the set timelines. The Project total commitment amounted to Kshs.809,504,563. However, Table B on application of funds reflects total utilization balance of Kshs.399,996,877 implying that the Project had only utilized 49.42% of the committed funds, an indication that it had achieved less than 50% of its intended purpose.

Management indicated that financing is based on target given in form of Deliverable Linked Results (DLR) segregated into DLR1.1 to DLR 4.2, and the Center has received 65.8% withdrawal of the financier's funds and has utilized 92% of the withdrawn amount.Although the Project has achieved some of its deliverables, the Project remains behind schedule. No efforts appear to have been made to ensure that the Project timelines and set objectives are fast tracked.

In the circumstances, the Project is behind schedule and value for money may not be realized.

**Submission by the Accounting Officer**

The University wishes to state that the Project is on schedule as explained below:

The table below shows the summary of the committed funds and the amounts received by the Project to date:

| Source of Funds | Committed Amount (Kshs) | Amount Received (Kshs) | DLR achieved, withdrawal application submitted (Kshs) | Total Amount Receivable to date (Kshs) |
|---|---|---|---|---|
| World Bank | 600,000,000 | 394,896,623 | 66,173,684 | 461,070,307 |
| Other Grants | 209,504,563 | 94,301,420 | - | |
| | **809,504,563** | **489,198,043** | | |

As can be seen from the above table, the Project has received 65.8% of the total funds from the World Bank and has a 92% utilization of the Kshs. 363,426,342 funds utilized to date as shown on Table B in the financial statements. The total receivable amount based on the achieved DLRs amount to 77% of the total committed funds (Kshs 600,000,000).

Table D in the financial statements shows the DLR Status of the respective DLRs that was set for the Project as per the signed contract. The Project has achieved an overall DLR Status of 89%, with many of targets already achieved and/or course as indicated in the Table.

Table C in the financial statements shows the progress of the Project in achieving its Results Framework. The Project has not just achieved but exceeded many of the targets that had been set.

An analysis of the performance of the Project against predetermined objectives as shown in the financial statements shows that the Project has achieved most of the predetermined objectives and is on course to achieving all of them by the end of the contract period.

It is worth noting that the Project has achieved 100% of all the DLRs as at August 2023. On the overall, the Project is on course both on its timelines and in achievement of its objectives as evidenced by the achieved and verified DLRs.

**Committee Observations and Findings;**

i) **The Committee noted that the project had since been closed.**
ii) **The Committee found that the matter was resolved.**

**AFRICA CENTRE OF EXCELLENCE (ACE II) IN PHYTOCHEMICALS, TEXTILES AND RENEWABLE ENERGY (PTRE) PROJECT (IDA CREDITNO.5798-KE) – MOI UNIVERSITY**

REPORT ON THE FINANCIAL STATEMENTS

**360: Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budgetand actual on comparable basis of Kshs.338,676,806 and Kshs.176,046,197 respectively resulting to an underfunding of Kshs.162,630,609 or 48% of the budget. Similarly, the Project expended

Kshs.124,306,288 against an approved budget of Kshs.338,676,806 resulting to an under expenditure of Kshs.214,370,518 or 63% of the budget.

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

**Submission by the Accounting Officer**

The University Management has awarded the tender and the work has commenced. Other project activities have been consolidated with the remaining uncompleted Deliverable Linked Indicators (DLIs) in the current financial year 2022/2023. The strategies put in place will assist the project to have marked increase in funds absorption rates in FY 2022/2023 and to ensure that all the project objectives are achieved as required.

**Committee Observations and Findings;**

i) **The Committee noted that the explanation by the Accounting Officer was satisfactory.**
ii) **The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLICRESOURCES

**361: Acquisition of Non-Financial Assets - Renewable Energy Equipment**

The statement of receipts and payments reflects an amount of Kshs.31,180,248 under acquisition

of non-financial assets as disclosed in Note 11.5 to the financial statements. Included in this amount is Kshs.30,442,348 for strengthening research capacity excellence which in turn includes Kshs.21,634,514 that was paid to a firm for supply, installation, commissioning and acceptance of renewable energy equipment.

However, the asset register and the delivery note did not indicate the serial numbers of the equipment delivered.

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

**Submission by the Accounting Officer**

The University Management through the upgrade of its ERP software has incorporated the observations of the auditors in the design of its assets management and purchases module to ensure the critical information in the acquisition of non-financial assets is captured such as the serial numbers both in the delivery notes and the assets register. Further controls upon receiving of the equipment at the central stores and prior to surrender to the users, the items are:

| No. | Details | Serial No. | Amount |
|---|---|---|---|
| 1 | Compression Molding | YS2012GI-214 | 4,750,000 |
| 2 | Gel Documentation system | 201120018 | 1,255,000 |
| 3 | Nano drop spectrophotometer | 80483 | 1,289,176 |
| 4 | 8-Watt White Light Trans illuminator | 90617A031 | 325,338 |
| 5 | Oscilloscopes | 1-DSIET223603540<br>2-DSIET223203007 | 105,000 |

| | | | |
|---|---|---|---|
| 6 | Solar photovoltaic | 0122764268 | 3,320,000 |
| 7 | QA phastep surface profiler | | 7,120,000 |
| 8 | Real Time PCR | M0005546 | 3,470,000 |

With the aforementioned measures put in place, the Goods Received Notes (GRNs) and projects assets register has been updated accordingly to include the serial numbers.

**Committee Observations and Findings;**

i) **The Committee noted that the explanation by the Accounting Officer was satisfactory.**

ii) **The Committee found that the matter was resolved.**

**362: Imprests and Advances**

The statement of financial assets reflects imprests and advances balance of Kshs.4,299,583 as disclosed in Note 11.7 to the financial statements. However, a total ofKshs.1,196,970 held by five (5) payees remained unsurrendered or unaccounted for as at the time of audit in October, 2022. No evidence of recovery action or other appropriatedisciplinary action taken on the defaulting officers was provided, contrary to Regulation 93(10) of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer to take such action.

**Submission by the Accounting Officer**

The university management has noted the auditor's observation and have put in place measures to ensure the complete and timely accounting of all imprests advanced for student's research activities. All the outstanding imprests that were not accounted for in the year under review have now been fully accounted for in the financial year 2022/2023.

**Committee Observations and Findings;**

**The Committee observed that the explanation was unsatisfactory.**

**Committee Recommendation;**

**The Committee recommends that the Auditor General reviews the documentation and reports in subsequent audit.**

## 4.12 VOTE 1066: STATE DEPARTMENT FOR EARLY LEARNING AND BASIC EDUCATION

**Dr. Belio Kipsang, CBS**, the Principal Secretary and Accounting Officer for the State Department for Basic Education appeared before the Committee on 24th August 2023, 26th September 2023 and 13th February 2024, accompanied by the following officers:

| | | |
|---|---|---|
| i. | Mr. Emilio Mukira | Head of Accounting Unit |
| ii. | Dr. Hilder Kaavia | Director of Procurement |
| iii. | Mr. Wakesa Khaoya | Senior, Chief Finance Officer |
| iv. | Ms. Florence Amoit | Secretary Administration |
| v. | Mr. Elijah Mungai | Ag. Director projects |
| vi. | Ms. Evelyne Owoko | Director quality assurance and standards |
| vii. | Mr. Paul Kibet | Director Secondary |
| viii. | Mr. Humpharey Masai | Senior Accountant |
| ix. | Mr. Stephen Muthama | Senior Principal Finance Officer |
| x. | Mr. Joseph Nguuri | Finance Officer |

and submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

### 365: Unsupported Revenue from Registration and Re-registration of Schools

The statement of receipts and payments reflects total receipts of Kshs.100,010,099,685 which includes an amount of Kshs.2,662,400 in respect of revenue from registration and re-registration of schools. However, Management did not provide supporting documents on how many schools were registered and re-registered during the year. Further, the revenue from registration and re-registration of schools was not included in the approved budget for the 2022/2022 financial year.

In circumstances, the accuracy and completeness of the total receipts amount of Kshs.100,010,099,685 for the year ended 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

During the financial year 2021-2022 the State Department registered 309 and 188 public schools and private schools respectively.
Further to the above, the revenue from registration and re-registration of schools was budgeted under head 1066002502-00002001-3520301- Sale of Goods and Services Kshs. 6,000,000 for both 2021-2022.

**Committee Observations and Findings;**

i) **The Committee observes that management had since provided a list of the registered and re-registered schools. It noted that re-registration occurred when a school changed its status in terms of day-schooling or boarding, number of streams among other factors.**
ii) **The Committee found that the matter was resolved.**

### 366: Inaccuracies in Cash and Cash Equivalents- Holding/ Suspense Accounts

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.205,020,777 as disclosed in Note 12A and 12B to the financial statements. However, review of the cash and cash equivalents for the year ended 30 June, 2022 revealed that the State Department maintained nine (9) holding/suspense accounts with various commercial banks for disbursements of subsidies, grants and transfers to other government entities. As at 30 June, 2022, the nine (9) holding/suspense accounts had a balance of Kshs.98,176,499 which was not included in the bank balances of Kshs.205,020,777 as at 30 June, 2022.

In the circumstances, the accuracy and validity of the cash and cash equivalents balance of Kshs.205,020,777 as at 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

The State Department maintains holding accounts with 9 banks for conveyance of capitation funds to schools. The above accounts were disclosed in our financial statements and their various bank statements and certificate of balances provided by the banks. Further to the above, the balances on the accounts were already expensed in our books therefore, they were being held by the banks pending clearance between schools and their respective banks. i.e. some were active or erroneous. Consequently, including the same balances in our cash balances would have amounted/resulted in double accounting.

**Committee Observations and Findings;**

i) **The Committee observes that the explanation was satisfactory.**
ii) **The Committee found that the matter was resolved.**

### 367: Misclassification and Payment of Rent without Valid Lease Agreements

The statement of receipts and payments reflects an expenditure of Kshs.5,815,120,762 under use of goods and services which, as disclosed in Note 6 to the financial statements, includes an amount of Kshs.147,262,641 in respect of rentals of produced assets. The latter amount includes an expenditure of Kshs.60,960,113 being rent of office space for various State Department offices in the Counties whose lease agreements had expired.

In addition, analysis of the expenditure reflects that transportation costs amounting to Kshs.16,161,628 was excluded from expenditure on use of goods and services - rentals of produced assets and charged on grants and transfers to other Government entities against the Government budget classification and chart of accounts issued by The National Treasury.

In the circumstances, the regularity and validity of the expenditure of Kshs.60,960,113 incurred on rentals of produced assets during the year ended 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

It is true that some of the lease agreements had expired within the period and renewal process had commenced. The State Department has now reconciled records and some of the offices in question were not funded in the financial year 2021-2022. Below is an update of the current status:

| County Education Office | Monthly Rate Charged (Kshs.) | Amount Per Year (Kshs.) | Details of Lease | Start Date | Remarks |
|---|---|---|---|---|---|
| Kaloleni | 12,000 | 144,000 | 5 yrs | July, 2012 | No funding was done, premises no longer in use |
| Eldoret | 45,000 | 540,000 | 6 yrs | July, 2020 | No funding was done, premises no longer in use |
| Gucha | 45,000 | 540,000 | 5 yrs | July, 2022 | No funding was done, premises no longer in use |
| Rumuruti | 44,000 | 528,000 | - | - | No funding was done, premises no longer in use |
| Embu | 28,000 | 336,000 | 5 yrs | October, 2012 | Lease Expired |
| Moyale Town | 24,000 | 288,000 | 5 yrs | January, 2018 | Lease running no formal document |
| Marsabit | 34,000 | 408,000 | 5 yrs | January, 2011 | No funding was done, premises no longer in use |
| Malindi | 15,000 | 180,000 | 5 yrs | January, 2014 | No funding was done, premises no longer in use |
| Laisamis | 31,500 | 378,000 | 5 yrs | May, 2014 | No funding was done, premises no longer in use |
| Wajir East | 60,000 | 720,000 | 5 yrs | July 2019 | The office vacated the premises on 14th Dec 2021, vide letter REF EDW/OA/1325/VOL.1(95) dated 29th November 2021. |
| Anabkoi | 45,000 | 540,000 | 5 yrs | May 2009 | Lease prepared by NCPB |

Further, it is true that the underlisted firms were charged on Grants and Transfers to other Government entities. This was a line item budgeted under head 1066001601 for school feeding. We would wish to state that, Item 2630101- Transfers to other Government entities was specifically budgeted for the purpose of food purchase and facilitation of movement;

| Date | Payment Voucher No. | Details | Amount Paid (Kshs.) |
|---|---|---|---|
| 19 June, 2022 | PV011445 | Transportation costs under school feeding programme 2021-2022, Turkana | 10,806,092 |
| 29 June, 2022 | PV17661 | Transportation costs under school feeding programme 2021-2022, Garissa | 1,948,856 |
| 20 June, 2022 | PV011393 | Transportation costs CSB (World Bank) under school feeding programme 2021-2022 | 1,736,679 |

| | | | |
|---|---|---|---|
| 20 June, 2022 | PV012490 | Transportation Costs, Hire of VIP Vehicles for 5 days and Transportation, Hire of Executive Buses for 3 Days | 1,670,000 |
| | | Total | 16,161,627 |

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**368: Irregular disbursement of Free Primary Education Funds**

The statement of receipts and payments reflects an expenditure of Kshs.30,546,359,898 under transfers to other Government units which, as disclosed in Note 8 to the financial statements, includes an amount of Kshs.19,971,035,325 in respect of transfers to National Government Entities. Included in the latter amount is an expenditure of Kshs.9,062,694,606 relating to funds disbursed for free primary schools during the year. However, analysis of the Free Primary Education data revealed the following anomalies;

**368.1; Disbursements of Free Primary Education Funds to Schools with Duplicate Bank Accounts**

Review of the disbursements revealed that thirty-eight (38) schools shared bank accounts and received disbursements totalling Kshs.1,557,119.

**Submission by the Accounting Officer**

The duplication of Bank Account numbers affected schools that bank with the Kenya Commercial Bank (KCB). When this was first queried in the audit for the financial year 2020 – 2021, the department wrote to the bank and requested the bank to explain the reason as to why this was so. In response the bank informed the department that the duplicated accounts '*were opened under the Bank's core banking system in which it was possible to have customers sharing the same series of account numbers with the sort codes being the key differentiator, thus implying that funds for one school could not be credited to any other school.*' The Bank further informed the department that the bank had since decommissioned the old core system and adapted a new robust system which eliminated the duplication. All the schools had been issued with new account numbers which the department used in the April 2022 and subsequent disbursements.

**Committee Observations and Findings;**

i) **The Committee observed that the Submission by the Accounting Officer was satisfactory.**
ii) **The Committee found that the matter was resolved.**

### 368.2; Disbursements of Free Primary Education Funds to Schools Sharing Registration Numbers (TSC Codes)

Review of the Free Primary Education bank disbursements schedule revealed twenty-four thousand one hundred and nineteen (24,119) schools sharing TSC registration numbers. The schools received disbursements amounting to Kshs.737,669,134 during the year under review.

**Submission by the Accounting Officer**

All schools were issued with new TSC codes by the Teachers Service Commission; In all codes, the first 5 digits are the same (14701) and represent the country code. The next 2 or 3 digits represent the code for the county in which the school is located. The next 4 digits represent the station code. Some new schools, however, were not assigned the last 4 digits of the code and thus instead of the last 4 digits, the word NEW was incorporated in their TSC code. Where 2 or more such schools exist in the same county, their codes would appear to be similar.

With effect from May 2023, the Department started using the National Educational Management Information System, NEMIS in which every school is identified using a unique, 4-digit code.

**Committee Observations and Findings;**

**The Committee observes that the State Department ought to have had its own unique identifier codes for schools, rather than rely on codes of a semi-autonomous Commission whose mandate was limited to teachers.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer ensures all schools have unique identifier codes within three (3) months of adoption of this report.**

### 368.3; Disbursements of Free Primary Education Funds to Schools Without TSC Codes

Review of the Free Primary Education bank disbursements schedule provided revealed that four hundred and thirty-six (436) schools did not have TSC registration numbers/Codes. The schools received a total disbursement of Kshs.14,664,414 during the year under review.

**Submission by the Accounting Officer**

In the audit for the financial year 2020 – 2021, a query on the TSC codes for several schools was raised. To ensure that in subsequent audits such a query does not recur, the Department requested all Public Primary schools in the country to furnish it with their TSC codes so that they could be captured afresh in the FPE disbursement system.

While capturing the codes afresh in the FPE disbursement system, there was power disruption which led to loss of some data.

With effect from May 2023, the Department started using the National Educational Management Information System, NEMIS in which every school is identified using a unique, 4-digit code.

**Committee Observations and Findings;**

**The Committee observes that the State Department ought to have had its own unique identifier codes for schools, rather than rely on codes of a semi-autonomous Commission whose mandate was limited to teachers.**

**Committee Recommendation;**

**The Committee recommends that all schools be onboarded to the NEMIS system within three months of adoption of this report by the House, and that the Accounting Officer ensures all schools have unique identifier codes within three (3) months of adoption of this report.**

**368.4; Disbursements of Free Primary Education Funds to Schools with Unknown TSC Codes**

Review of the Free Primary Education bank disbursements schedule provided revealed that three thousand four hundred and eighty-six (3,486) schools were assigned a TSC code with different code formats from those provided by the State Department. The schools received disbursements amounting to Kshs.102,329,013.

In the circumstances, the accuracy and authenticity of the disbursements of Kshs.9,062,694,606 for free primary education funds for the year ended 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

In the audit for the financial year 2020 – 2021, a query on the TSC codes for several schools was raised. To ensure that in subsequent audits such a query does not recur, the Department requested all Public Primary schools in the country to furnish it with their TSC codes so the TSC codes could be captured afresh in the FPE disbursement system.
While capturing the TSC codes afresh, it was realised that all schools had been issued with new 12-digit TSC codes;

- In all codes, the first 5 digits are the same (14701) and represent the country code
- The next 2 or 3 digits represent the code for the county in which the school is located
- The next 4 digits represent the station code

When sending the TSC codes for the various schools, some SCDEs omitted the Country and/or County codes. The officers in the FPE section captured the new TSC codes as received, without amendments. As a result, some codes appear shorter than others, but the schools exist.

With effect from May 2023, the Department started using the National Educational Management Information System, NEMIS in which every school is identified using a unique, 4-digit code. All the schools receiving FPE capitation have unique codes to differentiate them.

**Committee Observations and Findings;**

**The Committee observes that the State Department ought to have had its own unique identifier codes for schools, rather than rely on codes of a semi-autonomous Commission whose mandate was limited to teachers.**

**Committee Recommendation:**

**The Committee recommends that all schools be onboarded to the NEMIS system within three months of adoption of this report by the House, and that the Accounting Officer ensures all schools have unique identifier codes within three (3) months of adoption of this report.**

**369: Irregularities in Free Day Secondary School Education Subsidies Disbursements**

The statement of receipts and payments reflects an amount of Kshs.62,560,672,721 in respect of subsidies as disclosed in Note 7 to financial statements. Review of the NEMIS system in relation to the capitation disbursements schedule to secondary schools revealed the following anomalies:

**369.1; Disbursements of Day Secondary Schools Subsidies Through Duplicate Bank Accounts**

Review of the schools lists on capitation per quarter reports revealed instances where schools shared bank accounts. An amount Kshs.6,281,741 was disbursed through the shared banks accounts. It was not clear why the duplicate bank accounts continued to recur in subsequent disbursements without being detected and corrected.

**Submission by the Accounting Officer**

It is true that Kshs.6,281,741 sent to four schools as identified by the auditors had enlisted the same bank accounts for either tuition or operations. This resulted from schools using the same data entry point. This was corrected and the schools received their funds and the schools have acknowledged having received the funds.

The schools have also acknowledged receipts of funds on the National Education Management information system (NEMIS).

The State Department has since configured NEMIS not to accept such entries. In the case of the schools that the auditor identified, the correct bank accounts have been keyed into the NEMIS and the anomaly will not recur.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**369.2; Bank Account Used to Receive Operations and Tuition Capitation**

Review of the schools lists on capitation per quarter reports revealed six (6) schools that operated one bank account for both operations and tuition funds with total payments of Kshs.40,927,074.

In the circumstances, the accuracy and authenticity of the subsidies totaling Kshs.47,208,815 for free day secondary school education could not be confirmed.

**Submission by the Accounting Officer**

It is true that Kshs.40,927,074 was disbursed to three Schools that were using the same account for both operation and tuition. These schools had keyed these bank accounts for both tuition and operations when they were allowed to so on NEMIS. At the time NEMIS had not been configured to not allow use of the same bank accounts.

The said schools have acknowledged having received the funds and utilised them for tuition and operation as expected.

The State Department has since restricted the ability of NEMIS to capture the same account number for operation and tuition. Therefore, inputting a duplicate account can no longer not be accepted by NEMIS. If a school in an endeavour to beat the system during entry using spaces (at the beginning or end of account entry) to make the account number different, NEMIS will still filter that as the same account. This ensures no two accounts regardless of spaces will be used to allocate funds to the same school.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Auditor General conducts a systems audit report on NEMIS in the subsequent financial year audit.**

**370: Mistatement of Reported Imprests and Advances**

The statement of assets and liabilities reflects a balance of Kshs.94,508,522 in respect of accounts receivables which, as disclosed in Note 13 to the financial statements, includes amounts of Kshs.1,814,630, Kshs.220,178 and Kshs.92,473,714 in respect of Government imprest to staff, domestic debtors and advances, and district suspense respectively. However, Analysis of the imprest register provided indicated that the Management issued imprest totalling Kshs.329,381,044.35. However, the payment details of transactions made during the year indicated that the Management paid a total of Kshs.345,309,425.90 on temporary and standing imprest resulting in an unexplained variance of Kshs.15,928,380.

Further, reported as district expenses are amounts owed by the Sub-County and County Directors of Education totaling Kshs.1,890,168 that related to 2020/2021 financial year but were still outstanding during the year under review.

In the circumstances, the accuracy, completeness, presentation and disclosure of the imprest and advances balance of Kshs.94,508,522 for the year ended 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

During audit review, there was a difference of Kshs. 15,928,380 between the payment details and imprest register. The State Department in collaboration with the IFMIS department did the system reconciliation of the imprest register, leaving a difference of Kshs. 4,361,060 that was being worked on.

The district expenses are small balances at the end of the financial year that are uneconomical to surrender as the bank charges under RTGS could be higher than the balances being surrendered. Therefore, the balances remain outstanding at the end of the financial year. However, some counties and sub counties have since surrendered the balances. The figures are as below;

| | Reported Amount (Kshs.) | Amount (Current year) (Kshs.) | Amount (Prior year) (Kshs.) |
|---|---|---|---|
| Sub-Counties | 3,139,829 | 1,261,192 | 1,878,637 |
| Counties | 3,019,336 | 3,007,805 | 11,530 |
| Total | 6,159,165 | 4,268,997 | 1,890,168 |

**Committee Observations and Findings;**

**The Committee observed that the state department was doing the reconciliations with the assistance of Treasury.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer withholds the amounts owed by county and sub-counties of Kshs. 1,890,168 in subsequent disbursements.**

**371: Unsupported Long Outstanding Accounts Payables**

The statement of assets and liabilities reflects an accounts payables balance of Kshs.117,319,416 whose nature and supporting documents were not provided for audit. Further, payables amount of Kshs.64,881,834 have been outstanding for over eight (8) years. Management did not provide explanations on why they have not been settled.

In the circumstances, the accuracy, validity and completeness of the accounts payables balance of Kshs.117,319,416 for the year ended 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

It is true that the financial statement reflects account payables balance of Kshs. 117,319,416 and that Kshs.64,881,834 has been outstanding and not settled as at the date of this report. We have since surrendered Kshs.64,852,390 which is a long outstanding and unsupported balance to the National Treasury vide PV. No.06859 and electronic transfer dated 21 February 2023.

This was in line with the recommendation from the Public Accounts Committee for 2016/2017 financial year and a subsequent request letter from the national Treasury ref:AG.3/88 vol.7/ (24) dated 15th February 2023.

**Committee Observations and Findings;**

i. **The Committee observes that the Kshs. 64,881,834 had since been settled, while Kshs. 117,319,416 was retention money.**
ii. **The Committee found that the matter was resolved.**

### 372: Unauthorized reallocation of Funds for Construction of CBC Classrooms

The statement of receipts and payments reflects an expenditure of Kshs.30,546,359,898 in respect of transfers to other government units which, as disclosed in Note 8 to the financial statements, includes an amount of Kshs.19,971,035,325 that relates to transfers to national government entities. The transfers to other government entities amount included an expenditure of Kshs.4,476,068,016 incurred on construction of Competency Based Curriculum (CBC) classrooms against an approved expenditure budget of Kshs.2,692,000,000 resulting in an unapproved over-expenditure of Kshs.1,784,068,016 or (66%) whose approval was not provided for audit.

In the circumstances, the accuracy, completeness, validity and regularity of the expenditure amounting to Kshs.1,784,068,016 could not be confirmed as a proper charge to public funds.

**Submission by the Accounting Officer**

During the FY 2021/2022, the State Department needed to construct over 10,000 classrooms in secondary schools to facilitate smooth transition for grade six learners in primary schools to grade seven/junior secondary schools. During the same period, the State Department was also implementing a 100% transition to secondary schools in the 8-4-4 curriculum. With this potential double intake in FY 2022/23, the State Department embarked on construction of classrooms in secondary schools to ease impending congestion in secondary schools.

To this effect, Secondary School Infrastructure Improvement funds amounting to Kshs.1,449,800,000 were earmarked for constructing additional classrooms to address the infrastructure gap in secondary schools.

The National Treasury vide letter Ref. DV/ES 1066/21/01 'A' (39) approved Kshs.4 Billion for construction of CBC classrooms. In this regard, the State Department entered into a contract with contractors for construction of CBC classrooms. However, only Kshs.2 Billion was provided under Article 223 of the Constitution, with Kshs.2 Billion to be provided during Supplementary Estimates II of FY 2021/222 which the National Treasury did not provide. The State Department also requested for reallocation of Kshs.692 Million from Provision of Locally Fabricated Desks for Primary Schools to construction of CBC classrooms. Therefore, the total allocation for construction of CBC classrooms was Kshs. 4,141,800,000.

**Committee Observations and Findings;**

i) **The Committee observes that Kshs. 1.4 billion was already in the State Department's budget line. In addition to this, Kshs. 2 billion was availed through a Supplementary Budget, and Kshs. 692 million reallocated from fabricated desks with Treasury's approval.**

   **There was therefore no unauthorized reallocation.**

ii) **The Committee found that the matter was resolved.**

### 373: Budgetary Control and Performance

The summary statement of appropriation development reflects final receipts development budget and actual on a comparable basis of Kshs.14,099,945,379 and Kshs.7,528,073,544, respectively resulting in an under-funding of Kshs.6,571,871,835 (or 47%) of the budget. Similarly, the State Department spent Kshs.10,469,124,573 against an approved development budget of Kshs.14,099,945,379 resulting in an under-expenditure of Kshs.3,630,820,806 (or 26%) of the budget.

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

**Submission by the Accounting Officer**

The development budget was underfunded through the exchequer by 47%. This was attributed to the constrained fiscal space due to hard economic times during the period of COVID-19 pandemic. Subsequently, the National Treasury was not able to fund the budget due to a shortfall in revenue collection.

**Committee Observation**

- **iii) The Committee noted the submission from the Accounting Officer.**
- **iv) The Committee found that the matter was resolved.**

### 374: Pending Bills

The State Department had pending accounts payable of Kshs.429,299,232 as at 30 June, 2020. Management did not explain why the bills were not settled during the year when they occurred. Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

**Submission by the Accounting Officer**

It is true that the State Department had pending bills to the tune of Kshs. 429,299,232 due to insufficient exchequer. The same was treated as a first charge in the FY 2022/2023 and therefore already settled.

**Committee Observation**

- **i) The Committee observes that the matter was settled.**
- **ii) The Committee found that the matter was resolved.**

### 375: 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 explanation for failure to implement the recommendations.

**Submission by the Accounting Officer**

Management had not received the Committee's recommendations but was incrementally improving its accounting standards based on observations of the Auditor General.

**Committee Observations and Findings;**

**The Committee observes that its report had since been adopted by the House.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails a status report of implementation of the Committee's recommendations within three (3) months of adoption of this report.**

**376: Irregularities in the Procurement and Construction of Competency Based Curriculum Classrooms**

The statement of receipts and payments reflects an expenditure of Kshs.30,546,359,898 in respect of transfers to other Government Units which includes an amount of Kshs.19,971,035,325 in respect of transfers to National Government entities out of which Kshs.4,476,068,016 was used in the construction of Competency Based Curriculum (CBC) classrooms. However, the following anomalies were observed:

**376.1 Unsupported Procurement Method**

The State Department Management did not provide for audit explanations and documentation on the procurement method used on the tenders for the construction of the CBC classrooms and how the various contractors were identified.

**Submission by the Accounting Officer**

The Government sought to urgently construct 10,000 new classrooms countrywide for use by learners joining Junior Secondary School in January 2023 under the CBC Infrastructure Development Program. This was further to be undertaken as part of the Kenya Economic Stimulus Package by engaging contractors at the school community level. This engagement was carried through community participation procurement methods as allowed under Public Procurement and Assets Disposal Regulations 2020. The section states .... pursuant to section 92 (m) of the Act, where a procuring entity may involve a beneficiary community to participate in the delivery of services if it is established that it shall contribute to— Community participation method. (a) the economy; (b) value for money; (c) project sustainability; and (d) socio-economic objectives such as creation of employment.

The method may involve two approaches, namely— (a) direct community participation; or (b) organised community participation through the appointment of community-based service providers.

Thus, the Ministry undertook the construction of CBC Classroom through use of Direct Community Participation as provided in the law. This was implemented through a delegated authority done at the Sub- County level by local contractors within the vicinity of the benefitting schools.

**Committee Observations and Findings;**

**The Committee observes that it has since requested from the Auditor General a special audit on construction of infrastructure in schools across the country.**

**Committee Recommendation;**

**The Committee will make substantive recommendations in the special audit report.**

### 376.2 Irregular Pricing of Construction of CBC Classrooms

The State Department Management tendered for the construction of the CBC classrooms at a cost of Kshs.709,398 for each classroom across the country. It was, however, not clear how the amount was arrived at taking into consideration the terrain and topographical layout across the country making it impossible to have a standard rate. Management did not also provide for audit Bills of Quantities, market surveys, and status reports on the construction of the classrooms.

Further, the procurement and payments of the contractors were made outside the e-procurement system. This was contrary to Regulation 49(2) of the Public Procurement and Assets Disposal Regulations, 2020 which provides that the conduct of e-procurement procedures for the supply of goods works and services shall be carried out by a procuring entity using an e-procurement system which is integrated to the State Portal.

In the circumstances, Management was in breach of the law in the procurement and award of the contract for the construction of the CBC classrooms.

**Submission by the Accounting Officer**

The process was driven by a multi-agency team that involved the Ministry of Public Works, Ministry of Education, Ministry of Interior and citizen services, Teachers Service Commission. The team approved the BQ and the cost of the construction of classrooms. The BQ were for a basic classroom and therefore the diversities of topography in different region had no major impact on the class. The BQ had an an allowance of Kshs. 3000 per metre to cover extra excavation in rock (for all classes).

The procurement was undertaken at the Sub County level where e-procurement system is not established but use manual procurement system using the public procurement and asset disposal procedures.

**Committee Observations and Findings;**

**The Committee observes that it has since requested from the Auditor General a special audit on construction of infrastructure in schools across the country.**

**Committee Recommendation;**

**The Committee will make substantive recommendations in the special audit report.**

**377: Unsupported Procurement and Supply of Desktop Computers**

Note 20.1 to the financial statements reflects a pending bills amount of Kshs.429,087,117 out of which an amount of Kshs.189,072,000 relates to the supply of two thousand and twenty (2,020) desktop computers to one hundred and ninety-six (196) Secondary Schools across the forty-seven (47) Counties. Review of the procurement process reflects the following anomalies: -

i. The computers were delivered on 20 June, 2022, twenty (20) days after the lapse of the contract. The liquidated damage was at the rate of 0.5% per week, which would translate to about Kshs.2,836,080 and which was not charged as per the contract agreement;
ii. The signed contract related to SEQUIP Contract No. MOE/SEQUIP/NCB /04/2021-2022 as titled and not the State Department while the award and professional opinion relates to tender no. MOE/SDELBE/NCB/04/2021-2022 on supply of computers;
iii. There were no appointment letters to the Inspection and Acceptance Committee and there was no report on the inspection attached to the pending bill voucher. It is not clear whether an Inspection and Acceptance Committee had been constituted at the point of delivery despite the computers being delivered in schools;
iv. In addition, the contract for the supply of the desktop computers did not specify what tests were to be carried out to confirm the functioning of the machines;
v. No documentary evidence was provided on negotiations that actually took place and what tests were agreed upon; and,
vi. The procurement inspection and acceptance certificate attached did not give any remarks on the quality of the desktop computers received. It is not clear how the certificate was issued without a complete inspection and acceptance report.

In the circumstances, the validity of the contract as signed and implemented could not be confirmed.

**Submission by the Accounting Officer**

i) This was an open tender and the supplier wrote a letter requesting contract extension to the Ministry dated 24th May, 2022 giving reasons on delayed delivery and the reason was disruption in global supply chain among others occasioned by Covid 19 pandemic. The contract was extended up to 24th June, 2022 vide professional opinion MOE/SDELBE/NCB/04/2021-2022 dated 25th May, 2022.
ii) This was a typo indicated as SEQUIP instead of SDELBE the typo regrettable.
iii) The inspection and acceptance committee were appointed vide letter dated 1st March, 2022 and inspected the computers subject to technical ICT Unit report also forming part of this report.

iv) All computers were tested according to the specifications as outlined in the tender document (minimum technical specifications) by inspection and acceptance committee and inspection report by ICT unit availed on 2020 computers dated 20th June, 2022.
v) This having been an open tender the awarded computers were to meet the minimum technical specifications as stated in the Signed Contract, tender documents and were tested against given technical specifications with no room for negotiations and the computers were distributed to benefiting schools fully functioning.
vi) All computers were tested according to the specifications as outlined in the tender document (minimum technical specifications) by inspection and acceptance committee and inspection report by the ICT unit availed on 2020 computers dated 20th June, 2022.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee found that the matter was resolved.**

**378: Irregularities in Implementation of the School Feeding Programme**

The statement of receipts and payments reflects an amount of Kshs.30,546,359,898 in respect of transfers to other Government Units. The expenditure includes an amount of Kshs.19,971,035,325 in respect of transfers to National Government entities out of which an amount of Kshs.1,196,296,000 was spent on the purchase of various foodstuffs for the school feeding programme. The following anomalies were noted;

**378.1 Lack of an Inventory Management System**

The State Department had not invested in an Inventory Management System to track and account for the inventory movement. There were no stock sheets or store records to record the movement of stock. The supplies were received and distributed manually which exposes the process to loss, manipulation, and other inaccuracies.

In the circumstances, the tracking and distribution of the foodstuff procured could not be ascertained.

**Submission by the Accounting Officer**

It is true the Ministry has been previously using a manual Inventory Management System to record movement of stock at different levels of delivery which included but not limited to signed delivery notes of food, signed waybills showing quantity, destination and vehicle transporting the food to Sub-County and School stock card for food received and issued at School level.

However, to ensure efficiency and accountability, the State Department for Basic Education ICT Unit with the support of the World Food Program had developed a school feeding management system for monitoring, distribution, control and reporting on feeding program. The system was tested/piloted in Isiolo County successfully, and was about to be implemented in other counties that benefit from school feeding program.

**Committee Observations and Findings;**

**The Committee observed that the Accounting Officer demonstrated adequate management of inventory, despite not having an automated system at the time due to budgetary constraints. The automation was being implemented.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer implements recommendations contained in the Auditor General's performance audit report on national school meals and nutrition programme, within three (3) months of adoption of this report by the House.**

**378.2 Irregular Procurement of School Feeding Supplies**

Review of the professional opinion dated 9 November, 2021 revealed that the required quantities for the school feeding programme had been predetermined. The desired quantities are tabulated below: -

| Item | Quantity |
|---|---|
| Rice | 107,000 bags (47,000 bags - Ahero Sindano and 60,000 bags of Pishori rice) |
| Beans | 25,749 bags of 90 Kgs |
| Vegetable Oil | 12,780 Jerricans of 20 litres |
| Salt | 5112 bales of 20 kgs |
| Corn soya blend | 194,421 bags of 25 Kgs |

However, the State Department adopted a framework contract from Public Works REF.NO MOE/SDELBE/FA/01/2021-2022 and requested quotations from only one firm for supply of corn soya from a list of twenty-eight suppliers, three firms for supply of salt and five firms for supply of vegetable oil. This was contrary to provisions of Section 114(1) of the Public Procurement and Asset Disposal Act, 2015 which provides that a procuring entity may enter into a framework through open tender if the procurement value is within the thresholds prescribed under regulation to this Act; the required quantity of goods, works or non-consultancy services cannot be determined at the time of entering into the agreement; and a minimum of seven alternative vendors are included in each category.

**Submission by the Accounting Officer**

The Ministry had no running contracts for food items since in the past the food was being provided by the World Food Program (WFP).

The State Department of Public Works through the Supplies Branch is mandated to shortlist on behalf of the Government or provide contracts on behalf of other government agencies. They have running framework contracts and always give circulars on items they have contracted on behalf of procuring entities for adoption and use. Re: Circular No. SDPW/SB/009/2020-2021 – Supply and Delivery of Dry Food Stuffs dated 20th April, 2021 provided contract for supply of dry foods. Any Government Department can utilise any of the firms listed. The decision to Supply Branch Framework contracts was adopted by approval by Accounting Officer vide professional opinion no. MOE/. SCHM/7/68 dated 9th November, 2021. For the Supplies branch to settle for the firms under framework contracts, they did so through open tender.

Invitation under Oil Category

The State Department invited 37 firms under this category where 14 responded and were subjected to our criteria to ascertain their capacity. These firms were from the Public Works list of qualified suppliers whose contract price was Kshs.3,800 per 20ltr jerrican being the lowest price contracted. Upon completion of the evaluation process 5 firms were responsive and recommended for award.

Invitation Under Salt Category

Under the salt category, 23 firms were invited where 11 responded and were subjected to a preset criteria communicated in the invitation to bid (Mini competition) to ascertain their capacity. These firms were from the Public Works list of qualified suppliers whose contract price was Kshs.715 per 20kg bale. Upon completion of the evaluation process, 3 firms under the salt category were responsive and recommended for award.

Invitation Under Corn- Soya

The State Department received a list of framework agreement firms from the State Department of Public Works with 28 suppliers under the Con-soya category. A criterion was developed that among others required that due to the then covid related protocols and the sensitivity of food handling for schools, the SDBE only engages bidders/ suppliers who had local processing plant in Kenya. The process therefore established that only one bidder had a processing plant among the 28 provided list of suppliers who also happened to be the lowest in the list. i.e M/S Equatorial Nut Processor.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer implements recommendations contained in the Auditor General's performance audit report on national school meals and nutrition programme, within three (3) months of adoption of this report by the House.**

**378.3 Failure to Deliver Required Quantities of Corn Soya and Beans**

Included in the expenditure of Kshs.1,196,296,000 is an amount of Kshs.14,462,500 for the purchase of Corn Soya. However, review of the contract revealed that the supplier was to supply

25kg bags of Corn Soya at a unit cost of Kshs 3,250 whenever required. The supplier was issued with four LPOs which were partly delivered and some cancelled by the State Department as indicated below:

| LPO No. | Date of LPO | Quantity | Amount (Kshs.) | Status |
|---|---|---|---|---|
| 1981 | 16 November, 2021 | 39,564 | 128,583,000 | Cancelled |
| 1983 | 16 November, 2021 | 39,564 | 128,583,000 | Cancelled |
| 2143 | 21 February, 2022 | 39,563 | 128,579,750 | Partly delivered 4,450bags |
| 2142 | 21 February, 2022 | 39,563 | 128,579,750 | Cancelled |
| | **Total** | | **514,325,500** | |

However, the following anomalies were observed: -

i) Through a letter dated 12 May, 2022 from the supplier, the vendor stated that they were unable to process Local Purchase Order No. 1981 and 1983 valued at Kshs.257,165,000 but committed to deliver Local Purchase Orders No. 2142 and 2143. However, out of the 79,126 bags that were to be supplied, the supplier managed to deliver only 4,450 bags at Kshs.14,462,500. It was also observed that clause 3.17.1 on liquidated damages was not effected when paying for the part delivery of Local Purchase Order 2143. The contractor communicated one month later after receiving the Local Purchase Orders and it is not clear at what point the cancellation of orders was effected or by whom.

ii) Local Purchase Orders No. 1981 and 1983 dated 16 November, 2021 were issued to suppliers on 3 March, 2022 and 1 March, 2022 after the expiry date of the contract. This was contrary to Section 53 of the Public Procurement and Asset Disposal Act, 2015 which provides that the validity period of LPO is thirty (30) days. It is also not clear whether the State Department appointed a Contract Implementation Committee to report on the way forward with regard to the implementation of the contract.

iii) In addition, four (4) firms had been recommended for the supply of beans and had entered into contracts with the State Department but failed to supply. Minutes of a meeting held on 10 January, 2022 stated that the delay had led to undocumented dropout of learners from the arid and semi-arid areas.

iv) The State Department did not take any action against the suppliers after failure to deliver besides cancellation of their Local Purchase Orders as required by circular dated 20 April, 2021 from the State Department of Public Works ref: SDPW/SB/53/11 which states that, "complaints with regard to improper fulfilment of contract terms should be made in the first instance with the contractor. In case no satisfactory solution is obtained from the contractor; the Ministry should refer the matter in writing to the Principal Secretary Public Works who will take up the matter." It was noted that the State Department did not escalate the matter to the State Department of Public Works after the contractors failed to perform.

In the circumstances, failure to deliver the required food ration is an indication of inefficiencies in the procurement process within the State Department which negatively impacted on the school feeding programme and thus affected the performance of students in school due to absenteeism

**Submission by the Accounting Officer**

i) It's true the supplier for con soya requested for cancellation of the LPO's due to reasons beyond any of the parties' control. The prices fluctuated way above the the variation limit due to Covid 19 dynamics, the raw materials were also no longer available from the farmers due to distribution challenges across the country and those that were available the prices could not have matched at the then quoted amounts. The supplier committed to honour Lpo no. 2142 and 2143, however under paragraph five of the supplier letter was pleading to be allowed to deliver by 25th July, 2022 which was beyond the financial year in question. The financial year was ending and supplier was paid what was delivered at the close of the year.
ii) The amounts of cancelled LPO's for corn soya amounting to Ksh. 385,745,750.00 was reallocated for supply of Beans and Rice.
iii) The contract was not complex and equally not specialised in nature as provided under Section 151 of PPADA,2015. The technical team and inspections committee were able to monitor the implementations and inspection of the contract as signed. The contract for the supply of con-soya was awarded to Equatorial Nut Processors (ENP) for supply of con soya for the financial year 2021-2022 ending on 30th June, 2022 as and when required basis.
iv) It is true that four (4) suppliers initially awarded the supply of beans were unable to honour the LPO's within the given timelines which were subsequently cancelled. The suppliers cited inadequate stock of the requested beans in the market. Therefore, through a meeting held on 10th January, 2022 chaired by the Accounting Officer the seven (7) Suppliers were given utmost two (2 weeks) to deliver failure to which their orders would be cancelled and re-allocated to other suppliers. Four (4) failed to deliver hence their orders were cancelled and to re-allocated to bidders who had ex-stock and supplied immediately.
v) It is true no action was taken to suppliers for non- delivery however, the cancellation was due to satisfactory reasons given by the supplier. The reason was due to non-availability of raw materials across the country due to COVID 19 pandemic as earlier mentioned.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**378.4. Failure to Provide Performance Security on Contract**

Included in the expenditure of Kshs.19,971,035,325 in respect of transfers to National Government entities is an amount of Kshs.1,196,296,000 which relates to the school feeding programme. However, the framework contracts signed made provisions for performance security, referring to the special conditions of the contract for specifics of the performance security. Review of the contract documents revealed that the special conditions of the contract had no provisions for performance security. There was no evidence that any of the contracted firms presented the State Department with performance security. Additionally, there was no evidence that the compensation from the performance bonds had been effected for the suppliers who failed to deliver, an indication that due diligence was not undertaken when signing the contracts.

In the circumstances, the State Department Management was in breach of the law in failing to implement the framework contracting process thereby locking out other potential suppliers. Further, value for money may not have been realised in the redistributed foodstuffs as the redistribution affected the nutritional value as planned.

**Submission by the Accounting Officer**

The State Department after undertaking verification/due diligence of the capacity and capability of the supplier, it entered into a framework contract for the supply beans (@ 9,000), rice (@ 5,300), Vegetable oil (@ 3,800), Salt (@715) and con-soya blend at Kshs.3,250 to be supplied AS AND WHEN REQUIRED and not a contract committing any funds hence there was no need for performance security.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**379. Irregular Procurement of Tyres**

The statement of receipts and payments reflects an expenditure of Kshs.5,815,120,762 in respect of use of goods and services which, as disclosed in Note 6 to the financial statements, includes an amount of Kshs.50,725,322 for routine maintenance - vehicles and other transport equipment. Review of procurement documents revealed that the State Department incurred an expenditure of Kshs.1,972,672 on the purchase of tyres. However, the cost of the same tyres within framework agreement (Circular No. SDPW/SB/038/2021-2023) was Kshs.850,772. The evaluation report did not provide any justification for the selection of the winning companies with higher quotes over the other listed suppliers whose quotes were cheaper. The State Department engaged various Agencies that were not from the prequalified list adopted from the State Department for Public Works.

In the circumstances, value for money was not realised in the expenditure of Kshs.1,972,672 on the purchase of tyres.

**Submission by the Accounting Officer**

The list of suppliers listed by the Supplies Branch had various brands proposed for tyres. Not all tyres, even being of the same size, have the same quality that can withstand the rough terrain that technical departments visit within a financial year. Therefore, the user request was very specific on the quality and through past experience ensured the choice of tyre quality that can deliver service for a longer period without replacement. Where a specific tire size was not in the list adopted from the State Department for Public Works, the state Department engaged various AGPO suppliers to supply the required tire size.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

### 380. Use of Suppliers not in Pre-qualified List of Suppliers

The statement of receipts and payments reflects an expenditure of Kshs.2,988,658 in respect of the acquisition of assets as disclosed in Note 11 to the financial statements. Review of the sampled payment vouchers amounting to Kshs.2,469,100 revealed that firms invited to bid for the supply of computers, printers, UPS units and related items were not pre-qualified by the State Department. This was contrary to Section 95(3) of the Public Procurement and Asset Disposal Act, 2015 which provides that a procuring entity shall invite tenders from only approved persons who have been pre-qualified. Further, there were no documents provided to indicate that the firms were subjected to a procurement process before the invitation to submit quotations.

The absence of a pre-qualification process denied fairness, equitability, transparency, cost-effectiveness and competition among those who may wish to submit their applications.

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

**Submission by the Accounting Officer**

It is true, the State Department procured goods from the suppliers who were under AGPO category (youth women and PWD) and registered by the National Treasury under section 157 (17) of the Public Procurement and Asset Disposal act of 2015. This is intended to ensure Ministries achieve 30% procurement requirements on the disadvantaged group (AGPO). This category is included in the department pre-qualified list automatically all throughout when requested or upon submission of the said certificates at any given time of the year. Thus, the suppliers of the said items were under the AGPO Category who were included in the amended and computerised list of registered suppliers and invited to quote.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

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

### 381. Incomplete Assets Register

The annual consolidated inventory of assets (assets register) provided by the State Department disclosed all movable and immovable assets that the State Department has in its possession. However, it was observed that seventy-five (75) motor vehicles owned by the State Department were not included in the assets register.

In the circumstances, the completeness, existence, ownership and condition of the motor vehicles could not be confirmed.

**Submission by the Accounting Officer**

It is true the motor vehicles were not included in the asset register. This was an error of omission which is regrettable and the asset register was updated and motor vehicles have since been included.

**Committee Observations and Findings;**

**The Committee noted the admission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer.**

### 382. Failure to Hold Minimum Number of Audit Committee Meetings

During the year under review, the Audit Committee met only twice i.e. on 24 March, 2022 and on 28 October, 2021 as per the minutes provided for audit. This was contrary to Regulation 179 of Public Finance Management (National Government) Regulations, 2015 which requires that the audit committee meet at least once every three months (quarterly).

In the circumstances, the State Department did not benefit from the assurance and advisory, and oversight services from the Audit Committee.

**Submission by the Accounting Officer**

At the inception of the FY 2021/2022, the term for the Audit Committee had expired. The term of the Audit committee members was renewed in September 2021 when the first quarter was ending.

The Committee was able to have 3 meetings and not 2 as stated. The first meeting was held after renewal on 28th October 2021, second 24th March and the third on 15th June 2022. They meet every quarter hence 3 meetings were held.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

### 383. Use of Non-official Email Addresses in Official Communication

During the year under review, it was observed that the State Department's staff used personal emails especially google email application for official business communication. This was contrary to Public Service Commission circular number SH/ADM/23(1) dated 14 June, 2022 on use of personal email addresses for official Government business. All Ministries, State Departments and Semi-Autonomous Government Agencies were required to have their staff members boarded onto the Government domain email addresses provided by the ICT Authority. The circular stated that any email communication that is non-compliant will be considered non-official.

In the circumstances, the use of personal emails may lead to the compromise of the State Department's data and potentially exposes the entity and the Government in matters of National security and National interests.

**Submission by the Accounting Officer**

ZIMBRA Web client platform is the official government platform which is a bit unreliable and from time-to-time officers are unable to open mails. This is because the domain server @education.go.ke is controlled by the Information Communication Technology Authority.

However, the state department has since created official emails for the directorates and departments for official commutation. The ICT Department is also sensitising and encouraging officers on the use of official emails for commutation and its importance.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

**384. Lack of an IT Steering Committee**

The State Department does not have an IT Steering Committee in place. This was contrary to Section 6.2 of the IT Governance Standard by the ICT Authority on ICT Governance direct that all Ministries, County, 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 organisation, to authorise and direct the development of the services and operation plans.

Lack of an ICT Steering Committee exposes the State Department to the risk of unclear direction regarding the maintenance of information security and safeguard of ICT assets across the State Department.

**Submission by the Accounting Officer**

It is true there is no steering committee in place. The State Department is in the process of constituting one.

**Committee Observations and Findings;**

**The Committee noted the admission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer and recommends that the steering committee is in place within three (3) months of adoption of this report.**

**385. Lack of Anti-Fraud Policy**

Review of the internal control processes and risk management measures revealed that the State Department did not have an Anti-Fraud Policy in place. Further, there was no Risk Register. This was in contravention of Regulation 165 (1)(a) and (b) of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer to ensure that the national government entity develops risk management strategies, which include fraud prevention mechanism; and the county government entity develops a system of risk management and internal control that builds robust business operations.

Lack of Anti-Fraud Policy exposes the State Department to embezzlement, fraud, loss of assets which may negatively impacted on the financial, material or reputation of the State Department.

**Submission by the Accounting Officer**

It is true that the State Department does not have an Anti-fraud Policy in place. We are in the process of developing one and have engaged the EACC for guidance on the same.

Further to the above, the State Department has put the following measures for preventive, detective, compliance/enforcement, feedback mechanism, in place:

i) Risk Profile Register
ii) Committees and Boards
iii) Audit Committee
iv) Budget Implementation Committee
v) Ministerial Human Resources Management Committee
vi) Anti-Corruption Committee
vii) Disciplinary Committee
viii) Tender Evaluation Committee
ix) Monitoring and Evaluation
x) Authorization approval procedures
xi) Duty allocation and rosters
xii) Service Charter – Displayed.
xiii) Vision and Mission – Strategic plan
xiv) Work plans, Procurement plans, and expenditure plan
xv) Camera's, spot on Checks
xvi) Advocacy – Memos and circulars on Corruption matters
xvii) Trainings on Integrity / Ethics
xviii) ISO Audits (QMS Documents).

**Committee Observations and Findings;**

**The Committee noted the admission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer and recommends that the policy is in place within three (3) months of adoption of this report.**

**DONOR FUNDED PROJECTS**

**KENYA PRIMARY EDUCATION DEVELOPMENT PROJECT (GRANT NO. TFO18863)**

REPORT ON THE FINANCIAL STATEMENTS

**386. Failure to Maintain an Updated Assets Register**

Annex 2 to the financial statements - summary of fixed asset register reflects assets with a cumulative historical cost of Kshs.715,138,466. The balance includes assets valued at Kshs.475,353,633 brought forward and additional assets acquired at a cost of Kshs.239,784,833. The register provided for audit was compiled on 6 January, 2017 and is not up-to-date and this may lead to loss of assets not recorded. Further, the assets had not been identified by any tag and therefore the completeness of the record provided could not be verified.

In the circumstances, the accuracy, completeness, ownership, and existence of assets valued at Kshs.715,138,466 could not be confirmed.

**Submission by the Accounting Officer**

The variance was as a result of capitalization of ICT equipment installation expenses/payments which could not be detached from the equipment purchased resulting to the whole contract amount as per the voucher being treated as an asset in the financial statement, which had not been reflected as a fixed asset. However, this has since then been updated. The assets have also been tagged.

**Committee Observations and Findings;**

**i) The Committee noted the submission of the Accounting Officer.**
**ii) The Committee found that the matter was resolved.**

**387. Unreconciled Special Account Statement**

The statement of receipt and payments reflects proceeds from domestic and foreign grants of Kshs.783,683,539 as disclosed in Note 12.2 to the financial statements. However, the corresponding account balance reflected in the special account statement is Kshs.783,952,872 made up of Kshs.306,180,000 in respect of Disbursement Linked Indicator designated account, Kshs.283,862,621 in respect of withdrawals and Kshs.193,910,251 in respect of direct payments resulting in an unexplained variance of Kshs.269,333.

In the circumstances, the accuracy and completeness of the proceeds from domestic and foreign grants amounting to Kshs.783,683,539 could not be confirmed.

**Submission by the Accounting Officer**

The state department has requested for clarification from the National treasury on the balance of Kshs 783,952,872 to enable us reconcile the difference since The National Treasury is the custodian of the special account.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer ensures reconciliation within three (3) months of adoption of this report.**

**388. Budgetary Control and Performance**

The statement of comparative budget and actual amounts reflects the final expenditure budget and actual on a comparable basis of Kshs.1,538,783,671 and Kshs.1,121,849,455, respectively resulting in an under-expenditure of Kshs.416,934,416 (or 27%) of the budget.

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

**Submission by the Accounting Officer**

It is true that 27% of the budgeted funds was not absorbed. The variance between the budgeted amount and the expenditure of Kshs. 416,934,416 in the F/Y 2021/2022 was due of the following reasons;

i) The Ministry of Education was still trying to recover from the effects of COVID-19 which necessitated the condensing of the school calendar. For instance, due to the long closure of schools in 2020, the Class 8 pupils and the Form four students (2020 cohort) did the final examination in November/December 2021 instead of October/November 2020. The 2021 cohort of learners started their exams in February/March 2022. This to a very large extent affected the implementation of the planned project activities since the field education officials and school managers spent a lot of the time in preparation and administration of the exams.

ii) The project planned activities were to be implemented within 6 months from July -Dec 2021, since the project was ending on 31st December 2021.The implication is that due to the condensed school calendar and the preparation for the administration of the National exams, the project lost the whole of the period covering October -December for project implementation which were mainly to be undertaken at County and at school level since schools concentrated on preparation of candidates for exams.

iii) Some activities could not be implemented during the FY 2019/2020 and FY 2020/2021 because of the prolonged closure of schools due to COVID-19. This created a backlog of activities to be implemented within a very short time which affected the absorption of funds.

**Committee Observations and Findings;**

**i) The Committee noted the submission of the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**389. Irregularities in the Prcourement Procedures**

The statement of receipts and payments as disclosed in Note 12.4 to the financial statement reflects an amount of Kshs.137,764,077 for purchase of goods and services which includes an amount of Kshs.16,721,142 in respect of hospitality services. However, review of expenditure on hospitality services revealed that Local Purchase Orders (LPOs) were issued after invoicing in the following instances:

i. The Project Management paid Kshs.1,490,000 through payment voucher No.831. Review of the supporting local purchase order revealed that the LPO is dated 7 December, 2021 while the Invoice No. 3324 is dated 3 December, 2021;

ii. The Project Management paid Kshs.618,000 through payment voucher No. 321. Review of the supporting local purchase order revealed that the LPO is dated 14 October, 2021 while the Invoice No. 2101 is dated 1 October, 2021;

iii. The Project Management paid Kshs.1,233,000 through payment voucher No. 834. Review of the supporting local purchase order revealed that the LPO is dated 7 December, 2021 while the Invoice No. 3276 is dated 25 November, 2021;

iv. The Project Management paid Kshs.303,000 through payment voucher No. 830. However, the Local Purchase Order was dated 22 December, 2021 while Invoice No. 2245 of the same amount was dated 15 December, 2021;

v. The Project Management paid Kshs.78,000 through payment voucher No. 847 against a Local Purchase Order 1812838 dated 25 December, 2021 while Invoice No. INV19000001577 of the same amount was dated 30 November, 2021;

vi. The Project Management paid Kshs.579,000 through payment voucher No. 849 of against Local Purchase Order 1812842 dated 29 December, 2021 while Invoice No. INV19000001615 of the same amount was dated 20 December, 2021;

vii. The Project Management paid Kshs.579,000 through payment voucher No. 832 against Local Purchase Order 1812837 dated 22 December, 2021 while Invoice No. 2229 of the same amount was dated 2 December, 2021; and,

viii. The Project Management incurred an expenditure of Kshs.576,000 on the procurement of airtime for GPE/PRIEDE Project Coordination Unit (PCU) staff for the month of October to December, 2021. This was made against a Local Purchase Order (LPO) No. 3756157 dated 31 December, 2021 while the invoice was dated 30 December, 2021 a day before the LPO was issued.

In the circumstances, the regularity of the expenditure of Kshs.5,456,000 in respect of hospitality services could not be confirmed.

**Submission by the Accounting Officer**

In procurement of conferences services, the service provides i.e hotels and conference venues usually provide proforma invoices at quotation level to allow for LSO preparation. They later then provide an actual invoice that has the actual numbers of attendees of conferences. During sourcing process, the Project requested quotations for provision of conference facilities from service providers. The service providers responded and submitted proforma invoices upon which the Local service orders were prepared. After provision of the services, the service providers submitted invoices for payment.

It is stated that during preparation of payment vouchers, the project erroneously used proforma invoices (quotation price) to support payment instead of the actual invoices. However, the payments were made actual. This error led to dates of invoices appear to have been before the issuance LPOs.

**Committee Observations and Findings;**

- **i) The Committee noted the submission of the Accounting Officer.**
- **ii) The Committee found that the matter was resolved.**

**390. Unsurrendered Project Assets**

The Project ended on 31 December, 2021. However, the Project Management had not prepared the statement of assets for handing over to the Accounting Officer ten (10) months after the closure of the project. This has been caused partly by the failure to maintain an updated asset register. This is contrary to Regulation 74(6) of the Public Finance Management (National Government) Regulations, 2015 which stipulates; an Accounting Officer of a National Government entity shall ensure that whenever projects are completed, the project assets including buildings, plant, motor vehicles, furniture, fitting, and equipment are properly recorded and handed over to the accounting officer in accordance with the financing agreement. Further, the Regulation provides that when no time frame is provided for the project, the assets are handed over within three (3) months from the date of closure of the project; and in absence of any instructions to the contrary, any unexpended balance standing in the credit of the projects is paid into the Consolidated Fund.

In the circumstances, the Project Management was in breach of the law and risk loss of assets.

**Submission by the Accounting Officer**

It is true that the project assets had not been surrendered at the time of the audit.

The process of reassigning the assets to the Kenya Primary Education Equity in Learning (KPEEL) Program has commenced. In addition, the PRIEDE Project and KPEEL Program are funded by the same donor (Global Partnership for Education) and the Project Coordination Unit team is the same.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer ensures complete handover within three (3) months of adoption of this report.**

**GOK/ UNICEF EDUCATION FOR YOUNG PEOPLE PROGRAMME**

REPORT ON THE FINANCIAL STATEMENTS

**393. Inaccuracies in the Presentation of the Annual Report and Financial Statements**

Review of the annual report and financial statements presented for audit revealed the following inaccuracies: -

i. Details on the program grant/credit number were not indicated on the title page of the financial statements;
ii. The financial statements do not include the Statement of Performance Against the Project's Predetermined Objectives, and the Environmental and Sustainability Reporting;
iii. The project Funding Summary does not reflect the donor commitment and amount received in donor currency as prescribed by the report template by the Public Sector Accounting Standards Board;
iv. The table of contents included notes to the financial statements however, three (3) reports namely Significant Accounting Policies, Other Important Disclosures, and Annexes were missing from the submitted financial statements;
v. Page v of the financial statement reflects a subtitle (ref 1.6) as Project Governance which contradicts the revised financial reporting template which indicates the same reference as Roles and Responsibilities; and,
vi. The annual report and financial statements do not include the names, title/designation, key qualifications, and responsibilities of the key persons working in the project.

**Submission by the Accounting Officer**

i. GOK UNICEF is a continuous program which has been going on since 2006. Most of its activities are coordinated at the National Treasury and are of Ad hoc nature

ii. A statement of Statement of Performance Against the Project's Predetermined Objectives, and the Environmental and Sustainability Reporting was included in NOTE 3 PAGE xi in the revised financial statements submitted to the Auditor General.

iii. The project Funding Summary does under note 1.7 of the revised financial submitted financial statement did not have donor commitment either in Donor currency or Kenya Shillings since as in the case of the previous financial year, the GOK/UNICEF program was not included in the budget of the State Department and no funds were received.

iv. The submitted GOK/UNICEF financial statements included a note on Significant Accounting Policies under NOTE 10, however, the statement on other important disclosure and annexes were missing. The project had zero expenditure hence this does not materially affect the validity of the financial statements.

v. The note was missing and the same was corrected in the revised financial statements submitted in the course of the Audit.

vi. The submitted Audited financial statement included the name of the Project accountant and the Director projects since they were actively involved in the preparation and submission of the financial statements. However, there's no defined project coordination unit since the program is inactive.

**Committee Observations and Findings;**

**i) The Committee noted the submission of the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

**394. Inaccuracies in the Cash and Cash Equivalents**

The statement of financial assets reflects cash and cash equivalents balance of Kshs.1,077,215 as disclosed in Note 8.6 to the financial statements. However, the bank reconciliation statement reflects payment in the bank not recorded in the cashbook of Kshs.503,350 which occurred in the year 2016. The amount has not been recorded in the cash book leading to an overstatement of the cash and cash equivalents.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.1,077,215 could not be confirmed.

**Submission by the Accounting Officer**

The outward payment of Kshs. 503,350 in the bank reconciliation statement relates to the period ended June 2016.The details of the outward payment could not be traced.

**Committee Observations and Findings;**

**i) The Committee observed that the long outstanding reconciliation item was resolved in its previous report.**

**ii) The Committee found that the matter was resolved.**

### 395. Unaccounted for Accumulated Surplus

The statement of receipts and payments reflects an accumulated surplus balance of Kshs.325,249,171 as at 30 June, 2021. The accumulated surplus was not included in the fund balance brought forward in the financial year 2021/2022 of Kshs.1,077,215 in the statement of financial assets resulting in an unexplained difference of Kshs.324,171,956. The Project Management did not provide explanations on how the surplus was treated.

In the circumstances, the accuracy, occurrence and completeness of the accumulated surplus balance of Kshs.325, 249,171 could not be confirmed.

**Submission by the Accounting Officer**

GOK/ UNICEF funding was majorly in direct payments made by the donor. The direct expenditures were captured through a journal entry in the ledger. However, the expenditure could not be captured in the cashbook since no support of the expenditure was given. This could be a reason for disparity in the accumulated surplus over the years.

**Committee Observations and Findings;**

i) **The Committee observed that the long outstanding reconciliation item was resolved in its previous report.**
ii) **The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### 396. Failure to Transfer Unspent Funds

The statement of financial assets reflects a cash and cash equivalents balance of Kshs.1,077,215 as disclosed in Note 8.6 to the financial statements. The amount has not been paid into the Consolidated Fund and remains unspent for three (3) consecutive years. This is contrary to Regulation 74(6)(d) of the Public Finance Management (National Government) Regulations, 2015 which provides that the 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, the Project Management was in breach of the law.

**Submission by the Accounting Officer**

The management has taken note and will take the necessary steps of remitting the funds back to the consolidated fund.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer had failed to remit the unspent funds.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer and recommends that the funds are remitted within three (3) months of adoption of this report.**

## SECONDARY EDUCATION QUALITY IMPROVEMENT PROJECT (CREDIT NO.61380-KE)

REPORT ON THE FINANCIAL STATEMENTS

### 398. Non-Itemization of Budget Line Items

Review of the approved budget for the financial year 2021-2022 indicated that the allocations were based on activities, however, there were no budget line items linked with the activities to enable comparison with the format of the financial statements and the Government Chart of Accounts. This was contrary to the International Public Sector Accounting Standards (IPSAS) 24 on the presentation of budget information in financial statements.

In the circumstances, the accuracy of the budget as approved and the allocation to the various line items could not be confirmed.

**Submission by the Accounting Officer**

The Accounting Officer acknowledged the observation that there were no budget line items linked with the activities in the Annual work plan and Budget. He further submitted that henceforth, the project implementation team will endeavour to align the Annual Work plan and Budget work to the reporting items in the financial statements.

**Committee Observations and Findings;**

- **i) The Committee noted the submission of the Accounting Officer.**
- **ii) The Committee found that the matter was resolved.**

### 399. Unreconciled Special Account Statements

The statement of receipts and payments reflects proceeds from external development partners amount of Kshs.971,196,695 as disclosed in Note 1 to the financial statements. However, the corresponding account balance in the special account statement reflected a withdrawal amount of Kshs.972,195,810 resulting in an unreconciled and unexplained variance of Kshs.999,115. Further, the special deposit accounts movement schedule reflects an amount of Kshs.326,452,939 being the total amount withdrawn in respect of the special account which was at variance with the corresponding nil withdrawal in the special account statement as at 30 June, 2022 resulting in an unexplained variance of Kshs.326,452,939.

In the circumstances, the accuracy and completeness of the special deposit account of Kshs.971,196,695 could not be confirmed.

**Submission by the Accounting Officer**

The Accounting Officer submitted that during the year under review, the project made a withdrawal request of Euros 7,778,241.63 from the Development partner (IDA) as per the evidence that was provided.

The funds were deposited in the project's special account and consequently, an exchequer request for the same was made. The amount received from the loan proceeds of Euros 7,778,241.63 was Kshs. 971,196,694.65 and the exchange rate disclosed on the transaction date was 124.8607.

The operations of the special accounts are domiciled at the national Treasury, External Resources Department. To understand the variances as highlighted by the OAG, the Ministry wrote to the National treasury seeking clarification on the matter.

As disclosed in the special accounts movement schedule (Note 7) of the financial statements, the project made a withdrawal application of Euros 2,685,558 which was disbursed by the donor to the project special account. However, the exchequer for the same was not received by the end of the financial year under review (2021/22). The amount was received via exchequer notification Ref. No.001/01/22/23, as Kshs. 326,452,939.25 in the financial year (2022/23 FYR). The exchange rate disclosed was Usd. 121.5587.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

### 400. Undisclosed Bank Account Balance

The statement of financial assets reflects a bank balance of Kshs.83,308,697. However, review of the Equity Group Foundation bank statements revealed that the account had a balance of Kshs.17,923,635 as at 30 June, 2022 which was not disclosed in the Project's financial statements. Further, the Project Management did not provide information and documents on the scholarship beneficiaries and a list of those who did not receive the scholarships, or the reasons for the failure to remit the scholarship funds.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.83,308,697 could not be confirmed.

**Submission by the Accounting Officer**

The Accounting Officer submitted the statement of financial assets reflected a bank balance of Kshs.83,308,697. While the Equity Group Foundation bank statement reflected a bank balance of kshs.17, 923,635 which was not disclosed in the financial statements. The management acknowledge the anomaly and the necessary adjustments were effected in the subsequent requests for Scholarship funds by Equity Group Foundation.

Additionally, the project management acknowledges the surpluses of Kshs.17, 923,635 which arose from the difference between the projected budget estimates and the actual expenses incurred after facilitating all the scholars.

The list of the scholarship beneficiaries was availed for audit review.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failure to provide information within reasonable time to the Auditor General pursuant to Section 62 (1) of the Public Audit Act, 2015.**

### 401. Irregularities in the Operation of the Elimu Scholarship Fund

The statement of receipts and payments reflects cumulative other grants and transfers and payments amounting to Kshs.3,009,313,011 as disclosed in Note 6 to the financial statements in respect of SEQIP transfers to Equity Group Foundation. The following anomalies were noted: -

#### 401.1 Unsupported List of Beneficiaries

The Project Management did not provide an approved list of beneficiaries against which the transfers were made. In the absence of the approved list by the Ministry, the audit could not establish whether the Foundation disbursed funds to bona fide students.

**Submission by the Accounting Officer**

The Accounting Officer submitted that the project management regrets the anomaly of not availing an approved list of beneficiaries for audit review. An approved list of beneficiaries for both cohorts was provided to the Committee.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer failure to provide information within reasonable time to the Auditor General pursuant to Section 62 (1) of the Public Audit Act, 2015.**

#### 401.2 Unapproved Change of Contract Terms

Review of contract documents revealed that the Project Management entered into an agreement the Foundation for Consultancy Services for the Design and Support, Implementation of Scholarship, Mentorship, Gender Sensitization, and Social Support Programme for secondary students under the Secondary Education Quality Improvement Project (SEQIP) through contract-MOE/SEQIP/NCB/07/2017-2018 dated 21 November, 2019. The contract did not provide for the transfer of funds to the Foundation for onward transfer to Schools and the Procurement of School kits. The Project Management did not provide evidence to prove that the transfer of roles by the Ministry to the Foundation was approved by The National Treasury, World Bank, and the Cabinet Secretary for the Ministry of Education.

**Submission by the Accounting Officer**

The Accounting Officer submitted that it is true that the contract MOE/NCB/SEQIP/07/2017-2018 dated 21st November, 2019 did not provide for transfer of funds to the Foundation for onward transfer to schools and the procurement of school kits.

However, the world bank through an email dated January,13th 2020 advised the project management that scholarships include transport, stipend, school kit and mentorships as envisaged in paragraph 51 of the Project Appraisal Document. It was envisaged that the Ministry of Education would partner with one or more agency with a proven record in managing scholarships and mentorship programs. As such, the provision of school kit and disbursement of funds is part of the scholarships package.

Based on that understanding, the World Bank provided guidance to MOE, that school kits are processed as part of school fees and no objections for disbursement of funds to EGF have always been provided. The no objections are evidence of approval by the World Bank was provided to the Committee.

It is important to note that EGF offered to disburse school fees and distribute school kit at no extra cost.

**Committee Observations and Findings:**

- **i) The Committee noted the submission of the Accounting Officer.**
- **ii) The Committee found that the matter was resolved.**

### 401.3 Unauthorized Opening and Operation of Project Bank Account

The Project Management transferred an amount of Kshs.2,102,385,727 to the Foundation during the year under review. However, the Project Management did not provide the following for audit verification: -

(i) Approval from The National Treasury to open the account in accordance with Section 28(1) of the Public Finance Management Act, 2012;

(ii) Details of the signatories to the account;

(iii) Monthly reports reconciling payments from the account with the recipient school in the list of approved Elimu Scholarship beneficiaries;

(iv) Monthly reports of uncleared amounts detailing the intended recipients which should be verified and approved by the client to ensure funds are allocated to the relevant cost centre;

(v) A sample of payments amounting to Kshs.2,347,473,772 analyzed from an extract in the Foundation Account revealed payments for which the Project Management did not provide supporting documents with details on the payee and bank details to which these payments were made. Further, the Project Management did not provide evidence of interest earned while the funds remained in the account;

(vi) Review of the bank statements reflected transfers to other bank accounts. However, the monthly returns indicating the details of the transferee, purpose of the transfers, the intended beneficiary, and acknowledgement by the schools or students were not provided for audit; and,

(vii) Bank credit with different particulars such as unutilized transfers and transport, banked cheques, bank transfers were noted. However, the intended recipient/source and reasons for the credit entries were not provided for audit review.

**Submission by the Accounting Officer**

The Accounting Officer submitted as follows;

(i) It is true that the account used for disbursement of scholarship funds at the time of the audit was not authorized by the National Treasury. However, the Ministry obtained authority from the National Treasury and opened operations account for Elimu Scholarship program at Equity bank and the details are as follows:

> Account Name: Secondary Education Quality Improvement Project Elimu Scholarship

Account Number: 0810283759770

Branch: Equity Centre.

Authority letter from the National Treasury was provided.

(ii) The Accounting Officer submitted that the signatories to the account are as follows:

- The Project Coordinator-Jane mbugua
- The Project Accountant – Grace Njoki
- The deputy head of accounting unit – Roselyn Wairagu
- The head of accounting unit. – Emilio Mukira.

(iii)The Accounting officer submitted that monthly reports were not available as the project disburses funds as per the school terms. The Equity Group Foundation provides details of expenditure based on the disbursements made during the school term.

(iv)The Accounting Officer submitted that there are no monthly reports as funds are disbursed as per the school terms and incase of any unutilized balances, the amount is offset in the subsequent disbursements. A sample of expenditure return is was provided.

(v) It is true that at as at the time of the audit some documents were not available to support the sample extract of Kshs. 2,347,473,772 which was debited from the project account on various dates as per the Elimu scholarship bank statement.

(vi)The Accounting Officer submitted that monthly returns are not available as the funds are disbursed based on the school terms. However, the transfers made from the Elimu scholarship account relates to the payment of School fees, School Kit, Transport and Stipend for Elimu Scholars were provided for audit review.

(vii) It is true that the management did not provide sufficient documents to support the credits made into the Elimu account. The credits relate to school fees and transport funds that had been paid for scholars, who did not report to school or utilize the money for transport for various reasons. The unutilized funds were credited back to the Elimu Scholarship account.

**Committee Observations and Findings;**

**i) The Committee noted the submission of the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

### 401.4 Unapproved Procurement and Distribution of School Kits

Review of the approved budget revealed that Kshs.938,286,789 was allocated for procurement of school kits for Elimu Scholarship Beneficiaries Cohort 1 and Cohort 2 as per the approved annual work plan. The procurement was made by the Equity Group Foundation without a contract and was based on an addendum made to the original contract. The Project Management did not obtain approval from The National Treasury, The World Bank, and the Cabinet Secretary - Ministry of Education authorising the procurement to be conducted by the Equity Group Foundation. Further, field verification conducted during the month of November, 2022 revealed the following anomalies:

i) Bank charges for the card management were born by the student which was affecting the transport of some of the students as transport is based on actual charges;

ii) Some students had their approved transport reduced without any explanation, while other students were not provided with sufficient amount to take them to school and back home;

iii) During monitoring and evaluation by the Project Management, it was noted that the school kits had items that were reduced or omitted as follows; books, ream papers, slippers, sugar, blue band, shoe brush, cocoa, and revision books. The reduction of the items had material implications on the contract sum and support to the students. However, no contract variation was made to cater for the reduction in the school kit;

iv) Form three (3) students interviewed raised concerns that there were important materials like set books, geometrical sets, calculators, mathematical tables, and trips not provided for;

v) Most of the schools were sending the students home for Parent Teachers Association (PTA) fees, development fees or other fees not paid for. This was contrary to circular reference No. MOE/HQS/3/10/18 of 12 July, 2022 exempting the students from paying any other fees;

vi) Three (3) students in Makueni Girls Secondary School had visual impairment which was affecting their studies and needed medical attention. However, the Project had not factored in medical issues affecting the scholars which could have impacted on their studies;

vii) Most of the students in Form three (3) did not receive the second pair of uniforms and Physical Education (PE) kits;

**Submission by the Accounting Officer**

The Accounting Officer submitted that the world bank through official emails dated 13th January,2020 and 21st August 2023 advised the project management that scholarships include payment of school fees, school kit, stipend to cater for transport to and from school and pocket money, implementation of mentorship and gender sensitization activities as one package as envisaged in paragraph 51 of the Project Appraisal Document. It was envisaged that the Ministry of Education would partner with one or more agency with a proven record in managing scholarships and mentorship programs. As such, the provision of school kit is part of the scholarships package.

i) The Accounting Officer submitted that management takes note and regrets this anomaly. The learners in Cohort 1 were issued with cards in Form 1, Term 2. During the prepaid product formation, some cards were erroneously subjected to transaction charges. However, the charges were reversed as per the evidence provided.

ii) The Accounting Officer submitted that management acknowledges this observation. As a control measure, transport schedules are continually rationalized in accordance with the prevailing transport rates for different destinations.
During the COVID-19 pandemic, public transport fare rates were erratic due to the then containment measures. When the measures were lifted the rates reduced and stabilized.

iii) The Accounting Officer submitted that it is true that after rationalisation by the ministry, some of the items in the school kit were dropped from the list.
However, the management would wish to clarify as follows; The Ministry contracted EGF to support design and implementation of Scholarship, Mentorship, Social Support and Gender sensitization programme. The contract sum was to meet the cost of administration of scholarships and implementation of mentorship social support and gender sensitization programme as a package. As such there is no unit cost for consultancy services tied to the number of items in the school kit list.

iv) The Accounting Officer submitted that the SEQIP design for school kit required that each learner be:

- Provided with a Geometrical set and a mathematical table twice (at Form 1 and Form 3) during 4-year education cycle.
- Provided with a Calculator once (at Form 3) during 4-year education cycle.

However, the project design did not provide for set books and the school trips due to limitation of funding.

v) The Accounting Officer submitted that it is true that principals in some schools unfortunately send students home for extra levies despite the guidelines issued by the Ministry. However, the Ministry has intervened to ensure that there is no disruption of learning in schools through the following:

- Circular reference No. MOE/HQS/3/10/18 of 12th July, 2022.
- A circular to the County Directors of Education REF No. MOE. CONF/G6/31/Vol. VII/76 of 13th July, 2023 instructing them to remind all principals to adhere to the requirements of circular reference No. MOE/HQS/3/10/18 of 12th July, 2022.
- Instructions given to the County Directors during meetings
- Sensitization of Heads of schools during KESSHA National conference meetings
- Sensitization of stakeholders during advocacy and gender sensitization, public gatherings.

The Ministry will continue to enforce this through continuous monitoring and evaluation.

vi) The Accounting Officer submitted that management takes note of this and clarifies as follows; All learners in public Secondary Schools were covered under the Edu -Afya medical scheme, hence medical issues were not included in the program under SEQIP.

vii) The Accounting Officer submitted that it true that some scholars in form 3 had not received a second pair of uniform by the time of the audit. Elimu Scholarship beneficiaries are provided with a second pair of school uniforms and Physical Education (PE) kits while in Form three.

This is normally done during the school holidays. However due to the shortened school holidays this exercise had not been completed as at the time of the audit. Regrettably also, some schools delayed in putting in their requests for the new set of uniforms and this affected the students. All scholars were provided with a second pair of uniform

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer ensures that school principals adhere to regulations set by the government and any further levies be refunded.**

### 401.5 Students Benefiting from More than One Scholarship Programme

Review of sampled fees statement on students under Elimu Scholarship revealed that some students had fees overpayment amounting to Kshs.1,300,760 as a result of benefiting from more than one scholarship programme. This was especially noted in Kwale County where the County Government of Kwale sponsors students who qualify for National Schools on full scholarship. It was noted that the Elimu Scholarship Programme did not have structures in place to prevent multiple scholarships which may disadvantage other needy students.

**Submission by the Accounting Officer**

The Accounting Officer submitted that there were systemic challenges in coordination of scholarships, bursaries and social support provisions. The remittance of school fees by EGF is in accordance to the list of the scholarship beneficiaries and the fee structures for respective schools. As such, there has not been any overpayment of fees for any learner from the project's funds. However, to ensure effectiveness in scholarship management the Ministry is doing the following:

i) Initiated reforms to establish the Jomo Kenyatta Foundation (JKF) as an agency for management and coordination of scholarships and social support activities in Basic Education. This will strengthen regulation of scholarship and bursary provision by among others; Objective targeting of deserving learners and prevention of duplication of support.
ii) NEMIS re-engineering to enable efficiency in identifying support to individual learners. This will enable early identification of duplication of support.

**Committee Observations and Findings;**

**The Committee noted that there were structural weaknesses that made it possible for students to benefit from more than one scholarship due to the multiplicity of the programmes.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer ensures students have unique identifiers in NEMIS to eliminate possibility of double allocation.**

### 401.6 Indiscipline and Poor Performance of Students under Elimu Scholarship Programme

The Project Management did not set the benchmark to be used in appraising compliance with the requirements in the Project Appraisal Document which stipulates that a scholar would continue to enjoy programme benefits until she/he completed Form Four (4), subject to satisfactory school attendance, behavior and academic performance. Interviews with the Teacher Gender Champions of the various sampled schools indicated that the performance of some of the students under the Elimu Scholarship Programme was deemed poor with cases of indiscipline.

**Submission by the Accounting Officer**

The Accounting Officer submitted that there have been cases of low academic performance and indiscipline among some of the beneficiaries. However, the imperative to provide education has constrained the Ministry to go slow of discontinuing learners from the programme due to the cited reasons. In addition, cognisance is taken on the reality that due to the circumstances, occasioned by the COVID-19 Pandemic some learners especially from poor background and who could not access alternative tuition platforms lost learning time. The aforementioned coupled with the government's drive to provide basic education to all children of school –going age through the 100% Transition Initiative overrode the provisions in the PAD.

To remediate these all issues affecting the scholars' participation and learning, the Ministry has forged alternative interventions including; Mentorship and psychosocial support for learners at school by the gender champions and inspirations drawn from leadership congresses under the Elimu Scholarship Programme.

**Committee Observations and Findings;**

i) **The Committee noted the explanation given by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

### 401.7 School Fees Arrears for Form One Students

Field verification in sampled schools revealed that school fees had not been paid for Form 1 students for the whole year. This was contrary to the SEQIP Project Appraisal Document which provides that the second intervention, a secondary school scholarship program combined with child-specific mentorship, would support deserving primary school graduates in the targeted sub-counties who did not have the means to continue their education. The children eligible for the scholarship were to be selected from Grade 8 cohorts in the targeted areas in the first and second years of the Project. Scholarship recipients were to have their school fees (including boarding fees) paid for at the beginning of Form 1 at schools to which the students were admitted.

In the circumstances, the accuracy, occurrence, regularity, and validity of the expenditure of Kshs.2,102,385,727 in respect of other grants and transfers and payments for the Elimu Scholarship Fund could not be confirmed. Further, the contract for the disbursement of funds through Equity Group Foundation and procurement of the school kits was irregular.

**Submission by the Accounting Officer**

The Accounting Officer submitted that it is true that there were some students whose fees had not been processed as at the time of the audit. However, the fees have now been settled.

The world bank through official emails dated January, 13th 2020 advised the project management that scholarships include payment of school fees, school kit, stipend to cater for transport to and from school and pocket money, implementation of mentorship and gender sensitization activities as one package as envisaged in paragraph 51 of the Project Appraisal Document.

**Committee Observations and Findings;**

i) **The Committee noted the explanation given by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

### 402. Funding Summary

The Project's information and overall performance and funding summary at Note 1.7 reflects cumulative IDA amount received totalling Kshs.99,578,085, which differs with cumulative to date amount of Kshs.6,741,465,535 shown in the statement of receipts and payments. The difference was not explained or supported.

In the circumstances, the accuracy of the financial statements could not be confirmed.

**Submission by the Accounting Officer**

The Accounting Officer submitted that it is true that there was error in the presentation of the project funding summary as per note 7 of the financial statements, where the cumulative funding in Kenya shillings was presented as Kshs 99,578,085 instead of Kshs. 6,741,465,535 as reflected in the statement of receipts and payments. This was noted and corrections were effected in the financial statements for the financial year 2022/23.

**Committee Observations and Findings;**

**The Committee noted the explanation given by the Accounting Officer.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to ensure that the records are reconciled and analyzed with necessary supporting documents and submitted to the Auditor General in compliance with provisions of Section 68 (2) of the PFM Act 2012.**

**403. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects the final receipts budget and actual on a comparable basis of Kshs.3,700,000,000 and Kshs.971,176,695 respectively resulting in an underfunding of Kshs.2,728,823,305 (or 74%) of the budget. Similarly, the Project expended an amount of Kshs.3,304,971,376 against an approved budget of Kshs.3,700,000,000 resulting in an underexpenditure of Kshs.395,028,624 (or 11%) of the budget. Further, the revised budget and annual work plan for the financial year ended 30 June, 2022 reflects an amount of Kshs.4,541,385,469 while the final budget as reported in the statement of comparison of budget and actual amounts reflected a balance of Kshs.3,700,000,000 resulting in an unexplained and unreconciled variance of Kshs.841,385,469.

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

**Submission by the Accounting Officer**

The Accounting Officer submitted that the project had an opening balance of Kshs.2,414,074,860 carried forward from the financial year 2020/21. Additionally, the project received exchequer amounting to 971,196,695. Therefore, the project had Kshs. 3,385,271,501 to utilize in the year under review, out of which Kshs. 3,057,808,796 was spent.

The Accounting Officer further submitted that the mismatch of the amount in the annual work plan and budget and the final budget is due to the reduction of the amount allocated to the project during the supplementary budget.

**Committee Observations and Findings;**

- **i) The Committee noted the explanation given by the Accounting Officer.**
- **ii) The Committee found that the matter was resolved.**

**404. 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 had not resolved the issues nor given any explanation for the failure to implement the recommendations.

**Submission by the Accounting Officer**

The Accounting Officer submitted that the State Department is waiting for the adoption of the 2020/2021 Public Accounts Committee report to be adopted by the House for further action.

**Committee Observations and Findings;**

**The Committee noted that its report had since been adopted by the House.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails a status report of implementation of its recommendations within three (3) months of adoption of this report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

### 405. Failure to Return Unspent Funds for Re-Voting

The SEQIP implementing Agencies - Kenya National Examination Council (KNEC) and Kenya Institute of Curriculum Development (KICD) had balances of Kshs.150,076,157 and Kshs.247,433,842 respectively. This resulted in cumulative unspent funds of Kshs.397,509,999 as at 30 June, 2022. The funds were not returned to the Project account for re-voting. This was contrary to Regulation 117 of the Public Finance Management (National Government) Regulations, 2015 which stipulates that an A.I.E holder should ensure that the funds are re-voted for the Project in the following financial year.

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

**Submission by the Accounting Officer**

The Accounting Officer submitted that KICD and KNEC are implementing Agencies for the SEQIP project components 3.1 ,3.2 & 1.3.

As per financial arrangements in place, MOE transfers funds for the implementation of approved activities based on the approved work plans and project activities. As at 30th June 2022, KICD had a cashbook balance of KES. 247,433,841.99 while KNEC had a balance of Kshs 150,076,157, as un-utilised funds for the SEQIP Project.

The two Institutions had been implementing the work plan and as at the closure of the financial year had made some commitment against the unspent bank balance. In this case the unspent balance is treated as liability to institution and the same is utilized in the subsequent financial year.

The amount which was un spent was utilized to implement the approved work plan activities for the financial Year 2022-2023 and no funding was disbursed in the said period from MOE to the two institutions.

the Annual Workplan for the two financial years (2021/22 and 2022/23) indicating that the activities carried forward were re-approved was provided for the Committee to review.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer failed to act in accordance to Regulation 117 of the Public Finance Management (National Government) Regulations, 2015 which stipulates that an A.I.E holder should ensure that the funds are re-voted for the Project in the following financial year.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for acting against the provisions of the law.**

### 406. Irregular and Highly Priced Consultancy Services

Review of records revealed that the Project had entered into an agreement with Equity Group Foundation for consultancy services for design and support, implementation of scholarship, mentorship, gender sensitization and social support programme for secondary students through contract-MOE/SEQIP/NCB/07/2017-2018 dated 21 November, 2019 at a sum of Kshs.1,131,568,762. The Project total cost was estimated at Kshs. 4,955,050,000 at the time the contract was signed and aimed at enhancing transition and retention of poor and vulnerable learners in secondary education. This is as outlined in subcomponent 2.2: of the SEQIP Project Appraisal Document.

The single contract price is 22.83% of the total cost of the Project. This casts doubt on whether public resources have been applied in an effective, efficient and economical manner while determining the cost of the Equity Group Foundation consultancy services.

In the circumstances, the effectiveness and economy in the use of public resources could not be established.

**Submission by the Accounting Officer**

It is true that the Ministry entered into an agreement with Equity Group Foundation for consultancy services to design and support implementation of scholarship, mentorship, social support and gender sensitization program for secondary students through contract-MOE/SEQIP/NCB/07/2017-2018 dated 21st November, 2019 at a sum of Kshs.1, 131,568,762 derived from an open competitive bidding process. The Project total cost is KShs. 20Billion hence the contract sum of KShs. 1,131,568,762 translates to 5.5% which was KShs. 1.2Billion lower than the 2nd ranked bidder.

**Committee Observations and Findings;**

i) **The Committee noted the submission of the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

## KENYA GPE COVID-19 LEARNING CONTINUITY IN BASIC EDUCATION PROJECT (GRANT ID. P174059 AND CREDIT NO. TFB03336)

REPORT ON THE FINANCIAL STATEMENTS

### 408. Irregular Expenditure on Fortified Meals

The statement of receipts and payments reflects cumulative expenditure to date of Kshs.874,718,669 in respect of transfers to other Government entities as disclosed in Note 11.5 to the financial statements. Included in this amount is the expenditure of Kshs.199,998,500 being transfers to the Directorate of Primary Education for purchase of fortified meals under the Covid-19 Learning Continuity Basic Education Project. However, the following anomalies were noted;

### 408.1 Inconsistencies in the List of Enrolment for Beneficiary Schools

Examination of documents provided for audit revealed a list of two hundred and eighty thousand, three hundred and thirty-one (280,331) students in the beneficiary schools which was used as a basis for the purchase of the 61,525 bags of corn soya blend. However, the enrolment numbers in the beneficiary schools and the enrolment as per the approved list had material variances. In all the sampled schools, the enrolment was higher than the numbers quoted in the contract. The basis of the enrolment list used to do the procurement could not be confirmed.

**Submission by the Accounting Officer**

The Accounting Officer submitted that the enrolment data for the beneficiary learners from the ECDE sections of the beneficiary schools was obtained through the respective County Directors of Education as follows;

i) 2561 ECDE centres within Schools drawn from the ASAL Counties of Baringo, Isiolo, Garissa, Mandera, Marsabit, Samburu, Tana River, Wajir and West Pokot with an enrolment of 235,660 learners.
ii) 382 ECDE centres within Schools drawn from informal settlements of Nairobi, Mombasa, Kisumu, Nakuru, Eldoret, Kiambu, Kitale, Machakos and Kajiado with an enrolment of 36,912 learners.
iii) 67 SNE schools with an enrolment of 7,759 learners.
iv) The enrolment in categories i, ii and iii above totalled to 280,331 ECDE learners.

In addition, food being an incentive, it may have attracted more learners to schools thus causing variation in enrollment. Transfers also could have contributed to the variance in enrollment data in targeted schools for school feeding program.

Therefore, the list provided could not be accurately used to verify the exact numbers of benefiting learners from the intervention but was to be used as a guide in the procurement of corn soya meal.

**Committee Observations and Findings;**

**i) The Committee noted the submission of the Accounting Officer.**
**ii) The Committee found that the matter was resolved.**

### 408.2 Irregularities in Procurement and Distribution of Fortified Meals

The Project Management made a request for procurement of food commodities on 27 September, 2021. The Principal Secretary approved the purchase of 53,751 bags of 25kg each at a cost of Kshs.3,665 amounting to Kshs.196,997,415 on the procurement of corn soya blend. This was adjusted in the revised budget to 60,615 bags of 25kg each at a cost of Kshs.3,250 per bag amounting to Kshs.196,998,750. The Project Management did not provide justification for the adjustments for audit. The Project Management procured the food commodity through the State Department for Public Works framework contracts. However, the following irregularities were noted:

#### 408.2.1 Inadequacies in the Purchase of Corn-Soya

The following anomalies were noted: -

vii. The Project Management invited bids from only one contractor despite having a list of twenty-eight suppliers who had framework contracts with the State Department of Public Works. This was contrary to Section 114(3)(b) of the Public Procurement and Assets Disposal Act, 2015 which provides that a procuring entity should invite mini-competition among persons that have entered into the framework agreement in the respective category;

viii. The procurement for the blended meals was entered into the procurement plan on the same day that the vendor was awarded the contract for supply of the blended corn-soya mealie;

ix. The list of schools identified to benefit from the project was amended to include other schools that were not in the initial list;

x. Variances were noted in the approved supply list and the actual number of bags supplied;

xi. The Project Management did not provide the schools with clear instructions on the usage. This led to some schools issuing the food stuff to parents for use at home instead of having it prepared in schools;

xii. The basis of distribution was not provided. Field verification revealed that some schools were given more than the required amounts leading to the fortified meals expiring before use;

xiii. Documentation on deliveries of the fortified meals were not provided in most of the schools.

**Submission by the Accounting Officer**

The request for procurement of corn soya blend, was based on the estimates used for the previous year's procurement. The actual cost was arrived at when the framework contracts were received from the State Department for Supplies branch. The actual cost was reduced from Ksh. 3,665.00 to Ksh. 3,250 per the 25kg bag. This therefore allowed for more quantities of corn soya blend to be procured within the same approved and available budget. (From 53,751 to 60,615 bags of 25 kgs each);

i) The observation is noted. It is regrettable that the explanation provided at the time of the audit was not exhaustive which was an oversight. The Ministry wishes to clarify as follows:
   a) The State Department for Basic Education received a list of twenty-eight (28) suppliers who had framework contracts from the State Department of Public Works under the Corn-soya blend category.
   b) The State Department began procuring corn-soya blend during the COVID-19 period and one of the requirements from the user department had been that due to safety of the food in regard to hygiene and handling of the corn-soya, the awarded supplier should be a

certified local processor who could handle the process from manufacturing to packaging. In this regard, from the 28 suppliers who had framework contracts from the State Department of Public Works under the Corn-soya blend category, only one was a certified local processor.

c) Section 114 of PPAD regulation 2020, provides that a framework agreement can be implemented in two ways; Through Direct call-offs contracts when necessary to the shortlisted suppliers or; Invite a mini-competition among suppliers who have entered into a Framework Agreement

The essence of mini-competition is to lower the prices further in case the awarded price is higher than what is offered in the market. MOE was also very concerned about a supplier who could meet the required threshold of safety, hygiene and quality in the prevailing context of COVID – 19. However, in these circumstances, there was only one supplier who met the criteria of being a local processor hence being the only one invited.

ii) it is true that at the beginning of financial year 2021/2022, the procurement of corn soya blend meals had not been factored in the consolidated annual procurement plan together with other food stuffs. The user Department occasioned by the COVID- 19 pandemic, requisitioned for additional corn soya meals to feed learners in schools after savings from the COVID 19 Project were realized and earmarked for procurement of additional Corn soya blend. This necessitated the inclusion of corn soya meals into the procurement plan as an addition. The same was amended in the IFMIS procurement plan as required. Therefore, this enabled the contract to be signed and call for Local Purchase Orders be raised to the supplier urgently since this was an emergency period and meals were much required to feed learners in schools. These Covid 19 project procurements were an additional to the already procured corn soya under existing MoE School Meals Program;

iii) the list of beneficiary schools in the FY 2021/2022 was a replica of the one used to identify the benefiting schools during the FY 2020/2021. This was as per the shared list of 2,978 schools with an enrolment of 280, 331 learners. The list was changed in response to COVID 19 emergency in especially to bring on board schools from ASAL areas which was hard hit with hunger. This has necessitated the State Department to migrate to NEMIS in order to handle the data issues for the Ministry of Education programs;

iv) There was an emergency which necessitated urgent distribution of corn soya due to the prevailing drought that time. The distribution schedule was the guide used during the dispatch of the fortified meals to the sub-counties. However, the waybills submitted to your office give the accurate number of bags and the sub-counties to which they were supplied as per the schedule. Hence, there was no loss of funds since all the deliveries were made;

v) fortified meals delivered to schools have always been meant for learners. Due to prolonged closure of schools occasioned by COVID- 19 the food stored in schools could expire hence MoE sent circulars on usage of the fortified meals to schools through the respective CDEs. During the COVID 19 period, the PS State Department for Early Learning and Basic Education granted authority for parents to be issued with the fortified meals to prepare at their homes;

vi) the quantities for the distribution of the fortified meals to the sub-counties and schools were based on the respective schools' enrolment. In addition, there was no surplus, however at the time of audit the corn soya blend had not been used due to the prolonged closure of schools as a result of Covid 19. Therefore, the Accounting Officer issued a circular directing the corn soya blend to be released to parents to prepare at home;

vii) for the fortified meals, the procedure involves MoE distributing the meals to SCDE stores; from where it is distributed to the schools by the SCDEs and reports made to the MoE Hqs through SCDEs in the form of acknowledgement letters by the respective head teachers;

**Committee Observations and Findings;**

i) **The Committee observed that the explanation given by the Accounting Officer was satisfactory.**

ii) **The Committee found that the matter was resolved.**

### 408.2.2 Irregular Supply of Fortified Meals to Counties

Field inspection conducted in Kajiado, Machakos, Makueni, Kisumu, Homabay, Siaya, Isiolo, Tharaka Nithi, and Meru Counties revealed the following anomalies;

#### 408.2.2.1 Kajiado and Machakos Counties

The Project Management delivered fortified food amounting to Kshs.2,030,569 and Kshs.1,209,544 to Kajiado and Machakos Counties on 28 and 29 June, 2021 respectively. However, the County Director of Education, Kajiado County was not able to confirm receipt of corn-soya blend received in his County and a visit to sampled schools revealed that no flour was delivered to the primary schools. The delivery to Machakos County Offices vide waybill No.10351 obtained from the CDE office Machakos County was not supported by any distribution list to confirm the distribution of the fortified food. Verification of the identified schools also confirmed the fortified food was not delivered to the schools.

**Submission by the Accounting Officer**

The Accounting Officer submitted that the distribution lists for food in Machakos and Kajiado were well captured as per evidence provided but the food was erroneously delivered to Mandera and Wajir counties.

#### 408.2.2.2 Isiolo County

The Project Management delivered 917 bags of fortified food worth Kshs.2,833,266 to Isiolo County. However, data obtained from the County Director of Education at Isiolo County revealed that a total of 845 bags were received resulting in a difference of seventy- two (72) bags.

**Submission by the Accounting Officer**

The Accounting Officer submitted that the distribution of corn soya included both the MOE School Meals Program foodstuffs as well the COVID-19 Project corn soya blend. The distribution lists were different however the transporters were the same. This caused logistical challenges that ended up having certain schools having excess food while others did not receive the food. Please see the report attached on allocated food against received food.

#### 408.2.2.3 Kisumu County

The Project Management delivered 1,372 bags at a total cost of Kshs.5,028,772 to Kisumu County. However, the deliveries made could not be confirmed since no documentation was provided for review. Further, the Sub County Directors of Education were not aware of the program as the corn-soya blend flour was directly distributed to schools.

**Submission by the Accounting Officer**

The Accounting Officer submitted that as per the distribution schedule, Kisumu central, Kisumu East and Muhoroni received their full allocation as per the schedule. However, Kisumu West, Nyakach and Nyando did not receive their allocation due to logistical challenges. This was because food for schools in the 3 Sub-Counties was erroneously delivered to Mandera, Marsabit, Wajir and Garissa Counties which received an excess of 26,326 bags (Mandera-10,678, Marsabit- 4,566, Wajir- 6,683 and Garissa- 4,399).

**Committee Observations and Findings;**

i) **The Committee observed that the Accounting Officer availed the complete distribution list.**
ii) **The Committee found that the matter was resolved.**

### 408.3 Failure to Provide Performance Security for the Contract

Clause 3.7.1 of the framework agreement between the winning bidder and the State Department required the tenderer to furnish performance security to procuring entity within thirty (30) days of notification of award or as per the special conditions of contract. Further, Section 142 of the Public Procurement and Asset Disposal Act, 2015 requires the tenderer to provide performance security equivalent to not more than ten percent of the contract amount before signing of the contract. However, there was no performance security for this contract to cover the procuring entity in case of any failure of the contract not being fully executed.

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

**Submission by the Accounting Officer**

The Accounting Officer submitted that it was an oversight although there was no loss as the contract was fully implemented. However, going forward the performance security shall be a mandatory requirement in all our future contracts.

**Committee Observations and Findings;**

**The Committee noted that a performance security was not availed.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for acting in breach of Section 142 of the Public Procurement and Asset Disposal Act, 2015.**

### 409. Irregular Expenditure on Purchase of Electronic News Gathering and Field Production Equipment

The statement of receipts and payments reflects an amount of Kshs.100,762,639 in respect of acquisition of non-financial assets as disclosed in Note 11.4 to the financial statements. Included in the amount is the expenditure of Kshs.11,916,880 on purchase of electronic news gathering and field production equipment. However, the contract agreement had not been signed. Further, discrepancies were noted on the local service order, which was dated 25 October, 2021 whilst the delivery notes were dated 16 September, 2021, 23 September, 2021 and 24 September, 2021 respectively, an indication that deliveries were made before issue of local service order.

In the circumstances, regularity, occurrence and validity of the expenditure of Kshs.11,916,880 could not be confirmed.

**Submission by the Accounting Officer**

The contract referred to was not implemented as a result of the events which were beyond and reasonable control of the contractor. Non-performance of the contract was attributed to the Covid 19 global lockdown of industries and when the lock downs were lifted the firms took longer than expected to receive equipment from the manufacturer. This contract was not implemented since the Covid 19 Project was coming to an end. In addition, non-performance of the contract was secured through a 10% unconditional bank guarantee issued By Kenya Commercial Bank. The contractor paid the client KES 3,459,617.13 as damages for non-delivery of the contract. There was no loss of funds

The expenditure of Kshs. 11,916,880 was part of a contract for purchase of digital archiving materials worth Kshs. 14,896,100. The contract was fully executed. The LSO discrepancies have been noted but the binding document was the contract.

**Committee Observations and Findings;**

**i) The Committee noted the explanation given by the Accounting Officer.**
**ii) The Committee found that the matter was resolved.**

**410. Unreconciled Special Account Statement**

The statement of receipt and payments reflects proceeds from domestic and foreign grants of Kshs.238,265,907 as disclosed in Note 11.1 of the financial statements. However, the corresponding account balance reflected in the special account statement reflects an amount of Kshs.238,499,099 resulting in an unexplained variance of Kshs.233,192.

In the circumstances, the accuracy and completeness of the proceeds from domestic and foreign grants amounting to Kshs.238,265,907 could not be confirmed.

**Submission by the Accounting Officer**

The Accounting Officer submitted that the State department has since requested for clarification from the National treasury on the balance of Kshs 238,499,099 to enable reconciliation of the difference since The National Treasury is the custodian of the special account.

**Committee Observations and Findings;**

**The Committee noted that the figure was still outstanding.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer and National Treasury reconciles the account within three (3) months of adoption of this report.**

### 411. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects the final expenditure budget and actual on a comparable basis of Kshs.564,661,708 and Kshs.516,064,278 respectively resulting in an underexpenditure of Kshs.48,597,430 (or 9%) of the budget which has not been explained by way of a footnote.

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

**Submission by the Accounting Officer**

The Accounting Officer submitted that there was an under expenditure of 9% of the budget during the financial year under review. This was due to the following reasons;

i) The Ministry of Education was still recovering from the effects of COVID-19 which necessitated the condensing of the school calendar. For instance, due to the long closure of schools in 2020, the Class 8 pupils and the Form four students (2020 cohort) did the national examination in November/December 2021 instead of October/November 2020. The 2021 cohort of learners started their national exams in February/March 2022. This to a very large extent affected the implementation of the planned project activities since the field education officials and school managers spent a lot of the time in preparation and administration of the national exams.

ii) The project planned activities were to be implemented within 6 months from July -Dec 2021, since the project was ending on 31st December 2021.The implication is that due to the condensed school calendar and the preparation for the administration of the national exams, the project lost the whole of the period covering October -December for project implementation which were mainly to be undertaken at County and at school level since schools concentrated on preparation of candidates for exams.

iii) Some activities could not be implemented during the FY 2020/2021 because of the prolonged closure of schools due to COVID-19. This created a backlog of activities, since some of them had to be carried forward to be implemented within a very short time (Only 6 months during the FY because of closure of the Project on 31st December, 2021) which affected the absorption of funds.

**Committee Observations and Findings;**

**i) The Committee noted that the explanation given by the Accounting Officer was satisfactory.**

**ii) The Committee found that the matter was resolved.**

## 412. Unsupported Contract Period Extension

The Project Management entered into a contract for consultancy to provide blended online and face-to-face psychosocial support services at a contract price of Kshs.81,545,886 for a period of sixteen (16) weeks. Later the contract was extended by four (4) weeks from the initial sixteen (16) weeks through a request by the Project Coordinator on 28 September, 2021. However, the approvals by the International Development Association (IDA) and the Accounting Officer were not provided for audit. Further, a revised work plan and performance security for the extended period was not provided for audit.

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

**Submission by the Accounting Officer**

The Accounting Officer submitted that some documents were not availed during the time of audit.

Paragraph 10.1 of World Bank regulations 4th edition November 2020, states that the Borrower shall seek the Bank's no objection before agreeing to an extension of the stipulated time for execution of a contract that has an impact on the planned completion of the project.

i) During contract implementation request for extension of contract may originate from either the contractor or the Client. In regard to this contract, the consultant wrote to the Ministry requesting for extension of the contract time vide letter dated 13th September 2021. The request was reviewed by the Project Coordination Unit technical team before submission of the request to the Bank for approval.
ii) In fulfillment of the stated regulations stated in Para 1 above, the project coordinator, by virtue of being the client's representative and contact person as provided in clause 9.1 of the special conditions of the contract sought Bank's No Objection for the extension upon receipt of request for extension.
iii) The Bank gave a No Objection to the extension of the contract by one month vide email dated 20 Sept 2021 and requested the firm to submit a revised work plan to achieve the remaining deliverables.
iv) After getting the Bank's No Objection, a professional opinion by Head supply chain management was submitted to the Accounting Officer for approval.
v) Also, it is clarified that in consultancies performance bonds are not applicable since consultancies are performance based and payments are based on achievement of specified deliverables in the contract.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer failed to provide the revised workplan and other documents during the audit process.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer.**

### 413. Alterations of Procurement Records

The Project Management entered into a contract for consultancy to provide blended online and face-to-face psychosocial support services at a contract price of Kshs.81,545,886. However, it was observed that the evaluation documents provided for audit for the provision of psychosocial consultancy services with a contract sum of Kshs.81,545,886 had score sheets containing arithmetical errors and alterations. The alterations were not countersigned making it difficult to ascertain if they were due to error or fraud. This is contrary to Regulation 102(3) of the Public Finance Management (National Government) Regulations, 2015 which provides that an Accounting Officer shall satisfy himself or herself that, where an alteration of a financial record requires the authorization, approval and, or deletion of any transaction or data whether electronic or manual by any means other than in writing, that there is sufficient audit trail which shall identify the person who approved the transaction.

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

**Submission by the Accounting Officer**

The Accounting Officer submitted that the score sheets was corrected without countersigning during evaluation as required by the law. The evaluator acknowledged that it was an error of omission and wrote to Head Supply Chain Management confirming that the corrected score was a true reflection of what was in the final bid evaluation report signed by technical team members.

**Committee Observations and Findings;**

**The Committee observed that the explanation was unsatisfactory.**

**Committee recommendations;**

**The Committee recommends that the Accounting Officer takes administrative action on those involved within three (3) months of adoption of this report.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### 414. Lack of Internal Audit on the Project

Review of Internal Audit Unit revealed that no audit was carried out on the Project and was planned for the subsequent year. Further, the Audit Committee of the Ministry did not sit to deliberate on matters relating to the Project in the year under review.

In the circumstances, the Project did not benefit from the assurance and advisory services from the Internal Audit Unit as well as oversight from the Audit Committee.

**Submission by the Accounting Officer**

The Accounting Officer submitted that during the year under review, the PRIDE project, which was funded by the same donor, GPE and implemented by the same team which was also implementing the COVID-19 Project, was audited. The report of the audit focused on the internal control measures that the teams both at the Ministry of Education Headquarters and the Field were expected to observe.

Committee Observations and Findings;

**i) The Committee noted the submission of the Accounting Officer.**
**ii) The Committee found that the matter was resolved.**

## 4.13 VOTE 1068: STATE DEPARTMENT FOR POST TRAINING AND SKILLS DEVELOPMENT

**Mr. Shadrack Mwadime**, the Principal Secretary and Accounting Officer for State Department for Labour and Skills Development, appeared before the Committee on 29th April 2024, accompanied by the following officers:

| | | |
|---|---|---|
| i. | Ms. Eunice Ndinda Benard | Asst. Director SCMS |
| ii. | Ms. Meldah Angir | Asst. Director KMRA |
| iii. | Mr. Amos Omari | Deputy Accountant General |
| iv. | Mr. Joseph kinuthia | Project Coordinator KYEOP |
| v. | Dr. Wanjiru Kariuki | Secretary Skill Development |
| vi. | Mr. Festus Mutuse | Ag. Director Strategy |
| vii. | Ms. Everlyn Siriya | Project Accountant KYEOP |

and submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

**415. Inaccuracies in the Financial Statements**

Review of the financial statements revealed the following unsatisfactory matters: -

i. The bank reconciliation statement in the annexures as at 30 June, 2022 discloses a bank certificate balance of Kshs.4,944,061 but the certificate of bank balance reflects a balance of Kshs.33,641,402 resulting into unexplained variance of Kshs.28,697,341. Further, the reconciliation was not approved by the responsible officer;

ii. The statement of assets and liabilities reflects Nil balance in respect to cash which was at variance with the reported IFMIS balance of Kshs.65,244,093;

iii. The statement of assets and liabilities reflects a balance of Kshs.690,000 in respect to accounts payables - deposits which was at variance with the reported IFMIS balance of Kshs.61,013,031 resulting in an unreconciled and unsupported difference of Kshs.60,323,031, and;

iv. The statement of cash flows reflects net cash flows from operating activities amounting to Kshs.27,773,354 which was at variance with the IFMIS generated statement of cash flows which disclosed Kshs.88,096,386 resulting in unreconciled difference of Kshs.31,505,003.

In the circumstances, the accuracy and completeness of the balances reflected in the statement of assets and liabilities and the statement of cash flows could not be confirmed.

**Submission by the Accounting Officer:**

The Accounting Officer responded as follows;

i. It is true that as at 30th June 2022, the bank certificate for the state department for post training and skills development showed a balance of kshs 33,641,402. It is also true that at the close of the financial year the cash book showed a balance of kshs 4,994,061.
The difference between the cash book balance and the bank certificate balance was due to payments clearing in the bank after 30th of June 2022. We wish to note that the closing

cash book balance as at the time of reporting showed a balance of kshs 4,994,061, which was the figure used in the statement as the balance for the recurrent bank account.

ii. It is true there was a variance between the reported figure of assets and liabilities and IFMIS generated report, however the same was resolved in the subsequent financial statements for the financial year 2022/2023.

iii. It is true the statement of assets and liabilities reflected a balance of kshs 690,000 in respect to accounts payables -deposits. There was no variance between the IFMIS statement of deposit and the statement of assets and Liabilities since the audited accounts for the financial year 2021/2022 statements of deposit reflect a balance of Kshs 690,000.

iv. It is true there was a variance between the statement of cash flows and the IFMIS generated statement of cash flows, however the same was resolved in the subsequent financial statements for the financial year 2022/2023.

**Committee Observations and Findings;**

**The Committee observed that the Accounting Officer had failed to keep proper accounting records.**

**Committee Recommendation;**

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

**416. Irregular Advance Payments**

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.22,870,170 as disclosed in Note 5 to the financial statements which includes Kshs.8,080,000 in respect to purchase of a motor vehicle. Review of records revealed that the payment for a vehicle was made in advance, but the vehicle could not be physically verified. This was contrary to Section 146 of the Public Procurement and Asset Disposal Act, 2015 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.

In the circumstances, the propriety and value for money on the acquisition of assets expenditure totalling to Kshs.8,080,000 could not be confirmed.

**Submission by the Accounting Officer;**

The Accounting Officer submitted that the state department was granted authority which was communicated by the National Treasury via letter ref: RES 1068/21/01/A(24) date 11th February,2022. The department purchased the vehicle from Toyota Kenya. In order to guarantee the security of the funds amounting to Kshs 8,080,000 the dealer issued and advance payment guarantee of a similar amount from CITIBANK dated 19th August 2022, however, before delivery of the vehicle, the dealer informed the state department that the vehicle with the specifications required was not available. The state department therefore requested for a refund of the money already paid for the vehicle. The dealer in response to the request for refund submitted the refund to the state department on 4th April 2024.

**Committee Observations and Findings;**

**The Committee observed that;**

i. **The Accounting Officer acted irregularly to 'secure' funds; as evidenced by the failure to deliver the vehicle;**

ii. **The refund took inordinately long and payment should only have been made based on confirmed availability of the vehicle model;**

iii. **The purpoted 'authority' from Treasury lacked any basis since procurement is guided by approved procurement plans and availability of funds.**

**Committee Recommendations;**

**The Committee recommends that;**

i. **The Accounting Officer obtains interest earned by the dealer for the period the sums were held at CBK rate, within three (3) months of adoption of this report, failure to which they be barred from dealing with the State Department henceforth.**

ii. **The Accounting Officer is reprimanded for acting contrary to Section 146 of the Public Procurement and Asset Disposal Act, 2015.**

## 4.14 VOTE 1069: STATE DEPARTMENT FOR IMPLEMENTATION OF CURRICULUM REFORMS

**Dr. Belio R. Kipsang PhD, CBS**, the Principal Secretary and Accounting Officer for the State Department for Basic Education appeared before the Committee on 12th September 2023 accompanied by the following officers:

| | | |
|---|---|---|
| i. | Mr. Emilio Mukira | Head of Accounting Unit |
| ii. | Dr. Hilder Kaavia | Director of Procurement |
| iii. | Mr. Wakesa Khaoya | Senior, Chief Finance Officer |
| iv. | Mr. Humpharey Masai | Senior Accountant |

and submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

**420: Non-adherence to Procurement Procedures**

During the year under review, the State Department irregularly awarded five (5) tenders worth Kshs. 4,452,500 to suppliers who did not have valid tax compliance certificates. This was contrary to Public Procurement Regulatory Authority Circular No. 1/2011 which requires bidders to submit valid Tax Compliance certificates.

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

**Submission by the Accounting Officer**

This State Department regrets this anomaly, the suppliers had been registered earlier and placed in the supplier data base of the State Department and confirmation of TAX validity was not established at the point of utilizing them during request for quotations. The department adopted utilization of the KRA online checker prior to inviting any suppliers to quote.

The suppliers in question are listed below;

| Date | PV No | Amount (Kshs.) | Payee | TCC No. |
|---|---|---|---|---|
| 8-Apr- 22 | 45 | 1,946,000 | Nediza Supplies | KRAMCS1200205520 |
| 21-Jun-22 | Inv174 | 1,110,600 | Ecoma Investments | KRASON1190749921 |
| 14-Apr-22 | 2154 | 440,000 | Epton Technologies | KRAEON1182519821 |
| 19-Apr-22 | 173 | 869,000 | Elite Shakay Enterprises | KRAENON1248785921 |
| 9-Jun-22 | 5 | 86,000 | Venus Global Merchants Ltd | KRAEON1181819821 |
| | **Total** | **4,452,500** | | |

**Committee Observations and Findings;**

**The Committee observed that the then procurement officers had breached the Public Procurement Regulatory Authority Circular No. 1/2011 which requires bidders to submit valid Tax Compliance certificates, by awarding tenders to non-compliant entities.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer takes disciplinary action on the procurement officers involved in the procurements, within three (3) months of adoption of this report.**

**421: Failure to Maintain a Fixed Assets Register**

Annex 4 to the financial statements on summary of fixed assets reflects an amount of 16,515,260. However, a fixed asset register detailing the assets, asset category, asset value and identification number of the assets was not provided for audit. Further, physical verification of the assets revealed that they were not tagged. This was contrary to regulation 139(1) of the Public Finance Management (national government) regulation, 2015 which requires accounting officer of a national Government entity to 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 that movement and conditions of assets can be tracked.

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

**Submission by the Accounting Officer**

It is true the Asset register was not provided for review at the time of audit. The Asset register for the State Department is available and has since been presented for Audit review.

It is also true that tagging of the assets had not been done during the audit review. The State Department has ceased to exist and the assets transferred to the State Department of Basic Education. The exercise of tagging is ongoing, under the new State Department.

**Committee Observations and Findings;**

**The Committee observes that despite the then state department existing for less than a year, an asset register is a basic document that the Accounting Officer ought to have maintained.**

**Committee Recommendation;**

**The Committee reprimands the then Accounting Officer.**

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

**422: Lack of Risk Management Policy and Strategy**

The state department management had not put in place a Risk management policy, strategies and risk register to mitigate against risk. It was therefore, not clear how the exposures were managed. This was in contravention of regulation 165(1) (a) and (b) of the public finance management (National Government) Regulations, 2015 which requires the accounting officer to ensure that the national Government entity develops risk management strategies, which include fraud prevention mechanism and the county Government entity develops a system of risk management and internal control that builds robust business operations.

In the circumstancesw, the effectiveness of the internal controls, risk amangement and overall governance could not be established.

**Submission by the Accounting Officer**

The department was established on 9th February 2021 following a presidential directive and appointment of Principal Secretary. Given this short period the state department had been in existence, and insufficient staffing, the process of developing risk management policy delayed. The department relied on the ministry's Internal Audit department to enhance its internal control systems and reduce risks.

Further to the above, the State Department instituted the following measures for preventive, detective, compliance/enforcement, feedback mechanism, in place:

i. Ministerial Audit Committee
ii. Tender Evaluation Committee
iii. Monitoring and Evaluation
iv. Authorization approval procedures
v. Work plans, Procurement plans, and expenditure plan

**Committee Observations and Findings;**

**i) The Committee observed that the explanation was satisfactory based on the fact that the then state department existed for less than one year, and had relied on the ministry's risk management policies.**

**ii) The Committee found that the matter was resolved.**

**423: Lack of an Audit Committee**

The state department has not established an internal Audit Function and Audit committee of the board. This was contrary to section 73 of the public finance management Act, 2012 which provides for the establishment of an Audit committee of the board.

In the circumstances, the state department did not benefit from the assurance and advisory services from the Audit committee.

**Submission by the Accounting Officer**

The Ministry of Education had a functional Internal Audit Unit that served all the State Departments within the Ministry. The Audit committee members were appointed in September 2021 when the first quarter was ending.

We wish to state that the Committee was able to have 3 meetings. The first meeting was held after renewal on 28th October 2021, second 24th March and the third on 15th June 2022. They meet every quarter hence 3 meetings were held as per minutes availed.

**Committee Observations and Findings;**

i) **The Committee observed that the explanation was satisfactory based on the fact that the then state department existed for less than one year, and had relied on the ministry's internal audit function.**

ii) **The Committee found that the matter was resolved.**

## 4.15 VOTE 1081: MINISTRY OF HEALTH

**Mr. Harry Kimtai**, the Principal Secretary and Accounting Officer for the State Department for Medical Services, appeared before the Committee on 9th and 11th April 2024, accompanied by the following officers:

| | | | |
|---|---|---|---|
| i. | Mr. Moses Gitari | – | Head of Accounting Unit |
| ii. | Mr. Leonard Ngotho | – | Director Human Resource Management |
| iii. | Mr. Waiganjo Karanja | – | Director Finance & Strategy |
| iv. | Mr. Moses Gitau | – | Senior Deputy Accountant |
| v. | Ms. Nancy Ndegwa | – | Asst. Director Supply Chain Management |
| vi. | Mr. David Muttu | – | Procurement Manager KEMSA |
| vii. | Ms. Olivia Kimata | – | Principal Accountant |
| viii. | Mr. Caroline Ndungu | – | Principal Accountant |
| ix. | Mr. Henry Wanja | – | Principal Accountant |
| x. | Mr. Dadson Munyiri | – | Principal Accountant |
| xi. | Mr. Lawrence Mwenda | – | Principal Accountant |
| xii. | Mr. Simon Macharia | – | Principal Accountant |
| xiii. | Mr. Albert Kamau | – | Project Finance Officer |
| xiv. | Ms. Fauzia Shauri | – | Parliamentary Liaison Officer |

and submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

### 424. Misclassification of Expenditure

The financial statements presented for audit contained the following misclassifications;

| Item | Classification in Financial Statements | Correct Classification | Amount (Kshs.) |
|---|---|---|---|
| Lease of land intended for construction of a level three (3) hospitals | Transfer to another government entity | Rentals of Produced Assets a | 16,299,222 |
| Financial support towards the international hybrid conference on harmonization of the curriculum and training of health professional | Facilitation of procurement of family planning commodities | Training | 15,000,000 |
| Payment to Kenyatta National Hospital | Social security benefits | Transfer to Other Government agencies | 99,999,999 |

| | | | |
|---|---|---|---|
| Server to KHPOA | Maintenance of motor vehicles | Purchase of Computers, Printers and other IT Equipment | 1,430,000 |
| Conference facilities for KHHRAC | Maintenance of motor vehicles | Hospitality Supplies and Services | 285,400 |
| Conference fees | Maintenance of motor vehicles | Hospitality Supplies and Services | 340,000 |
| Transfer to KEMRI as expenditure in Research Studies, Project Preparation, Design and Supervision | Asset additions in summary of fixed asset register | Transfer to Other Government Units | 151,195,000 |
| Refurbishment of buildings | Asset additions in summary of fixed asset register | Acquisition of Assets | 41,044,534 |
| **Total** | | | **325,594,155** |

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

**Submission by the Accounting Officer;**

The State Department has since reclassified the items in the revised financial statements.

**Committee Observations and Findings;**

**The Committee noted that reconciliations had since been done.**

**Committee Recommendations;**

**The Committee reprimands the Accounting Officer for failure to maintain proper accounting records as per section 68 (2)(k) of the PFM Act.**

**425. Unsupported Other Operating Expenses**

The statement of receipts and payments reflects use of goods and services of Kshs.12,183,660,271 as disclosed in Note 7 to the financial statements. The amount includes other operating expenses balance of Kshs.2,070,212,450 out of which an amount of Kshs.24,200,000 was paid to a Company being 1st installment for consultancy services on public awareness campaigns to reduce Covid-19 vaccine hesitancy. However, Management did not provide for audit the bidders' documents for the eight (8) companies that tendered to offer the services.

In the circumstances, the proprietary, accuracy and completeness of operating expenses balance of Kshs.24,200,000 could not be confirmed.

**Submission by the Accounting Officer;**

It is true that the State Department spent Ksh.24,200,000 on consultancy services on public awareness campaigns to reduce Covid 19 hesitancy. The bidding documents for the eight bidders who participated in the competitive procurement for the consultancy services are now provided for your review and verification.

**Committee Observations and Findings;**

**The Committee noted from the auditors that documentation had been belatedly availed.**

**Committee Recommendations;**

**The Committee reprimands the Accounting Officer for failure to avail supportive decoumentation to auditors on time as per section 81 (4) (a) of the PFM Act 2012.**

**426. Unsupported Specialized Materials and Services**

Note 7 to the financial statements reflects specialized materials and services amount of Kshs.1,733,665,386 which includes Kshs.104,328,000 that was captured as adjustment for items wrongly charged in Governance for Enabling Service Delivery and Public Investment in Kenya (GESDEK). However, no payment vouchers or journal vouchers to support these expenditures were provided for audit. In addition, the supporting schedule reflects credit entries of Kshs.1,750,637 whose respective payment vouchers and other documents were not provided for audit.

In the circumstances, the proprietary, accuracy and completeness of specialized materials and services amount of Kshs.104,328,000 and Kshs.1,750,637 both totaling Kshs.106,078,637 could not be confirmed.

**Submission by the Accounting Officer;**

It is true that Note 7 to the financial statements reflects specialized materials and services amount of Kshs.1,733,665,386 which includes Kshs. 104,328,000 that was captured as adjustment for items wrongly charged in Governance for Enabling Service Delivery and Public Investment in Kenya (GESDEK). The adjustment of Kshs. 104,328,000 relates to a wrongly posted journal which was reversed as per the attached journal.

The credit entry of Kshs.1,750,637 relates to ;

i) Journal Number 35736534 of Kshs. 1,474,137.95, captured to correct returned cheque in favour of Frontex General Supplies which was captured twice as per Voucher No 000058 and,

ii) Journal Number 35736089 of Kshs. 276,499.15 in favour of Makenzi Auto Garage to capture returned cheque which was never paid.

**Committee Observations and Findings;**

**The Committee noted from the auditors that the journal entries had been belatedly availed.**

**Committee Recommendations;**

**The Committee reprimands the Accounting Officer for failure to avail supportive decoumentation to auditors on time as per section 68 (2)(k) of the PFM Act.**

**427. Unreleased Deposit Amounts**

The statement of assets and liabilities reflects accounts payable – deposits of Kshs.243,197,236 as disclosed in Note 14 of the financial statements. Included in the amount is Kshs.109,105,844 due for payment which had been outstanding for more than six (6) months and after the lapse of defect liability period.

The deposit outstanding for more than 6 months were for Equalization Fund project which had stalled as a result of litigation.

In circumstances, accuracy and completeness of accounts payable – deposits of Kshs.243,197,236 could not be confirmed.

**Submission by the Accounting Officer;**

The outstanding deposit was for payments of contracts under First Marginalization Policy-Equalization Fund Projects which had been stalled as a result of a court case filed by the Council of Governors under Constitution Petition No. 272 of 2016 Council of Governors -vs-The Attorney General & 2 Others. The Council of Governors was challenging the Guidelines issued by the National Treasury on Administration of the Equalization Fund published on 13th March 2015.The Ministry sought legal advice from the Attorney General Office on the Judgement issued in the said Petition vide letter Ref: No. EF/ADM GEN/VOL I/ (1). The Attorney General advised on the way forward vide letter Ref. No. AG/CONF/21/53 dated 21st March, 2023 and the Ministry has since taken action pursuant to the advice.

The State Department has commenced payment of the Retention monies.

**Committee Observations and Findings:**

**The Committee noted the submission from the Accounting Officer.**

**Committee Recommendations;**

**The Committee recommends that the Accounting Officer submits confirmation of full settlement within one (1) month of adoption of this report.**

**428. Unsupported Credit Entry**

The statement of receipts and payments reflects payment of other grants and transfers of Kshs.2,168,422,341 as disclosed in Note 9 to the financial statements. The amount includes Kshs.2,164,269,767 for emergency relief and refugee assistance whose ledger revealed a credit entry of Kshs.106,959,911 which was not supported by journal vouchers.

In the circumstances, the accuracy and completeness of credit entry of Kshs.106,959,911 could not be confirmed.

**Submission by the Accounting Officer;**

It is true that the emergency relief and refugee assistance ledger revealed a credit entry of Kshs. 106,959,911 which was not supported by journal vouchers. This credit entry relates to Journal entry number 34530339 of Kshs 1,016,561 charged wrongly to Emergency relief and refugee assistance instead of air ticket, Journal entry number 36495790 of Kshs 104,328,000 charged wrongly to emergency relief and refugee assistance instead of laboratory materials and Journal entry number 34530507 of Kshs 1,615,350 charged to emergency relief and refugee assistance instead of other capital grants.

**Committee Observations and Findings;**

**The Committee noted from the auditors that the journal entries had been belatedly availed.**

**Committee Recommendations;**

**The Committee reprimands the Accounting Officer for failure to avail supportive decumentation to auditors on time as per section 68 (2)(k) of the PFM Act.**

**429. Unsupported Disbursements**

The statement of receipts and payments reflects transfers to other Government units of Kshs.77,155,075,338 as disclosed in Note 8 to the financial statements. The amount includes current grants to Government Agencies and other level of government of Kshs.49,519,739,794 out of which Kshs.2,848,630 was disbursed to an International Company for settlement of outstanding amounts for a vector control project and a further Kshs.10,499,556 to the health attaches office in Geneva which were not supported. In addition, Kshs.37,845,650 was transferred to the same office without detailed explanations on purpose of the funds.

In the circumstances, the proprietary, accuracy and completeness of transfers to other Government units of Kshs.2,848,630; Kshs.10,499,556 and Kshs.37,845,650 all totaling Kshs.51,193,836 could not be confirmed.

**Submission by the Accounting Officer;**

The Ministry of Health vide payment voucher no. 0001840 disbursed Kshs. 2,848,630 to Labiofam in Cuba. This was to clear an outstanding amount emanating from foreign exchange loss. See attached Voucher No.0001840

In addition, Kshs.10,499,556 and Kshs. 37,845,650 constitutes funds transferred to the Health attaches office in Geneva. These are quarterly disbursements issued to support Office operations and Training. The total amount transferred was Kshs. 41,998,224 as per the Votebook extract attached and as analyzed below;

| Payee | AIE Number | Quarter | Amount |
|---|---|---|---|
| PS Ministry of Foreign Affairs | A685714 | 01st Quarter | 10,499,556 |
| PS Ministry of Foreign Affairs | A685637 | 02nd Quarter | 10,499,556 |
| PS Ministry of Foreign Affairs | A685628 | 03rd Quarter | 10,499,556 |
| PS Ministry of Foreign Affairs | A685671 | 04th Quarter | 10,499,556 |

| | |
|---|---|
| **TOTAL** | **41,998,224** |

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

### 430. Unconfirmed Commitments of Goods, Works and Services

The statement of comparison of budget and actual amounts reflects actual expenditure of Kshs.107,345,805,714. Review of the budget revealed negative commitments of Kshs.769,494,918. However, an analysis indicating the description of the goods, works and services and the respective dates of commitments was not provided for audit. In the circumstances, the accuracy and completeness of negative commitments balance of Kshs.769,494,918 could not be confirmed.

**Submission by the Accounting Officer;**

It is true that the budget revealed negative commitments of Kshs. 769,494,918. The negative values in the commitments resulted from budget cuts in the Supplementary Estimates No. I and II for the year ended 30th June 2022 as noted vide Circular Ref.No. ES 3/03 "F'(04) which appropriated Supplementary II on 22nd June 2022.These budgets cuts were done after commitments for key strategic programmes like HIV,TB,Malaria,Family planning and vaccines had been done.

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

### 431. Unsupported Contingent Liabilities- Court Awards

Annex 6 to the financial statements reflects contingent liabilities amount of Kshs.39,613,135,462 after partial settlement of court awards amounting to Kshs.934,304,623. However, a breakdown of this settlement indicating details of Court awards, date of award and breakdown of each award were not provided for audit. In the circumstances, the accuracy and completeness of contingent liabilities settlement amount of Kshs.934,304,623 could not be confirmed.

**Submission by the Accounting Officer;**

Management is in agreement with the auditor's observations that the breakdown of the settlement indicating court awards, date of award and breakdown of each award were not provided for audit as at the time of audit, the list was being updated. The Ministry has since updated the list.

**Committee Observations and Findings;**

**The Committee observed that the ministry had a huge court award bill of Kshs. 934 million over the years, pointing to probable mismanagement of contracts.**

**Committee Recommendations;**

**The Committee recommends that the Auditor General submits an analysis of causes of these awards, in the next audit report, to enable the Committee make conclusive recommendations.**

**432. Undisclosed Assets Disposal**

The summary of fixed asset register in Annex 3 reflects historical cost amount of Kshs.4,198,764,838 with no disposals during the year under review. However, note 4 to the financial statements indicates proceeds from sale of assets of Kshs.10,742,319,287. Further, the details of specific items disposed were not provided for audit. In the circumstances, the accuracy and completeness of assets' historical cost of Kshs.4,198,764,838 could not be confirmed.

**Submission by the Accounting Officer;**

It is true that the summary of fixed asset register under annex 3 reflect nil disposals during the year; but Note 4 in the financial statements indicates proceeds from sale of assets of Kshs.10,742,319,287.00. This amount comprises of Appropriations in Aid (AIA) amounts from different Agencies within the Ministry for the respective Financial Year, denoted in the budget as 'Receipts from sales and other inventories, stocks and commodities', and itemized as 3520200. However, there were no disposals of assets during the year.

**Committee Observations and Findings;**

**The Committee noted from the auditors that the complete asset register had been belatedly availed.**

**Committee Recommendations;**

**The Committee reprimands the Accounting Officer for failure to avail supportive decumentation to auditors on time as per section 68 (2)(k) of the PFM Act.**

**433. Delayed Construction of Kisii Cancer Centre**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.2,000,223,435 as disclosed in Note 11 to the financial statements. The amount includes construction of buildings of Kshs.1,088,277,999 out which Kshs.6,420,100 was a payment on behalf of the donor by the Ministry of Health but there was no evidence of its refund after renewal of the contract. In addition, a payment of Kshs.3,210,500 for consultancy services was not supported by payment voucher and other supporting documents. Further, the project duration was six (6) years from 10 August, 2016 to 10 August, 2022 but the construction had not commenced by 30 June, 2022.

In the circumstances, the proprietary and value for money of Kshs.6,420,100 and Kshs.3,210,500 both totaling Kshs.9,630,600 could not be confirmed.

**Submission by the Accounting Officer;**

It is true that the Ministry of Health paid KES 6,420,100 to Ms. Schon and Associates on behalf of Saudi Fund for Development and there was no evidence of its refund after renewal of the contract. As per the National Treasury letter Ref.No. EA/FA/B/214/78/(04), the National Treasury advised that there was no provision to receive reimbursement from the Development Partners. Hence,the reimbursement was turned down.

Further, as at the time of audit, payment vouchers and other supporting documents for Kshs. 3,210,500 had not been provided. The payment voucher and supporting documents has now been attached for your review.

**Committee Observations and Findings;**

**The Committee observed that;**

i. **The vouchers for amount Kshs.3,210,500 for consultancy services had now been availed;**

ii. **The contracts had now been signed (on 24th January 2024) after donor gave the go ahead;**

**Committee Recommendations;**

**The Committee recommends that the Auditor General reviews progress of the project in subsequent audits.**

**434. Unaccounted for Expenditure on Construction of Paediatric Emergency Centre and Burns**

The statement of receipts and payments reflects acquisition of assets balance of Kshs.2,000,223,435 as disclosed in Note 11 to the financial statements. The amount includes Kshs. 1,088,277,999 for the construction of buildings out of which an amount of Kshs. 40,655,752 was paid for construction of pediatric emergency centre and burns management centre. However, payment vouchers, procurement file detailing how the contractor was identified and to show the bills of quantities were not provided for audit. In addition, physical inspection carried out revealed that no works were ongoing at the centre.

In the circumstances, proprietary and value for money of Kshs.40,655,752 could not be confirmed.

**Submission by the Accounting Officer;**

The Pediatric Emergency Burns and Management Center international tender was published in January 2018 and opened on 13th March 2018. The Evaluation was conducted on 15th -18th March 2018 and awarded on 3rd April 2018 to Vaghjiyani Enterprises Limited at a cost of Kshs. 2,959,511,555.29 after receiving a no Objection from the financiers. The Contract was signed on 30th July 2018 for 104 Weeks and site was handed over on 31st August 2018.

In the FY 2021/2022, the physical audit carried out showed there was no progress of work, since the contractor had suspended works from 23rd July 2021 at 53% complete due to delayed payments which could not be processed due to the lapse of the loan agreement in December 2020. The Loan agreements were extended on 31st December 2021 and KNH resubmitted the pending payments (Interim payment Certificates 10 and 11) amounting to Ksh 40,655,752.02 which were paid by the Financiers. The Contractor resumed site on 13th December 2022.

**The Committee observed that;**

i. **The documentation for the procurement and payments had now been availed;**

ii. **There were avoidable delays between the implementing state department and the financiers;**

iii. **The project was at 68% completion as at the time of the submission by the Accounting Officer;**

iv. **OPEC Fund had extended the withdrawal of loans proceeds period to 30th April 2025.**

**Committee Recommendations;**

**The Committee recommends that the Auditor General reviews progress of the project in subsequent audits.**

**435. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.130,469,107,784 and actual on comparable basis of Kshs.107,376,446,249, resulting to underfunding of Kshs.23,092,661,535 or 17% of the budget. Similarly, the Ministry spent an amount of Kshs.107,345,805,714 out of the approved expenditure budget of Kshs.130,469,107,784, resulting in an under expenditure of Kshs.22,123,302,070 or 17% of the budget.

The underfunding and underperformance may have affected the Ministry's key mandate of coordinating health policy, health regulations, National Referral Health Facilities, capacity building and providing technical assistance to the counties.

**Submission by the Accounting Officer;**

It is true that during the year under review the Ministry had an underfunding and an under-expenditure of 17%. This resulted from inadequate exchequer. However, the Ministry has consistently met its key objectives.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

**436. Variances Between Financial Statements and Vote Book**

The financial statements presented for audit contained the following variances;

i. The summary statement of appropriation recurrent reflects actual payments of Kshs.65,617,522,427 while the vote book reflects Kshs.65,729,576,464 resulting to a variance of Kshs.112,054,037.

ii. The summary statement of appropriation development reflects final budget amount of Kshs.63,808,568,046 while the vote book reflects Kshs.63,861,568,258 resulting to a variance of Kshs.53,000,212.

iii. The summary statement of appropriation development reflects actual payments of Kshs.41,728,283,288 while the vote book reflects Kshs.42,771,351,525 resulting to a variance of Kshs.1,043,068,237.

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

**Submission by the Accounting Officer;**

It is true that the figures reported in financial statements under the summary statement of appropriation recurrent and development and the Vote book had a variance. This was as result of timing differences because the vote book report is time based and updates figures as they are being cleared in the system. As at the time of the audit, the figures in the vote book had not updated thus the variance. This has since cleared and the two reports are now tying.

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**437. Undisclosed Pending Bills**

Note 19 to the financial statements reflects pending bills amount of Kshs.106,671,192. However, the Ministry's pending bills report for financial year 2021/2022 dated 26 July, 2022 reflects outstanding amounts of Kshs.45,899,794,836 resulting to an undisclosed pending bill of Kshs.45,793,123,644.

In the circumstances, the accuracy and completeness of pending bills amount of Kshs.106,671,192 could not be confirmed.

**Submission by the Accounting Officer;**

The correct figure for pending bills for the FY 2021/2022 was Kshs. 45,899,794,836 as per the attached schedule. These bills have since been cleared except the legal pending bills and historical bills which were forwarded to the Pending Bills Verification Committee at the National Treasury for further guidance.

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**438. 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, 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.

**Submission by the Accounting Officer;**

As at the time of the audit, several prior year matter had not been resolved. The issues are being resolved progressively.

**Committee Observations and Findings;**

**The Committee notes that its report for the previous financial year had since been adopted by the House.**

**Committee Recommendations;**

**The Committee recommends that the Accounting Officer submits a status report on implementation of its recommendations within three (3) months of adoption of this report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**439. Failure to Operationalize Institutions**

The following institutions have been created but not fully operationalized as detailed below;

| No. | Institution | Breached Law |
|---|---|---|
| 1 | Mathari Teaching and Referral Hospital | Legal Notice No.165 |
| 2 | Kenya Health Human Resource Advisory Council | Health Act, 2017 |
| 3 | Kenya Health Professions Oversight Authority | Health Act, 2017 |
| 4 | Tobacco Control Fund | Tobacco Control Act, 2007 |

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

**Submission by the Accounting Officer;**

**Mathari National Teaching and Referral Hospital** was founded in 1910 and, over a century later, it remains Kenya's only National Mental Hospital. The Hospital was established as a State Corporation vide Legal Notice No. 165 of 21st August, 2020.The Cabinet Secretary appointed the first board vide Gazette Notice No. 7925 of 9th October, 2020.The Hospital was categorized under PC 5 as per the State Corporations Act, Cap 226 in February 2021. The Head of Public Service vide letter Ref. No. OP/CAB.1/9/266A dated 9th February, 2021 communicated the approval to the Ministry. Under the said letter the Board of the Hospital was advised to hasten the preparation and submit the following Human Resource Instruments to SCAC for consideration and approval;

a) Organization Structure

b) Staff Grading and Establishment

c) Career Guidelines

d) Human Resource Policy & Procedures Manual

The Human Resource Instruments including the Staff Establishment and Organization Structure were approved on 7th July, 2023 by the Public Service Commission vide letter Ref: PSC/GEN/22/11/(53). The Commission further directed that the Hospital be re-categorized from category 5 to 7 in line with the mandate and status of a National Teaching and Referral Hospital.

The process of fully operationalizing an institution is multifaceted which requires a holistic approach, however, the Ministry is committed to fully operationalizing the Hospital by ensuring that all structures are put in place for a seamless transition. Following the approval of the HR Instruments by the Commission, the Budget for the Recurrent and Development will be captured as a Grant Transfer to the Hospital in the Supplementary Budget. The Hospital will therefore have full autonomy in execution of the budget.

**The Kenya Health Human Resource Advisory Council (KHHRAC)** is established as a body corporate under the Section 30 of Health Act 2017.

The Ministry of Health commenced the operationalization of the Kenya Health Human Resource Advisory Council in May 2019 when the then Principal Secretary deployed the acting Chief Executive Officer (CEO) and other staff to KHHRAC secretariat.

In 2019, the Ministry of Health sent out requests for nominees to the board of KHHRAC as per the provisions of the Health Act 2017 and received names of nominees from all other bodies with the exception of three nominees from the Council of Governors (COG). With health being a devolved function, the Ministry of Health could not gazette the Board in the absence of the representatives from the Council of Governors.

As efforts were continued to get COG to nominate its representatives to KHHRAC Board the Ministry of Health continued to take concrete steps towards operationalization of the Council by;

1. Requesting and receiving from Treasury a recurrent budget allocation for KHHRAC for FY 2020/2021. The budget is itemized at the Ministry Headquarters and KHHRAC has received a similar allocation every financial year to date.

2. Deploying additional staff from the Ministry to work at the Council Secretariat;

3. Securing temporary office space at the Kenya Medical Practitioners and Dentists Council Building.

4. Supporting the Council to develop draft human resource management instruments (Human Resource Policy and Procedure Manual, Career Progression Guidelines, Organizational Structure, Staff Establishment).

5. Facilitating the Council, supported by a team from State Department for Housing, to search for and identify suitable premises to lease office space.

6. Facilitating the Secretariat in collecting and analyzing health workforce data on the National Health Workforce Account (NHWA) platform for use in planning and decision-making

In 2023, The Cabinet Secretary for Health took up the issue of operationalizing of KHHRAC with His Excellency, the President, who then agreed with the Chairperson, Council of Governors to provide the names of the three representatives from COG in KHHRAC Board. The names were submitted, the Board gazetted on 15th May 2023 by the Cabinet Secretary and the Council inaugurated on 26th June 2023 at State House Nairobi by His Excellency the President. Further, KHHRAC Board underwent induction in September 2023 at the Kenya School of Government, Mombasa.

| FINANCIAL YEAR | BUDGET ALLOCATION (APPROVED ESTIMATES) |
|---|---|
| FY 2020/2021 | 89,594,340 |
| FY 2021/2022 | 78,758,171 |
| FY 2022/2023 | 67,046,897 |
| FY 2023/2024 | 68,638,589 |

**The Kenya Health Professions Oversight Authority** is established as a body corporate under section 45(1) of the Health Act, No. 21 of 2017. It is one of the State Agencies under the State Department of Public Health and Professional Standards as per the Executive Order No 1. Of 2023.

Further, the authority was operationalized in May,2019 when MOH deployed technical staff to start its operations.

The Authority has undertaken the following to ensure autonomy and full operationalization;

- Appointment of the board to administer the authority

The board composed of seven (7) members, was appointed through Gazette Notice of April, 2022. This is in addition to two (2) representatives of the Principal Secretary and the Director General, Health.

The first board meeting was held on 29th July 2022, following official inauguration on 04th July, 2022 by the Cabinet Secretary. Since then, 8 full board meetings have been held to transact its business.

- Bank Accounts

KHPOA was granted authority by the National Treasury to open bank accounts vide letter from the Principal Secretary Ref: MOH/ADM/1/1/19 dated 12th February, 2021(see attached copy of the letter). The bank accounts are at the National Bank of Kenya Ltd (for AIA) and Kenya Commercial bank (for Grant allocations)

- KHPOA Official Seal

The Authority has an official seal as provided in the Health Act, procured and delivered on 14th November,2022. (see attached delivery note)

- Categorization

The authority was graded as a Regulatory State Corporation category PC 6B by the State Corporations Advisory Committee (SCAC), on 25th January,2021 vide letter Ref: OP/CAB.1/14/9 dated 8th June, 2021 from the Head of Public Service and Chief of Staff (see attached copy). The HR instruments have also been approved.

**The Tobacco Control Fund** is yet to be operationalized because the regulations to govern the fund have not been finalized.

**Committee Observations and Findings;**

**The Committee observed that;**

i. **Mathari National Teaching and Referral Hospital had largely been operationalized save for budgetary autonomy;**

ii. **The Kenya Health Human Resource Advisory Council (KHHRAC) was now in place;**

iii. **The Kenya Health Professions Oversight Authority was now in place;**

iv. **The Tobacco Control Fund regulations were yet to be submitted to Parliament with no plausible reason, even as the fund was already receiving and dispensing funds.**

**Committee Recommendations;**

**The Committee reprimands the Cabinet Secretary for failure to submit regulations for full operationalization of the Tobacco Fund and recommends that the Cabinet Secretary submits the Regulations within six (6) months of adoption of this report.**

**440. Unremited NSSF Contributions**

Review of Ministry's Integrated Personnel and Payroll Data base records revealed that Management did not deduct and remit an amount of Kshs.93,359,823 to the National Social Security Fund. This was contrary to Section 19(1) and Section 20(1) (a)(b) of the National Social Security Fund Act, 2013.

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

**Submission by the Accounting Officer;**

The Ministry of Health recruited 11,336 health care workers to support the County Governments undertake the Universal Health Coverage (UHC) and also to mitigate against the Covid-19 pandemic. These officers were placed on local contract terms and were eligible for NSSF deductions. However, by then the IPPD system was configured to deduct NSSF contributions from officers employed on temporary terms only.

The Ministry of Health vide letters Ref. No. MOH/HRM&D/IPPD/GC/ (29) date 22nd February 2022 (Attached) and MOH/HRM/IPPD/60/VOLX/ (13) dated 23rd November 2022 (Attached) requested the State Department for Public Service to configure the system to enable deductions of NSSF from the contractual employees and address the issue. Consequently, all employees are now being deducted.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

**441. Delay in Closure of Donor Funded Projects**

The following donor projects had not been closed despite them not having any transactions or activities during the year under review;

i. Support of the Health Financing Strategy-Output Based Approach Programme (OBA);

ii. Ministry of Health - United Nations Population Fund - (UNFPA);

iii. East Africa Public Health Laboratory Networking Project (KEMSA);

iv. Health Sector Services Fund (HSSF) Grant No.4771-Ke and TF-16027;

v. Health Sector Support Project (KEMSA); and,

vi. Support of the Health Financing Strategy - Output Based Approach - Reproductive Health (OBA-RH) No 20106-5853

This is contrary to Regulation 74(6)(c) of the Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer of a National Government entity to 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 regulation.

**Submission by the Accounting Officer;**

i. Support of the Health Financing Strategy-Output Based Approach Programme (OBA);

It is true that this project ended in January 2017 but the bank account is yet to be closed. Even though the project activities ended in 2017, the accounts remained open because of the pending litigations. KFW had agreed to send any contingency funds that would be requested by PwC emanating from the proceedings and or determination by the courts.

The programme account will be closed as soon as the court cases are concluded.

ii. Ministry of Health - United Nations Population Fund - (UNFPA)

The account was opened as a requirement of the Implementing Partner Agreement between the Ministry of Health and UNFPA.

The bank account has remained dormant because UNFPA was to conduct capacity/micro assessment at Division of Reproductive and Maternal health before the funds are channeled into the bank account. The division still needs the bank account to facilitate funding from UNFPA. The Implementing partner agreement between Ministry of Health and UNFPA is renewed annually. Attached are copies of the latest agreements. UNFPA is making process to channel funds to the bank account

iii. East Africa Public Health Laboratory Networking Project (KEMSA)

The East Africa Public Health Laboratory Networking Project (KEMSA) was to close on 31st March 2020 but the project was extended to 30th September 2020. KEMSA Board of Directors passed a resolution to close the EAPHL project and the project bank account, Subsequently, KEMSA sought authorization to close the bank account from the National Treasury through the Ministry of Health, which was granted on 9th January 2023 the account was closed in March 2023.

iv. Health sector services fund (HSSF) Grant No.4771-Ke and TF-16027

The Kenya Health Sector Support Project- Health Sector Services Fund Account was closed upon the projects conclusion. See the attached MOH letter requesting for closure of the account and a letter from the National Treasury dated 28th June 2022 authorizing the closure.

v. Health Sector Support Project (KEMSA)

The KHSSP project was extended to 30th June 2018, however, the delay in project closure was due to the fact that one of the funding partners, DANIDA had not concluded an audit of their fund's contribution. On 21st May 2020, KEMSA sought guidance from the PS Ministry of Health on the project funds held. The Permanent Secretary via letter dated 9th of June 2020 requested KEMSA to refund back an amount of Ksh 289,090,323.48 as part of KHSSP project closing procedures.

This amount was refunded back to the Ministry of Health MOHP &S- SWAP Secretariat account on 22nd June 2020. The balance of the funds was transferred to KEMSA Bank account number 01136217405103 awaiting the conclusion of DANIDA audit. The Project bank accounts were closed as per treasury approval on 17th January 2022.

vi. Support of the Health Financing Strategy - Output Based Approach - Reproductive Health (OBA-RH) No 20106- 5853

The Donor had requested for a final audit of the project by independent auditors before the accounts could be closed. Following the completion of the audit by PWC, the accounts have now been closed.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

**442. Unremitted Pension Contributions**

Review of Integrated Personnel and Payroll Data base records revealed that Management did not deduct Kshs.2,245,580 pension contribution for employees below the age of 45 years who were engaged on permanent and pensionable terms.

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

**Submission by the Accounting Officer;**

It is true a review of Integrated Personnel and Payroll Data base records revealed that Management did not deduct Kshs.2,245,580 pension contribution for employees below the age of 45 years who were engaged on permanent and pensionable terms.

The implementation of Defined Benefit scheme was centrally effected in the IPPD system by the Ministry of Public Service. However, it was realized that thirty (30) eligible officers were not deducted. This has since been resolved and all eligible officer are being deducted.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

**443. Irregular Use of Low Value Procurement**

Note 7 to the financial statements reflects routine maintenance – vehicles and other transport equipment of Kshs.23,319,869 out of which Kshs.8,723,434 relates to repair of vehicles paid through cash advances to employees. This is contrary to second schedule of the Public Procurement and Asset Disposal Regulations, 2020 which sets the maximum low value procurement at Kshs.50,000 per item per financial year. In the circumstances, Management was in breach of the regulation.

**Submission by the Accounting Officer;**

It is true that the Ministry incurred expenditure of Kshs. 8,723,434 for minor repair of vehicles. During the period under review, the Ministry was involved in the provision of various urgent real time services in responding to the Covid-19 pandemic. This necessitated marshalling all its one hundred (100) working and serviceable fleet to perform the activities hence the cost of maintenance.

The urgent responses to the pandemic therefore required officers to be facilitated with imprests to carry out minor repairs while performing their duties.

**Committee Observations and Findings;**

**The Committee notes that the submission by the Accounting Officer on 'urgency' was unsatisfactory, despite him availing a breakdown of the expenditure. Procurement laws have provisions for such scenarios.**

**Committee Recommendations;**

**The Committee reprimands the Accounting Officer and recommends strict compliance to procurement laws henceforth.**

**444. Upgrading of Kigumo Sub-county Hospital**

The statement of receipts and payments reflects grants and transfers to other Government entities balance of Kshs.77,155,075,338 as disclosed in Note 8 to the financial statements. The amount includes capital grants to government agencies and other level of Government amount of Kshs.15,537,403,394 out of which Kshs.23,375,738 was paid on account of an interim payment certificate No. 2 from contract sum of Kshs.383,242,795. However, procurement records of tender advertisement, bid documents, tender opening, evaluation and comparison minutes, professional opinion, notification and acceptance of the award letters, schedules and summary of the other principal terms and conditions of the tender were not provided for audit. In addition, the Project had a start date of 23 June, 2021 and completion date 21 December, 2022, but the contractor has sought for extension by twenty-four (24) weeks which had not been granted.

In the circumstances, value for money, the procurement process and competitiveness of the award could not be confirmed.

**Submission by the Accounting Officer;**

It is true that the State Department settled an Interim Payment Certificate (IPC) No. 2 amounting to Ksh.23,375,738.00 in favour of M/S Interlink Industries and the contract was to be completed on 21st December, 2022. The contract implementation was however faced by various challenges including delay in settlement of IPCs prompting the contract period to be extended by further 12 weeks vide letter Ref. MOH/PROC/GEN/MF/ADSCMS/Vol.I dated 15th February, 2024. The contract period extension was however not to be attended to by any cost variations.

Availed are a copy of the press advertisement for the contract, tender opening register/minutes, the bid document, tender evaluation report, professional opinion and a copy of the contract document including the notification of award, acceptance letter by the tenderer and all the attendant terms and conditions of the contract.

A contract period extension revised the contract completion period to 21st May, 2024.

**Committee Observations and Findings;**

**The Committee noted the submission from the Accounting Officer.**

**Committee Recommendations;**

**The Committee recommends that the Accounting Officer submits a status report on the project within three (3) months of expiry of the fresh contract period.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**445. Weaknesses on Compensation of Employees**

The statement of receipts and payments and reflects compensation of employees amount of Kshs.13,712,918,331 as disclosed in Note 6 to the financial statements. However, one hundred and sixty-eight (168) had their net pay less than a third of their basic pay and eight (8) employees shared bank accounts. In addition, an amount of Kshs.54,253,428 was paid to interns and clinical officers outside the IPPD system as well as salary paid under AFD projects of Kshs.6,544,585. Further, two thousand two hundred and ninety six (2,296) employees were paid Kshs.93,987,280 as basic pay and Kshs.58,880,866 as special salary which was not explained.

In the circumstances, the controls on compensation of employees could not be confirmed.

**Submission by the Accounting Officer;**

**i. 168 employees had their net pay less than a third of their basic pay.**

It is true that 168 employees had their net pay less than a third of their basic pay. This was occasioned by the following reasons which were outside the control of the payroll manager.

- The introduction of statutory deduction of Superannuation Scheme as from January, 2021.
- Expiry of tax exemptions for officers living with disabilities.
- Contract end dates – employees whose contracts ended mid-month therefore paid only for the few days worked
- Salary overpayment recovery
- GOK house rent recovery

**ii. Shared bank accounts by 8 employees**

It has been observed that eight (8) officers shared bank accounts as at June 2022.

It is important to note that during the period under review, the Ministry of Health was involved in an enormous assignment of data entry. The Ministry had recruited Eleven thousand, three hundred and thirty-six (11,336) health care workers to operationalize the Universal Health Coverage Programme. Some of the health care workers were also engaged to mitigate against the Covid 19 pandemic.

The process of data entry was quite involving given this bulk number of newly engaged employees.

However, the Ministry made a follow-up with Banks to ensure the money posted was reverted to the correct bank accounts. Therefore, no funds were lost as a result of duplicate bank accounts. The Ministry has since corrected the shared bank accounts through updating of the payroll.

**iii. Kshs. 54,253,428 paid outside the payroll to interns**

During the period under review the Ministry engaged about 11,336 UHC Workers and about seven thousand interns. Due to the high number of new employees, the State Department for Public Service could not generate their personal numbers in time and hence they could not be introduced in the IPPD system by the time their contracts ended. They were therefore paid manually through payment vouchers for the services rendered.

A detailed breakdown of the payment of Kshs 54,253,428, is availed.

**iv. 2,296 employees paid basic salary of Kshs. 93,987,280 and special salary of Kshs. 58,880,866**

It is indeed true that some officers were paid special salary and basic salary. These include; UHC Contract Staff, and Interns. Their salary is normally captured as special salary in the IPPD system. Whereas whenever they are paid salary arrears this is captured as basic salary. It is therefore confirmed that the payments were valid and there were no cases of double payment.

**Committee Observations and Findings;**

**The Committee noted the submission from the Accounting Officer.**

**Committee Recommendations;**

**The Committee recommends that the State Department for Public Service configures the IPPD system to cater for all cadre of employees engaged by government.**

**446. Failure to Maintain Fixed Assets Register**

The Ministry did not maintain a fixed asset register to record the assets indicating their nature, date of purchase, amount, unique identifier, depreciation among other details. Further, details of assets acquired and those disposed were not recorded.

In the circumstances, the effectiveness of controls on management of Ministry fixed assets could not be confirmed.

**Submission by the Accounting Officer;**

It is true that the State Department had not maintained a fixed asset register for the Financial Year 2021/2022. The State Department has however since then prepared a fixed asset register with assets details including the asset description, asset location and the asset condition. The State Department will endeavour to have the same updated as and when any assets are acquired or disposed off and have all the requisite details of the assets including the values and year of purchase captured.

**Committee Observations and Findings;**

**The Committee noted the submission from the Accounting Officer.**

**Committee Recommendations;**

**The Committee recommends that the Auditor General confirms the completeness of the register in the next audit cycle.**

**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

**452. Budgetary Control and Performance**

The statement of comparative budget and actual amounts reflects final receipts budget of Kshs.1,160,000,000 and actual on comparable basis of Kshs.554,331,070, resulting in an under-funding of Kshs.605,668,930 (or 52%) of the budget. Similarly, the Project spent Kshs.551,755,580 out of the approved expenditure budget of Kshs.1,160,000,000, resulting in an under-absorption of Kshs.608,244,420 (or 52%) of the budget.

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

**Submission by the Accounting Officer;**

It is true that Kshs. 605,668,980 was not utilized as a result of the cancellation of Lot 1 (radiology equipment).This was due to an increase in the cost of the equipment before the intention to award, as per the attached No Objection from ADB bank. The budget was however revised and lot 1 was retendered and is yet to be awarded.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

**453. Unutilized Balance**

The project information and overall performance underfunding summary at paragraph 1.7 reflects total commitment of Kshs.3,674,000,000 and amount received to date (30 June, 2022) of Kshs.1,908,278,502 resulting to a difference of Kshs.1,765,721,498 (or 48%). Meaning the Project had attained 52% performance level with project end date indicated as 31 December, 2022.

In the circumstances, the primary objective of focusing on public health problems affecting the country, including infectious diseases, use of scientific evidence for policy formulation and program implementation may not be realized.

**Submission by the Accounting Officer;**

During the year under review, the project funds were meant for construction and equipping of East African Kidney Institute Complex at KNH grounds. However, the implementation of the project was affected by Covid-19 outbreak as the number of workers were reduced on site. In addition, the procurement process took longer than anticipated. Following the completion of the structure, absorption has increased to 79% as we have been able to procure the equipment. The project received an extension to 31st December 2024.

**Committee Observations and Findings;**

**The Committee noted the submission from the Accounting Officer.**

**Committee Recommendations;**

**The Committee recommends that the Accounting Officer submits a status report by 31st January 2025.**

**GLOBAL FUND TUBERCULOSIS PROJECT GRANT/ CREDIT NO.KEN-T-TNT-1548**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**458. Long Outstanding Imprests and Advances**

As previously reported, the statement of financial assets reflects imprest and advances balance of Kshs.3,238,374 as disclosed under Note 8A to the financial statements. The amount relates to long outstanding imprest and advances some dating back to financial year 2012/2013. This is contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station. Further, Regulation 93(6) provides that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank rate.

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

**Submission by the Accounting Officer;**

It is true there was outstanding advances and imprest of Kshs. 3,238,374 composed of Kshs 784,650 as AIE advances to the former Provincial Directors of Health KEPI accounts and personal imprest of Kshs 2,520,400.

The following are the measures the Ministry of Health has taken to recover the outstanding advances and imprest;

i) The Ministry wrote to the respective provincial KEPI banks and received confirmation of balance in the account where previous balance of the funds were utilized to service bank charges. It has similarly instructed the banks to close the KEPI accounts.

ii) The Ministry has made efforts to recover the imprest from the individuals, however as the individuals are no longer in service recovery of the imprest and interest due from the salary has not been effected. Other legal measures are being instituted to recover money through a) Pension and/or b) asset recovery;

| GLOBAL FUND TB GRANT OUTSTANDING IMPRESTS AS AT 30TH JUNE 2019 | | | | | |
|---|---|---|---|---|---|
| S/NO. | NAME O F OFFICE R /INSTIT UTIO N | AMOUNT TAKEN | DATE OF SURRENDE R | AMOUNT SURRENDERED | BALANCE |
| 1 | PATRICK GAWO - 2003000198 | 21,000 | 30-01-15 | 18,000 | 3,000 |
| 2 | BENJAMIN OTITA - 1985100314 | 30,000 | 30-06-14 | 0 | 30,000 |
| 3 | JOSEPH KARIMI (PRINCIPAL DRIVER) | 95,000 | 30-01-15 | 0 | 95,000 |
| 4 | NICHOLAS NJERU - 1970013719 | 2,392,400 | 30-06-16 | 0 | 2,392,400 |
| | **SUB TOTAL** | **2,538,400** | | **18,000.00** | **2,520,400** |
| **ADVANCES TO DEFUNCT PROVINCIAL ADMINISTRATION - KEPI ACCOUNTS** | | | | | |
| S/NO. | NAME OF OFFICER/INSTITUTION | AMOUNT TAKEN | DATE OF SURRENDE R | AMOUNT SURRENDERED | BALANCE |
| 1 | EASTERN PROVINCE | 7,441,500 | 30-12-13 | 7,430,699 | 10,801 |
| 2 | NORTH EASTERN PROVINCE | 11,682,060 | 30-12-13 | 11,662,110 | 19,950 |
| 3 | NAIROBI NORTH | 10,388,250 | 30-12-13 | 10,297,283 | 90,967 |
| 4 | NYANZA PROVINCE | 9,629,210 | 30-12-13 | 9,537,790 | 91,420 |
| 5 | NAIROBI SOUTH | 14,521,300 | 30-12-13 | 14,425,300 | 96,000 |
| 6 | COAST PROVINCE | 15,168,150 | 30-12-13 | 15,064,832 | 103,318 |
| 7 | WESTERN PROVINCE | 9,627,800 | 30-12-13 | 9,459,227 | 168,573 |
| 8 | RIFT VALLEY PROVINCE | 9,752,100 | 30-12-13 | 9,494,441 | 203,621 |
| | **SUB TOTAL** | **88,210,370** | | **86,710,838** | **784,650** |
| | **TOTAL** | **90,748,770** | | **86,728,838** | **3,305,050** |

**Committee Observations and Findings;**

**The Committee observed that there was laxity in recovery of the outstanding imprests, some long outstanding.**

**Committee Recommendations;**

**The Committee reprimands the Accounting Officer and recommends that the Accounting Officer avails a report to the Committee on steps taken to make recoveries, including legal action on the beneficiaries, within three (3) months of adoption of this report.**

**SUPPORT OF THE HEALTHCARE FINANCING STRATEGY- REPRODUCTIVE HEALTH- OUTPUT BASED APPROACH PROJECT (CREDIT BMZ NO. KENYA 201065853)**

REPORT ON THE FINACIAL STATEMENTS

**462. Lack of Financing Plan for Payables**

The statement of financial assets reflects bank balance of Kshs.967,833 as disclosed in Note 11A to the financial statements. However, pending accounts payable balance of Kshs.4,436,435 as disclosed under other important disclosures would not be fully settled by the bank balance. The resulting difference of Kshs.3,468,602 was not explained how it will be financed. In addition, other important disclosures reflect court cases with estimated contingent liabilities of Kshs.11,775,142 which were not explained how they will be financed if they crystalize.

In the circumstances, the financing of pending accounts payable of Kshs.4,436,435 and estimated claims arising from the court cases of Kshs.11,775,142 could not be confirmed.

**Submission by the Accounting Officer;**

There are discussions between the Ministry and the National Treasury on settlement of the pending payables.

**Committee Observations and Findings;**

**The Committee noted the submission from the Accounting Officer.**

**Committee Recommendations;**

**The Committee recommends that the Accounting Officer submits a status report on settlement of the payables within three (3) months of adoption of this report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**463. Avoidable Bank Charges**

The statement of receipts and payments reflects purchase of goods and services of Kshs.59,099 as disclosed in Note 6 to the financial statements. The amount is composed of bank charges of Kshs.31,277 and exchange losses/gains (net) of Kshs.27,822 resulting from failure to close the project bank accounts and which continue to reduce the bank balance.

In the circumstances, value for money on continued operations of the Project could not be confirmed.

**Submission by the Accounting Officer;**

The Donor had requested for a final audit of the project by independent auditors before the accounts could be closed. Following the completion of the audit by PWC, the accounts have now been closed and thus no more accumulation of bank charges.

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**TRANSFORMING HEALTH SYSTEMS FOR UNIVERSAL CARE (THS-UC) PROJECT GRANT IDA CREDIT NO.5836- KE, TFOA2561, TFOA2792 AND CR. P152394**

REPORT ON THE FINACIAL STATEMENTS

**467. Budgetary Control and Performance**

The statement of comparative budget and actual amounts reflects final receipts budget of Kshs.4,516,799,990 and actual on comparable basis of Kshs.3,549,922,407 resulting to underfunding of Kshs.966,877,583 or 21% of the budget. Similarly, the Project spent an amount of Kshs.3,388,832,347 out of the approved expenditure budget of Kshs.4,516,799,990 resulting to an under expenditure of Kshs.1,127,967,643 or 25% of the budget.

In the circumstances, the primary objective of improving utilization and quality of primary health care services with focus on reproductive, maternal, new-born, child and adolescent health care may not be realized in light of the budget underperformance.

**Submission by the Accounting Officer;**

It is true that the statement of comparative budget and actual amounts reflects final budget of Kshs. 4,516,799,990 against actual expenditure of Kshs.3,388,832,347 resulting to an under absorption of Kshs.1,127,967,643.It is also true that the project actual receipts amounted to Kshs.3,549,922,407 against budgeted receipts of Kshs.4,516,799,990 resulting to a revenue shortfall of Kshs.966,877,583.

This is because during the year, Kshs 2,234,664,075 had been budgeted for disbursement to all the 47 counties. However only Kshs 1,445,456,880 was disbursed to 30 counties as 17 counties did not meet the minimum conditions. This led to reduced expenditure. It also led to reduced receipts as Kshs 1,445,456,880 was received and not the full amount as budgeted.

However, this did not affect the achievement of the primary objective of improving utilization and quality of primary health care services with focus on reproductive, maternal, new-born, child and adolescent health care.

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**468. Delay in Disbursement of Funds**

The statement of receipts and payments reflects transfers to other government entities of Kshs.2,878,953,881 as disclosed in Note 11.6 to the financial statements. Included in the amount is Kshs.1,445,456,881 in respect to transfers to County governments that were disbursed late in June, 2022. In the circumstances, implementation of the county governments annual work plans was delayed which impacted negatively on service delivery to the public.

**Submission by the Accounting Officer;**

The project endeavors to disburse funds to the counties early enough to allow for implementation i.e. 1st Tranche during the first quarter and 2nd tranche in the 3rd quarter. However, during the year under review there was a delay in disbursement of funds to the counties. This was due to a delay in passage of the County Government additional allocation bill which replaced the County Allocation Revenue Act(CARA). The Bill was assented on 22nd April 2022 and Gazetted on 29th April, however commencement of bill was on 13th May 2022.As a project we had to wait until the publication and commencement of the bill.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**469. Pending Bills**

Other important disclosures reflect pending bills of Kshs.1,262,926 that were outstanding at the closure of the financial year. This was contrary to section 53(8) of the Public Procurement and Assets 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.

**Submission by the Accounting Officer;**

Spicer's (Eastern Africa) had provided servicing and repair services for a printing machine at the Division of Health Promotion by virtue of being that they are one of the authorized dealers of that type of printing machines in the Country. The supplier had challenges accessing the supplier portal. The Project vide letter dated 1/10/2021(attached) wrote a reminder to the provider and advised them to visit the IFMIS department at Treasury to have the issue addressed for payment to be made. The service provider has since been paid.

Jumuia Conference and Beach Resort was among the suppliers that were invited to quote for provision of full day conference package for the project activity. The invitation was done manually through email and the provider emerged the most responsive. Following the activity, the project was unable to pay the provider due to IFMIS challenges. The Project vide letter dated 1/10/2021(attached) wrote a reminder to the provider and advised them to visit the IFMIS department at Treasury to have the issue addressed for payment to be made. The issues were addressed and the supplier has since been paid.

Silver Africa was among agents invited to provide air tickets for various activities for both national and county officers in the FY 2018/2019 and 2019/2020.

Following the provision of air tickets, the provider did not avail invoices for payment until May 2021. (confirmed through attached provider letter dated 1/9/2021). The Project has since verified and paid all the pending invoices owed to the supplier.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

**GLOBAL FUND HIV AIDS PROGRAM GRANT NO. KEN-H-TNT GA 1547**

REPORT ON THE FINACIAL STATEMENTS

**473. Unresolved Prior Year Audit Matters**

In the audit report of 2020/2021 financial 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 has not resolved all the issues.

**Submission by the Accounting Officer;**

It is true that there were several issues raised during the FY 2020/2021.The issues have since been resolved as per the attached extract of the financial statements for the year ending 30th June 2022.

**Committee Observations and Findings;**

**The Committee notes that its report for the previous financial year had since been adopted by the House.**

**Committee Recommendations;**

**The Committee recommends that the Accounting Officer submits a status report on implementation of its recommendations within three (3) months of adoption of this report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**474. Unliquidated Commitments**

Other important disclosures reflect pending accounts payables of Kshs.5,818,699. However, the amount was outstanding for more than six months period allowed by Global Fund to liquidate commitments. This was contrary to paragraph 24 of Global Fund guidelines for grant budgeting, 2019 which states six months after the start of the new Implementation Period, Principal Recipients will be required to report the final available cash balance from the previous allocation period (after all financial commitments are fully paid). Any unliquidated commitment remaining at the end of the six-months period will be considered closed by the Global Fund unless otherwise approved in writing by the Global Fund.

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

**Submission by the Accounting Officer;**

It is true that Kshs. 5,818,699 was outstanding for more than six months period allowed by Global Fund to liquidate commitments. There have been several correspondences between the Global Fund Finance Manager NASCOP and the Principal recipient 1 at National Treasury requesting for a way forward on liquidation of the commitments.

**Committee Observations and Findings;**

**The Committee observed that the matter had taken inordinately long to settle.**

**Committee Recommendations;**

**The Committee recommends that the principal recipient (National Treasury) settle the matter within three (3) months of adoption of this report.**

**COVID-19 HEALTH EMERGENCY RESPONSE PROJECT GRANT/CREDIT NO.6598-KE**

REPORT ON THE FINACIAL STATEMENTS

**477. Unsupported Compensation of Employees**

The statement of receipts and payments reflects compensation of employee's balance of Kshs.241,631,465 as disclosed in Note 11.2 to the financial statements. However, the Project paid consultants varying monthly allowances of between Kshs.75,000 and Kshs.120,000 without stating the basis of arriving at these allowances. Further, contracts for the period January, 2022 to June, 2022 were not provided for audit and payments made were not supported by invoices and reports from consultants.

In the circumstances, the accuracy and completeness of compensation of employees' balance of Kshs.241,631,465 could not be confirmed.

**Submission by the Accounting Officer;**

It is true that the statement of receipts and payments reflects compensation of employee balance of Kshs. 241,631,465 as disclosed in Note 11.2 to the financial statements. The World Bank allows hire of consultants on short term basis under the project as per the Financing Agreement. As part of the COVID-19 response, the project procured short term consultants using the Public Procurement and Disposal Act (2015) and the payment was negotiated based on expertise of each consultant. Payment terms were as per the contract upon submission of staff returns by the supervisor at the work station.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

**478. Undisclosed Retention Fees**

The statement of receipts and payments reflects acquisition of non-financial assets balance of Kshs.265,226,611 as disclosed in Note 11.4 to the financial statements. Included in the amount is Kshs.139,860,111 for rehabilitation and renovation of plant, equipment and machinery out of which an amount of Kshs.100,817,680 was spent on gas installation in various hospitals. However, the 10% retention fees balance of Kshs.10,081,768 withheld was not disclosed in the financial statements.

In the circumstances, the accuracy and completeness of acquisition of non-financial assets - retention fees of Kshs.10,081,768 could not be confirmed.

**Submission by the Accounting Officer;**

The project does not have its own retention bank account. The Ministry of Health has one deposit account where all retention fees are deposited and a Miscellaneous Receipt(MR) issued to the supplier. A copy of MOH deposit analysis extract showing retention money amounting to Kshs. 10,081,768 from the project has been availed.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

**479. Inaccuracy in Cash and Cash Equivalents**

The statement of financial assets reflects bank balance of Kshs. 62,433,792 as disclosed in Note 11.7A to the financial statements. However, the bank reconciliation statement included unreconciling items of Kshs.1,674,315 and stale cheques of Kshs.967,109 which were not adjusted in the cash book.

In the circumstances, the accuracy and completeness of bank balance of Kshs.62,433,792 could not be confirmed.

**Submission by the Accounting Officer;**

It is true that the bank reconciliation statement had outstanding issues. These issues were due to posting errors that has since been corrected. The bank reconciliation statement showing the correct position and the cash book extract as at 30th June 2022.

**Committee Observations and Findings;**

**The Committee noted the submission from the Accounting Officer.**

**Committee Recommendations;**

**The Committee recommends that the Auditor General confirms amended opening statements in subsequent audit.**

**480. Undisclosed Imprests and Advances**

The statement of financial assets reflects accounts receivables - imprests and advances balance of Kshs.4,668,877 as disclosed in Note 11.8 to the financial statements. However, analysis of the imprest register and supporting schedules revealed unsurrendered imprest amounting to Kshs.43,671,525 resulting to unreconciled variance of Kshs.39,002,648.

In the circumstances, the accuracy and completeness of accounts receivables - imprests and advances of Kshs.4,668,877 could not be confirmed.

**Submission by the Accounting Officer;**

It is true that the project had outstanding imprest amounting to Kshs. 4,668,877 as at 30th June 2022. These imprests were still in process within the IFMIS system as at the time of the audit. These imprests have since been fully processed.

**Committee Observations and Findings;**

**The Committee noted that the submission from the Accounting Officer was unsatisfactory as the amounts had taken too long to clear.**

**Committee Recommendations;**

**The Committee recommends that the Accounting Officer ensures imprests are surrendered within stipulated time.**

**481. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.6,972,534,981 and actual on comparable basis of Kshs.2,074,941,263, resulting to underfunding of Kshs.4,897,593,714 (or 70%) of the budget. Similarly, the Project spent an amount of Kshs.1,922,271,387 out of the approved expenditure budget of Kshs.3,340,840,724, resulting in an under expenditure of Kshs.1,418,569,337 (or 42%) of the budget.

The underfunding and underperformance may have affected the Project's key objective of preventing, detecting and responding to the threat posed by Covid-19 and strengthening national systems for public health preparedness.

**Submission by the Accounting Officer;**

The project presented its budgetary requirements of Ksh. 6,972,534,981 to the National treasury based on the anticipated support of preventing, detecting and responding to the threat posed by Covid-19 and strengthening national systems for public health preparedness. The National Treasury allocated Ksh. 2,074,941,263 and the project had an option to request for additional funds during supplementary budget appropriation upon exhausting the allocated funds.

The COVID-19 Health Emergency Response Project is procurement heavy dealing with procurement of COVID-19 supplies and equipment. The global supply chain challenges experienced during the COVID-19 pandemic resulted in long lead times, leading to delay in delivery. This led to under expenditure observed by the auditor since payments can only be made after delivery and inspection.

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**483. Failure to Update Imprest Register**

Note 3 to the financial statements reflects purchase of goods and services of Kshs.986,444,389. The amount includes domestic travel and subsistence of Kshs.293,082,937 out of which Kshs.40,294,650 issued as imprest was not recorded in the imprest register.

In the circumstances, the effectiveness on controls on issuance and recording of imprest could not be confirmed.

**Submission by the Accounting Officer;**

The Ministry maintains one imprest register and as at the time of audit the Ministry was in the process of updating the register.

**Committee Observations and Findings;**

**The Committee noted the admission by the Accounting Officer.**

**Committee Recommendations;**

**The Committee reprimands the Accounting Officer for failure to maintain an up-to-date imprest register.**

**GLOBAL FUND TUBERCULOSIS PROJECT GRANT/CREDIT NO. KEN-T-TNT-2067**

REPORT ON THE FINANCIAL STATEMENTS

**486. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.775,488,451 and Kshs.694,370,519 respectively, resulting to underfunding of Kshs.81,117,932 or 10% of the budget. Similarly, the Project spent an amount of Kshs.553,841,711 against the approved expenditure budget of Kshs.775,488,451 resulting to an under expenditure of Kshs.221,646,740 or 29% of the budget. The underfunding and underperformance may have affected negatively the planned activities of reducing tuberculosis deaths by 90% and tuberculosis incidence rate by 80%.

**Submission by the Accounting Officer;**

It is true that for the year ended 30 June 2022 there was 10% underfunding of Kshs.81,117,932. It is also true that the Ministry did not receive the anticipated funding during the year under review, this was attributed to the Global fund cash monitoring of financial absorption of programs to reduce high cash balance at the end of the reporting periods. Thus, resulting in non-disbursement of Kshs 81,117,933 as demonstrated in the table below;

| Date | Description | Amount |
|---|---|---|
| **19/10/2021** | **Exchequer Request** | **448,226,282.00** |
| 14/Jan/22 | MOH Exchequer Receipt | 107,764,833.40 |
| 1/Apr/22 | MOH Exchequer Receipt | 28,520,000.00 |

| | | |
|---|---|---|
| 26/Apr/22 | MOH Exchequer Receipt | 319,985,825.70 |
| **06/05/2022** | **Exchequer Request** | **307,183,919.00** |
| 28/Jun/22 | MOH Exchequer Receipt | 93,776,000.00 |

For the year ended 30 June 2022 there was underutilization of budget of 29% of Kshs.221,646,740. Being the first year of the grant implementation, the Ministry of Health implemented programmatic interventions and archived an absorption rate of 71% during the financial year under audit. The variance of 29% is mainly attributed to delays in disbursement by the Global Fund resulting in high pending bills reported at the end of the year.

The Ministry developed mitigation measures to ensure the postponed activities are accelerated and incorporated in year two implementation of the grant. Despite the underutilization, the country achieved treatment success rate of 84% as reported.

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**487. Unsupported Pending Bills**

Annex 3(a) to the financial statements reflects analysis of pending bills of Kshs.30,555,233 out of which Kshs.20,839,853 relates to commitments of goods and services from various suppliers. However, the amounts were not supported with invoices, purchase orders and details on how the suppliers were engaged. In the circumstances, the accuracy and completeness of pending bills of Kshs.30,555,233 could not be confirmed.

**Submission by the Accounting Officer;**

The pending bills arose due to a delay in disbursement being received on 30th June 2022. However, these were subsequently paid.

**Committee Observations and Findings;**

**The Committee noted the submission from the Accounting Officer.**

**Committee Recommendations;**

**The Committee recommends that the Auditor General verifies the documentation in subsequent audit.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**488. Suboptimal Use of GeneXpert Machines**

Records provided for audit indicated that one hundred and eighty six (186) GeneXpert machines were issued across various health facilities in the country. However, physical verification in six (6) counties in September 2022 revealed inadequate supply of cartridges which caused the machines to produce 238,187 tests against optimal capacity of 714,240 tests resulting to underperformance of 476,053 tests (or 67%). In addition, there was shortage of

Community Health Volunteers (CHVs) to perform contact tracing and there were minimal referrals which led to inefficient use of GeneXpert machines.

In the circumstances, the effective use of GeneXpert machines could not be confirmed.

**Submission by the Accounting Officer;**

It is true that, during the FY 2021/2022 there was inadequate supply of GeneXpert cartridges that led to suboptimal use of the GeneXpert machines in the country. During this time, there were challenges of procuring the GeneXpert cartridges due to delay signing of SLA that was signed in August 2022 and lack of sufficient funding. However, the Ministry of Health managed to secure additional resources to acquire 10 Months of Stock through the UHC funding. There has been improved networking of both patients and samples to be able to optimize the use of the platforms. Equally, the introduction of active case finding (ACF) strategies as well as Program Quality Efficiency (PQE) at facility level have narrowed the gap of underutilization. The average monthly cartridge consumption ranged from 37,500 to 62,500. Ministry of Health has just concluded a diagnostic network optimization (DNO) involving the HIV and Cancer programs with an aim to optimize the systems and serve the patients better with reduced turnaround time (TAT) to initiation to treatment.

Through the roll out of PHC, the Community health workers are being actively engaged.

**Committee Observations and Findings;**

**The Committee observed that the equipment were acquired before both human and technical capacity was ensured.**

**Committee Recommendations;**

**The Committee recommends the Accounting Officer henceforth conducts effective planning before acquisition of equipment.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**489. Unsupported Selection of Drug Resistance TB Patients**

Note 4 to the financial statements reflects specialized materials and services of Kshs.5,391,000 out of which Kshs.539,000 relates to insurance cover for seventy-seven (77) DRTB patients. However, there are a total of one thousand five hundred and two (1,502) DRTB patients in various health facilities in the country and Management did not explain and provide details of the criteria used to identify and include the seventy-seven (77) patients in the National Hospital Insurance Fund cover. In addition, these patients did not receive services for nine (9) months from July, 2021 to March, 2022.

In the circumstances, the effectiveness of internal controls of identifying DRTB patients and propriety of insurance expenditure of Kshs.539,000 could not be confirmed.

**Submission by the Accounting Officer;**

It is true that, during the FY 2021/2022 698 number of Multi drug resistant Tuberculosis patients were diagnosed and enrolled on second line treatment. The enrolment of DRTB patients on NHIF is voluntary for the patients in need of the support as there are patient with existing covers. During the year, 77 MDR-TB patients diagnosed and put on treatment in the month of July/August 2021 were enrolled to the NHIF cover and monthly premiums paid for 24 months. The Ministry of Health through the Division of National Leprosy Tuberculosis and Lung Health Program was not able to continue submitting to NHIF patient details for enrollment through the NHIF portal as NHIF had disabled the organizations account.

NHIF similarly, did not activate the cover for the paid up patients during the period for the patients to access health services through the cover.

The Ministry of health held discussion with the NHIF representatives and resolved the bottleneck as of July 2023. Currently DRTB patients enrolled under NHIF are being paid for and accessing services.

**Committee Observations and Findings;**

**The Committee noted the admission by the Accounting Officer.**

**Committee Recommendations;**

**The Committee recommends that the Accounting Officer scales up coverage to all drug resistant patients with the roll out of Social Health Insurance Fund.**

**GLOBAL FUND HIV AIDS PROGRAM GRANT NO. KEN-H-TNT GA 2065**

REPORT ON THE FINANCIAL STATEMENTS

**491. Unsupported Bank Balance**

The statement of financial assets reflects bank balance of Kshs.158,324,015 as disclosed in Note 5.A to the financial statements. However, the bank reconciliation statement for the month of June, 2022 reflects payments in bank statements not yet recorded in cash book amounting to Kshs.612,500 which were not supported by payment vouchers.

In the circumstances, the accuracy and completeness of bank balance of Kshs.158,324,015 could not be confirmed.

**Submission by the Accounting Officer;**

It is true that the amount of Kshs. 612,500 was not supported by payment vouchers. The Ministry of Health instituted administrative action and managed to recover from the concerned officer.

**Committee Observations and Findings;**

**The Committee noted with concern that an officer would withdraw and 'refund' funds from a public account.**

**Committee Recommendations;**

**The Committee reprimands the Accounting Officer for failure to take immediate disciplinary action in line with the human resource policy on the said officer and recommends that the said officer be henceforth barred from accessing public accounts/ funds.**

### 492. Failure to Receive Initial Grant

The funding summary Paragraph 1.7 indicates approved budget of USD.19,420,319 equivalent to Kshs.2,101,252,823 for a duration of three (3) years starting from 01 July, 2021 to 30 June, 2024. Included in the amount is USD.4,680,571 equivalent Kshs.506,431,590 for financial year 2021/2022 as disclosed in the statement of comparison of budget and actual amounts but which was not received.

In the circumstances, the Project may not absorb the entire amount of USD.19,420,319 equivalent to Kshs.2,101,252,823 thereby not achieving 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.

**Submission by the Accounting Officer;**

During the period July 2018- June 2021 there was an in- country balance of Ksh. 438,828,963 which was transferred to the current grant(NFM3) as per the Grant regulations regarding in - country balances. Further the Ministry of Health through NASCOP received Kshs. 621,400,000. During that period of NFM2 (2018-2021), the grant absorption rate was 85% as per the programmatic indicators.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### 493. Failure to Include Pending Payables in the Grant's Budget

Other important disclosures reflect pending accounts payables of Kshs.7,451,470. The amount includes opening balance of Kshs.29,842,515 being payables from the closed grant KEN-T-TNT 1547. However, there was no evidence of negotiation to include this amount in the budgeting and programmatic planning in grant KEN-T-TNT 2065 being the next grant as required in Paragraph 23 of Global Fund guidelines for grant budgeting, 2019.

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

**Submission by the Accounting Officer;**

It is true, that the opening balances of Ksh 29,842,515 was fully commited at the closure of the grant KEN-T-TNT 1547. However, these were paid in full as pending bills in the next grant between July and December 2021.

On the pending accounts payables of Kshs.7,451,470 which had not been fully committed, we had written a formal request to the National Treasury to make a special request for approval of the same to the donor in the financial year 2021/2022.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendations;**

**The Committee recommends that Treasury as the principal recipient ensures closure within three (3) months of adoption of this report.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**494. Lack of an Asset Register**

During the year under review, Management did not provide a fixed asset register but presented an asset verification report which did not include details of dates of purchase and prices. In addition, fixed assets items were aggregated without giving details of the individual asset name, tag number and location.

In the circumstances, the effectiveness of fixed assets internal controls could not be confirmed.

**Submission by the Accounting Officer;**

It is true that the management did not provide a fixed asset register. However, The State Principal Recipient (PR), The National Treasury, has engaged a consultant to consolidate all assets procured by Global Fund in all facilities in the 47 counties including the National government and hence this is work in progress. Currently the contractor is carrying out asset verification.

**Committee Observations and Findings;**

**The Committee noted the submission from the Accounting Officer.**

**Committee Recommendations;**

**The Committee recommends that the Accounting Officer avails the complete assets register within one (1) month of expiry of the contract.**

**RESILIENT SUSTAINABLE SYSTEMS FOR HEALTH (RSSH) KEN-T-TNT 2067 - SUB RECEIPT**

REPORT ON THE FINANCIAL STATEMENTS

**497. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.319,584,334 and actual on comparable basis of Kshs.297,231,093, resulting to underfunding of Kshs.22,353,241 (or 7%) of the budget. Similarly, the Project spent an amount of Kshs.76,461,592 out of the approved expenditure budget of Kshs.319,584,334, resulting in an under expenditure of Kshs.243,122,743 (or 76%) of the budget.

The underfunding and underperformance may have affected the Project's key objectives of building resilient and sustainable systems for health and enhancing the fight against new pandemics.

**Submission by the Accounting Officer;**

It is true the statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.319,584,334 and actual on comparable basis of Kshs.297,231,093, resulting to underfunding of Kshs.22,353,241 (or 7%) of the budget. Similarly, the Project spent an amount of

Kshs.76,461,592 out of the approved expenditure budget of Kshs.319,584,334, resulting in an under expenditure of Kshs.243,122,743 (or 76%) of the budget.

The underfunding of the project and under expenditure was caused by commencement of the project late in the financial year. Being a new project, the project faced various operationalization challenges such as staffing, financing and implementation of activities.

The first exchequer was received in December 2021.This situation caused us to undertake activities in quarter 3 and 4 of the year in question.

The project by design implements its activities through various stakeholders like County Governments, who only attend to the project activities when available.

The Sub Recipient has since reviewed the implementation plan and reprogrammed activities and funds that were deemed unimplementable during the period.

The reprogramming was towards programmatic activities of which 71% has since been utilized and procurements amounting to approximately USD 6 million submitted to the National Treasury.

**Committee Observations and Findings;**

**The Committee observed that 'operational challenges' should have been foreseen and mitigated against.**

**Committee Recommendations;**

**The Committee reprimands the Accounting Officer and recommends that he makes and adheres to work plans, drawn before withdrawal of funds.**

**GLOBAL FUND MALARIA NEW FUNDING MODEL (NFM) KEN-M-TNT-**

**1546**

REPORT ON THE FINANCIAL STATEMENTS

**502. Budgetary Control and Performance**

The statement of comparative budget and actual amounts reflects final receipts budget of Kshs.175,678,920 and actual on comparable basis of Kshs.1,519,678, resulting to underfunding of Kshs.174,159,242 (or 99%) of the budget. Similarly, the Project spent an amount of Kshs.705,685,455 out of the approved expenditure budget of Kshs.175,678,920, resulting in an over expenditure of Kshs.530,006,535 or approximately 302% of the budget. The excess amount was utilized from the opening cash and cash equivalent balance of Kshs.704,165,777.

The budget mismatch was indicative of delay in executing the planned activities and payment to respective suppliers during the grant period.

**Submission by the Accounting Officer;**

It is true that the project spent an amount of Kshs.705,685,455 out of the approved budget of Kshs.175,678,920 in the financial year 2020/2021. It is good to note that the project activities are cumulative over a period of three years in such a way that if an activity is not done in one financial year, it can be carried forward to the next financial year provided it is within the project period.

The project runs a commercial account and once the money is transferred to the commercial account, the project can continue its activities beyond the financial year. Therefore, closure of financial year does not affect its operations as it is evaluated over a three-year period. This means that if the financial year comes to an end the money in the project account is not returned to the exchequer but it continues to be utilized in the implementation of project activities in the next financial year. In the FY 2019/2020,the cash and cash equivalents carried to FY 2020/2021 was Kshs.704,165,777.This amount related to amounts that had been released for the previous FY but which had not been paid out at the closure of the FY because the activities had started in the previous FY 2019/2020 but had not been completed by end of June 2020.Since the project uses cash basis of accounting which reports expenditure once actually paid, these expenses although relate to activities that started in 2019/2020,they could only be paid and reported in 2020/2021,the year they were completed and paid thus resulting to an expenditure that is more than what had been budgeted for in the FY 2020/2021.

**Committee Observations and Findings;**

**The Committee noted that the submission by the Accounting Officer was unsatisfactory as the three-year period is not a leeway to be lax in earlier years.**

**Committee Recommendations;**

**The Committee recommends that the Accounting Officer adheres to annual workplans and ensures annual KPIs/ deliverables are not carried over to subsequent years.**

**GLOBAL FUND MALARIA NEW FUNDING MODEL(NFM)KEN-M-TNT-2064**

REPORT ON THE FINANCIAL STATEMENTS

**507. Budgetary Control and Performance**

The statement of comparative budget and actual amounts reflects final receipts budget of Kshs.837,474,120 and actual on comparable basis of Kshs.652,243,566, resulting to underfunding of Kshs.185,230,554 (or 22%) of the budget. Similarly, the Project spent an amount of Kshs.592,101,529 out of the approved expenditure budget of Kshs.837,474,120, resulting in an under expenditure of Kshs.245,372,591 (or 29%) of the budget

The underfunding and underperformance affected the planned project's activities and may have impacted negatively on service delivery.

**Submission by the Accounting Officer;**

It is true the statement of comparative budget and actual amounts reflects final receipts budget of Kshs.837,474,120 and actual on comparable basis of Kshs.652,243,566, resulting to underfunding of Kshs.185,230,554 (or 22%) of the budget. Similarly, the Project spent an amount of Kshs.592,101,529 out of the approved expenditure budget of Kshs.837,474,120, resulting in an under expenditure of Kshs.245,372,591 (or 29%) of the budget

The issue of under expenditures resulted from non-issuance of exchequer by The National Treasury on time. This may have affected the planning, procurement and execution of projects.

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

## DANIDA PRIMARY HEALTHCARE (PHC) SUPPORT PROGRAM

REPORT ON THE FINANCIAL STATEMENTS

### 512. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.433,648,750 and actual on comparable basis of Kshs.325,986,258 resulting to underfunding of Kshs.107,662,492 (or 25%). Similarly, the Project spent an amount of Kshs.324,361,266 out of the approved expenditure budget of Kshs.433,648,750 resulting in an under expenditure of Kshs.109,287,484 (or 25%).

In the circumstances, the Project's key objectives of improving primary health care with focus on reproductive, maternal, new-born, child and adolescent health care may not be achieved.

**Submission by the Accounting Officer;**

It is true that the statement of comparative budget and actual amounts reflects final receipts budget of Kshs. 433,648,750 and actual on comparable basis of Kshs. 325,986,258, resulting to underfunding of Kshs 107,662,492 (or 25%). Similarly, the Project actual expenditure amounted to Kshs. 324,361,266 out of the approved expenditure budget of Kshs.433,648,750, resulting in an under absorption of Kshs.109,287,484 (or 25%).The project had planned to disburse funds in two tranches to the counties. Once Tranche 1 is disbursed, the Danish Embassy is notified and they in turn release 2nd Tranche to the National treasury in readiness for disbursement. During the year under review there was a delay in disbursement of funds to the counties. DANIDA disburses funds to the counties in tranches and during the year under review there was a delay in passage of the County Government additional allocation bill which replaced the County Allocation Revenue Act (CARA). The Bill was assented on 22nd April 2022 and Gazetted on 29th April, however commencement of bill was on 13th May 2022.The project was able to disburse only one tranche because we had to wait until the publication and commencement of the bill.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

## OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE MINISTRY OF HEALTH

## KENYA HEALTH SECTOR PROGRAMME SUPPORT III (DANIDA REF. 104. KENYA.810.300 – GRANT) – COUNTY GOVERNMENT OF KISII

REPORT ON THE FINANCIAL STATEMENTS

### 517. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.134,672,861 and Kshs.67,206,909 respectively resulting to an underfunding of Kshs.67,465,952 or 50% of the budget. The shortfall in revenue by Kshs.67,465,952 or 50% implies that the Programme could not undertake all the planned activities. Similarly, the Programme had an approved expenditure budget of Kshs.134,672,861 and actual expenditure of Kshs.49,725,445 resulting in an under expenditure of Kshs.84,947,416 or 63% of the budget.

In the circumstances, the underfunding and under-absorption may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer;**

In the financial year under review, the Ministry did not receive a budget for Kenya Health Sector Programme Support III. This support was sent directly to the County Government of Kisii and as such the question may be directed to the County for their response.

**Committee Observations and Findings;**

**The Committee noted the admission by the Accounting Officer.**

**Committee Recommendations;**

**The Committee recommends that the Auditor General submits the query to the Senate in the next reporting cycle.**

**HEALTH SECTOR SUPPORT PROJECT (CREDIT NO.4771-KE) - KENYA MEDICAL SUPPLIES AUTHORITY (KEMSA)**

REPORT ON THE FINANCIAL STATEMENTS

**520. Unaccounted Funds Transfer**

The statement of financial position reflects Kshs. Nil cash and cash equivalents. However, analysis of bank statements for the project bank account revealed that an amount of Kshs.42,299,522 was transferred to another bank account in the same bank on 21 March, 2022. Management has not explained this transfer or provided supporting documents.

In the circumstances, the regularity of transfer of Kshs.42,299,522 could not be confirmed.

**Submission by the Accounting Officer;**

On January 17, 2022, the National Treasury authorized the closure of both the KHSSP pooled and non-pooled bank accounts. The Ministry of Health requested KEMSA to proceed with the closure via a letter dated January 26, 2022. At the time of closure, the project bank account had a closing balance of Kshs. 42,299,522, consisting of the amount owed to DANIDA of Ksh 38,474,884.00 and Ksh 3,824,637.70 in accrued interest owed to KEMSA. The transfer of funds to KEMSA account number 01136217405103 on March 21, 2022, served to refund both KEMSA and DANIDA the funds owed to them by the project, and it facilitated the closure of the bank project account.

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**521. Unsupported Transfer of Accumulated Surplus and Liabilities**

The statement of changes in net assets reflects transfer from accumulated surplus to Kenya Medical Supplies Authority (KEMSA) Kshs.3,996,628 and Note 5 to the financial statements reflects transfer of liability of Kshs.38,474,884. However, both transfers were not explained, supported or acknowledged by KEMSA.

In the circumstances, the accuracy and completeness of the transfers could not be confirmed.

**Submission by the Accounting Officer;**

Upon closure, part of the project bank account closing balance was Kshs. 3,996,628. These funds comprised of surplus funds of Kshs. 3,996,096.35 due to KEMSA and Kshs. 531.70 due to the Ministry of Health. On March 21, 2022, Kshs. 3,996,096.35 was transferred to KEMSA's account (No. 01136217405103) held in Co-operative Bank of Kenya and Kshs. 531.70 was transferred to the Ministry of Health as refund of project savings from the Non-Pooled Account.

Additionally, the project bank account closing balance had a refundable interest amount of Kshs. 38,474,884 due to DANIDA's. These funds were transferred to KEMSA's Cooperative Bank account (No. 01136217405103) upon the project's closure and subsequently remitted to DANIDA from the same account on September 15, 2022.

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**522. Delayed Project Closure**

The financing agreement indicated Project's effectiveness date was on 21 January, 2014 with expected end date of 31 December, 2016 but extended to 30 June, 2018. However, Management did not provide any evidence of formal request to the International Development Association (IDA) for Project extension beyond 30 June, 2018 or explain failure to close the project which reported a surplus of Kshs.1,651,961 during the year under review.

In the circumstances, the transactions in the project account are without donor's approval.

**Submission by the Accounting Officer;**

The KHSSP project was extended to 30th June 2018, however, there was a delay in closure because one of the partners DANIDA had not concluded an audit of their fund's contribution. On 21st May 2020, KEMSA sought guidance from the PS Ministry of Health on the project funds held. The Permanent Secretary via letter dated 9th of June 2020 requested KEMSA to refund back an amount of Ksh 289,090,323.48 as part of KHSSP project closing procedures.

This amount was refunded back to Ministry of Health MOHP &S- SWAP Secretariat account on 22nd June 2020. The balance of the funds was transferred to KEMSA Bank account number 01136217405103 awaiting the conclusion of DANIDA audit to determine the funds refundable. The Project bank accounts were closed as per Treasury approval on 17th January 2022.

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

## EAST AFRICA PUBLIC HEALTH LABORATORY NETWORKING (EAPHLN) PROJECT CREDIT NO.4732 - KE - KENYA MEDICAL SUPPLIES AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

### 526. Unpaid Retention Money

The statement of financial position reflects trade and other payables from exchange transaction of Kshs.602,712 which, as disclosed in Note 7 to the financial statements relates to unpaid retention money. However, Management has not explained failure to pay the retention money some of which dates back to financial year 2018/2019 or continued disclosure as payable.

In the circumstances, the ownership and obligation of trade and other payables from exchange transaction of Kshs.602,712 could not be confirmed.

**Submission by the Accounting Officer;**

Trade and other payables amounting to Ksh 602,712 encompass two components: retention funds of Ksh 580,238.21 owed to Anzal Engineering Limited for the construction of the Incinerator shed in Wajir County, and a 3% contractor withholding tax of Ksh 22,474.34 (later remitted to the Kenya Revenue Authority in the subsequent financial year).

An amount totaling Ksh 5,802,379.45 was disbursed to the contractor, as evidenced by the payment voucher and certificate from the Public Works Department.

Due to the project's strict closure timeline, the contractor was unable to lodge a claim within the stipulated project timelines. Consequently, the funds had to be remitted back to the National Treasury, the project's fund custodian. The portion of retention funds totaling Ksh 580,238.21 was included in the refund remitted to the National Treasury on March 22, 2023.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

### 527. Unexplained Reversal of Interest Expense

The statement of changes in net assets reflects accumulated surplus balance of Kshs.18,240,726 which includes reversal of interest expense amounting to Kshs.11,343,918 that was payable to The National Treasury during the financial year 2020/2021. However, the reversal is not in line with International Public Sector Accounting Standard (IPSAS) 3 which requires all prior year adjustments to be effected through the previous period balances.

In the circumstances, the accuracy and completeness of above balances reflected in the financial statements could not be confirmed as at 30 June, 2022.

**Submission by the Accounting Officer;**

The sum of Ksh 11,343,918, accrued as interest in the project bank account, was initially recorded as a liability owed to KEMSA in the project's financial statements. At the close of the financial year 2021, KEMSA sought direction from the Principal Secretary (PS)- Ministry of Health regarding the appropriate treatment of this interest income. In the following financial year, KEMSA received clarification and duly recognized the aforementioned amount as interest income attributable to the project.

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**528. Unresolved Prior Year Matters**

In the audit report of 2020/2021 financial 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 has not resolved all the issues.

**Submission by the Accounting Officer;**

The pending issue in FY 2020/2021 that remained unresolved was the delay in project closure. According to the procedure, approval by the Board of Directors was required through a Board resolution. Subsequently, KEMSA sought and obtained authorization from the National Treasury through the Ministry of Health to close the bank account. The account was closed in March 2023.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**529. Failure to Transfer Bank Balance**

The statement of financial position reflects cash and cash equivalent of Kshs.18,843,438 as disclosed in Note 5 to the financial statements. The amount relates to bank balance in relation to a project whose end date was 30 September, 2020 but has not been closed. Failure to close the project contravenes Regulation 74(6)(c) of the Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer of a National Government entity to ensure that the assets are handed over within three months from the date of the closure of the project.

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

**Submission by the Accounting Officer;**

The EAPHL Project ended on 30th September 2020. KEMSA sought the closeout procedures from the Principal Secretary (PS) - Ministry of Health via a letter dated 10th June 2021 and guidance was provided on 1st November 2021. Closeout procedures included a refund of the project savings to the exchequer and closure of the project bank account. The Authority refunded the project funds on 23rd March 2023 and the project bank account was effectively closed.

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

## A CASE STUDY ON INTEGRATED DELIVERY OF SELECTED NONCOMMUNICABLE DISEASES IN KENYA (PHGF GRANT NO. TFOA5636)

## - MOI TEACHING AND REFERRAL HOSPITAL

REPORT ON THE FINANCIAL STATEMENTS

**533. Budgetary Control Analysis**

The statement of comparative budget and actual amounts reflects budget and actual receipts from domestic and foreign grants on comparable basis of Kshs.135,915,138 and Kshs.133,585,330 respectively resulting to an underfunding of Kshs.2,329,808 or 2% of the budget. The Project expenditure was limited to the amount realized.

Based on the approved estimates, underfunding affected the planned activities and may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer;**

The underfunding of 2% of the budget was as a result of delay in release of the last tranche of funds from The National Treasury and Economic Planning amounting to $21,699.40. The underfunded amount was therefore captured as a payable towards staff compensation.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

**534. Physical Verification of Projects**

Three (3) projects and twenty-one (21) procurements with a total contract sum of Kshs.10,010,281, were verified in September, 2022. The verification revealed that, the projects which related to renovation works at various pharmacies were complete and in use. Further, the twenty-one (21) procurements related to delivery and installation of ICT and medical equipment to various medical facilities within Busia and Trans Nzoia counties. However, two (2) machines delivered to Busia County Referral Hospital and one (1) machine delivered to Kitale County Referral Hospital were not in use.

In the circumstances, the unutilized machines may not be providing services to the public.

**Submission by the Accounting Officer;**

Amongst the close out procedures for the grant was to transfer equipment and assets bought through the grant to the two counties of Busia and Trans Nzoia where the project was implemented. The two counties were therefore mandated to take over the assets including the machines and utilize them to provide services to the public. The machines were not in use at the point of the physical verification since the counties had not assigned a designated area for installation and use of the purchased equipment. The equipment are currently in use in the designated facilities.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendations;**

**The Committee recommends that the Auditor General confirms status in the next audit cycle.**

**535. Proceeds from Domestic and Foregin Grants**

The statement of receipts and payments reflects an amount of Kshs.56,740,000 for the year and cumulative to date totalling to Kshs.265,061,010 under proceeds from domestic and foreign grants as disclosed in Note 2 to the financial statements. Although the World Bank had extended the Project end date of the Grant to 31 January, 2022, a balance of Kshs.2,318,966 as disclosed in Annex 3B to the financial statements had not been disbursed by The National Treasury as at the time of audit in October, 2022. In addition, the Management of the Project had not started the process of project closure.

In the circumstances, delayed disbursement by The National Treasury may have delayed completion of planned Project activities which may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer;**

Follow up on the undisbursed funds was done as indicated in the requests to the National Treasury.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**536. Failure to Report Use of Direct Procurement to Public Procurement and Regulatory Authority**

The statement of receipts and payments reflects an amount of Kshs.58,940,151 under purchase of goods and services which in turn includes other operating payments amount of Kshs.4,035,207 as disclosed in Note 6 to the financial statements. Included in the amount of Kshs.4,035,207 are payments totaling to Kshs.2,884,000 in respect to consultancy services on how to implement the costing components of the study protocol in order to determine the cost effectiveness of the primary integrated model of the noncommunicable diseases.

Examination of the documents provided for audit revealed that the supply chain department requested for approval from the Chief Executive Officer to use direct procurement which was approved and tender awarded at a Contract sum of Kshs.2,884,000.

However, the procuring entity did not report the details of the direct procurement to Public Procurement and Regulatory Authority within fourteen days after the award of the tender contrary to Regulation 90(1)(b) of the Public Procurement and Asset Disposal Regulations, 2020. In addition, there was no evidence of negotiation between the procuring entity and the tenderer for the direct procurement as required by Regulation 90(1)(d) of the Public Procurement and Asset Disposal Regulations, 2020.

In the circumstances, the Project Management breached the law.

**Submission by the Accounting Officer;**

Management acknowledges that the details of Direct Procurement was not reported to the Public Procurement Regulatory Authority. However, we are currently reporting to the Public Procurement Regulatory Authority as is required. The process was initiated through a competitive process that was unresponsive which led to the procuring entity opting for direct procurement to ascertain attainment of project objectives in line with the world bank regulations for IPF borrowers section 7.39 (c), (d); stating that an individual consultant maybe selected on direct selection basis with due justification under circumstances where there is an Urgent situation or when an individual consultant has relevant experience and qualifications of exceptional worth to the assignment. This is also in line with the PPAD Act of 2015, section 103.

Management also acknowledges that the negotiation process for this procurement was not done as required by regulation 58, section 2 of the Public Procurement & Disposal Act 2006. However, we currently include all the negotiation process for all Direct Procurements as required. However, the procurement was within the approved budget and the prevailing market rates guided by United Nations consultancy rates guidelines. This was also reported to World Bank via the STEP procurement portal as per the donor guidelines.

**Committee Observations and Findings;**

**The Committee noted the admission by the Accounting Officer.**

**Committee Recommendations;**

**The Committee reprimands the Accounting Officer for failure to adhere to regulation 90 (1)(d) of the Procurement Regulations.**

**537. Failure to Adhere to Executive Order No. 2 of 2018**

The statement of receipts and payments reflects total payments amounting to Kshs.133,585,330. The amount includes Kshs.58,940,151 in respect to purchase of goods and services as disclosed in Note 6 to the financial statements. However, review of the procurement records revealed that the Management did not publish a complete information of all tenders awarded, a separate comprehensive list of all registered suppliers, contractors and consultants in the various specific categories of goods, works and services as required by Presidential Executive Order No. 2 of 2018.

In the circumstance, the Project Management was in breach of the Executive Order.

**Submission by the Accounting Officer;**

The management acknowledges that the list of the registered suppliers, contractors and Consultants had not been published at the time of audit, however we now comply to the executive order No. 2 of 2018.

**Committee Observations and Findings;**

**The Committee noted the admission by the Accounting Officer.**

**Committee Recommendations;**

**The Committee reprimands the Accounting Officer for failure to adhere to Executive Order No. 2 of 2018.**

**538. Non-payment of Audit Fees**

As reported previously, Annex 3A reflects nil pending payables and therefore excludes external audit fees provided for under parts 3.01 and 3.02 of Article III of the subsidiary grant agreement signed on 27 February, 2018. Although the Management has explained through undated, unsigned Financial Management Implementation Support and Supervision Report – December, 2019 that the item should not be budgeted for since the services will be provided by the Office of the Auditor-General, the validity and legality of this argument could not be confirmed.

In the circumstance, the Project Management is in breach of the financing agreement.

**Submission by the Accounting Officer;**

It was advised by World Bank that the Audit fee of $16,248.83 be re-budgeted and utilized for other project costs as per the attached evaluation report.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

**GLOBAL FUND HIV/AIDS PROJECT GRANT NUMBER KEN-H-TNT-2065**

**– NATIONAL AIDS CONTROL COUNCIL**

REPORT ON THE FINANCIAL STATEMENTS

**541. Budgetary Control and Performance**

The statement of comparative budget and actual amount reflects final payment budget of Kshs.304,276,734 against actual expenditure of Kshs.99,370,872 resulting to under expenditure of Kshs.204,905,862 (or 68%).

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

**Submission by the Accounting Officer;**

The Global Fund Grant spans a three-year implementation period (2021-2024). NSDCC operates as a sub-recipient of grants provided by the National Treasury, who acts as the Principal Recipient.

i) The Management acknowledged the under absorption of 68% on the Financial Report submitted to the Auditor General for FY 2021/2023.

ii) During the reporting period, the grant absorption was affected by changes in the model of implementation of training activities from in-person to virtual in line with COVID -19 restrictions, resulting to savings per activity line.

iii) It is further noted that during the reporting period, grant absorption was also affected by funds flow challenge. NSDCC received the funds for the fiscal year 2020-2021 in the second quarter, 21 October 2021.

iv) The grant implementation allows for roll-over of the grant balances that was effected in FY 2022-2023.

v) To address the absorption challenge, The NSDCC embarked on a Rapid Implementation of the rolled-over activities in FY 2022/2023 yielding an absorption rate of 71.56%.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**

**ii) The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**542. Irregular Tax on Global Funds**

The statement of receipts and payments reflects miscellaneous income of Kshs.6,402,480 as disclosed in Note 11.2 to the financial statements out of which an amount of Kshs.249,089 was excise duty charged on Global Funds. However, charging of excise duty is contrary to article 3.5(1) of the Global Fund grant Regulations, 2014 which states that for each program, the Grant funds are made available by the Global Fund for the purposes of implementing respective program activities, and the Grant Agreement and the purchase and/or import of any goods or services using the Grant funds shall be exempt from relevant taxation applicable in the host country, including, but not limited to, (a) customs duties, import duties, taxes or fiscal charges of equal effect levied or otherwise imposed on the health products imported into the host country under the Grant Agreement or any related sub-recipient or supplier contract, and (b) the value added tax levied or otherwise imposed on the purchases of goods and services using Grant funds.

In the circumstances, Management was in breach of Global Fund Regulations, 2014.

**Submission by the Accounting Officer;**

The excise duty on "other fees" was introduced in 2012 under the Customs & Excise Act Chapter 472 of the Laws of Kenya.

The Finance Act, 2013 clarified the issue of Customs & Excise by defining what 'other fees' entails. However, this clarification faced interpretation challenges on the party to bear the excise duty obligation.

The Finance Act 2021 amended the definition of 'other fees' by deleting the words, "fees or commissions earned in respect of a loan.

The implication of this was that charges by finance institutions that are subjected to excise duty would include; registration fees, account maintenance fees, withdrawal fees, loan application, processing fees, etc. Excise duty applied to other fees charged by these financial institutions at the rate of 20% then.

Following the introduction of excise duty as per the Finance Act 2021 on Bank Transactions, a total amount of Kshs 249,089 was withheld as tax by the Project Bank as interest earned between July 2021 and November 2021. During the same period, the Project Bank also levied Kshs 27,208 as excise duty tax on bank transactions.

Following the flagging of this matter in the FY 2021/22 Global Fund audit, NSDCC management communicated with the Project Bank, and an exemption was granted with effect from November 2021.

The Bank has since resolved the issue as evidenced from their communication

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendations;**

**The Committee recommends that the Accounting Officer in liaison with the bank obtains tax refunds from the Kenya Revenue Authority, for tax already irregularly remitted.**

## 4.16 VOTE 1019: STATE DEPARTMENT FOR INFRASTRUCTURE

**Eng. Joseph M. Mbugua, CBS**, the Principal Secretary and Accounting Officer for the State Department for Roads appeared before the Committee on 31st January, 1st & 5th February 2024, accompanied by the following officers:

| | | | |
|---|---|---|---|
| i. | Eng. Kungu Ndungu | – | Director General, KeNHA |
| ii. | Eng. Philemon Kandie | – | Director General, KeRRA |
| iii. | Eng. S. Kinoti | – | Director General, KURA |
| iv. | Mr. Philip Wachira | – | Senior Chief Finance Officer |
| v. | Ms. Sophie Mwangashi | – | Deputy Accountant General |
| vi. | Eng. Henry Gakuru | – | Director Development, KeNHA |
| vii. | Mr. James Bowen | – | Director Cooperate Services |
| viii. | Ms. Tungo Aaron | – | Director Liaison Office |
| ix. | Mr. Obop Michael | – | Acting Director, KeNHA |
| x. | Eng. Amingh George | – | Deputy Director Construction |
| xi. | Eng. Onesmus Kemai | – | Deputy Director Construction |
| xii. | Eng. Nicholas Musuni | – | Chief Superintending Engineer |
| xiii. | Mr. Mongo Chimwanga | – | Senior Accountant |
| xiv. | Mr. Haron Koros | – | Accountant |
| xv. | Mr. Dennis Odoyo | – | Accountant |
| xvi. | Dr. Eric Maina | – | Accountant |
| xvii. | Mr. Cyrus Njau | – | Accountant |
| xviii. | Ms. Getrude Ronoh | – | Finance Officer |

and submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

### 545. Unsupported Payments on Use of Goods and Services

The statement of receipts and payments reflects use of goods and services expenditure of Kshs. 672,594,265 as disclosed in Note 8 to the financial statements. However, review of records revealed that the following payments did not relate to the expense items where they were accounted for and lacked supporting documents for justification.

(i) Utilities, supplies and services payments of Kshs. 23,719,520 include payments totalling Kshs. 6,426,032 described as journal import that were not supported.

(ii) Communication, supplies and services payments of Kshs. 3,102,724 include an amount of Kshs. 350,000 paid to staff.

(iii) Foreign travel and subsistence amount of Kshs. 1,171,220 includes payments totalling Kshs. 370,000 paid to staff.

(iv) Training payments of Kshs. 366,717,384 include transfer of Kshs. 16,708,187 described as transfer of revenue funds to Horn of Africa Gateway Development Project deposit account whose justification was not provided.

(v) Insurance costs of Kshs. 3,389,760 include unrelated expenditure described as supply of block boards amounting to Kshs. 928,800 and purchase of toners amounting to Kshs.

2,460,960.

(vi) Specialized materials and services expenditure of Kshs. 31,014,184 include Kshs. 879,039 described as journal import whose supporting documents were not provided.

In the circumstances, the accuracy and completeness of the use of goods and services expenditure of Kshs. 672,594,265 could not be confirmed.

**Submission by the Accounting Officer**

i. For issues no. (i) and (vi), all payments described as Journal Import relate to AIE's paid to the District offices as per the budget approved by Parliament for the Financial Year 2021/2022. The Journal Import relates to uploaded District Expenditure returns into the IFMIS using the Data loader. The returns were availed to the Auditor for review and verification.

ii. For issues no. (ii) and (iii), it is true that Kshs.350,000 and Kshs.370,000 were paid to staff relating to Temporary Imprests erroneously charged under communication, supplies and services. This has since been rectified vide journal reference no. 39921637.

iii. Issue no. (iv), the transfer of Kshs.16,708,187 relates to Development Partner revenue funds from the World Bank for Horn of Africa Gateway Development Project which is budgeted under the Development vote head. This project is implemented by the State Department and the revenue funds are requested from the Development Partner through the National Treasury. The funds are then transferred from the Development Bank Account to the Project Account held by the Central Bank of Kenya and operated by the State Department. The documents relating to these payments have now been presented to the Auditor.

iv. For issue no. (v), it is true that Kshs.928,000 and Kshs.2,460,960 relates to supply of blockboards and purchase of toners respectively were erroneously charged under insurance costs. This has since been rectified vide journal reference no.39921858.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (c) of the Public Audit Act, 2015, respectively.**

**546. Unsupported Payments on Acquisition of Assets**

The statement of receipts and payments reflects acquisition of assets amount of Kshs. 12,433,018,607 as disclosed in Note 11 to the financial statements. However, review of records revealed that the following payments did not relate to the expense items where they were accounted for and lacked supporting documents for justification.

(i) Construction of building expenditure of Kshs. 186,311,102 includes an amount of Kshs. 47,035,513 incurred on purchase of furniture, equipment, stationery and other items not related to this expenditure item.

(ii) Refurbishment of buildings expenditure of Kshs. 91,021,541 include amounts totalling Kshs. 56,640,147 described as journal import whose supporting documents were not provided for audit.

(iii) Construction of civil works includes an amount of Kshs. 21,643,005 transferred to Kenya Wildlife Services which is a self-reporting entity. The amount should have been reflected as transfers to other government entities. Management did not explain the nature of the payment transfer or the service rendered by KWS. No contract and other supporting documents were provided for audit.

(iv) Purchase of specialized plant, equipment and machinery includes an amount of Kshs. 8,000,000 described as journal import whose supporting documents were not provided.

(v) Rehabilitation and renovation of plant and machinery includes an amount of Kshs. 10,000,000 described as journal import whose support documents were not provided for audit.

In the circumstances, the accuracy and completeness of acquisition of assets amount of Kshs. 12,433,018,607 could not be confirmed.

**Submission by the Accounting Officer**

For issue no. (i), it is true that Kshs.47,035,513 was incurred in purchase of furniture, equipment, stationery and other items was erroneously charged under construction of buildings. This has since been rectified vide journal reference no.39922109.

For issues no. (ii), (iv) & (v), all payments described as Journal Import relate to AIE's paid to the District offices as per the budget approved by Parliament for the Financial Year 2021/2022. The Journal Import relates to uploaded District Expenditure returns into the IFMIS using the Data loader. The returns were availed to the Auditor for review and verification.

For issue no. (iii), the payment amounting to Kshs.21,643,005 was paid to H. Young & Co EA Ltd and not to Kenya Wildlife Service (KWS). Kenya Wildlife Service is the implementing entity of the Upgrading of Roads to and within Mt. Kenya National Park and Aberdare National Park, of which H. Young & Co EA Ltd was the contractor. The project has since been completed. The project was co-funded by the European Union and the Government of Kenya. The European Union regulations only recognizes the entity in charge of Roads for any financing for road projects. Consequently, the Financing Agreement was signed by the National Treasury with a recognition of the then Ministry of Roads as the paying agent. The Contract was domiciled under the State Department for Roads with KWS as the implementing Agency. Documents relating to the payment have been availed to the Auditor.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (c) of the Public Audit Act, 2015, respectively.**

**547. Compensation of Employees-Payments outside IPPD**

The statement of receipts and payments and Note 7 to the financial statements reflects compensation of employees' amount of Kshs. 1,154,471,942 which includes payment of salaries amounting to Kshs. 10,099,678 which were paid outside IPPD system. Management did not justify the payment of salaries and allowances outside the payroll system.

In the circumstances, the validity of amounts paid outside the IPPD system of Kshs. 10,099,678 could not be confirmed.

**Submission by the Accounting Officer**

The reasons for the payment being done out of the IPPD are as follows: -

(i) Payment to Officers who had already retired but had pending payments prior to retirement. Basic salary payments were made to officers who had already retired and were yet to be paid because of impending disciplinary cases and arrears upon promotion, which had not been effected while they were still in service and consequently in the payroll.

(ii) Payment to Casuals. Casuals are not allocated personal numbers hence they are not paid through the IPPD system but through the voucher system.

(iii) Payment for transport allowances. Payment for transport allowances paid outside the IPPD were baggage allowances paid to the officers who had retired. In line with the HR Manual, upon retirement of an officer, their accounts are deactivated and therefore any unpaid dues cannot be processed through IPPD. Baggage allowance is only payable after deactivation of the officer from the payroll.

(iv) Payment for last respect for departed officers. These are expenses paid to the next of kin of the deceased officers who are not part of the IPPD system. Copies of payment vouchers and schedules have been presented to the auditor.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer liaises with the State Department for Public Service to configure the IPPD system to allow for capture of all payments due to all cadres of employees.**

**548. Inaccuracies in Outstanding Imprest Balance**

The statement of financial position reflects outstanding imprests and advances balance of Kshs. 3,855,969. However, a review of the bank reconciliation statements as at 30 June, 2022 indicates that payments totalling to Kshs. 44,318,901 were made to staff on 30 June, 2022 but were not reflected as outstanding imprest as at the close of the year. In addition, payments made during the year for both development and recurrent cash books indicated imprests paid to officers totalling to Kshs. 95,316,918 in respect of domestic travel and allowance. However, review of the imprest schedules revealed that the officers may have been in the field for more days than the work schedules could accommodate and exceeded the working days available in a year.

In the circumstances, the accuracy and completeness of the outstanding imprest balance of Kshs. 3,855,969 could not be confirmed.

**Submission by the Accounting Officer**

This was occasioned by delay of Exchequer release from the National Treasury. The officers surrendered the imprests fully by the time of reporting on Financial Year 2021/2022. The manual imprest registers and system register including Bank Reconciliation have been availed to the auditor. All imprests were surrendered except the outstanding balances of Kshs.3,855,969. An analysis of the Kshs.3,855,969 is as follows:

| S/No. | Particulars | Amount (Kshs) |
|---|---|---|
| 1. | Un-surrendered Training Imprests | 3,441,924 |
| 2. | Salary Advance | 81,991 |
| 3. | District Suspense | 332,054 |
| | | **3,855,969** |

The Kshs.3,855,969 have since been fully accounted for.

As regarding to the Kshs.44,318,911, imprests paid to staff on 30th June, 2022 and not reflected as outstanding imprests at the close of the year, we would like to state that, the National Treasury circular on end year closing procedures allows a window period of surrendering which ends on 30th September of any particular year. Any imprests surrendered within that window period is deemed to have been surrendered on 30th June of that particular year. The Kshs.44,318,901 was accounted for within the window period ending 30th September 2022 and were therefore technically not outstanding as at 30th June, 2022.

As regards to Kshs. 95,316,918, imprests advanced to officers vary depending on activities. These activities include Monitoring and Evaluation, foreign travel and training. Most of the training is foreign funded in line with the Loan Agreement and Project Appraisal Documents. The amount of the imprest issued is based on the activities to be undertaken and emphasis is not on the amount issued. Some activities included officers from State Corporations such as National Transport and Safety Authority and Engineers Board of Kenya whose capacity building from loan proceeds are implemented by the State Department in form of payments. These officers, since they are not Central Government employees are not defined in the Central Government payment system (IFMIS). Consequently, the State Department cannot be able to be issue imprests to officers outside the payment system. Under the circumstances, officers within the State Department had to take imprests on behalf of those officers not accommodated within the IFMIS. Prior to processing of payments for those officers out of the Central Government system, the State Department receives letters of no objection to train from the World Bank. Letters of no objection from the lender, in this case the World Bank, are also a requirement prior to issuance of any imprest to finance training under foreign funding even for Officers within the State Department Central

Government System. Prior to any reimbursement from the Development Partner, the State Department must account for all the revenue funds spent. The accounting includes a return of all the training and capacity building done against the loan proceeds. The training, as previously stated is foreign funded from loan proceeds with strict accountability mechanisms from both the Development Partner and the GOK. There is therefore little or no room for abuse of the training facility.

As regards the monitoring and evaluation component of the imprests issued, the primary role of the State Department Headquarters is monitoring and evaluation of projects in addition to Policy Formulation. The State Department has a huge portfolio of projects with huge budget outlays under implementation by the Road Agencies. This calls for continuous monitoring and evaluation from the headquarters. Arising from the foregoing, the imprests issued, and the tasks undertaken are in line with the State Department's core mandate and are not excessive. All the imprests for training, monitoring & evaluation were surrendered as required. Surrender vouchers have since been availed to the Auditors.

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**

ii) **The Committee found that the matter was resolved.**

**549. Unsupported Bank Balances**

Note 12A to the financial statements reflects bank balance of Kshs. 240,178,204. However, analysis of the three (3) bank reconciliation statements for recurrent, development and deposits balances for June, 2022 revealed receipts in cash book not recorded in the bank statement amounting to Kshs. 19,273,304,637 described as PS SDINFRA whose nature and supporting documents were not provided.

In the circumstances, the accuracy of the bank balance of Kshs. 240,178,204 could not be confirmed.

**Submission by the Accounting Officer**

During this period, the Bank Statements were yet to be loaded in the system to enable Auto-reconciliation to be done. However, the same was loaded and Auto-reconciliation was done, and all balances were reconciled to reflect the true position as reported. The receipts described as PS SDINFRA (Principal Secretary, State Department of Infrastructure) have been availed to the Auditor.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (c) of the Public Audit Act, 2015, respectively.**

**550. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs. 230,588,817,513 and Kshs. 200,570,982,073 respectively resulting to an underfunding of Kshs. 30,017,835,440 or 13% of the budget. Similarly, the State Department spent Kshs. 200,561,818,766 against an approved budget of Kshs. 230,588,817,513 resulting to an under expenditure of Kshs. 30,026,998,747 or 13% of the budget.

The underfunding and under expenditure affected the planned activities of the State Department and impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

The State Department had an approved budget of Ksh 230,588,817,513 made up of recurrent and development budgets with absorption levels as shown below

| | Vote | Approved Budget | Absorption/ Expenditure | Percentage of Utilization |
|---|---|---|---|---|
| | Recurrent | 74,055,123,186 | 72,699,931,348 | 98% |
| | Development | 156,533,694,327 | 127,871,050,725 | 82% |
| | **Total** | **230,588,817,513** | **200,570,982,073** | **87%** |

The State Department absorbed nearly 100% of the recurrent budget at 98% of the voted provision. The State Department under absorbed the Development Budget by 13% mainly due to delay in conclusion of the Financing Agreement and consequent contract finalization for improvement of Kwa Jomvu - Mariakani and Kitale - Morpus Road projects with financing from the KfW of Germany and European Investment Bank. There was a lot of uncertainty and it was hard to predict when the concerned Development partners would consent to signing of the Financing Agreement due to introduction of multiple covenants in the course of loan and grant negotiations. The State Department took the most prudent decision to budget against the loan just in case the loan/grant agreement was signed in the course of the financial year. Despite the under expenditure on the said project, the loan/grant agreement was subsequently signed by the National Treasury leading to contract signing. The road project implementation has since commenced under Kenya National Highways Authority.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**551. Failure to Surrender Temporary Imprest**

Note 13 to the financial statements reflects imprests and advances balance of Kshs. 3,855,969 which includes imprests issued on 5 January, 2022 to two officers totalling to Kshs. 3,441,924. The imprest was due for surrender on 1 February, 2022 but had not been accounted for as at the time of the audit in November, 2022 contrary to Section 93 of the Public Finance Management Regulations, 2015.

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

**Submission by the Accounting Officer**

The Imprests related to training for the Roads Secretary and the Chief Engineer, Roads with Financing from the World Bank under Horn of Africa Gateway Development Project ( HoAGDP) ).The two officers had applied and received the admission letters from the respective training institutions. They had also received No Objection letters from the World Bank to attend the trainings. Imprests to facilitate the trainings were subsequently processed and paid. However, the officers were compelled to re-schedule their training dates due to subsequent Covid-19 wave and abrupt restrictions on travel requirements from the country of training. The officers have since attended their training and surrendered their imprests.

It is also true that the officers were issued more imprests in addition to the outstanding imprests. The outstanding imprests were for training for which they could not attend due to the reasons cited above. The officers had to continue performing other duties as the waited for the Covid travel restrictions to ease. Consequently, they had to be facilitated to perform those duties, some of which included issuance of imprests. It is worth noting that the additional imprests were timely surrendered.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**552. Long Outstanding Deposits and Retentions**

The statement of assets and liabilities and Note 14 to the financial statements reflects third party deposits and retentions balance of Kshs.233,616,998 with an opening balance of Kshs.208,979,604.

Information provided indicate that the opening balance of Kshs.208,979,602 includes balances totaling Kshs.180,000,000 that remained unclaimed after the transition period from direct implementation of contracts by the State Department to implementation of road contracts by road agencies between 2010 and 2015. It was not clear why these deposits had not been paid into the Consolidated Fund as required by Section 106 of the Public Finance Management Regulations, 2015 which states that unless otherwise exempted by an Act of Parliament, any deposit which has remained unclaimed for 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.

**Submission by the Accounting Officer**

The additions during the year under review amounted to Kshs.70,312,580.55 out of which Kshs. 45,675,186.20 was paid out, leaving a balance of Kshs.24,637,394.35. This amount relates to retention funds for office refurbishment works and deposits for materials testing and research paid by contractors and Road Agencies for road and material testing as analyzed.

The opening balance of Kshs.208,979,603.80 includes retention funds of approximately Kshs.180 million that remained as residuals during the transition from direct implementation of contracts by the State Department to implementation of road contracts by Road Agencies. During the transition phase from the year 2010 to 2015, retention fund held for the portions retained at the State Department Headquarters were claimed by contractors after clearance by the road Agencies. Overtime, retention claims continued diminishing as the Road Agencies continued with full contract procurement and implementation.

Further, we wish to state that the State Department has since provided an analysis of the Deposit Bank balances as at 30th June 2023 to The National Treasury vide the letter Ref. MOR&T/R/ACD/EXQ/39/19/Vol.6/11 dated 2nd August, 2023 with the view to transferring any unclaimed deposits held for more than 5 years to the Exchequer Account in line with the Public Finance Management Regulations of 2015.

**Committee Observations and Findings;**

**The Committee observed that the Accounting Officer was in breach of section 106 of the PFM Regulations.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer and directs that the sums held beyond five years be surrendered to the Consolidated Fund as per the law, within one (1) month of adoption of this report.**

**553. Earnings Below the Statutory Minimum**

Review of the Integrated Payroll and Personnel Database (IPPD) for the State Department, revealed that some employees' net payments were below 1/3 of their basic salary. Analysis for the month of February, 2022 indicated that one hundred and eleven (111) officers received less than one third of their basic salaries. This was contrary to Section C.1 (3) of the Human Resource Policies and Procedures Manual for the Public Service, of May, 2016 which states that public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries.
In the circumstances, Management was in breach of the public service policies and procedures.

**Submission by the Accounting Officer**

Officers who had overcommitted their salaries in the said period was due to the following reasons:

- Tax relief: On 25 March 2020, His Excellency, The President of the Republic of Kenya outlined the tax interventions the Government intended to make to "cushion" the country against the economic effects of the COVID-19, therefore, a reduction in the top Pay-As-You-Earn (PAYE) monthly rate from 30% to 25% and with a 100% relief for low income earners was considered, allowing the Government to channel additional resources to cushion the effected individuals from the impact of the virus. It was during the tax relief period when some officers increased commitments to their salaries, which lead to the over-commitment after the Tax Relief was uplifted;
- Public Service Superannuation Scheme (PSSS): this was one of the reforms in Public Service Pension's Sector, the Government enacted the Public Service Superannuation Scheme (PSSS) Act No. 8 of 2012. The Act commenced as at 1ST January, 2021 where the employees would contribute at the rate of 7.5% of their monthly basic salary graduated at the following rate: 2% in the first year; 5% in the second year and 7.5% in the third year. In this regard, some officers' loans may have been affected because of these changes.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer incrementally ensures all staff are compliant.**

**554. Failure to Comply with the Approved Staff Establishment**

Review of the human resource records indicated that the State Department had an approved establishment of two hundred and thirty-six (236) staff members across all cadres. However, the actual number of staff was six hundred and fifty-eight (658) leading to an over establishment of four hundred and twenty-four (424) staff. This is 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.

Management was therefore in breach of the Public Service Policies and Procedures.

**Submission by the Accounting Officer**

The State Department has an approved establishment of one thousand six hundred and thirty-eight (1638) staff, and it has an in post of Two thousand and sixty eight (2068) staff members. The approved establishment had erroneously omitted some divisions which occasioned the difference and informed the PSC of the same and they are on the process of releasing an amended one.

**Committee Observations and Findings;**

**The Committee observed that other government departments deployed staff to the ministry without regard to the approved establishment.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer ensures compliance with the staff establishment within three (3) months of adoption of this report.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**555. Audit Committee and Internal Audit**

Review of records revealed that the Audit Committee of the State Department met only twice during the year contrary to Section 179(1) of the Public Finance 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 and the internal audit function could not be confirmed.

**Submission by the Accounting Officer**

Owing to budget constraints for payment of Committee allowances, the State Department was not able to hold the required number of meetings in a financial year. The two meetings were however considered adequate in guiding and advising the State Department. The Internal Audit plans, charter and risk registers were all availed to the Audit team. The submitted documents signified the vibrancy of the Internal Audit function.

**Committee Observations and Findings;**

**The Committee observed that the State Department did not prioritize facilitation of the internal audit function. The sitting allowances cited were negligible and virtual sittings would have been considered.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer and recommends that the Accounting Officer henceforth prioritizes facilitation of the internal audit function.**

**DONOR FUNDED PROJECTS**

**EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT CR NO. 5638-KE IDA**

REPORT ON THE FINANCIAL STATEMENTS

**556. Unsupported Prior Year Adjustments**

As disclosed under Note 8 to financial statements, the statement of financial assets reflects prior year adjustments balance of Kshs.2,831,556 made up of adjustment for outstanding imprest receivable balance of Kshs.1,336,335 and retention accounts payable balance of Kshs.4,167,891. Management has however not supported the movement in these balances with relevant documentation. In addition, the prior year adjustment movement schedule on Note 8 of the financial statement shows an adjusted balance brought forward of Kshs.1,780,720 for accounts payable which was not reflected on the statement of financial assets.

In the circumstances, the accuracy of prior year adjustments balance of Kshs.2,831,556 as at 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

The Kshs.1,336,335 was advanced to Kenya Transport Sector Support Project (KTSSP) from Eastern Africa Regional Transport, Trade Facilitation Project (EARTTDFP). The amount of Kshs.4,167,891 was advanced from National Urban Transport Improvement Project (NUTRIP) to Eastern Africa Regional Transport, Trade Facilitation Project (EARTTDFP). KTSSP and NUTRIP have since closed and the matter concluded. We wish to state that all the three projects are funded by World Bank and the borrowing from one project account to another were made to finance payment of salaries to contracted project staff on the same projects.
This matter was tabled at Public Accounts Committee (PAC) and it was resolved.

**Committee Observations and Findings;**

i) **The Committee observed that the matter had been resolved in the report of the PAC FY 2019/20.**

ii) **The Committee recommends that the matter be marked resolved.**

**557. Unsupported expenditure**

The statement of receipts and payment reflects direct expenditure totaling to Kshs.49,532,918 comprising of compensation of employees amounting to Kshs.6,137,438, training expenses of Kshs.9,645,480 and purchase of three (3) motor vehicles amounting to Kshs.33,750,000. However, there was no approved work plan and budget provided in support of this expenditure. Further there was no evidence that the activities undertaken relates to the project.
The circumstances, the accuracy and validity of the expenditure totaling to Kshs.49,532,918 for the year ended 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

The Kshs.33,750,000 relates to purchase of three (3) motor vehicles purchased for the state department for roads. The vehicles were part of the Capacity Building component of the project agreed with the World Bank. A No Objection letter for purchase was issued by the World Bank prior to the procurement. Kshs.6,137,438 relates to compensation of employees for state department for roads, who are technical staff hired to oversee the implementation of the project and paid through the project after concurrence by the World Bank. Attached is the sample of approved payment vouchers.

Kshs.9,645,480 relates to training of employees for state department of roads. Prior to the training, the State Department received letter of No Objection to train from the World Bank. Attached is the sample of approved payment vouchers. With regards to work plan, the State Department had an approved work plan and budget for the said financial year.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**558. Budgetary control and performance**

The statement of comparison of budget and actual amounts indicates that the project had budgeted to receive an amount of Kshs.150,000,000 during the year. The project however received a total of Kshs.11,279,289 resulting to underfunding of Kshs.138,720,711 or 92% of the budget. Similarly, the project had budgeted to spend an amount of Kshs.150,000,000 but only spent Kshs.15,782,918 resulting in total under expenditure of Kshs.134,217,082.

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

**Submission by the Accounting Officer**

This scenario was brought about because the project was undergoing restructuring and some of the activities that had been earmarked to be implemented were dropped. This process ended in December 2021. This further affected the procurement process of the planned activities within that financial year.

In addition, the Covid 19 pandemic resulted into restricted movement and activities. This led to reduced absorption of funds for goods and services. The state department has upscaled activities that were delayed to consume the earmarked project funds. The increased activities that will take place over the next 6 months will ensure that the project meets the desired outcomes.

**Committee Observations and Findings;**

**The Committee noted the explanation of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer provides a status report within three (3) months of adoption of this report.**

**559. Undrawn Loan Balances**

Article II (2.03) of the financing agreement provides for a charge rate payable by the recipient on undrawn financing balance at 0.5% per annum. Further, review of the funding summary paragraph 1.7 of the annual report indicates that the project started in June 2015 and is expected to end by 31st December 2023. Donor commitment for the project translate to Kshs.1,652,015,000. However, for the seven years the project has been implemented, a total of Kshs.760,659,410 has been drawn from the donor commitment, leaving an undrawn balance of Kshs.891,355,590 for the remaining one year period.

**Submission by the Accounting Officer**

This scenario was brought about by the project restructuring process that consequently dropped some activities while adopting other tasks that were more realistic and more achievable in respect to attaining the Project Development Objectives. This means that most activities will therefore be implemented in the FY 2022/2023 and the six months up to December 2023. As at 30th June 2023 in line with the restructuring paper, the project had spent Kshs.1,288,802,895.13 leaving an unspent balance of Kshs.648,584,306.55 This unspent balance will be spent within the six months to 31st December, 2023. In addition, the Covid 19 pandemic resulted into restricted movement and activities. This led to reduced absorption of funds for goods and services. The state department has up scaled activities that were delayed to consume the earmarked project funds. The increased activities that will take place over the next 6 months will ensure that the project meets the desired outcomes.

**Committee Observations and Findings;**

**The Committee noted the explanation of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer provides a status report within three (3) months of adoption of this report, including any penalties incurred.**

**EAST AFRICA SKILLS FOR TRANSFORMATION AND REGIONAL INTEGRATION PROJECT - IDA 6334-KE**

REPORT ON THE FINANCIAL STATEMENTS

**563. Lack of Ownership Documents for Motorable Transport Equipment**

Annex 2 to the financial statements in respect to summary of fixed assets register reflects an amount of Kshs.69,064,000 relating to five (5) motorable transport equipment. However, the ownership documents were not provided for audit.

In the circumstances, the ownership of the motorable transport equipment valued at Kshs.69,064,000 could not be confirmed.

**Submission by the Accounting Officer**

The logbooks have now been obtained.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**564. Budgetary Control and Performance**

The statement of comparative of budget and actual amounts reflects final receipts budgets of Kshs.420,000,000 and nil actual receipts on comparable basis resulting in underfunding to Kshs.420,000,000 or 100% of the budget. Similarly, the statement reflects final expenditure budget of Kshs.420,000,000 against actual expenditure on comparable basis amount of Kshs.137,623,274 resulting in an under expenditure of Kshs.283,376,726 or 67% of the budget.

The underfunding and under-expenditure may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

The approved budget for the year 2021/2022 amounted to Ksh 420,000,000.00. During the financial year 2021/2022, the total funding amounted to Kshs. 196,822,566.00 resulting into an under funding of of Kshs. 283,376,726.

As at 30th June 2022, the project had utilized Ksh 194,438,839.00 and was waiting for reimbursement of the utilized amount. The project reimbursement is based on the verified Disbursement- linked indicators (DLI's) and disbursement-linked results (DLRS) achieved.

It is also worth noting that although the project had utilized 18% of the total project budget, it has managed to utilize 100% of the total advance given as at the time of audit.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**565. Project Implementation - Low Absorption Rate**

Section 1.7 of the annual report and financial statements on funding summary indicates that the project duration is 6 years or 72 months from 2018 to 2024, with an approved budget of EUR9,280,000 equivalent to Kshs.1,086,168,320. As at 30 June, 2022, the project had received EUR.1,802,658.68, equivalent to Kshs.196,822,567 or 18% of total budgeted funds, with lapsed project duration of 42 months equivalent to 58% of the total project duration, an indication that the project is behind schedule. Management has not demonstrated how the shortfall will be covered with the remaining timeline of thirty months.

**Submission by the Accounting Officer**

The financing agreement was signed on 18th December 2018, which is the time the project became effective. The project is anchored under the Ministry of Education. There were start up and coordination challenges at the start of the project leading to delay in first disbursement. During the first two project years 2018-2019 and 2019-2020 the institute did not manage to draw funds with which to conduct project activities. The funds were ultimately received from the world bank and deposited into the project's commercial bank account in May 2020, just a month before the end of the 2019-2020 financial year.

Activities consequently commenced in the year 2020-2021, which was actually the third project year. The foregoing explains the apparent delay in the implementation. During the year 2020/2021, the approved Development Partner budget of Kshs.400,000,000 was not only meant to take care of the planned activities of that year, but also of the previous two years when the funding had not been released.

The activities could not be implemented as planned in this year because of the following listed challenges:

1. COVID-19 Pandemic which affected the project in the following ways:

• Limitation of movement.

A lot of the activities involved travelling across regions locally and internationally and since there was limited movement as a result of country and international lockdowns, curfew and closure of borders, these activities could not be carried out as intended.

• Limitation of congregations/ meetings.

As a result of limited congregations, training activities and meetings were severely affected and this meant that activities which depended on these sessions e.g. training activities, forums and stakeholders' meetings could not be held. The institute's limited ICT infrastructure also affected its ability to conduct such activities online.

2. Delay in obtaining no-objection from the World Bank on procurement of goods and services caused a delay in the implementation of certain activities which required prior clearance from the bank before implementation.

3. Procurement of equipment budgeted for in the financial year under review required a waiver from the treasury before being put-up for open tendering and there was significant delay in obtaining this waiver.

The management finally obtained the waiver in no. 3 above and has already procured some of the equipment in this financial year (2021/2022) resulting into an expenditure total of Kshs.126,000,000.00. A further amount of Kshs.28,000,000,00 is to be spent on the procurement of a simulator which is already at an advanced procurement stage.

An additional Kshs.4,000,000 had also been spent on other project activities in the first quarter of 2021-2022 which is an expenditure conducted after this audit had been concluded.

This means therefore that the current absorption rate has moved upwards to a rate of 80%.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report.**

**KENYA TRANSPORT SECTOR SUPPORT PROJECT (IDA CREDIT NO. 4926-KE AND NO. 5410-KE)**

**568. Project Closure Report**

The Project information and overall performance for the year ended 30 June, 2022 indicates that the Project was started on 24 August, 2011 and was to end on 31 December, 2019. However, a project closure report had not been prepared and submitted for audit three years after the closure period of the project.

**Submission by the Accounting Officer**

Under World Bank guidelines, Implementation Completion and Result Report (ICR) is a standard report which does not include assets and liabilities for the project. Consequently, the ICR report provided was sufficient as a closure report.

The project was successfully closed, and the report was shared with the World Bank and National Treasury.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT CREDIT NUMBER 6768-KE**

REPORT ON THE FINANCIAL STATEMENTS

**572. 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.155,000,000 and Kshs.117,251,593 respectively resulting in an underfunding of Kshs.37,748,407 or 24% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.155,000,000 and Kshs.119,947,614 respectively, resulting in an under expenditure of Kshs.35,052,386 or 23% of the budget.

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

**Submission by the Accounting Officer**

This was as a result of Covid Pandemic and late approval of No objection. However, the State Department upscalled the budgeted activities in 2022/2023 financial year.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report.**

**573. Management of Imprest**

As disclosed in Note 5 to the financial statements, the statement of financial assets reflects a balance of Kshs.3,441,923 in relation to outstanding imprest due from two officers that ought to have been surrendered by 28 April, 2022. However, the imprest remained outstanding as at the time of the audit in October, 2022 contrary to Regulation 93(5) of the Public Finance Management

(National Government) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.

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

**Submission by the Accounting Officer**

Imprests related to training for the Roads Secretary and the Chief Engineer, Roads with Financing from the World Bank under Horn of Africa Gateway Development Project (HoAGDP). The two officers had applied and received the admission letters from the respective training institutions. They had also received No Objection letters from the World Bank to attend the trainings. Imprests to facilitate the trainings were subsequently processed and paid. However, the officers were compelled to re-schedule their training dates due to subsequent Covid-19 wave and abrupt restrictions on travel requirements from the country of training. The officers have since attended their training and surrendered their imprests.

**Committee Observations and Findings;**

**i) The Committee noted the submission of the Accounting Officer.**
**ii) The Committee found that the matter was resolved.**

**SUPPORT TO ROADS SECTOR POLICY: 10TH EDF RURAL ROADS REHABILITATION PROJECT IN KENYA (AGREEMENT NO.KE/FED/023/-571) – KENYA RURAL ROADS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**577. Lack of HIV/AIDS Awareness by the Contractor**

Project inspection carried out for Lot 5 on 14 October, 2022 revealed that the contractor did not carry out H IV/AIDS awareness as provided for by paragraph 25-50-001 (a) of the tender documents. The contractor was required to take steps to make continuous awareness to the workers and the general public about HIV/AIDS via public displays at the project site and on the project vehicles. The contract had a provision of Kshs.720,000 in the Bill of Quantities to cater for the HIV/AIDS awareness.

The Contractor was therefore in breach of the requirements of paragraph 25-50-00 1 (a) of the tender documents.

**Submission by the Accounting Officer**

The Contractor intermittently undertook HIV awareness and prevention activities on site over the project implementation. The contractor provided HIV awareness banners and stickers. However, the Contractor failed to submit the requisite reports to warrant payment.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents on time, as required by section 9 (i) (e) of the Public Audit Act, 2015.**

**578. Construction of Kivandini-Kango-Kakalia-Kali Road (Lot 4)**

Kenya Rural Roads Authority awarded tender for construction of 15. 9 Kilometers of Kivandini-Kango-Kakalia-Kali Road in Machakos County to a contractor at a contract sum of Kshs.301,251,357 Project inspection carried out on 14 October, 2022 revealed that the drifts constructed along the road lacked demarcation points to indicate width and length of the drifts for the safety of the road users. Road markings were partially done for about 5Kms while road furniture were not done.

It was also noted that the entire stretch of the road lacked speed bumps a round towns and steep sections of the road prompting locals to erect informal bumps thus risking the lives of the road users. At Ikiwe drift, a section which has experienced fatal accidents in the past, there was a protruded stone that the contractor did not up root or carry out any specific works on it to avert future accidents. It was further noted that the contractor was not on site thus casting doubt on whether the remaining works would be completed.

In the circumstances value for money spent in the Project could not be confirmed.

**Submission by the Accounting Officer**

The contractor was expected to complete the remaining 10.5Km by June 2023. Financial challenges and delayed payments on IPC No. 16 has caused the contractor to intermittently work.

Road furniture and protective works are part of the scope of works and have been instructed to the contractor.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Auditor General ascertains status in subsequent audit.**

**579. Construction of Katuaa-Kee-Nunguni Road (Lot 5)**

Kenya Rural Roads Authority awarded tender for construction of 20.5 Kilometers of Katuaa-Kee-Nunguni road in Makueni County to a contractor at a contract sum of Kshs.362 ,00'1,255. Project inspection conducted on 13 October, 2022 revealed that only staggered sections of the road had been tarmacked to approximate ten (1 0) Kilometers. Road markings and furniture works had not been done on the tarmacked sections of the road. It was further noted that the contractor was not on-site casting doubt on the completion of the works before the scheduled Project closing date of 9 September, 2023.

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

**Submission by the Accounting Officer**

The Accounting Officer submitted that;

i) Edge marker posts on drifts have been erected to indicate and mark dangerous levels during flooding
ii) Road marking works are on-going, 5Kms have been completed to-date
iii) Protection works, road furniture are being undertaken during the defects liability period,

iv) Removal of huge rocks close to the edge of the carriageway was not part of the scope of works given the project implementation was under mainly labour intensive methods of construction. The removal of the rock boulders will require blasting activities. The Authority will plan, budget and take the initiative to remove the rock boulders bordering the road along this section under maintenance operations.

v) The contract works are substantially completed and were taken over in September 2020. The contractor has been slow to complete the ancilliary works (road marking, permanent traffic signs and additional access culverts). The management may consider using a third party to complete these outstanding works for any continued delay beyond June 2024.

**Committee Observations and Findings;**

**The Committee observed that the works had taken inordinately long to conclude.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer and recommends that the Auditor General ascertains status in subsequent audit.**

## NUNO-MODOGASHE ROAD PROJECT- KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

**582. Presentation and Disclosure of the Financial Statements**

The financial statements did not include other important project background information and key qualifications for the officials involved in the implementation of the project as required by the Annual Financial Reporting Template for projects (Revised 30 June, 2022). Further, prior year auditor recommendations were not appended to the financial statements under progress on follow-up of prior year auditor's recommendations as required by the Financial Reporting Template.

In the circumstances, the presentation of the financial statements did not comply with the Annual Financial Reporting Template for projects (Revised 30 June, 2022).

**Submission by the Accounting Officer**

The agency has since revised annual report and financial statements.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**583. Cash and Cash Equivalents**

The statement of financial assets reflects nil cash and cash equivalents balance. However, Management did not provide bank statements, bank balance certificate and board of survey certificate to support the balance.

In the circumstances, it was not possible to confirm the accuracy of the nil cash and cash equivalents balance.

**Submission by the Accounting Officer**

The the Authority maintains one bank account for operation of all exchequer funds for the projects which is in line with the National Treasury's circular on rationalization of bank accounts. Further total receipts from the Parent Ministry are equally confirmed at the end of each financial year.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**584. Outstanding Payment of Approved Land Compensation**

Review of the contract agreement and a letter Ref. No. NLC/VAL1534/Vol. (15) dated 14 October, 2019 from the National Land Commission to the Management of Kenya National Highways Authority revealed that the Authority had approved payment of land compensation amounting to Kshs.147,594,798 to Project Affected Persons (PAPs). It was, however, noted that as at 30 June, 2022 a balance of Kshs.135,891,795 was outstanding as disclosed under Other Important Disclosures at paragraph 12 of the annual reports. The Management did not provide plans put in place to settle the outstanding debt.

In the circumstances, the delay in payment of the compensation dues may lead to loss of public funds in case of litigations instituted by the Project Affected Persons.

**Submission by the Accounting Officer**

Pending bills accumulate due to inadequate GoK budgetary provisions coupled with delayed Exchequer releases to facilitate prompt contractual payments. In FY 2022/23 the Authority managed to secure a GoK budgetary provision for the project amounting to Kshs.400,000,000 which will be utilized towards clearing these pending bills.

The project is however complete and the road is open for public use. The Authority will endeavour to allocate adequate budget, subject to provided ceilings in subsequent Financial Years to facilitate settlement of the pending bills.

**Committee Observations and Findings;**

**The Committee observed that it was unfair and inhumane for a road to have been completed and was in use while those whose land was compulsorily acquired were yet to be compensated.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer prioritizes settlement of land compensation before commencement of projects.**

**585. Interest on Delayed Payments**

Review of summarized payment certificates revealed that the Authority paid a contractor an amount of Kshs.604,563,073 as interest charged on delayed payments. Management did not provide reason for the late payment which resulted in payment of huge interest and thus leading to loss of public funds.

In the circumstances, the value for money amounting to Kshs.604,563,073 could not be confirmed.

**Submission by the Accounting Officer**

The contractor had billed a cumulative amount of Kshs 604,563,073 as interest on delayed payment. However, upon reconciliation by the Authority, it was determined that only Kshs 82,966,925 was payable as per the reconciliation availed to the auditor during the audit exercise herein attached and marked as Appendix KeNHA/Nuno-Modogashe ii.

Late payment of certificates arose due to inadequate GoK budgetary provisions coupled with late release of Exchequer funds to facilitate prompt payment of certificates.

**Committee Observations and Findings;**

**The Committee observed that;**

1. **(i) Kshs. 82,966,925 was still too high a figure to be lost through interest accrual;**
2. **(ii) The Committee further observes that government enters into lopsided contracts with punitive clauses on late payments.**

**Committee Recommendation;**

**The Committee recommends that the Attorney General reviews all financing agreements and contracts entered into by government with a view of protecting public interest.**

**586. Payment of Value Added Tax**

Review of summarized payment certificates revealed that the Authority paid a contractor a cumulative amount of Kshs.7,362,473,084 for the certified works which included an amount of Kshs.918,294,823 charged as Value Added Tax (VAT) by the contractor for works which were not vatable. However, as at 30 June, 2022, the Authority had recovered Kshs.148,474,743 from the retentions account of the contractor leaving outstanding balance of Kshs.769,820,080. Management did not provide details of measures instituted to ensure full recovery of the outstanding balance.

In the circumstances, it was not possible to confirm value for money held by the contractor.

**Submission by the Accounting Officer**

The contractor issued a credit note for the billed VAT as per IPC 26 attached and marked as Appendix KeNHA/Nuno-Modogashe iii which was availed to the auditors during the physical verification of documents. Recovery of Kshs 148,474,743 from the withheld retention was meant to settle the overbilling on interest on delayed payment as per the reconciliation availed to the auditors.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents on time, as required by section 9 (i) (c) of the Public Audit Act, 2015.**

**KENOL-SAGANA-MARUA HIGHWAY IMPROVEMENT PROJECT (P-KE-DBO-037) CREDIT Nos. 5050200000901 AND 2000200004504 – KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**588. Lack of a Project Bank Account**

The statement of receipts and payment reflects transfer from Government entities amount of Kshs.2,168,858,374 and total payments controlled by the entity of Kshs.2,168,858,374 under the components of purchase of goods and services (Kshs.29,090,675) and acquisition of non-financial assets (Kshs.2,139,767,699). However, review of records revealed that the Kenol-Sagana-Marua Highway Improvement project does not have a project bank account with the Central Bank of Kenya as required by the law. The Management uses the Co-operative Bank of Kenya account which is the account for the Kenya National Highways Authority (KENHA). This makes it very difficult to trace specific transactions (receipts and payments) that relate to amounts controlled by the Project or Government counterpart funds.

**Submission by the Accounting Officer**

Section 76(1) of the PFM Regulations 2015 provides for opening of a project account for Management of Grants and Donations for purposes of donor or development partner or external financier.

Kenol-Sagana-Marua project uses the Direct Payment Method where the Development Partner does not disburse any cash to the Authority but pays directly to the Contractor/Consultant. The financing agreement did not have a provision for opening a special project account. Although the authority maintains one bank account for the exchequer funds received, the Authority maintains a dynamic accounting system which is able to provide a robust electronic register that provides a detailed analysis of various transactions incurred through the bank account on a project-by-project basis. The authority is therefore able to segregate payments which ensures accuracy of the balances reported in the project financial statements.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**589. Non-Disclosure of Accounts Payable- Retention**

The statement of financial assets reflects a nil balance under payables-retentions and as disclosed in Note 11.5 to the financial statements. However, Notes 12.2, 12.3 and Annex 5 to the financial statements disclosed that during the year under review the accounts payables – retentions account had an opening balance of Kshs.49,834,635 brought forward from financial year 2020/2021 and there was an addition of retentions during the year of Kshs.374,992,286 resulting to a closing balance of Kshs.424,826,921. No explanation was provided for the failure to disclose the accounts payables – retentions balance of Kshs.424,826,921 in the statement of financial assets.

**Submission by the Accounting Officer**

The retention balance of Kshs. 424,826,921 relates to retention held by the Development Partner and not by the Authority. These amounts have therefore been disclosed under "Other important Disclosures" because the amounts are not held by the Authority.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**590. Pending Bills**

Note 12.1 of the financial statements reflects pending accounts payable balance of Kshs.1,360,045,476, as disclosed in Annex 3 to the financial statements which comprises of Kshs.108,751,146 under road construction and Kshs.1,251,294,330 under acquisition of land.

Although Management has committed to liaise with the Ministry and the National Treasury for adequate budgetary allocation and timely exchequer releases for prompt payments in the subsequent financial year, the project is at risk of incurring unqualified significant interest cost and penalties with the continued delay in making payments for invoiced bills.

**Submission by the Accounting Officer**

The Pending bills are as a result of inadequate GoK budgetary allocations in the current and prior financial years. The Authority shall however endeavor to allocate adequate budget, subject to the provided ceiling, in the subsequent years until the pending bills are fully settled.

An allocation of Kshs 300,000,000 has been provided in the current (FY 2022/2023). Which will be utilized to settle part of the pending bills.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**The Committee further has made general observations and recommendations in the preface of this report.**

**591. Lack of an Itemized Project Budget**

The statement of comparison of budget and actual amounts reflects a final budgeted expenditure of Kshs.6,810,000,000 and actual expenditure of Kshs.8,277,234,749 comprising of purchase of goods and services expenditure of Kshs.33,463,606 and acquisition of non-financial assets expenditure of Kshs.8,277,234,749. However, Management did not provide an itemized budget showing the detailed budget items for which the expenditure was intended.

In the circumstances, the completeness of the budgeted expenditure amount of Kshs.6,810,000,000 could not be confirmed.

**Submission by the Accounting Officer**

By nature and practice appropriation by The National Assembly to the project is on a specific line by line individual project. This is the form in which the project budgets are uploaded onto IFMIS and availed for expenditure. A line by line individual project budget was availed during the audit as correctly indicated. However, for purposes of presentation in the financial statements, the requirement is not to present them per project as in IFMIS but by the nature of expenditure as per the template provided by the Public Sector Accounting Standards Board (PSASB).

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer henceforth goes beyond the templates provided by the Public Sector Accounting Standards Board (PSASB), and avails detailed line item budgets as annexures.**

**592. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.6,810,000,000 and Kshs.8,310,698,355 respectively resulting to an over-funding of Kshs.1,500,698,355 or 22% of the budget. Similarly, the Project spent Kshs.8,310,698,355 against an approved budget of Kshs.6,810,000,000 resulting to an over-expenditure of Kshs.1,500,698,355 or 22% of the budget. Management has explained that the over-funding and over-expenditure was as a result of funds budgeted for in the prior year being received and expensed in the current financial year. However, it was not clear why the budgeted receipts and expenditure, although included in the previous year's budget, were not included in the financial year 2021/2022 budget.

In the circumstances, the over-funding and over-expenditure was not budgeted for and thus not supported by way of a budget as required by the Regulations.

**Submission by the Accounting Officer**

The budget for FY 2020/21 was already captured in the financial statement for FY2020/21 hence re-capturing in the current financial year would lead to overstatement of project budgeted amounts over the financial years. Further the expenditure of Kshs.1,500,000,000 could not be recorded in FY 2020/21, since this would contravene the cash basis of reporting where expenditure is recorded when incurred. The expenditure was incurred in FY 2021/22 hence correct recording of the same.

**Committee Observations and Findings;**

**The Committee noted that under cash basis of accounting the Accounting Officer was required to re-vote outstanding sums.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer re-votes unutilized budgets as per regulation 117 of the PFM Regulations.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**593. Irregularities in Project Implementation**

**593.1. Lot 1- Dualling of Kenol-Sagana (A2) Road- 48 Km**

The Government of Kenya awarded contract of Kshs.8,496,537,823 to an international Contractor on 05 August, 2020 for the dualling of Kenol-Sagana (A2) road (48km) vide contract No. KeNHA/CS/D/3023/2020 for a period of thirty-six (36) months. The commencement date of the contract was 07 October, 2020 with an expected completion date was 06 October, 2023.

According to the monthly progress report for October, 2022 the percentage of weighted overall work completed (physical progress) stood at 64% against the programmed or planned physical progress of 63%. Further the amount certified to date for the contract was Kshs.6,429,082,437 while the amount paid to date was Kshs.6,004,418,257 (or 71% of the contract sum). In addition, the time elapsed was 24.8 months (69% of the completion period). Based on the analysis, it was noted that the contract was ahead of the programmed or planned physical progress by 0.87%.

However, the audit inspection exercise carried out in the month of November, 2022 revealed that the unit designs and estimates for 29 No. motorcycle (bodaboda) sheds and 5 No. modern market sheds were completed in November, 2021 and submitted to the Project Management. The locations for the market and bodaboda sheds had already been identified but no works on the sheds had commenced.

Further, twenty-four (24) No. of access roads totaling to approximately 23.7 km have been identified for construction. The feeder roads were proposed through stakeholder engagements by the consultant and Management during project implementation. The contractor had been furnished with instructions for commencement of works on Mitiini-Santamore, Makuyu Girls and Ciumbu centre access roads. However, no works on these roads were observed to have commenced.

In addition, one (1) No. 50 meters foot bridge at Kenol centre (0+123 KM) had not been completed although the geotechnical survey had been completed and the setting out done. It was also noted that the detailed designs and the bills of quantities for the Sagana trauma centre had been completed but the works on the same were yet to commence.

**Submission by the Accounting Officer**

The progress of works on the project is good and the contractor is working ahead of schedule. Most of the major activities on the main road are nearing completion. The pending works for access roads, the roadside markets, the Sagana Trauma centre and footbridges are programmed to be completed within the time for completion of the project, by 30 June 2024.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails a progress report to the Committee within three (3) months of adoption of this report.**

**593.2. Lot 1- Dualling of Sagana- Marua (A2) Road Section- 36 Km**

The Government of Kenya awarded a contract to an International Contractor on 30 July, 2020 for the dualling of Sagana-Marua (A2) road (36km) vide contract No. KeNHA/RD/D3022/2020 for a period of thirty-six (36) months. The commencement date of the contract was 19 October, 2020 with an expected completion date being 18 October, 2023.

According to the quarterly progress report for July to September, 2022 the percentage of weighted overall work completed (physical progress) stood at 59% against the programmed or planned physical progress of 61%. Further the amount certified to date for the contract was Kshs.4,196,928,957 while the amount paid to date was Kshs.3,991,067,773 (or 65% of the contract sum). In addition, the time elapsed was 23.36 months (65% of the completion period). Based on the analysis, it was noted that the contract was behind schedule of the programmed or planned physical progress by 2.69%.

The audit inspection exercise carried out in the month of November 2022, revealed that the construction of 1No. interchange at Marua, construction of 2No. roundabouts at Karatina, construction of market sheds, construction of access roads and the construction of motor-cycle (boda- boda) sheds had all not commenced.

Further, it was noted that there was delayed acquisition of affected land and property on some sections of the road have resulted to delayed relocation of affected water pipelines and power lines affecting progress of works and delay in making payments to the contractor for some IPCs has caused a cash flow challenge resulting in a slow rate of progress of work.

In addition, there were insufficient aggregates especially for construction of DBM and AC layers and frequent breakdowns of Asphalt Concrete mixing plant, with the most recent one having been from 01 September, 2022 to 27 September, 2022.

**Submission by the Accounting Officer**

This is due to the budgetary constraints. The contractor however still has sufficient sections to work on. The Authority will endeavor to fast track allocation of funds for compensation on these sections.

Regarding the works that are yet to commence, such access roads, the contractor's programme indicates that they will be completed within the time of completion, i.e by 30 June 2024.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails a progress report to the Committee within three (3) months of adoption of this report.**

## NAIROBI OUTERING ROAD IMPROVEMENT PROJECT - KENYA URBAN ROADS AUTHORITY

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**597. Failure to Settle Pending Accounts Payable**

Annex 3a to the financial statements reflects Kshs.885,199,462 in respect of pending accounts payables. This was an increase of Kshs.469,659,124 from the balance of Kshs.415,540,338 reported in the previous year.

Clauses 14.7.1(b), 14.8.2 and 14.8.3 of the Project contract between the Construction Company and Kenya Urban Roads Authority provides specific conditions regarding delayed payment to the contractor. Clause 14.8.1 states that the Contractor shall be entitled to receive financial charges compounded monthly on the amount unpaid during the period of delay. Clause 14.8.2 states that the charge as result of delayed payment shall be calculated at the annual rate of three percentage points above the discount of the central bank in the country of the currency of payment, or if not available, the interbank offered rate, and shall be paid in such currency. Clause 14.8.3 states that the Contractor shall be entitled to this payment without formal notice or certification, and without prejudice to any other right or remedy.

In the circumstances, the Project was at risk of incurring additional cost in form of interest and penalties for failure to settle the pending bills.

**Submission by the Accounting Officer**

The pending bills under the project were due to exhaustion of the allocated budget for the project in financial year ended 30 June, 2022 and consequently lack of additional resources from The National Treasury. The pending bills are being given first consideration for funding under the current Financial Year's budget.

The Authority is in communication with the parent Ministry and the National Treasury for funding to clear the outstanding bills. The bills will be settled as exchequer funding is received.

**Committee Observations and Findings;**

**The Committee observed that government enters into lopsided contracts with punitive clauses on late payments. For instance, clause 14.8.2 of this contract provided for interest charged at three percentage points above the CBK rate, while clause 14.8.3 gave the contractor entitlement to this interest without recourse.**

**Committee Recommendation;**

**The Committee recommends that the Attorney General reviews all financing agreements and contracts entered into by government with a view of protecting public interest.**

## UPGRADING OF KIBWEZI-MUTOMO-KITUI ROAD PROJECT- KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON FINANCIAL STATEMENTS

**600. Unsupported Expenditure**

The statement of receipts and payments and Note 4 to the financial statements reflects an expenditure of Kshs. 46,932,465 on acquisition of non-financial assets, which was presumably paid by the financier. However, no documentary evidence was provided for audit review to confirm the disbursement of the payments.

**Submission by the Accounting Officer**

The payment documents were prepared by the Authority and submitted to the Ministry of Roads and Transport (then Ministry of Transport, Infrastructure, Housing, Urban Development & Public Works) for their approval, posting into the Government IFMIS systems and subsequent onward transmission to the National Treasury who subsequently forwarded the payment to the Development Partner, EXIM. All these payment steps were concluded in the financial year under audit, and thus the payment was captured in the Government books for FY 2021/22, hence its recognition in the project financial statements. This payment was also budgeted in the year under audit and the commitment incurred in the Government books.

The Authority has subsequently obtained evidence of disbursement from the Development Partner.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**601. Interest on Delayed Payments**

Annex 3 to the financial statements reflects pending bills totaling to Kshs. 3,566,237,990. Review of interim payment certificates relating to the pending bills revealed that the Company which was awarded the contract charged interest on delayed payments amounting to Kshs. 338,775,822.

The interest was levied on the Project after all the committed funds had been received and paid out. This was a cost which could have been avoided had Management made the payments as and when they were due considering that the Project had adequate funding at the time.

In the circumstances, the interest payable charged to the Project is an irregular charge to public funds.

**Submission by the Accounting Officer**

It is true that the project attracted interest on delayed payments which were occasioned by:

a. The financiers' requirement that the development partner portion can only be settled upon proof that GoK counterpart portion of each IPC has been settled.

b. Inadequate Budgetary allocations as well as delays in release of exchequer funds led to delays in processing GoK counterpart portion and by extension the Development partner portion.

Interest charge is provided for in the contract whenever the payments are delayed and is solely borne by the Exchequer funds.

In FY 2022/23 however, the Authority received a budgetary allocation amounting to Kshs 625,000,000 (AIA Kshs 500,000,000 and Gok Kshs 125,000,000) as evidenced in the attached Printed budget. The budgetary allocations were utilized in settling part of the pending bills. The Authority will subsequently endeavor to allocate adequate budgets to the project to facilitate settlement of the entire pending bills as well as completion of the Project.

**Committee Observations and Findings;**

**The Committee observed that government enters into lopsided contracts with punitive clauses on late payments.**

**Committee Recommendation;**

**The Committee recommends that the Attorney General reviews all financing agreements and contracts entered into by government with a view of protecting public interest.**

**602. Inaccuracy of the Financial Statements**

The statement of receipts and payments reflects comparative receipts and payments controlled by the entity amount of Kshs.796,772,220 and Kshs.945,910,929 respectively resulting to a deficit of Kshs.149,138,709. Although Note 7 to the financial statements indicates that Kshs.149,138,709 was used to pay retention monies, it is not clear how the funds were obtained and disbursed.

In the circumstances, it was not possible to confirm the accuracy of the deficit of Kshs.149,138,709.

**Submission by the Accounting Officer**

The retention amount of Kshs.149,138,709 was retained from the contractor's IPCs, budgeted and funds set aside in the Authority's retention account in the financial year 2019/20 as indicated by the attached FY 2019/20 Financial Statements whose closing cash balance amounted to Kshs.149,138,709.

The funds were released to the Contractor in FY 2020/21 as indicated in FY 2020/21 financial statements and were accounted as acquisition of non-financial assets in the same financial year. This is in line with IPSAS cash accounting which requires recognition of expenditures only when cashflows are incurred.

The retention amount of Kshs.149,138,709 was therefore presented and accounted for in the financial statements in line with the requirements of cash-based accounting and the reporting template issued by the National Treasury.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**603. Delayed Payment to Persons Affected by the Project**

Annex 3 to the financial statements reflects pending bills balance of Kshs.3,566,237,990 as at 30 June, 2022 which includes a balance of Kshs.1,643,845,580 for acquisition of land from Project Affected Persons (PAP). Review of the project file revealed complaints by the PAPs and legal cases filed against the Authority due to delayed compensations, as detailed below;

i. A complaint by four (4) PAPs with regard to compensation for parcels of land No. 2331/2332/2386/2387 at Kisasi/Mosa, which had been gazetted by the National Land Commission (NLC) on 28 August, 2020. It was not clear whether the funds for compensation were transferred to the NLC since the four (4) beneficiaries had not been compensated as at the end of the financial year.

ii. Compensation for compulsory acquisition of parcels of land from residents of Ikutha village in Kitui County. On 12 January, 2018, NLC through the Kenya Gazette Notice No. 177 of 2018 published its intention to acquire 50 parcels of land in Ikutha/Mbitini. Through a letter to KeNHA, the residents complained about delayed payments which had not been paid by the end of 2020/2021 financial year.

iii. A local firm of advocates, acting on behalf of the residents, issued letter to KeNHA and NLC indicating that the parcels of land acquired were valued and awards given to individual proprietors, and that some awards were later revised downwards without any justification. According to the letter, the residents decided to pursue the matter through an advocate since they has not been compensated by the time of this audit.

iv. Five (5) PAPS were to be compensated for their parcels of land. However, due to delays in compensation, the five PAPs issued a 14-days-notice of legal action against the Authority, if the compensation will not have been paid within the 14 days. However, there was no evidence of payment of the compensation, by the time of this audit.

v. Annex 3 on pending bills reflect an amount of Kshs.280,930,790 as compensation to PAPs to date. However, the schedule for beneficiaries was not provided for audit review, therefore it was not possible to confirm the validity of the payment. In view of disputes between the Authority and PAPs, the Project risks losing funds through award of damages, penalties and interest, which are costs that can be avoided.

In view of disputes between the Authority and PAPs described above, the Project risks losing funds through award of damages, penalties and interest, which are costs which can be avoided.

**Submission by the Accounting Officer**

The land compensation amounts for the referenced parcels of land remained outstanding due to inadequate budgetary allocation in the current as well as prior financial years. The Authority settled part of the outstanding bills using FY 2022/23 GoK budgetary allocation of Kshs 125,000,000 and also endeavour to allocate adequate budgetary allocation in the next financial year/s to facilitate settlement of the entire pending bills

The amount payable to the Project Affected Persons remains outstanding due to inadequate exchequer budgets. The Authority however replied to the Chairman, Project Affected Persons assuring them of the Authority's commitment to settle the outstanding land compensation. The amounts will be settled upon receipt of exchequer funding.

The schedule of PAPs who were compensated using the amount of Kshs 280,930,790 was availed to the audit team during the audit process.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer prioritizes settlement of land compensation before commencement of projects.**

**604. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis totalling to Kshs.490,000,000 and Kshs.90,650,930 respectively, resulting to an underfunding of Kshs.399,349,070 or 81% of the budget. Similarly, the Project spent Kshs.90,650,930 against an approved budget of Kshs.490,000,000, resulting to an under expenditure of Kshs.399,349,070 or 81% of the budget.

The underfunding and under performance may have affected the planned activities for the Project and this may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

The under absorption of funds in the financial year arose from the exhaustion of the Development Partner funding.

The Authority will however continue to ensure that budgetary controls are adhered to.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**605. Pending Bills**

Annex 3 to the financial statements reflects pending bills of Kshs.3,566,237,990 as at 30 June, 2022 which were not settled during the financial year 2021/2022 but were instead have been carried forward to 2022/2023 financial year, not-withstanding the fact that the initial for the project information funding summary shows that all the project committed funds by both the financier and Government of Kenya have been fully received and paid out. Further, the pending bills of Kshs.3,566,237,990 includes an amount of Kshs.1,915,289,734 which relates to 2020/2021 and earlier years.

Failure to settle bills in the year to which they relate affects the budget for the subsequent year on which they form a first charge. This also affects the efficiency with which the project is implemented.

**Submission by the Accounting Officer**

This was occasioned by inadequate budgetary allocations as well as delays in release of exchequer funds led to delays in processing GoK counterpart portion as well as the development Partner portion.

In FY 2022/23, the Project received a Gok budgetary allocation amounting to Kshs 125,000,000 as evidenced in the attached printed budget. The budgetary allocations were utilized in settling part of the pending bills. The Authority will subsequently endeavor to allocate adequate budgets to the project to facilitate settlement of the entire pending bills as well as completion of the Project.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**606. Variation of Contract without an Approved Budget**

Review of sources of funds for the project revealed that the Bank and Government of Kenya committed Kshs. 15,644,154,921 and Kshs. 3,435,361,592 respectively, for the project. These funds had been received and utilized towards the project. Further review of records provided for audit revealed that the Authority amended the project's commercial contract by increasing the contract sum payable to the Contractor from Kshs.18,404,888,139 to Kshs. 21,545,912,343, an increment of Kshs. 3,141,024,204. This amendment of the contract, which was done on 28 April, 2021, was based on an unsigned letter dated 23 April, 2021 from the Permanent Secretary, National Treasury.

In the circumstances, it was not possible to confirm validity of the variation of the contract sum.

**Submission by the Accounting Officer**

The Project is a multi-year project whose funding is dependent on the annual allocations in line with Government Budgeting cycle.

The contract was varied in FY 2020/21 when project had a GoK budget of Kshs 632,234,719. The project further had a budgetary allocation amounting to Kshs 490,000,000 in the subsequent FY 2021/22 Budget.

Due to the multi-year nature of the Project, the Project's Budgeting process is part of annual Government Budget process, hence may not be possible to avail the entire multi-year Project Budget at the point of signing the contract due to Exchequer constraints.

The letter ref: TNT/RMD/25/214/78/03/KIB.MUTOMO/vol.1(3) was addressed to the Development Partner from the PS National Treasury, with a copy to the Cabinet Secretary (Transport, Infrastructure and Housing, Urban Development and Public Works), PS-Infrastructure and The Director General, KeNHA. The Authority is in receipt of its original copy of the letter which is signed/endorsed by the PS, National Treasury.

The Authority is however committed to completion of the project and will endeavour to allocate adequate funds in the following financial year in order to facilitate its completion and hand over to the employer hence availability for public use.

**Committee Observations and Findings:**

- **i) The Committee observed that the variation was as a result of public demand as evidenced through a letter from the former Senator of the county, and correspondence from National Treasury approving the 20% variation which was less that the threshold provided for by section 139(4)(e) of the Public Procurement and Assets Disposal Act 2015 of 25%.**
- **ii) The Committee found that the matter was resolved.**

**DUALLING OF MAGONGO ROAD (A109L): PHASE II (FIDIC EPC/TURNKEY BASED)- KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**608. Inaccurate Comparative Balances**

The financial statements reflect a comparative Nil opening fund balance in the current financial year while the closing audited fund balance in the 2020/2021 financial year was Kshs.8,690,882.The movement in the balance has neither been explained nor reconciled.

**Submission by the Accounting Officer**

We wish to clarify that this amount represents retention amount on contractors IPC 4 & 5. As explained during the audit, this amount was received from the Exchequer in FY 2020/21 but was not transferred to the retention account hence reported as a surplus in FY 2020/21. In FY 2021/22 the amount was transferred to the retention account hence reported as Financial Assets (Bank Balances as per Note 5A) as well as Financial Liabilities (Payables – Deposits and Retentions as per Note 6) in accordance with the revised reporting template as issued by Public Sector Accounting Standards Board (PSASB).

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**609. Variance in Disclosed Retention**

The interim payment certificate number 8 issued on 1 July, 2021 and paid on 10 June, 2022 indicate the total retention amount to date as Kshs 93,015,748 while the financial statements reflect an amount of Kshs 72,999,502 resulting to the unreconciled variance of Kshs 20,016,246.

**Submission by the Accounting Officer**

We wish to clarify that Kshs 20,016,246 represent outstanding retention amounts on IPC 6-8 not yet transferred to retention account. These amounts are reported as pending bills in Annex 3 of the Annual Report and Financial Statements.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**610. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs 385,000,000 and Kshs 95,930,985 respectively, resulting to an underfunding of Kshs 287,069,015 or 75%. Similarly, Kshs. 95,930,985 was spent no the Project against an approved budget of Kshs 385,000,000 resulting to under expenditure of Kshs. 289,069,015 or 75%.

**Submission by the Accounting Officer**

As correctly noted, the Authority was able to realize only Kshs 95,930,985 out of the Kshs 385,000,000 budget due to the disruption of contractor's sequence of works as the contractor could not access the right of way to facilitate construction

Further, huge pending bill on land acquisition is attributed to inadequate GoK budget provisions coupled with delayed release of exchequer funds.

**Committee Observations and Findings:**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**611. Failure to Budget for Pending Bills**

Note 12 to the financial statements – other important disclosures and the corresponding analysis at annex 3, reflects pending bills of Kshs. 1,810,729,098. These pending bills are made up of Kshs 17,715,072 relating to consultancy services, Kshs 447,385,527 relating to civil works and Kshs 1,356,927,820 for land compensation.

**Submission by the Accounting Officer**

In FY 2021/22 the Authority had an initial GoK development budget for the project of Kshs 150,000,000 which was later reduced to Kshs 75,000,000 (50% reduction). However, the Authority only managed to receive Kshs 5,000,000 which was prioritized for payment of land compensation pending bills as this was the main concern for the delay in the progress of works.

In FY 2022/23 the Authority has managed to secure GoK budgetary allocation of Kshs 130,000,000 for the project subject to the current year ceilings to be utilized in reducing these pending bills.

The Authority will endeavor to allocate an adequate budget, subject to provided ceilings in subsequent Financial Years to further reduce the pending bills.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**612. Delay in Completion of Project**

As previously reported, the Project commenced on 1 May, 2018 for a period of twenty-four (24) Months ending 1 May, 2020. The contractor was later granted extension of time which revised the expected completion date to 20 August, 2021. However, according to the project implementation briefs of 1 August 2022 the works were still ongoing with an overall progress of approximate 86% and time covered of fifty two (52) months or 131% of the projected time. There was no evidence any further extension of the contract period. Further, according to the contractor's claim No. 14 of 30 June, 2022 the delay attracted prolongation claim of Kshs 2,851,043,577 which is approximately 118% of the initial project contract sum of Kshs 2,420,327,630. The claim is yet to be evaluated by the Management who attribute the delay to inadequate budgetary allocation and disruption of the contractor's sequence of work arising from the long time taken by the National Land Commission to compensate the Project Affected Persons (PAPs).

**Submission by the Accounting Officer**

Delay in completion of this project has majorly been occassioned by delays in provision right of way to the contractor. This is due to inadequate GoK budgetary allocations coupled with delays in exchequer releases to facilitate prompt payment for land acquisitions and relocation of services.

The Authority has finalized the evaluation of contractor's interim claim no. 14 and revised completion date to 20th November 2022.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer failed to submit current status of the project.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer and recommends that the Auditor General ascertains status in subsequent audit.**

**KAPCHORWA-SUAM-KITALE AND ELDORET BYPASS ROADS PROJECT (KENYA) ID NO. P-Z1-DBO-183 - KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**614. Inaccuracies in the Financial Statement**

**614.1. Transfers from Government Entities**

The statement of receipts and payments reflects transfers from Government entities of Kshs.124,011,058 for the year ended 30 June, 2022. However, the statement of comparison of budget and actual amounts reflects an actual transfer from Government entities amount of Kshs.132,973,110 resulting to unexplained and unreconciled variance of Kshs.8,962,052.

In the circumstances, the accuracy of the transfer from Government entities amount of Kshs.124,011,058 could not be confirmed.

**Submission by the Accounting Officer**

The statement of receipts and payments reflects transfers from Government entities of Kshs.124,011,058 but the statement of comparison of budget and actual amounts shows KSh.132,973,110. This difference arose because of a misrepresentation of the release of retention of Ksh.8,962,053 for China Wu Yi considered erroneously as part of the actual amounts in the comparison of budget and actual amounts. Therefore the figure of Kshs.124,011,058 is the correct figure. The financial statements were corrected to reflect the correct amount Kshs.124,011,058 on the comparison of budget and actual amounts.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation:**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**614.2. Understated Pending Bills**

Note 12.1 to the financial statements reflects pending accounts payable balance of Kshs.536,860,151. The balance includes an amount of Kshs.495,142,419 for construction of civil works.

However, Annex 3 to the financial statements is the summary of the fixed assets register. The correct annex to support the pending accounts payable should be Annex 2A to the financial statements.

Further, the status report at page ix of the annual report and financial statements indicates that total amount paid to the contractor under Lot 1 — construction of Eldoret town by-pass road project as at 30 June, 2022 is Kshs.4,340,201,240 against a certified amount of Kshs.4,928,574,206 resulting in pending accounts payable of Kshs.588,372,966. However, review of the analysis of the pending accounts payable provided revealed that pending bills for the Lot 1 contract as at 30 June, 2022 was Kshs.307,597,421 thereby resulting into unexplained variance of Kshs.280,775,545.

In addition, under Lot 2 — upgrading of Kitale-Endebess-Suam (C45), the contractor had been paid a total of Kshs:2,439,470, 196 as at 30 June, 2022, against the certified amount of Kshs.l ,988,265,262 resulting to pending bills of Kshs.451,204,933. However, review of the analysis of the pending accounts payable provided revealed that pending bills for the Lot 2 contract as at 30 June, 2022 was Kshs.263,659,940 thereby resulting to unexplained variance of Kshs. 187,544,993.

This therefore means that the total pending bills amount as per the status report totalled to Kshs.468,320,538 which differs with the balance of pending bills indicated in Note 12.1 to the financial statements of Kshs.495,142,419 by an unexplained variance of Kshs.26,821 ,881.

**Submission by the Accounting Officer**

Note 12.1, Annex 3 and the status report as pointed out by the auditor was erroneously presented. The error is regretted. We have revised the financial statements to reflect the correct position, The correct annex as noted by the auditor to support the pending accounts payable should be Annex 2A.

We further agree with the auditor's observation that there was a discrepancy in the pending bills description for Lot 1.

The status report for Lot 1 has been updated in the amended financial statements as Kshs.4,720,052,687.00 against a certified amount of Kshs.4,382,611,972.05 resulting in a pending account payable of Kshs. 337,440,714.95

The total pending bills amount as per the status report totalling to Kshs.468,320,538 as provided was erroneous, the status report for Lot 2 has been updated in the amended financial statements) as Kshs.2,783,819,290.00 against a certified amount of Kshs.2,584,399,854.04 resulting in a pending account payable of Kshs. 199,419,435.96. Therefore, the pending bill for Lot 1 and 2 cumulatively can be confirmed as Kshs.536,860,151*(Addition of pending bill for Lot 1 of Ksh 337,440,715 and of pending bill for Lot 2 of Ksh 199,419,436)*

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**614.3. Deficit for the Year**

The statement of receipts and payments reflects a deficit for the year of Kshs 8,401,552 while the statement of financial assets indicates a nil deficit amount thereby resulting in an unexplained variance of Kshs.8,401,552 between the two statements.

In the circumstances, the accuracy of the financial statements could not be confirmed.

**Submission by the Accounting Officer**

The deficit balance of Kshs. 8,401,552 is the net movement in Retention resulting from the release of retention of Ksh.8,962,053 to China Wu Yi less retention not paid of Ksh.560,500 for China State Construction, copies of the payment vouchers have been availed.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**615. Failure to Maintain a Project Cash book and Account**

The statement of receipts and payments indicates an amount of Kshs.124,011,058 received by the Project as transfer from Government entities through the parent Ministry (State Department for Infrastructure). However, the receipts to the Project could not be confirmed to the bank statements and the Project cash book since the Authority does not maintain a project specific bank account and cash book

In the circumstances, the accuracy and completeness of the transfer from Government entities of Kshs.124,011,058 could not be confirmed.

**Submission by the Accounting Officer**

We wish to clarify that all receipts from exchequer are received in one account. Although the authority maintains one exchequer book, it is possible to extract each individual project showing receipts and payments as and when needed. We also wish to note that separate ledger accounts are maintained for each project account. We further clarify that exchequer for the Authority is released in tranches relative to the total budget.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**616. Irregular Re-allocation of Expenditure**

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.33,049,633 as disclosed in Note 3 to the financial statements, which includes a printing, advertising and information supplies amount of Kshs.31,261,083. However, review of the payment schedules provided revealed that the amount included expenditures of Kshs.13,641,672 and Kshs.15,687,361 all totalling Kshs.29,329,033 incurred on domestic travel and subsistence and consultancy respectively and had therefore irregularly been included and disclosed as printing, advertising and information supplies. Management did not provide any authority or approval to support the reallocation from the expenditure item to domestic travel and subsistence and consultancy expenditures.

In the circumstances, the regularity of the use of goods and services expenditure of Kshs.29,329,033 could not be confirmed.

**Submission by the Accounting Officer**

The mix up of expenditure in the use of goods and services was a regrettable error, this arose due to misrepresentation of the figures which didn't tally with the schedules provided. However, we have made the amendments in the revised financial statements on page 12, Note 3 for Printing, advertising and information supplies from Ksh.31,261,083 to the correct figure as pointed by the auditor of Ksh.54,720.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**617. Unsupported Bank Balance**

Note 5A to the financial statements reflects retention balance held in a local bank of Kshs.3,576,201 as at 30 June, 2022. However, bank reconciliation statement and bank confirmation certificate were not provided for audit verification.

In the circumstances, the accuracy and completeness of retention bank balance of Kshs.3,576,201 could not be confirmed.

**Submission by the Accounting Officer**

We wish to note that although the Authority maintains one bank account for funds held as retention funds, the Authority maintains a dynamic accounting system which is able to provide a robust electronic register that provides the following details amongst others, the date when an amount was either retained or paid out, the amounts retained or released, the vendor to whom the amount relates to, and the project to which the amount relates to. The authority is therefore able to segregate the retention funds held for all the projects which ensures accuracy of the balances reported in the project financial statements.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**618. Pending Bills**

Note 12.1 to the financial statements reflects pending accounts payable balance of Kshs.536,860,151 which includes Kshs.495,142,419 for construction of civil works and Kshs.41,717,732 for supply of services. The Note also indicates an opening balance of Kshs.883,093,393 under land compensation and a payment during the year under review of Kshs.883,093,393 and a nil closing balance. However, Management did not provide evidence to support the payment of Kshs.883,093,393. Further, the Project risks incurring additional cost in terms of interest due to non-adherence to the contractual terms and delay in payments.

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.

**Submission by the Accounting Officer**

The payment of Ksh.883,093,393 under land compensation during the year under review was a regrettable error. The Financial statements were amended. We wish to clarify that there were no payments for land compensation and the Ksh.883,093,393 is the outstanding balance land compensation.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

### 619. Lack of Project Detailed Budget

The statement of comparison of budget and actual amounts reflects approved expenditure budget of Kshs.2,835,000,000 and actual total expenditure of Kshs.2,089,417,912. However, Management did not provide an itemized budget showing the detailed budget items for which the expenditure was intended.

In the circumstances, it was not possible to conduct budget performance analysis on budgeted and actual expenditure.

**Submission by the Accounting Officer**

By nature, and practice, appropriation by The National Assembly to the two projects are on a specific line by line individual program. The budget is a single line item as contained in the printed estimates.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer henceforth goes beyond the PSASB template and avails itemized annexures.**

### 620. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,835,000,000 and Kshs.2,081,016,360 respectively resulting to an underfunding of Kshs.753,983,640 or 27% of the budget. Similarly, the project spent Kshs.2,089,417,912 against an approved budget of Kshs.2,835,000,000 resulting to an under expenditure of Kshs.745,582,088 or 26% of the budget.

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

**Submission by the Accounting Officer**

The project experienced slow progress of works affecting funds absorption which was attributed to.

a) The delayed acquisition of the Kenya Railways Corporation land by the Employer for construction of Kitale market.

b) The delayed compensation of the roadside traders in Kitale town by the Employer through the National Land Commission

c) Delayed relocation of services in Kitale town.

d) Delayed commencement of the One Stop Border Post.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation:**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

## 621. Delayed Project Implementation- Lot 2: Upgrading of Kitale-Endebess-Suam (C45) Road Project

The contract for the upgrading of Kitale-Endebess-Suam Road was awarded to a contractor on 17 August, 2017 and the commencement date of the contract was 26 February, 2018 with an expected completion date of 25 February, 2021 hence the contract period was forty-eight (48) months. The contract sum was set at Kshs.4,474,991,403 and the amount certified for payment as at 30 June, 2022 was Kshs.2,783,819,290 and actual amount paid was Kshs.2,439,470,196. Further, review of the June, 2022 progress report provided revealed that the weighted physical progress stood at 80% compared to 52 months or 108% of the contract period elapsed. This implies the contractor is working behind schedule hence the slow progress of the work. Similarly, Management did not provide evidence to confirm whether the contract period for this project has been extended to a further date given that the original contract period was expected to have lapsed on 25 August, 2022 which is an indicator that the contractor might be working without a valid contract. In addition, review of records revealed that under project risks and constraints, it was indicated that there was slow relocation of utilities within the road corridors, which included delays in relocating sewer and water lines and Kenya Power and Lighting Company Limited electricity poles.

In the circumstances, the delay in the project completion may result in additional costs due to cost escalation as a result of inflationary pressures.

**Submission by the Accounting Officer**

The slow progress of work has been attributed to.

a) Contractor's cash flow related problems

b) The delayed acquisition of the Kenya Railways Corporation land by the Employer for construction of Kitale market.

c) The delayed compensation of the roadside traders in Kitale town by the Employer through the National Land Commission

d) Delayed relocation of services in Kitale town.

e) Delayed commencement of the One Sop Border Post

It should be noted that the responsibility for acquisition of land rest with the National Land commission. Thus, the delays are both attributable to the Employer and the Contractor contrary to the provisions of Sub-Clause 2.1 of the conditions of Contract thereby limiting the Employers right to apply Sub-Clause 8.7 (Delay Damages) as provided in the Contract. Instead, an Amicable settlement option was pursued by the project team as a win-win alternative.

At the moment, the progress of works is about 84% and on sections free from obstructions the Contractor has been able to complete Earthworks and has delivered approximately 85% of pavement.

In addition, the Employer has explicitly expressed in writing dissatisfaction on the Contractor's performance and has informed the Contractor to rectify this situation failure to which the relevant contract provision will be invoked. The Contractor in his response to the Employer's letter reiterated his commitment to upscale his resources in order to compensate on the lost progress. He further committed to the following;

1. Inject additional funds into the project to boost their cashflow,
2. Additional working hours,
3. Improved supply of aggregates.

The Employer has been closely following up on the land acquisition and relocation of services within the construction width to allow works to proceed but the process has been slow due to delays by NLC.The authority shall endeavor to mitigate the prolongation costs occasioned by the delays by ensuring that the works are completed by May 2023

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**MOMBASA PORT AREA ROAD DEVELOPMENT PROJECT - KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**624. Inaccuracy in the Financial Statement**

The statement of receipts and payments reflects surplus for the year of Kshs. 38,890,330. However, the statement of financial assets reflects a nil fund balance as the surplus has not been recognized as part of the fund balance.

**Submission by the Accounting Officer**

Kshs 38,890,330 reflected as surplus in the statement of receipts and payments represent retention amount withheld from the project contractors in FY 2021/22 hence a financial liability to the Authority. This amount has been added to Payables – Deposits and Retentions from prior year of Kshs 82,691,214 hence Kshs 121,581,544 as reflected in the Statement of Financial Assets as at 30 June 2022 thereby complying to the revised template issued by Public Sector Accounting Standards Board (PSASB).

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

### 625. Lack of Project Bank Account and Cash Book

The statement of receipts and payments relects transfer from Government entities through the parent Ministry of Kshs.158,571,686 which was partly paid out in the year under review. The receipts could however not be confirmed since the Authority did not maintain separate bank account and cash book for the project.

In the circumstances, the accuracy and completeness of the transfer from other Government entities of Kshs.158,571,686 could not be confirmed.

**Submission by the Accounting Officer**

The Authority maintains a single exchequer bank account where all funds received are channelled which is in line with the National Treasury circular on rationalization of bank accounts being operated by entities herein attached and marked Appendix KeNHA/MPARD i. From the single exchequer bank the authority maintains a cash book that provides amongst other details:

- The Project codes
- The Project description and
- The vendor to whom an amount relates to.
- From the cashbook therefore, transactions for a particular project can be filtered through the Project Code and Project Description.
- Further, MPARD Project uses the Direct Payment method whereby the Development Partner disburse funds directly to the contractor/consultant and therefore does not require opening of a Project Bank Account.
- Total receipts from the parent ministry are equally confirmed at the end of each financial year as per the exchequer confirmation which was availed during the audit exercise.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**626. Unsupported Expenditure on Purchase of Goods and Services**

The statement of receipts and payments reflects purchase of goods and services expenditure of Kshs. 12,692,977. As disclosed in Note 3 to the financial statements, the expenditure is mainly in respect to travel and subsistence allowance. However, the expenditure was not supported by a detailed and approved project work plan to confirm whether the activities undertaken were part of the work plan for the year. In addition, the expenditure includes an amount of Kshs. 2,343,000 that was paid to persons not employed by the Authority and was not supported by documentation to evidence receipt of the money by the recipients.

**Submission by the Accounting Officer**

MPARD project is a multi-year project and its workplan derives from the procurement plan.

The subsistence allowances as correctly observed were meant for Non-KeNHA officers from the Office of the President who were developing an audio-visual production intended for use during the Madaraka Day Celebrations on 1st June 2022. It is important to note that only Kshs 2,197,400 of the amounts was paid to Non-KeNHA staff while the balance was for the KeNHA staff who was paid the amounts on behalf of the Non-KeNHA staff.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (c) of the Public Audit Act, 2015, respectively.**

**627. Unsupported Expenditure on Acquisition of Non-financial Assets**

The statement of receipts and payments reflects acquisition of non-financial assets expenditure of Kshs.7,142,083,276. This expenditure includes expenditure on construction of roads totaling to Kshs.74,488,379 for which the supporting schedule provided did not have details of the payee and the reason for payment.

In the circumstances, the accuracy and validity of the expenditure totaling to Kshs.74,488,379 could not be confirmed.

**Submission by the Accounting Officer**

The details of the payee are as provided in column E (particulars) while the payments are for certified payment certificates as provided in column C (IPC Nos).

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**628. Nugatory Expenditure**

Annex 3 to the financial statement reflects a pending balance of Kshs. 6,223,468,827 which includes Kshs. 866,447,567 relating to interest charged, which arose from delayed payments.

The payment of interest as a result of delayed payments leads to loss of Government funds which could have been avoided.

**Submission by the Accounting Officer**

Interest on delayed payment arise due to inadequate GoK budgetary provisions coupled with late disbursements of exchequer funds to the Authority to facilitate prompt contractual payments.

In FY 2022/23 the Authority has managed to secure GoK budgetary allocation of Kshs 300,000,000 for the project subject to the current year ceilings to be utilized in reducing the pending bills.

The Authority will endeavour to allocate adequate budget, subject to provided ceilings in subsequent Financial Years to further reduce the pending bills.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**629. Unsupported Bank Balance**

Note 5A to the financial statements reflects cash and cash equivalents balance of Kshs. 121,581,544 as at 30 June, 2022. However, since no separate cashbook is maintained for the project, the supporting reconciliation statement provided for audit reflected a cashbook balance of Kshs. 183,962,682 as at 30 June,2022 which made it difficult to isolate the correct balance for the Project.

**Submission by the Accounting Officer**

Although the Authority maintains one bank account for retention funds, the Authority maintains an accounting system which provides a retention ledger which provides the following details amongst others:

- The date when an amount was either retained or paid out,

- The amounts retained or released,
- The vendor to whom the amount relates to, and
- The project to which the amount relates to

The authority is therefore able to segregate the retention funds held for each project which ensures accuracy of the balances reported in the project financial statements.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**630. Unsupported Payables- Deposits and Retentions Balance**

The statement of financial assets reflects retentions balance of Kshs. 121,581,544 as at 30 June,2022. However, no supporting schedule indicating details of the contractors owed and the respective amounts retained has been provided to support the balance of Kshs.121,581,544.

**Submission by the Accounting Officer**

A supporting schedule of the retention amount of Kshs 121,581,544 has been availed.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**631. Delay in Project Completion**

Review of progress reports for the contract's package 2 and 3 revealed that as at 30June, 2022, package 2 was at 56% completion against 57%- time lapse. Similarly, package 3 was at 93% completion against 138%-time lapse. The delay in completion was attributed to delays in land compensation with Kshs. 3,640,011,232 out of Kshs. 6,223,468,827 as captured at Annex 3 on pending bills still outstanding.

**Submission by the Accounting Officer**

Construction of package 2 is on course with no expected delay in time for completion. As noted in the progress report, the slack in time by 1% was based on Contractor's Program of Works which is based on completion ahead of time.

Construction of package 3 was substantially completed in March,2022. At the time of Audit, Extension of Time was under review and thus the observation of time lapsed as 138%. Extension of Time has since been awarded and the only outstanding works in package 3 is Kibundani Interchange which delayed due to land compensation challenge which has been addressed and the progress is at 85% completion.

The undrawn balance of Kshs 5,101,540,612 as at 30 June 2022 represent donor commitment balance whereas Kshs. 6,223,468,827 is fully payable by the GoK. However, the Authority is currently in discussion with the development partner to assist in settling part of the GoK pending bills from the development partners undrawn balance to minimise payment of interest on delayed payments arising out of these pending bills.

The Authority will endeavor to allocate adequate budget, subject to provided ceilings in subsequent Financial Years in order to ensure that all the pending bills are settled as well as projects completion.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**632. Budgetary and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual receipts on comparable basis of Kshs. 9,736,000,000 and Kshs. 7,193,666,583 respectively resulting in an underfunding of Kshs. 2,542,333,417 or 26% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs. 9,736,000,000 and Kshs. 7,154,776,253 respectivly, resulting in an under expenditure of Kshs. 2,581,223,747 or 27% of the budget.

**Submission by the Accounting Officer**

There was low absorption which is as a result of slow progress of works in package 3 - Kibundani Interchange which was delayed due to land compensation challenge.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**633. Lack of Project Detailed Detailed Budget**

The statement of comparison of budget and actual amounts reflects a final expenditure budget of Kshs. 9,736,000,000. However, Management did not provide an itemized budget showing the detailed budget items for which the expenditure was intended.

**Submission by the Accounting Officer**

By nature and practice appropriation by The National Assembly to the project is on a specific line by line individual project. This is the form in which the project budgets are uploaded onto IFMIS and availed for expenditure. A line by line individual project budget was availed during the audit as correctly indicated. However, for purposes of presentation in the financial statements, the requirement is not to present them per project as in IFMIS but by the nature of expenditure as per the template provided by the Public Sector Accounting Standards Board (PSASB).

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer henceforth goes beyond the PSASB template avails detailed itemized budgets as annexures.**

## MOMBASA-NAIROBI-ADDIS ABABA ROAD CORRIDOR PROJECT PHASE II (MARSABIT-TURBI ROAD) ID NO. P-Z1-DB0-027 – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

### 637. Pending Bills

As disclosed under Note 12.1 and Annex 3 to the financial statements, the project had outstanding pending bills balance of Kshs.62,165,683 as at 30 June, 2022. Review of the project's records indicate that no bills were settled during the year under review and the entire balance of Kshs.62,165,683 was brought forward from the previous year. The Project therefore runs the risk of incurring significant unquantified interest costs and penalties with the continued delay in settling invoiced bills.

**Submission by the Accounting Officer**

It is the Authority that contracts service providers to the project and therefore bound by all the provisions of the contract agreement. In the event that the credit is exhausted, it is the Government that remains with the residual responsibility of ensuring the project is delivered to the public.

The Pending bills are as a result of inadequate GoK budgetary allocations in the current and prior financial years. The Authority will however endeavour to ensure that adequate GoK budgets are allocated to the project to facilitate settlement of the outstanding bills.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**638. Project Closure Report**

The Project information at section 1.2 of the annual report and financial statements reflects the project end date as 30 November 2017. However, the project closure was not provided for audit, being almost five (5) years after the expiry of the closure period.

**Submission by the Accounting Officer**

The project closure report has now been availed.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents on time, as required by section 9 (l) (e) of the Public Audit Act, 2015.**

## MOMBASA-NAIROBI-ADDIS ABABA ROAD CORRIDOR PROJECT PHASE III (TURBI-MOYALE) NO.P-Z1-DB0-095 LOAN NO.2100150025546 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

**642. Unsupported Cash and Cash Equivalent Balance**

The Statement of Financial Assets and Note 5 to the Financial Statements reflect a bank balance of Kshs. 50,627,902 for the Retention bank account held at a local bank as at 30th June,2022. However, no bank reconciliation statement was provided in support of the balance. Further, the certificate of bank balance provided reflects a balance of Kshs. 1,042,912,466 as at 30 June, 2022 which is the retention balance of all the projects under the Authority.

**Submission by the Accounting Officer**

Although the Authority maintains one bank account for retention funds, the Authority operates an accounting system which is able to provide a retention ledger which provides the following details amongst others

- The date when an amount was either retained or paid out,
- The amounts retained or released,
- The vendor to whom the amount relates to, and
- The project to which the amount relates to

The authority is therefore able to segregate the retention funds held for each project which ensures accuracy of the balances reported in the project financial statements. The schedule of retention balance of Kshs 50,627,902 and the retention bank account reconciliation which were provided during the audit exercise

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**643. Project Closure Report**

The project information in the financial statements provided for audit revealed that the project was to end the 11 October, 2015. However, the project closure report was not provided for audit, being more than seven (7) years after the expiry of the closure period.

**Submission by the Accounting Officer**

The reported final account will be prepared after all the pending bills are settled.

**Committee Observations and Findings;**

**The Committee noted the submission from the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer henceforth provides an interim project execution completion report, albeit showing pending bills, for audit purposes.**

**644. Pending Bills**

Annex 3 to the financial statements reflects pending bills balance of Kshs 17,533,871 as at 30 June 2022. The pending bills relate to consultancy services offered by two (2) firms. The amount owed to one of the firms of Kshs 714,313 has been outstanding since the financial year 2016 out of which Kshs 326,173 relates to interest and penalty incurred. The Balance of Kshs 16,819,558 is indicated to have been a bill incurred in June 2020 and in respect of a different road project. Management has not explained why the bills for the other project have been recognised. The project therefore runs the risk of incurring significant and unquantified interest costs and penalties associated with delays in settling the invoiced bills.

**Submission by the Accounting Officer**

The pending bills was as a result of;

i. Exhaustion of development partners funds
ii. Inadequate Gok budget in the current as well as prior financial years.

The Turbi-Moyale project was co-financed by GoK and the African Development Bank (ADB) whose credit and financing ended prior to completion of all the project components. Following the exhaustion and lapse of the credit from the Development Partner, the Government took up the responsibility of ensuring the projects are financed in order to facilitate their completion for use by the public.

The amounts relate to one of the components under the financing agreement, i.e. Studies of future transport projects which included feasibility/Environmental and social impact assessment/detailed design studies of transport future projects.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

## MOMBASA-MARIAKANI HIGHWAY PROJECT (LOT 1 - MOMBASA - KWA JOMVU) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

**648. Lack of a Project Bank Account**

The statement of receipts and payments and Note 1 to the financial statements reflects Kshs.100,000,000 in respect to transfers from other Government entities. However, as previously reported, the amount could not be confirmed as the Authority does not maintain a separate bank account for the project. It was therefore, not clear how the Management determined the receipts attributable to the Project.

**Submission by the Accounting Officer**

The Authority maintains one Exchequer Account for receiving all exchequer funds from the exchequer pursuant to Section 28 (2) of the PFM act 2012 and Section 95 (1) of the Public Finance (National Government) Regulations, 2015 which requires the maintenance of a single Treasury Account.

Further, the project's financing agreement did not provide for revenue method of payment which would have necessitated opening of a designated project bank account. Revenue method of payment involves the development partner disbursing an advance amount to the Authority to the designated project bank account to enable settling of low value expenses of a project whenever they fall due. This amount is periodically reimbursed once a certain threshold of expenditure is attained.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**649. Accuracy of the Financial Statements**

The statement of financial assets reflects nil amounts under both fund balance brought forward and surplus for the year. However, the statement of receipts and payments reflects Kshs.710,824 and Kshs.15,743,968 as surplus for the year and cumulative surpluses respectively which should have also been included in the statement of financial assets.

**Submission by the Accounting Officer**

Kshs 710,824 reflected as surplus in the statement of receipts and payments represent retention amount withheld from the project's works contractor in FY 2021/22 hence constitutes a financial liability. This amount has been added to Payables – Deposits and Retentions from prior year of Kshs 15,033,144 hence Kshs 15,743,968 as reflected in the Statement of Financial Assets as at 30 June 2022 thus complies with the revised template issued by Public Sector Accounting Standards Board (PSASB).

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**650. Unsupported Cash and Cash Equivalents**

The statements of financial assets and Note 5 to the financial statements reflects a balance of Kshs.15,743,968 for the Retention Bank account held at a local bank as at 30 June, 2022. However, the bank reconciliation statement provided in support of this balance reflects a balance as per the cashbook of Kshs.183,962,682 as at the same date resulting in unexplained variance of Kshs.168,218,714.

**Submission by the Accounting Officer**

Although the Authority maintains one bank account for retention funds, the Authority operates an accounting system which is able to provide a retention ledger which provides the following details amongst others:

- The date when an amount was either retained or paid out,
- The amounts retained or released,
- The vendor to whom the amount relates to, and
- The project to which the amount relates to

The authority is therefore able to segregate the retention funds held for each project which ensures accuracy of the balances reported in the project financial statements. A schedule of retention balance of Kshs 15,743,968 which was provided during the audit exercise.

It is however important to note that the Authority performed a further analysis of the retention amount for the project and the revised set of financial statements have also been amended accordingly to reflect the new figure of Kshs 12,021,430.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**651. Lack of Project Detailed Budget**

The statement of comparison of budget and actual amounts reflects a final expenditure budget of Kshs.1,535,000,000, However, Management did not provide an itemized budget showing the detailed budget items for which the expenditure was intended.

It was therefore not clear how the budget figures in the statement of comparison of budget and actual amounts were arrived at.

**Submission by the Accounting Officer**

By nature and practice appropriation by The National Assembly to the project is on a specific line by line individual project. This is the form in which the project budgets are uploaded onto IFMIS and availed for expenditure. A line by line individual project budget was availed during the audit. However, for purposes of presentation in the financial statements, the requirement is not to present them per project as in IFMIS but by the nature of expenditure as per the template provided by the Public Sector Accounting Standards Board (PSASB).

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer henceforth avails as annexures, detailed line item budgets to auditors, over and beyond the template provided by PSASB.**

**652. Delayed Project Completion**

Kenya National Highways Authority entered into a 42 months contract for construction of Mombasa-Mariakani Project with Third Engineering Bureau of China in July, 2016 at a contract sum of Ksh.6,016,868,260. The works commenced on 4 February, 2017 with an initial contract period of 30 months and was later extended by 13 months to bring the revised completion date to 3 September, 2022. However, physical verification of the project site, which was carried out in November, 2022 after the lapse of revised completion date, revealed that works were still ongoing with overall progress approximated at 95.10% an indication that little progress was realized in the year under review. Further, there was no evidence that a contract extension period had been approved to warrant the contractor being on site. In the circumstances, implementation of the

Project was behind schedule which may lead to costs escalation and delayed realization of expected benefits of the project.

**Submission by the Accounting Officer**

The Project's completion has delayed due to the delay in acquisition of Right of Way (RoW) This has been due to the ongoing court cases which have stopped the Authority from accessing some sections of the project road like Kwa Jomvu Interchange for handing over to the Contractor. The cases have also affected the relocation of services.

Once given access, the Authority will endeavour to closely monitor the project to ensure its expedited completion.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails a status report within three (3) months of adoption of this report.**

**653. Lack of Site Access Due to Legal Disputes**

A physical verification of the Project carried out in November, 2022 revealed that, works in a section of the road namely, Kwa - Jomvu interchange had stalled since the year 2016 due to two on-going Court cases. The first Court case No.157 of 2015 was filed by a local company which led to stoppage of construction of interchange reinforced earth wall, ramp, the main road and slip road while another Court case No.106 of 2015 was filed by another Investment Company which stopped demolition of a walling structures encroaching on the road reserve.

**Submission by the Accounting Officer**

The Authority has requested the office of the Solicitor General to intervene and expedite the cases. Further the Authority has engaged the two litigants to try out of court settlements which may be faster to allow works to continue.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails a status report within three (3) months of adoption of this report.**

**654. Pending Bills**

Note 12.1 to the financial statements reflects pending bills amounting to Kshs.448,259,325 as at 30 June, 2022 and as analysed in Annex 3. Although the Management has explained that it was liaising with the line Ministry and The National Treasury to secure adequate budgetary allocation and exchequer releases to enable prompt payments of the pending bills, there is a risk of incurring additional significant costs in terms of interest and penalties due to continued delay in settlements of Project obligations.

**Submission by the Accounting Officer**

This arose due to inadequate budgetary provisions and delays in exchequer releases. In FY 2022/23 the Authority has managed to secure GoK budgetary allocation of Kshs 150,000,000 for the project subject to the current year ceilings to be utilized in reducing these pending bills.

The Authority will endeavour to allocate adequate budget, subject to provided ceilings in subsequent Financial Years to further reduce the pending bills.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**EPC/TURN KEY CONSTRUCTION OF FIVE FOOTBRIDGES AND TMALL FLYOVER ON MOMBASA AND LANGATA ROAD (PROJECT LOAN CREDIT NO. KEN-01001-19 AND KEN-02001-19) – KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**659. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,510,000,000 and Kshs. 953,936,126 respectively was spent on the project resulting to an underfunding of Kshs. 556,063,874 or 37% . Similarly, Kshs. 953,936,126 was spent on the project against an approved budget of Kshs. 1,510,000,000, resulting to under expenditure of Kshs. 556,063,874 or 37%.

**Submission by the Accounting Officer**

The implementation of dual carriageway Nairobi Expressway in 2020, the road geometry and cross-section parameters of the Five-foot bridges changed, rendering the design of the footbridges at Mlolongo, Syokimau Estate, and Syokimau Railway Station inapplicable and untenable. The circumstance that resulted in the relocation of the three footbridges to new foot bridges at Galleria, Langata Barracks and Uhuru Gardens which delayed the implementation process. Further to the changes the progress was low due to the fact that services such as power and sewer lines had to be relocated for the construction works to start.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

### 660. Failure to Prepare Separate Financial Statements for Each project

Records provided for audit indicated that the Authority has two financing agreements. One of the agreements was No. KEN-01001-19 dated 12 November ,2019 with Donor funding EUR 23,250,000 approximately Kshs. 2,812,975,650 for T-mall project design, supply and installation of a steel flyover for vehicles in Nairobi. The other Financing agreement was No. KEN-02001-19 dated 17th January, 2020 with Donor funding and EUR 12,430,000 approximately Kshs.1,503,883,326 for works known as EPC/Turn key construction of five foot bridges in Mombasa and Lang'ata Roads.

However, the two projects described above were combined and accounted for in one set of financial statements, instead of accounting for each project in a separate financial statement.

This is contrary to the provision of Regulation 77 of the Public financial management (National Government) Regulations 2015 requires that the Accounting Officer of a project shall compile and maintain a record showing all receipts, disbursements and actual expenditure on a monthly basis in respect of every project and subproject.

**Submission by the Accounting Officer**

The project has two different financing agreement being KEN -010101-19 for T-mall Flyover and KEN-02001-19 for Five footbridges. One set of Financial Statement has been prepared for the two Financing agreement since the two loans have the same budget line and IFMIS code and are financed by the same financier.

Further we would like to clarify that the Financing agreement for the two projects does not provide for preparation of separate Financial Statements.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

### 661. Lack of separate Project bank Accounts

Review of documents provided for audit revealed that Project No. KEN-01001-19 relating to Construction of TMALL Fly over for vehicles and Project No. KEN-02001-19 relating to construction of five-foot bridges have no bank account in Central Bank of Kenya. This is contrary to provisions of Regulation 76 (1) of the Public Finance Management Regulation 2015 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.

**Submission by the Accounting Officer**

Regulation No.76 (1) of the Public Financial Management Act relates to accounting for funds received as donations and grants.

The loan agreement for the project however did not provide for cash transfers to the Authority and opening of a separate project account since the loan amounts are disbursed by the development partner directly to the contractor. The project therefore used the Authority's exchequer account for GoK receipts of exchequer disbursements.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**IMPROVEMENT OF RURAL ROADS AND MARKET INFRASTRUCTURE IN WESTERN KENYA PROJECT C REDIT NO.BMZ 2007-65 1 23 (KFW) - KENYA RURAL ROADS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**663. Unconfirmed Cash and Cash Equivalents**

The statement of financial assets and as disclosed in Note 6 to the financial statements reflects bank balance of Kshs.131,730 ,504 as at 30 June, 2022, comprising of balances for nine (9) bank accounts and two (2) short term deposit accounts. However, fixed deposit certificate and bank balance certificate of Kshs.57, 000 ,000 as at 30 June, 2022 were not provided fo r audit review.

In the circumstance, the accuracy and completeness of bank balance of Kshs131,730,504 Reflected in the statement of financial assets could not be confirmed.

**Submission by the Accounting Officer**

Auditor comments are noted and wish to clarify that the Fixed deposit of ksh 57,000,000 is composed of two separate amounts of ksh 40,000,000.00 placed on the 12th April 2022 and ksh 17,000,0000 placed on the 28th April 2022 as per Fixed Deposit confirmation from the Bank.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**664. Unsupported Accounts Payables**

The statement of financial assets reflects accounts payable balance of Kshs. 13 ,043 ,977 being a decrease of Kshs. 9,375, 092 from Ks hs.22,419,069 as at 30 June, 2021. However, there were no ledgers to support the decreased amount of Kshs.9,375,092.

In the circumstances, the accuracy and completeness of accounts payable balance of Kshs. 13,043, 977 as at 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

Auditor comments are noted. The agency has provided transaction movements during the period.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

## KENYA - SOUTH SUDAN LINK ROAD PROJECT (REF. NO. 2020 62 065 AND BMZ NO.202083939) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

### 668. Lack of project Bank Account and Cashbook

The statement of receipts and payments reflects transfer from Government entities through the parent Ministry of Kshs. 2,211,600 which was fully expensed in the year of review. The receipts were however not supported by an approved budget. In addition, the Authority did not maintain separate bank account and Cashbook for the project and as such none of the transactions could be confirmed.

**Submission by the Accounting Officer**

An approved budget was availed during the audit exercise. Kindly note that the budget for the projects is based on a single line for the entire program.

The Kenya South Sudan Link uses the Direct Payment Method where the Development Partner does not disburse any cash to the Authority but pay directly to the Consultant. Therefore, no separate bank account is required. However, the Authority maintains a single exchequer bank account and a cash book that provides amongst other details:

- The Project codes
- The Project description and
- The vendor to whom an amount relates to.

From this single cashbook therefore, transactions for a particular project can be filtered through the Project Code and Project Description.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**669. Unsupported Expenditure on Domestic Travel and Subsistence**

As disclosed in Note 11.3 to the financial statements of receipts and payments expenditure on domestic travel and subsistence amounting to Kshs. 2,211,600. However, the expenditure was not supported by an approved detailed workplan for the year under review.

**Submission by the Accounting Officer**

The projects expenditure was fully supported by the procurement plan from approved Consolidated Annual Procurement Plan FY 2021/2022.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (c) of the Public Audit Act, 2015, respectively.**

**670. Delay in Project Implementation**

The project information at Note 1.2 to the financial statements indicates that the project started in 2017 and was expected to end in 2025. According to the funding summary at Note 1.7 total donor and GOK commitments amounted to Kshs. 12,609,334,071 out of which Kshs. 12,604,345,250 was to be received from KFW Frankfurt am Main (KfW). However, as at 30th June 2022, only Kshs. 82,487,630 had been withdrawn despite the project having been in existence for over five years.

**Submission by the Accounting Officer**

While both the Loan and the Grant were scheduled to expire on December 31, 2021. However, Pursuant to Section 3.2 of Loan Agreement [*Deadline for requesting Disbursements*], upon the request by the Government of Kenya for extension of Loan and Grant Period, KfW extended the disbursement period by an additional period of 72 months (6 years); thereby revising the date of the last disbursement to December 31, 2027. This will enable payments during the implementation of civil works and facilitate achievement of the envisioned project development objectives as well as proper closure.

We note that the commencement of the project was adversely affected by the delays in effectiveness of the financing package initially and later by the outbreak of COVID-19 pandemic.

However, the Consultant has now completed Phase(s) I, II and III of Part A of the services and is finalizing Phase IV - preparation of tender documents and final safeguards documentation. The process of procuring a contractor for civil works is currently on.

Furthermore, the Bank on March, 2021, gave a No – Objection to the procurement plan that envisages completion of civil works in July 2026.

**Committee Observations and Findings;**

**The Committee notes the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails a status report within three (3) months of adoption of this report.**

**671. Pending Bills**

Note 12.1 to the financial statements and Annex 3 to the financial statement reflect pending accounts payable balance of Kshs. 6,024,205 as at 30 June, 2022. Review of the financial statements indicate that the entire pending bills balance was contracted during the year under review. The project therefore runs the risk of incurring significant unqualified interests costs and penalties with the continued delay in settling invoiced bills.

**Submission by the Accounting Officer**

Delay in payments of Kshs. 6,026,205 was as a result of failure to release GoK/Exchequer funds in time to facilitate prompt contractual payments. A part payment of Kshs. 2,500,000 (Equivalent to Euros 22,512.08) has been made in the current financial year.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**672. Budgetary Control and Performance**

Note 12.1 to the financial statements and Annex 3 to the financial statement reflect pending accounts payable balance of Kshs. 6,024,205 as at 30 June, 2022. Review of the financial statements indicate that the entire pending bills balance was contracted during the year under review. The project therefore runs the risk of incurring significant unqualified interests costs and penalties with the continued delay in settling invoiced bills.

**Submission by the Accounting Officer**

The global COVID-19 pandemic that had led to containment measures on movement of people and supplies availability had caused unanticipated overall delays and affected the project implementation and performance due to the non-commencement of field activities. However, the project is at the stage of securing a contractor whereby no objection for prequalified contractors has been issued and currently The Authority is in the process of preparing final bidding documents.

The underperformance therefore was due to the fact that civil works had not commenced.

**Committee Observations and Findings:**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails a status report within three (3) months of adoption of this report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**673. Unapproved variation of Contract Period and amount**

The Management entered into contract with an international contractor under Contract No. KENHA/1871/2018 for consultancy services for the design finalization of safeguard documents, procurement support, construction supervision and contract administration of Kenya South Sudan Road Link (Kitale – Morpus Road) on 15th October 2019 with the original expected completion date of 9th July,2025. The contract sum was set at EURO 4,404,560 plus Kshs. 12,392,721.

Review of addendum No. 1 dated 30th July, 2021 on the contract revealed that the original contract sum was varied from EURO 4,404,560 plus Kshs. 12,392,721 to EURO 4,786,485 plus Kshs.19,088,992 thus resulting in variation of EURO 381,925 or 9% and Kshs. 6,696,271 or 54%. Further, the contract expected completion date was also extended by twelve (12) months from 09th July 2025 to 09th July, 2026.

**Submission by the Accounting Officer**

The request for extension of the contract period by twelve (12) months and the cost variation was affected under Addendum No.1 which was occasioned by:

1. Additional Topographical Survey for the 65km section: In absence of the old survey data or the editable version of Plan and Profile drawings, the Consultant was actually unable to review any design. This request was pursuant to the agreed actions during the Project Launch Workshop held on February 10-14, 2020.
2. Detailed Design of extended end point of the project road by 8km (up to Moruni River Bridge): The bridge is in vulnerable condition and will affect the serviceability of the proposed road section. The costs comprise the additional site investigations and the associated engineering designs. This request was pursuant to the agreed actions during the Project Launch Workshop held on February 10-14, 2020.
3. Procurement Assistance Services: This request was pursuant to the agreed actions during the monthly meeting with KfW held on October 12, 2020, to include the component as part of the services by the Consultant. The services involve providing technical support to KeNHA for all procurements of works and other services as envisioned in the approved Procurement Plan.
4. Communication and Visibility Services: This request was pursuant to the agreed actions during the monthly meeting with KfW held on October 12, 2020, to include the component as part of the services by the Consultant.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Auditor General keeps the matter in view.**

## TIMBOROA-ELDORET ROAD REHABILITATION PROJECT NO. P-KEDBO-019 (LOAN NO. 2100150023344) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

### 676. Presentation of the Financial Statements

The financial statements did not contain the following information as required in the Annual Financial Reporting Template, (Revised 30 June, 2022) for projects reporting issued by the Public Sector Accounting Standards Board:

a. Key qualifications for the officials involved in the implementation of the project;

b. Physical progress based on outputs, outcomes, and impacts since project commencement.

c. The absorption rate for each year since the commencement of the project;

d. The implementation challenges and recommended way forward;

e. The heading for Annex 2 on page 18 of the financial statements is incorrectly indicated as Reconciliation of Inter-Entity Transfer instead of Summary of Fixed Assets.

**Submission by the Accounting Officer**

The draft financial statements submitted for statutory audit on 31 August 2022 inadvertently omitted the information. This was a regrettable error, and the financial statements were subsequently amended to include the information listed under (a-e) of the audit observation. The amended financial statements were submitted to OAG on 02 December 2022, alongside a copy of letter submitting the revised financial statements and a copy of the amended financial statements.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (c) of the Public Audit Act, 2015, respectively.**

### 677. Inaccuracies in the Financial Statements

The schedule on application of funds under project information and overall performance reflects amount received and cumulative amount paid as at 30 June, 2022 of Kshs.5,415,940,409 and

Kshs.5,397,171 ,964 respectively. The audited financial statements for the year ended 30 June 2021 reflects amount received and cumulative amount paid of Kshs.5,399,454,880 and Kshs.5,390,782,291 respectively. However, the statements of receipts and payments for the year ended 30 June, 2022 reflects nil amounts received as loan and transfer from Government entities. Similarly, the statement reflects nil expenditure balance for the year. The movement of Kshs.16,485,529 and in the amount received and the movement in the amount paid of Kshs.6,389,623 during the year ended 30 June, 2022 has not been explained or reconciled.

**Submission by the Accounting Officer**

The financial statement for the FY 2020/21 under note 1.7 (funding summary) had omitted the interest income and bank charges hence the resulting total receipts under the sources and application of funds were under stated by the accumulative interest income of Kshs 15,695,357 while the total payments understated by the bank charges amount of Kshs 6,389,673. The unutilized cash balance under note 1.7(b) application of funds was therefore understated by Kshs 9,305,684, hence a similar variance between the closing balance under note 1.7(b) and the amount reported under the statement of financial assets which had a closing cash balance of Kshs 17,978,273 against unutilized balance under note 1.7(b) of Kshs 8,672,589.

The above understatement of Kshs 9,305,684 in prior year financial statements has been corrected in the current financial year. Further, a note on prior year adjustments has been introduced in the current year financial statements to explain this adjustment. Please refer to note 9 the financial statements in the attached amended financial statements.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**678. Cash and Cash Equivalents**

The statement of assets as disclosed in note 7 to the financial statements reflects bank balance of Kshs.18,768,445 as at 30 June 2022. However, the supporting documents including cashbook, monthly bank reconciliation statements, bank statements and bank balance certificate as at 30 June, 2022 were not provided for audit review. Further, the Management did not explain the failure to surrender the unutilized funds to the National Treasury considering that the project ended in July, 2016.

**Submission by the Accounting Officer**

The below listed documents were provided to the audit team during the audit exercise and also submitted during responses to the draft audit report;

a. Bank reconciliation statements for the months of July 2021 to June 2022

b. Cashbook for the period 01/07/2021 to 30/06/2022

c. Bank statements for the months of July 2021 to June 2022

d. Certificate of cash balance as at 30/06/2022

The closing cash balance represents interest income earned from the bank deposits and is not supposed to be surrendered to National Treasury but form part of authority's revenue to be budgeted and expended for the final account of the project.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**679. Unsupported Receipts**

Note 3 to the financial statement reflects interest income of Kshs.790,172. However, supporting documents including bank statements, cashbook and ledgers were not provided for audit review.

**Submission by the Accounting Officer**

The below listed information was provided during the audit process and also availed together with the responses to the audit draft report

a. Schedule of Interest income earned during the financial year

b. Bank statements for the months of July 2021 to June 2022

Cashbook ledger for the period July 2021 to June 2022.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**NAIROBI - THIKA HIGHWAY IMPROVEMENT PROJECT LOT I AND II (CREDIT NO.2100150015544) - KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**682. Unsupported and Misstated bank Balances**

The statement of financial asset reflects a bank balance of Kshs.11,333,783 which as disclosed at Note 5A to the Financial statements includes a balance of Kshs.4,000,000 held in Central Bank of Kenya for which bank confirmation certificate was not provided for audit. Further, the balance includes retention account bank balance of Kshs.7,333,783 for which the supporting bank reconciliation statement reflected a cashbook balance of Kshs.183,962,682 resulting in an unreconciled variance of Kshs.176,628,899.

**Submission by the Accounting Officer**

On Kshs.4,000,000 the Authority has requested the Parent Ministry for the Central Bank balance confirmation certificate for Kshs.4,000,000

On the Kshs. 7,333,78, the analysis for the retention amount was provided during the audit.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**683. Unsupported Pending Bills**

Note 12 to the financial statements reflects a pending bills balance of Kshs.428,623,554 in respect of acquisition of land. However, detailed analysis of the pending bills including the names of the payees and the reasons for non-payment were not provided. Further, the entire balance of Kshs.428,623,554 was brought from the prior year and the project's indicated that no bill was settled during the financial year 2021/2022.

**Submission by the Accounting Officer**

This is due to budgetary ceiling constraints that resulted in NIL allocation in the financial year under consideration. An amount of Kshs. 45,000,000 has been allocated in the current financial year (2022/2023)

The bills are duly supported by schedules as availed during the audit and shown in Annex 3 of the financial statements

The Authority is liaising with the Line Ministry and National Treasury to ensure sufficient budget allocation to enable settlement of the pending bills

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**684. Project Closure Report**

As provided under the Project information and Overall Performance section of the Annual Report and Financial Statements, the project was to end on 22 July 2015. However, as previously reported the project closure report was not provided for audit, being more than seven (7) years after the lapse of the closure period.

**Submission by the Accounting Officer**

The projects Inspection and acceptance certificates are hereby attached.

**Committee Observations and Findings;**

**The Committee noted the submission from the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer henceforth provides a project execution completion report, albeit showing pending bills, for audit purposes.**

**ROADS 2000 PHASE TWO PROJECT (AFD CREDIT NO. CKE 101 201 B, CREDIT NO. CKE 1 04601J AND CREDIT NO. CKE 1 09401 M) - KENYA RURAL ROADS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**688. Un-supported Accounts Payable-Retention**

The statement of financial assets reflects accounts payable balance of Kshs.61,085,161. However, Note 1 0 to the financial statements reflects accounts payable (retention/contractors owed) balance of Kshs.61,272, 662 which differs with the balance of Kshs.61 ,085, 161 by an unexplained variance of Kshs.187,501 Further, the movement from the brought forward accounts payable balance of Kshs.96,981 ,429 to the carried forward amount of Kshs.61,272,662 has not been supported or reconciled. In addition, the current retentions have not been matched with the bills payments amounting to Kshs.136,651 ,0 94 as reflected at Note 6 to the financial statements.

In the circumstances, the existence and accuracy of the accounts payable balance of Kshs.61,085, 161 could not be confirmed.

**Submission by the Accounting Officer**

Support schedule indicating movements in payables has been provided. Bill payment of ksh 136,651,094 represents the amount of roadworks expenditure relating to the current period.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**
ii) **The Committee recommends that the mater is resolved.**

**689. 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.421,000,000 and Kshs.15,780,653 respectively resulting in an underfunding of Kshs.405,2 1 9 ,347 or 96% of the budget. Similarly, the Project expended

Kshs.190,855,743 against an approved budget of Kshs.421,000,000 resulting to an under expenditure of Kshs.230, 1 44,257 or 55% of the budget.

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

**Submission by the Accounting Officer**

This is as a result of inadequate budgetary allocations.

**Committee Observations and Findings;**

**The Committee observed that the explanation was unsatisfactory as the underperformance was as a result of the failure of the state department to certify works and absorb the budget.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for this underperformance and recommends that he henceforth ensures timely certification of works.**

**690. Unresolved Prior Year Audit Matters**

In the audit report of the previous year, several issues were raised. However, although the Management has indicated that all the prior year issues were resolved, no evidence has been provided to support this assertion.

In the circumstances, the matters remain un-resolved.

**Submission by the Accounting Officer**

The state department is awaiting the Committee recommendations.

**Committee Observations and Findings;**

**The Committee noted that its report for FY 2020/21 had since been adopted by the House.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails a report on implementation of its recommendations within three (3) months of adoption of this report.**

## MULTINATIONAL ARUSHA-HOLILI/TAVETA-VOI ROAD CORRIDOR DEVELOPMENT PROJECT PHASE I – LOAN NO.2100150028894 – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

**694. Un-supported Nil Cash and Cash Balances**

The statement of financial assets reflects a Nil bank balance as at 30 June, 2022. However, the cash and bank balances in respect of several projects were held in one account maintained by the Authority and which had a balance of Kshs 5,305,453,396 as at 30 June 2022. However, the breakdown of cashbook to show cash balances attributable to individual projects were not provided for audit review thus the Nil balance held in the account could not be confirmed. In addition, there was no separate cashbooks maintained to record cash received for the project and payments against the project funds over the project implementation period. As a result, it was not possible to confirm total cash receipts and payments in respect of the project.

**Submission by the Accounting Officer**

The Project's Audited Financial Statements for the prior year (FY 2020/21) indicate a Nil closing cash balance for the project, hence a Nil opening balance in the current financial year under audit.

In the current financial year under audit, the project did not receive any budgetary allocation, hence no cash was received for the benefit of the Project. This is indicated in the attached current year budget (FY 2021/22) which excluded the Project in the budgetary allocation.

It is true that the Authority maintained one bank account to receive exchequer funds that are remitted in bulk against the annual Budget from the National Treasury. This is in line with section 28 (2) of the PFM act 2012 and Section 95 (1) of the Public Finance (National Government) Regulations, 2015 requires the maintenance of a single Treasury Account, hence the Authority maintained one Exchequer Account for receiving all exchequer funds from the exchequer. Further, the loan agreement for the project did not provide for the opening of a designated project account, hence the project has been using the single Account as required by Section 28 (2) of the PFM Act 2012 and Section 95 (1) of the Public Finance (National Government) Regulations, 2015.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**695. Pending Bills**

**695.1. Long Outstanding Payables - Unbudgeted for Pending Bills**

The pending bills balance included Kshs 13,985,986 in respect of outstanding land compensation to various Project Affected Persons (PAPs). The amount ought to have been settled before the project commenced as per the conditions set out in the loan agreement. Further, pending bills amounting to Kshs 11,037,513 relating to consultancy services billed in 2018, were still outstanding as at the end of the Year. Management explanation that the non-payment of the bills was due to lapse of the Financing agreement prior to conclusion of all the Project Components. Management's explanation for not making budgetary provision to cover the bills over the last four years was not justifiable.

In the circumstances, the project is at risk of incurring significant interest costs and penalties with their continued delay in payment.

**Submission by the Accounting Officer**

The Project had outstanding bills amounting to Kshs 25,023,499 which includes consultancy services of Kshs 11,037,513 and land compensation of Kshs 13,985,986 as at 30 June 2022. This was a result of Insufficient GoK budgetary allocations in financial year under audit as well as prior financial years meant that the Authority could not settle the outstanding land compensation as well as the outstanding consultancy fees.

The Authority has, however, been closely liaising with the parent ministry and the National Treasury to ensure provision of adequate budgets to settle the outstanding bills. This culminated in a GoK budgetary allocation of Kshs 6,255,875 in the revised FY 2022/23 budget which was utilized to settle part of the outstanding bills.

The Authority will endeavor to ensure that sufficient budgets are allocated to the project to facilitate settlement of the outstanding bills.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**695.2. Ineligible Pending Bills**

The pending bills balance includes Kshs 7,343,038 which was due to Government institutions comprising Kenya Prisons and Deputy Commissioner -Taveta for land compensation under Project affected Persons (PAPs). However, there was no record of land acquired or structures moved or demolished in the parcels to pave way for the road construction and instead, a restitution was done

In the circumstances, the accuracy and authenticity of the pending bills balance of Kshs 25,023,499 could not be confirmed.

**Submission by the Accounting Officer**

The outstanding compensation amounting to Kshs 7,343,038 were valued by the National Land Commission and submitted the Payment Schedule to the Authority for settlement. NLC's letter Ref: VAL. 1358 dated 1st April 2015 submitting a payment schedule to the Authority has been availed. The Payment Schedule includes the following beneficiaries;

| Ref. No. | Registered Owner | Amounts Payable | Amount Awarded (Payable) |
|---|---|---|---|
| Mboghoni B/49 | Kenya Prisons | 5,001,350 | 5,001,350 |
| Mboghoni B/54 | Deputy Commisioner -Taveta | 748,650 | 748,650 |
| Mboghoni B/54 | Deputy Commisioner -Taveta | 1,143,560 | 1,143,560 |
| Mboghoni B/56 | Deputy Commisioner -Taveta | 449,478 | 449,478 |

| | Total | 7,343,038 | 7,343,038 |
|---|---|---|---|

The Authority has not made any payment/restitution in respect of the Project Affected Person, hence the amounts remain outstanding.

The Authority has also not received communication from the National Land commission indicating that the Project Affected persons are not to be compensated. In the event that the commission communicates to the Authority revoking the awards, the amounts will be written off from the Authority's books of Accounts

**Committee Observations and Findings:**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer liaises with the National Land Commision and resolves the matter within three (3) months of adoption of this report.**

**696. Absorption of Project Funds**

As disclosed under Note 1.2 of the project information, the Project was earmarked to close on 31 December, 2019. However, Note 1.7 of funding summary indicates that the Donor had made commitment to of UA 75,000,000 which is equivalent to Kshs 10,660,050,000 as at 30 June, 2022. However, actual drawdowns during the project life amounted to UA 54,459,635 equivalent to Kshs 7,740,565,739 leaving out Kshs 2,919,484,261 undrawn. The credit thus lapsed without being fully utilized and the Project's planned deliverables earmarked for completion using the funding may not have been realized.

In addition, Management did not provide the Project Closure report for audit review, being more than three (3) years after the expiry of the Project.

**Submission by the Accounting Officer**

This was a result of the competitive procurement process which resulted in lower bids hence lower project costs.

This is due to the fact that all the planned project components were successfully implemented, handed over to the employer and the road project opened for public use.

**Committee Observations and Findings;**

**i) The Committee noted that the agency made savings.**
**ii) The Committee found that the matter was resolved.**

**PORT REITZ/MOI INTERNATIONAL AIRPORT ACCESS (C110) ROAD (FIDIC EPC/TURNKEY BASED) PROJECT - KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**700. Unsupported Cash and Cash Equivalents**

The statement of financial assets reflects nil cash and cash equivalents balance. However, Management did not provide bank statements, bank balance certificate and board of survey certificate to support the balance.

In the circumstances, it was not possible to confirm the accuracy of the nil cash and cash equivalents balance.

**Submission by the Accounting Officer**

The Authority maintains a single exchequer bank account where all funds received are channelled which is in line with the National Treasury circular on rationalization of bank accounts being operated by entities. From the single exchequer bank the authority maintains a cash book that provides amongst other details:

- The Project codes
- The Project description and
- The vendor to whom an amount relates to.

From this single cashbook therefore, transactions for a particular project can be filtered through the Project Code and Project Description which ensures accuracy of the balances reported in the project financial statements.

Further, total receipts from the parent ministry are equally confirmed at the end of each financial year as per the exchequer confirmation which was availed during the audit exercise.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**701. Unbudgeted for and Unsupported Pending Bills**

Note 12 to the financial statements reflects pending accounts payable balance of Kshs. 822,548,139 as at 30 June, 2022. The Balance is made up of previous year's pending accounts payable of Kshs. 29,624,000 and additions of Kshs. 792,924,139 during the year under review. However, Management did not provide documents to support the additions of Kshs. 792,924,139. In addition, an accounts payable register was not maintained as required by the National Treasury Circular No. 5/2020 of 25 February,2020 which requires accounts payable balances in the financial statements to be supported with accounts payable register as per the format prescribed in the circular.

**Submission by the Accounting Officer**

As indicated in Statement of Comparison of Budget and Actuals Amounts for the Year Ended 30 June 2022, the Authority had budgeted for Kshs 30,000,000 which was to be utilized to settle pending bill of Kshs 29,624,000. However, this had to be adjusted during the budget revision in FY 2021/22 as the National Land Commission (NLC) had not provided correct valuation details for the additional land acquired of 0.0047 Ha. The Authority continues to liaise with the NLC to ensure this matter is resolved.

The additional pending bill of Kshs 792,924,139 relates to the contractor's final payment which was received during FY 2021/22. Further, accounts payable balance is supported by Annex 3 of the Annual Report and Financial Statements in compliance with the 2022 revised reporting template provided by Public Sector Accounting Standards Board (PSASB).

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**EAST AFRICA TRADE AND TRANSPORT FACILITATION PROJECT (IDA CREDIT NO.4148-KE) - KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**704. Inaccuracies in the Financial Statements**

The statement of receipts and payments reflects a deficit of Kshs 9,826,146 for the year under review. However, the statement of financial assets shows a surplus for the year of Kshs 510,978 for the same period resulting in unexplained difference of Kshs 10,337,124.

In the circumstances, the accuracy of the financial statements could not be confirmed.

**Submission by the Accounting Officer**

The deficit recorded in the financial year amounting to Kshs 9,826,146 is a summation of interest earned amounting to Kshs. 510,978 less retention money paid of Kshs. 10,337,124.

Please note that the Reporting Template issued by the PSASB requires interest income earned during the period to be reported as period surplus whereas any payments made including release of retention money to be recognized as a deficit. The summation of the individual surpluses and deficits result to a net surplus or net deficit. The two figures of Kshs. 510,978 and Kshs. 10,337,124 were correctly recorded in line with reporting template.

The Accounting and disclosure of the above items are therefore consistent with the Projects reporting template issued by the National Treasury through the PSASB.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

### 705. Unsupported Cash and Cash Equivalents

The statement of financial assets and note 8 to the financial statements, cash and cash equivalents balance of Kshs 33,149,666 includes an unsupported retention account balance of Kshs 21,012,749

In the circumstance, the accuracy of cash & cash equivalents as at 30 June 2022 could not be confirmed.

**Submission by the Accounting Officer**

The retention amounts of Kshs 21,012,749 is fully supported by the schedule of retention balance, bank reconciliation and statement of bank balance confirmation from the bank.

It is the lender's policy that retention money retained but yet to be released to the contractor should remain in the project bank account which therefore forms part of the cash and cash equivalents until released to the individual contractor.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

### 706. Pending Bills

The project's total donor and counterpart commitment amount to Kshs 4,712,287,134 as indicated on the statement of sources of funding. Further, as per the application of funds statement all the committed funds have been received and paid out except an amount of Kshs 33,149,666 which includes Kshs 21,012,749 relating to retention leaving a balance of Kshs 12,136,917 for settlement of pending bills. The reported pending bill as per note 12.1 of the financial statements is Kshs 43,964,093 which is more than Kshs12,136,917 available cash for settlement of pending bills

The origin of the pending bill has not been explained since the project has been fully funded.

Note 12.1 and Annex 3 to the financial statements reflects pending accounts payable in respect of road contractors totalling Kshs 43,964,093 as at 30 June 2022.

In the circumstances, the Project therefore runs the risk of incurring significant unquantified interest costs and penalties with the continued delay in settling invoiced bills.

**Submission by the Accounting Officer**

This situation arose due to:

i. The exhaustion and subsequent lapse of Development Partner financing counterpart funds prior to completion of all the project components
ii. Inadequate GoK counterpart budgetary provisions in the current as well as prior financial years.

In the event that the credit is exhausted, it is the Government that remains with the residual responsibility of ensuring the project is delivered to the public hence payment of the full values of approved IPCs/ fee notes. Pending bills are as a result of inadequate budgetary allocations. The project will therefore be fully funded once the Government budgets and releases all the funds relating to the project outstanding amounts.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**707. Project Closure Report**

The Project information at Section 1.2 of the annual report and financial statements indicate that the project ended on 30 October, 2015. However, the project closure report was not provided for audit, being almost seven (7) years after the expiry of the closure period.

**Submission by the Accounting Officer**

Preparation of the report is in progress.

**Committee Observations and Findings;**

**The Committee noted the submission from the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer henceforth provides a project execution completion report, albeit showing pending bills, for audit purposes.**

## SIRARI CORRIDOR ACCESSIBILITY AND ROAD SAFETY IMPROVEMENT PROJECT: ISEBANIA-KISII-AHERO – (A1) ROAD REHABILITATION - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

**710. Accuracy of the Financial Statements**

The statement of receipts and payments reflect an amount of Kshs. 24,654,959 in respect of acquisition of non-financial assets payments controlled by the entity. However, there is no commensurate receipt to cover the payment and funding of these payments has not been explained as the project appears to only hold a retention account and hold no cashbook for the project.

**Submission by the Accounting Officer**

The Authority maintains one retention account for all its projects which is in line with the National Treasury's circular on rationalization of bank accounts. Further, the Authority maintains a project bank account as per the provisions of the loan agreement for the purposes of receiving and making payments for Training of Women, Youth and Persons with Disability component of the loan.

The certificates of bank balances for these accounts were availed during the exercise as well as schedules supporting the balances.

The State Department further disagrees with the observation that the Management did not maintain a deposit register. Through its accounting system Sage Pastel evolution, a robust electronic register is maintained that provides amongst other details:

- The date when an amount was either retained or paid out
- The amount involved
- The vendor to whom the amount relates to and

The payment voucher vide which the retention or release thereof was made.

Upon further reconciliation of the deposits account, the Authority has amended other important disclosures in the financial statements to reflect the correct changes in accounts payable retentions controlled by third parties

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**711. Authenticity of Land Payments**

Annex 3A to financial statements shows analysis of pending bills of land compensation balance of Kshs.537,676,282 as at 30 June, 2022 in respect of outstanding amount of land compensation. However, supporting documents such as the compensation schedule sent to KENHA by National Land Commission to make payment is not supported by searches and land valuation reports and identification criteria for project affected persons.

**Submission by the Accounting Officer**

Land searches and valuations are mandates of the National Land Commission (NLC) in adherence to the Land Act, 2012 hence documents that relates to searches and valuations are in custody of NLC.

The Authority shall continue to adhere with the relevant laws and regulations to promote and enforce transparency, effective management and accountability in its operations.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (c) of the Public Audit Act, 2015, respectively.**

**712. Unsupported Transfer from Government Entities**

The statement of receipts and payments reflects receipts (Transfer from Government entities) of Kshs.2,328,376 and as analyzed in Note 11.1. However, no exchequer notifications were provided for audit review to confirm the completeness of the receipts.

**Submission by the Accounting Officer**

All exchequer funds received are channeled to a single exchequer bank account which is in line with provisions of the PFM Act of a Treasury Single Account. Further total receipts from the Parent Ministry are equally confirmed at the end of each financial year.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (c) of the Public Audit Act, 2015, respectively.**

**713. Irregular Payment of Imprest and Air Ticket to interns**

Statement of assets and liabilities reflects purchase of goods and services of Kshs.609,100.00 in respect of payment of per diem which includes per-diem paid to interns amounting to Kshs.309,000.00. No policy guide was provided for the rates governing the payment of the periderms for the interns

In addition, examination of surrender documents revealed that the above-mentioned interns travelled by air, however no expenditure for air tickets was disclosed in the financial statements. Approval of the air tickets was not provided for audit review to confirm whether they qualified for the air transport category.

In the circumstances, it was not possible to confirm the completeness and validity of the use of goods and services of Kshs.609,000.

**Submission by the Accounting Officer**

The Authority guided by the Salaries & Remuneration Commission pays per diems to interns travelling on official duties using the lowest grade rates.

Further, the Authority's policy on travelling by air is non-discriminatory such that when required to travel by air, all members of staff are governed by the Government policy on class of travel. Air tickets costs are included in the internal memo requests to incur expenditure on official duties which are pre-approved by the Director General. Approved internal memos are attached to payment vouchers which were availed for audit.

We further note your observation on expenditure on air tickets and would wish to respond that as at 30th June 2022, we had not received the invoices for these services hence could not disclose the related expenditure.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents on time, as required by section 9 (i) (c) of the Public Audit Act, 2015.**

**714. Irregularities in Acquisition of Non- Financial Assets**

The statement of receipts and payments and Note 5 to the financial statements reflects acquisition of non-financial assets current year and cumulative amount of Kshs.1,917,603,641 and Kshs.20,052,965,638, respectively. Review of project records revealed that three contractors issued suspension of work notices due to pending payments amounting to Kshs.2,048,366,971. An interview with the Project Engineer and physical verification in the month of November, 2022 revealed that the works had already been suspended and no works were currently going on. However, there was no evidence to confirm the actual dates when the works were suspended.

In addition, the financing agreement indicated that there were other components to the road construction. However, no contract agreements for these components were provided for audit review.

Further, Note 5 to the financial statements disclose purchase of equipment and machinery of Kshs. 62,684,459. However documents supporting the payments such as contract documents, payment vouchers, delivery notes, store receipt vouchers and store issue vouchers were not provided for audit review. In addition, there was no evidence provided to confirm that staff were trained on the use of the equipment.

Moreover, the contract that was implemented by an engineering company expired on 03 January 2022. An application requesting for no objection was raised. However, no signed approval for this request was provided for audit review.

**Submission by the Accounting Officer**

This was occasioned by slow payment of the GoK portion to the contractor due to inadequate budgetary provisions and release of exchequer funds.

We however disagree with the observation that during the year under review, the management invalidly paid Kshs 283,930,756 for research studies, project preparation, design and supervision. These were valid payments for consultancy services and monthly progress reports no. 68 & 59 for 30th June 2022 for Lot 1 and Lot 2 respectively were availed during the physical verification of documents. These reports can be provided in soft copies in a flash drive for further verification.

Further, we would wish to confirm that contracts documents for the other components are available and can be provided in soft copies in a flash drive as well.

An interim extension of time for six months was granted to the contractor as per the attached internal memo revising the project completion date from 3rd January 2022 to 3rd July 2022. The Authority has as well sought for a no objection from the development partner for further extension of the contract period which is still under review by the development partner.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**715. Accounts Payable- Retention**

The statement of financial assets and as disclosed in Note 7 to the financial statements reflects retention monies balance of Kshs.47,380,885 in the year under review. However, the Management did not maintain a deposit register, in respect of the project. Further, retentions Kshs.443,798,918 reflected under Note 12(2) to the financial statements had no supporting analysis.

In the circumstances, it was not possible to confirm the accuracy and completeness of the retentions reflected in the financial statements.

**Submission by the Accounting Officer**

Although the Authority maintains one bank account for retention funds, the Authority operates an accounting system which is able to provide a retention ledger which provides the following details amongst others:

- The date when an amount was either retained or paid out,
- The amounts retained or released,
- The vendor to whom the amount relates to, and
- The project to which the amount relates to

The authority is therefore able to segregate the retention funds held for each project which ensures accuracy of the balances reported in the project financial statements.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**716. Fund Balance Brought Forward**

The statement of financial assets reflects a Fund balance brought forward of Kshs. 27,771,750 which as disclosed in Note 8 to the financial statements has been described as bank accounts. The Management did not explain the purpose for these funds which were held in the local bank account and not used in any way for a period of over three years. Holding the funds in the bank account may have resulted in avoided bank charges, and denied the project interest income which could have been earned had these funds been invested in interest earning financial institute.

**Submission by the Accounting Officer**

These funds were meant for Training of Women, Youth and Persons with Disability (PWD) contractors which was a component under the loan whose procurement was delayed due to the effects of Covid-19. The Authority however finalized procurement for the component and in FY 2022/23 has managed to train participants in Module 1 and 2 of the training as per signed MoU between the Authority and the training institution. Payment to the training institution has also been made in FY 2022/23 hence movement of funds from the account.

It's however important to note that this account has not incurred any bank charges as evidenced in the availed bank statement and the certificate of bank availed for verification.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**717. 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. 1,895,277,058 respectively, resulting to an underfunding of Kshs. 1,204,722,942 or 39%. Similarly, Kshs. 1,918,212,741 was spent on the Project against an approved budget of Kshs.3,100,000,000 resulting to an under expenditure of Kshs. 1,181,787,259 or 38%.

**Submission by the Accounting Officer**

The Authority was only able to realize Kshs 1,895,277,058 out of the budgeted amount of Kshs 3,100,000,000 for the project during FY 2021/22. This was due to inadequate exchequer release to enable payment for land compensation for the contractor to access right of way.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

### 718. Payment of Pending Bills not Forming First Charge

Note 12 to the financial statements reflects pending bill of Kshs. 2,623,642,869 as at 30 June, 2022, which were not settled during the financial year 2021/2022 but were instead carried forward to 2022/2. Included in the balance are pending bills of Kshs. 1,781,929,830 which relates to 2020/2021 and earlier financial years. Further interest charges on late payment was Kshs.79,280,825 and Kshs.68,080,610 for IPC 48 and IPC 31 respectively totaling to Kssh.147,461,535.

**Submission by the Accounting Officer**

This arose due to inadequate budgetary provisions and delays in exchequer releases. In FY 2022/23 the Authority has managed to secure development budgetary provision of Kshs 580,000,000 for the project to be used to settle pending bills.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

## MOMBASA-NAIROBI-ADDIS ABABA ROAD CORRIDOR DEVELOPMENT PROJECT: (ISIOLO/MERILLE/MOYALE ROAD)

REPORT ON THE FINANCIAL STATEMENTS

### 722. Unsupported Cash and Cash Equivalent Balance

As reported in the previous financial year, the statement of financial assets and liabilities reflects Kshs 18,682,650 in respect of cash and cash equivalents held at Cooperative Bank of Kenya account No.01141160979900 which was not supported with bank statements confirming transfer of the funds from project bank account to KeNHA main account on 16 October 2014 after completion of the project.

Consequently, it has not been possible to confirm that the cash and cash equivalent balance of Kshs 18,682,650 as at 30 June 2022 is fairly stated.

**Submission by the Accounting Officer**

The bank statement (for the month October 2014) confirming funds transfer from the project account in the State department of Infrastructure to Co-operative account was availed to the audit team.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

## NORTHERN CORRIDOR REHABILITATION PROGRAMME PHASE III - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

### 726. Unsupported Cash and Cash Equivalents

As reported in the previous financial year, the statement of financial assets and liabilities reflects The statement of financial assets reflects a cash balance of Nil. However, the Management did not provide bank statements, bank balance certificate and board of survey certificate to support the balances.

In the circumstance it was not possible to confirm the accuracy of the nil cash and cash equivalent balance.

**Submission by the Accounting Officer**

The Project's Audited Financial Statements for the prior year (FY 2020/21) indicate a Nil closing cash balance for the project. In the current financial year under audit, the project did not receive any budgetary allocation, hence no cash was received for the benefit of the Project. A copy of prior year audited financial statements indicating a Nil balance, and a copy of current year budget indicating zero allocation to the Project have been availed.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

### 727. Budgetary Control and Performance

The statement of comparison of budget and actual amounts revealed that the project did not have any budgetary provisions for both revenue and expenditure despite the outstanding bills. Project Management has not explained why the budget was not in place to cater for outstanding pending bills.

**Submission by the Accounting Officer**

This situation arose from inadequate budgetary ceilings from the National Treasury hence lack of allocation for the project.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**728. Project Closure Report**

As disclosed under Paragraph 1.2 of the project information and overall performance, the project commenced on 26 November 2010 with a closure date of 31 October, 2015. It was however noted that the project closure report has not been presented for audit review, 7 (seven) years after the closure date.

**Submission by the Accounting Officer**

The Project's final completion reports were availed during the audit of prior and current financial years.

**Committee Observations and Findings;**

- **i) The Committee noted the submission from the Accounting Officer.**
- **ii) The Committee found that the matter was resolved.**

**729. Pending Bills**

Note 12.1 to the financial statements reflects pending bills balance of Kshs 4,101,454 as at 30 June, 2022. Management attributes the non-payment to the consultant's failure to pay withholding taxes and provide compliance certificates. However, there was not evidence to prove that the Management requested the consultant for the required information and whether adequate budgetary allocation was sought from the National Treasury for settlement of the bills in the subsequent financial year considering that the project was expected to end on 13 August, 2015 contrary to the National Treasury Circular No. 10/2020 of 16 June 2020 which requires pending bills to be settled during the 1st Quarter of the subsequent year. In the circumstances, Management is in breach of the law.

**Submission by the Accounting Officer**

Prior to lapse of the financing agreement, it was a requirement under the National Treasury's circular No. 15/2019) that consultants and contractors should pay Withholding taxes and provide tax compliance certificates prior to processing of payments payable directly by Development Partners. This circular was brought to the attention of all the vendors vide the attached memo. The consultant however did not provide the documents required under the circular.

Following the lapse of the financing agreement however, the above outstanding bills became payable by the Government of Kenya The amount however remains outstanding due to insufficient GoK budgetary ceiling from the National Treasury. The Authority will however endeavour to allocate adequate budgetary provision in subsequent financial year to facilitate settlement of the pending bills.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

## KENYA TRANSPORT SECTOR SUPPORT PROJECT (CREDIT NO.4926 KE AND NO.5410 KE) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

**731. Inaccuracies in the Financial Statements**

The statement of receipts and payments reflects deficit for the year of Kshs 184,934,985. However, the statement of financial assets reflects a surplus for the year of Kshs.325,548 resulting in unexplained variance of Kshs 185,260,533. In the circumstances, the accuracy of the financial statements could not be confirmed.

**Submission by the Accounting Officer**

The deficit recorded in the financial year amounting to Kshs 184,934,985 is made up of two items namely interest income less retention money released (Kshs. 325,548 less Kshs. 185,260,5633) hence the deficit of Kshs. 184,934,985. This was clarified during the audit exercise hence all figures were explained.

The reduction in retention amounts of Kshs 185,260,533 in the current year subsequently led to reduction in the Financial Liabilities (Payables Retentions) from Kshs 944,294,792 in FY 2020/21 to Kshs 759,034,258 in FY 2021/2022 . The movement in retention is as indicated in note No. 09 of the financial statements.

The Accounting and disclosure of the above items are therefore consistent with the Projects reporting template issued by the National Treasury, hence the accuracy of the Financial Statements.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**732. Comingling of Project Funds**

The statement of financial assets and Note 7 to the financial statements reflects cash equivalents balances of Kshs. 769,681,605. However, two bank confirmation certificate attached in support of cash and Cash equivalents balance relate to the Authority's bank accounts holding balances totalling to Kshs. 1,071,589,264. The relationship and balances in these bank accounts with the project has not been explained. This amount to comingling of projects funds.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs 769,681,605 could not be confirmed.

**Submission by the Accounting Officer**

This is a new observation introduced in the final audit report but was not contained in the Management letter and Draft Report. It is also not clear how the auditor arrived at the reported amount of Kshs 1,071,589,264.

The closing cash balance amounting to Kshs 769,681,605 are held in the following bank accounts:

| | |
|---|---|
| KTSSP NCBA KSHS A/C 1-110-001524 KSHS | 7,732,592 |
| KTSSP NCBA USD A/C 1-001-936677 KSHS | 2,914,755 |
| NBK short term deposit account | KSHS 700,000,000 |
| NBK retention Bank account | KSHS 59,034,258 |
| **TOTAL** | **KSHS 769,681,605** |

The balance of Kshs 769,681,605 is accurate.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**733. Delay in Project Implementation**

As previously reported the financing agreement indicates that the Project lifespan was 23rd May, 2021 to 31st December, 2018. Paragraph 1.7 of the financial statements on funding summary reflects an approved budget of donor funds of Kshs. 29,495,071,705 all of which has been received. In addition, paragraph1.8 of the financial statements on summary of overall project performance revealed that, as at 30 June 2022 actual payments totalled to Kshs. 2,743,477,906 out of the budget of Kshs. 3,312,559,529 or 83% performance. Further, four (4) road projects were not completed while three (3) projects had their contracts terminated.

In the circumstances, the delayed contract execution impacts negatively on the project costs and the attainment of the objectives of the project.

**Submission by the Accounting Officer**

This situation arose from cash flow constraints on the part of the contractors and supervision consultants as a result of inadequate budgetary allocations due to low exchequer ceilings in the current as well as prior financial years. The Authority will however endeavour to allocate adequate budgets in the subsequent financial year in order to facilitate completion of the remaining milestones for the road projects subject to budget ceilings.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**734. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.3,312,559,529 and Kshs.2,558,542,921 respectively resulting to an under-funding of Kshs.754,016,608 or23% of the budget. Similarly, the Project spent Kshs. 2,743,477,906 against an approved budget of Kshs.3,312,559,529 resulting to an under-expenditure of Kshs.569,081,623 or 17% of the budget. Management did not provide an itemized budget showing the detailed budget items for which the expenditure was intended.

It was therefore not clear how the budget figures in the statement of comparison of budget and actual amounts were arrived at.

The underfunding and under expenditure affected the planned activities of the project and impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

This was as a result of unrealized cash disbursements from the Exchequer.

The Authority will continue to ensure that budgetary controls are adhered to.

By nature & practise, appropriation by the National Assembly to the project is on an individual Project line basis. This is the form in which the project budget is uploaded into IFMIS & availed for expenditure. The project's reporting template however requires the presentation of expenditure grouped per nature of expenditure, against the Project's total budget.

The statement of comparison of budget and actual amounts has therefore correctly indicated the Project's correct budget amounts as appropriated by the National Assembly against the various expenditure categories as required by the Project's reporting template.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**735. Pending Bills**

Note 12 and Annex 3 to the financial statements reflects pending bills amounting to Kshs.5,621,824,796 as at 30 June, 2022. Review of records revealed several issues as indicated below:

**735.1. Unsupported Pending Bills**

Included in the pending bills balance are pending payments in respect of supervision services pending payments of Kshs.293,026,448 which include unexplained and unsupported negative movements of Kshs.29,227,892. Annex 3 reflects opening balance for supervision services of Kshs.282,934,200 while documents cast to the closing balance of Kshs.293,026,448 upon taking into account the payments to date. The recomputed amount of opening balance should have been Kshs.332,633,449 resulting to an unexplained variance of Kshs.49,699,249.

Further, included in the pending bills balance are pending payments of Kshs.876,649,634 due to a contractor arising out of the determination of High Court, case No. HCC075 of 2018. Annex 3 to the financial statements reflects original amount of the pending bill as Kshs.1,276,649,634. However, the accounting records provided for audit indicated that the original balance payable for this bill was Kshs.1,291,376,941 resulting to an unexplained variance of Kshs.14,727,307.

In addition, Annex 3 to the financial statements reflects total original pending bills amount of Kshs 11,042,079,990 which includes an amount of Kshs.3,372,323,314 being the original amount payable to a contractor in respect to awards granted by the Dispute Resolution Board. However, review of records maintained by the legal department revealed that the original amount payable to the contractor was Kshs.3,804,526,291 resulting in an unexplained difference of Kshs.432,202,977.

**Submission by the Accounting Officer**

The negative movement of Kshs 29,227,892 was an unfortunate erroneous entry in the initial draft financial statements, but the error was corrected in the revised financial statements adopted by the auditor in issuing the audit opinion.

The financial statements were amended to indicate additions in the financial year 2021/22 of Kshs 323,693,787 under supervision services. The opening balances on the other hand amounted to Kshs 322,254,340 and payments amounting to Kshs 352,921,679 were made during the year resulting in closing balance of Kshs 293,026,448.

The variance of Kshs 49,699,249 was a regrettable error in the initial draft financial statements which was corrected by amending the original total fee note amounts of Kshs 332,633,449 as noted in the audit observation. The reported outstanding bills are therefore correct.

On the audit observation that the original pending bill recorded arising from the High Court determination on case no. HCC075 of 2018 was recorded as Kshs. 1,276,649,634 instead of Kshs.1,291,376,941, the financial statements have an adjusted and correct original award of Kshs 1,261,922,327 (USD 5,918,829.55 @ 102.0735 and Kshs 684,766,679.11 Less Kshs 27,000,000 over-casted under DB No. 03).

The amount of Kshs. 3,372,323,314 that was indicated as the original amount payable to the Contractor in respect of awards granted by the Dispute Resolution Board in the draft project financial statements submitted for audit on 30th August 2022 had a regrettable overcasting error. The financial records were however subsequently amended to reflect the correct figure of Kshs 3,777,526,186 (Kshs 3,804,526,291 Less Kshs 27,000,000 overcast in DB Decision No. 03) as noted during the audit.

**Committee Observations and Findings;**

- **i) The Committee noted the submission from the Accounting Officer.**
- **ii) The Committee found that the matter was resolved.**

**735.2. Unexplained Land Compensation valuation difference**

Included in the pending bills is a balance of Kshs.823,379,197 in relation to land compensation which reduced by Kshs.345,387,044 from Kshs.1,168,766,241 in the 2020/2021 financial. Review of records provided revealed that the National Land Commission revalued an initial land compensation award to a brokerage firm from Kshs.596,221,387 to Kshs.148,217,710, vide a letter reference No. NLC/FIN/53/1 dated 5 January, 2022, thereby reducing the valuation by Kshs.448,003,677. However, this reduction differs with the year-to-year movement reported in the financial statements of Kshs.345,387,044 by Kshs.102,616,633. Management did not provide an explanation for the difference. The project runs the risk of incurring significant and unquantified interest costs and penalties.

In the circumstance, the accuracy of the pending bills balance of Kshs 5,621,824,796 could not be confirmed.

**Submission by the Accounting Officer**

The draft financial statements submitted for statutory audit on 30th August 2022 indicated an erroneous reduction of Kshs 345,387,044 instead of Kshs 448,003,677. This was a regrettable error following which we amended our records to indicate a correct movement of Kshs 448,003,677, hence the closing land compensation amount of Kshs. 720,762,564. This has subsequently led to the amendment of the financial statements. The Kshs.720,762,564 amount is made up of the following;

i.Opening balance from FY 2020/21 of Kshs 1,168,766,241

ii.Less downward revaluation of Kshs 448,003,677

iii.Closing balance as at 30th June 2022- Kshs 720,762,564.

The amount of pending bills reported in the revised financial statements are now correct and duly supported.

**Committee Observations and Findings;**

**i) The Committee noted the submission from the Accounting Officer.**
**ii) The Committee found that the matter was resolved.**

**735.3. Nugatory Expenditure**

Included in the pending bills balance of Kshs.5,621,824,796 as recorded under Annex 3 to the financial statements is Kshs.419,930,283 relating to interest charged, which arose from delayed payments.

The payment of interest on defrayment of delayed payments leads to loss of Government funds which could have been avoided.

**Submission by the Accounting Officer**

The unfortunate situation was a result of:

i. Exhaustion of Development Partner funds and subsequent lapse of credit agreement prior to completion of all the project components
ii. Insufficient exchequer budgets in the current as well as prior financial years arising from low budgetary ceilings

The Authority will however endeavor to provide adequate budgetary provisions in subsequent financial years subject to allocated ceilings to facilitate settlement of the entire pending bill.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department, leading to the cited charges of interest.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**736. Project Closure Report**

The financing agreement for the Project revealed that the Project was to end on the 31 December, 2018. However, as previously reported, the Project closure report was not provided for audit review, being more than three and a half (3½) years since the Project closing date. In the circumstances, management was in breach of the covenants.

**Submission by the Accounting Officer**

The project closure report will be prepared upon completion of the ongoing for (4) road projects.

**Committee Observations and Findings;**

**The Committee noted the submission of the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the closure reports are availed within three (3) months of completion of the projects.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**737. Irregular Purchase of Goods and Services**

The statement of receipts and payments reflects purchase of goods and services of Kshs.16,989,450. As disclosed at Note 4, the amount comprises of domestic travel and subsistence. However, a detailed work plan to confirm that the activities paid for related to the project was not provided for audit purposes.

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

**Submission by the Accounting Officer**

The amount of Kshs 16,989,450 relates to grouped expenditure item; purchase of goods and services. These amounts were expended on the basis of the annual Project Budget as appropriated by the National Assembly and the annual approved procurement plan.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**MERILLE – MARSABIT ROAD REHABILITATION PROJECT (KE/001/09) LOAN AGREEMENT NO. KE/FED/2009/021-655 - KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**740. Unsupported Cash and Bank Balances**

The statement of financial assets reflects a NIL bank balance as at 30 June 2022. However, the cash and bank balances in respect of the project were commingled in one account maintained by the Authority for all projects, and which had a balance of Kshs. 5,305,453,396 as at 30th June,2022. Therefore, cash balances attributed to individual projects held in the account could not be confirmed. In addition, there was no separate cashbooks maintained to record cash received for the project and payments against the project funds over the project implementation period. As a result, it was not possible to confirm total cash receipts and payments in respect of the project.

**Submission by the Accounting Officer**

As correctly observed, the project had a budget of Kshs. 200,000,000 for the financial year 2021/2022 of which the full amount was received from the counterpart GoK thereby giving a NIL bank balance.

Merille Marsbit project uses the Direct Payment Method where the Development Partner does not disburse any cash to the Authority but pay directly to the Contractor/Consultant. Therefore, no separate bank account is required. However, the Authority maintains a single exchequer bank account and a cash book that provides amongst other details:

- The Project codes
- The Project description and
- The vendor to whom an amount relates to.

From this single cashbook therefore, transactions for a particular project can be filtered through the Project Code and Project Description.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**741. Pending Bills**

The statement of receipt and payments for the year ended 30th June 2022 reflects acquisition of non-financial assets of Kshs. 200,000,000. Review of expenditure ledger revealed payments to Kshs. 198,407,500 which was paid to a contractor to settle pending bills in respect of civil works.

However, the amount paid exceeded Kshs. 139,890,445 disclosed as pending bills for the contractor in the prior financial years 2019/2020 and 2020/2021. The variance of Kshs. 58,433,239 between the paid amount and the previously disclosed amount was not explained.

In addition, the reported pending bills as at 30 June 2021 and as at 1 July, 2022 as per the certified financial statements amounted to Kshs. 141,566,761 while the brought forward balance as on Note 12.1 of the financial statements was Kshs. 292,165,074. However, Management did not provide documents in support of additional pending bills amounting to Kshs. 150,598,313 and part of which was also paid for in the year under review.

**Submission by the Accounting Officer**

The ledger provided during the Audit exercise was amounting to Kshs. 200,000,000. The difference between the reported amount and the amount purported to be in the ledger is Kshs. 1,592,500. The amount was in respect to the consultant M/S H.P Gauff Ingenieure FN 05A.

The Pending bills for Financial years 2019/2020 and 2020/2021 was Kshs. 141,561,761. However, in the year of audit an amount of Kshs. 9,585,358.22 and Kshs. 141,012,958.92 for

IPC 46 and IPC 47 respectively meant to have been paid by the Development Partner was not settled and therefore reverted back to GoK for settlement.

This is explained in note 11.6 (Prior year adjustments) of our Financial statement and also a restated analysis of pending bills for the Financial year 2020/2021 to Kshs. 292,165,074. The amount of Kshs. 5,608,955 was a component of WHT outstanding on IPC 47. This has since been paid in the current financial year. From the reverting amount of Kshs. 150,598,317 an amount of Kshs.64,042,195 was paid being Kshs. 9,585,358 and Kshs.54,456,836 for IPC 46 and 47 respectively.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**742. Inconsistent Project Finance Information**

The funding summary for the project during the year 2020/2021 reflected that the total funding commitment by the Donor and Government of Kenya counterpart amounted to Kshs. 14,542,488,241 out of which an amount Kshs.14,460,676,495 had been received leaving an outstanding balance of Kshs. 63,811,750. However, during the year under review, the total reported donor commitment increased to Kshs. 14,742,488,241 and the received amount increased to Kshs. 14,510,078,182 resulting to an outstanding balance of Kshs. 232,410,060.

The Management did not provide explanation or documentation to support the increased commitment by the Donor since the project closed on 26 May, 2017.

**Submission by the Accounting Officer**

The undrawn amount as at 1st July 2021 was Kshs.81,811,746 this compared to the undrawn amount as at 30th June,2022 of Kshs. 232,410,060 giving us a variance of Kshs. 150,598,314. This is explained by the IPCs that reverted to Counterpart GoK for settlement.

There was no increment on the commitment amount on the Donor portion, however, the Counterpart Gok funding commitment increases yearly depending on the amount received in a particular year provided the contract sum of a particular project is not exceeded.

Gok commitment can only be reported upon appropriation through the Annual Budget.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

## NAIROBI SOUTHERN BYPASS ROAD PROJECT – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

**747. Pending Bills**

According to other important disclosures at Note 12.5 to the financial statements, the project had pending bills of Kshs.3,623,386,920. The Project end date was 30 June,2016 and the approved funding was Kshs.21,732,540,110 all of which has been received and spent as at 30th June, 2022. It was not clear and when these pending bills would be paid, considering that all the budgeted funding for the project had been received and utilized in full, as at 30th June 2022. As previously reported, the delayed payment of the pending bills amounted to breach of the Public Finance Management Act and regulations as well as the loan covenants. Further, the delayed payment of the pending bills may result in significant penalties and interest.

Penalties and interest are costs which could have been avoided had management paid the pending bills without delay.

**Submission by the Accounting Officer**

Pending bills are as a result of inadequate or reductions in budgetary allocations and or exchequer receipts to the Authority. The project will therefore be fully funded once the Government budgets and releases all the funds relating to the project outstanding amounts.

The Authority shall endeavor to allocate adequate budget, subject to the provided ceiling, in the subsequent years until the pending bills are fully settled.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

## NAIROBI - THIKA HIGHWAY IMPROVEMENT PROJECT LOT 3 GOVERNMENT CONCESSIONAL LOAN AGREEMENT NO. (2009) 39 TOTAL NO. (290) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

**752. Unsupported Pending Bills**

Note 12.1 and Annex 3 to the financial statements reflects pending bills payable in respect of road contractors totaling Kshs. 674,721,327 which was contracted on 30 June, 2022. The Management indicated that this relates to interest charged on delayed settlement of the final payment certificates due to low Government of Kenya (GoK) development budget ceiling. However, the Final payment certificate of which the interest is paid has not been provided for audit verification.

Further, the donor commitment and Government of Kenya (GoK) counterpart funding totaling Kshs. 9,469,797,897 was fully received and paid out for this project which was completed and handed over to the GoK in 2014.

**Submission by the Accounting Officer**

It is true that during the year under review, an amount of Kshs. 116,274,10 was paid. This amount relates final balance amount for the Final Statement certified in June, 2020.This was shared during the audit for verification.

It is true the pending bill of Kshs. 674,721,327 was first reported in the financial statements in the financial year 2021/2022. This is because the same relates to interest on delayed payments which can only be determined and computed after final settlement of all the pending bills which was in the reporting financial year 2021/2022 hence the same could not be disclosed in the financial year 2020/2021. This IPC was also submitted and approved in the financial year under audit hence it could not have been accounted for in the previous financial year.

During the audit, the certificate for the pending bill of Kshs. 674,721,327 was availed for audit and the same has a tabulation of the computations and the basis of the computations.

**Committee Observations and Findings;**

i) **The Committee noted the submission from the Accounting Officer.**
ii) **The Committee found that the matter was resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**753. Unsupported Budget**

The statement of budget and actual amounts indicates a final budget of Kshs. 247,500,000. However, the disclosed amount of pending bills as at 30th June, 2021 was Kshs. 116,274,109 which was paid fully during the year under review. The approved project work plans in support of the budget were not provided for audit verification. The project was completed and handed over in 2014.

**Submission by the Accounting Officer**

The Statement at Completion and the Final Statement which were part of pending bills as at 30th June, the basis for the Approved budgets for the financial years 2020/2021 and 2021/2022. The budget extract indicating the project was availed.

Due to Exchequer constraints, the amounts could not be settled in full when they were incurred. As provided in the contract, Interest of Kshs. 674,721,327 could not be ascertained nor disclosed until the final balance for the Statement at Completion and the Final Statement was paid being August, 2021.

In addition, the Invoice for the interest was submitted in May, 2022 and hence its disclosure in the financial statements for the year 2021/2022.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

## NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT - IDA CREDIT NO.5140-KE - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

**756. Inaccuracies in the Financial Statements**

The statement of receipts and payments reflects a deficit for the year of Kshs.776,768,973. However, the statement of financial assets indicates a surplus of Kshs.130,396 resulting in an unexplained and unreconciled variance of Kshs.776,899,369.

Further, the statement of receipts and payments reflects comparative surplus of Kshs.291,744,934 for the period ended 30 June 2021 but the audited financial statements for 2020/2021 reflects a surplus of Kshs.291, 742,375 resulting in an unexplained variance of Kshs.2,559.

Further, Note 11 to the financial statements reflects opening deposits and retentions of Kshs.808,675,675 as at 1 July 2020 and closing deposits and retentions of as at 30 June 2021 instead of 1 July, 2021 and 30 June, 2022 respectively.

In addition, the summary of fixed assets at Annex 4 to the financial statements reflects closing fixed assets cost balance of Kshs.23,631,953,730. However, recomputation of the balance reflects Kshs.26,747,030,989 resulting in unexplained difference of 3,115,077,259.

Note 12.1 on pending accounts payable reflects an opening balance of Kshs.200,095 under supply of services. However, the audited financial statements reflect a nil closing balance for the same item.

In the circumstances, the accuracy of the financial statements could not be confirmed.

**Submission by the Accounting Officer**

The deficit of Ksh.776,768,973 as shown in the Statement of Receipts and Payments represents the surplus for the year net of payables for the year (Kshs. 130,396 less Kshs. 776,899,369).

We agree with the auditor's observation that there was an unexplained variance of Kshs.2,559 as shown in our draft project financial statements submitted for statutory audit on 30th August 2022.

The regrettable difference of Kshs. 2,559 as noted by the auditor was a transposition error of the totals of the net surplus for the year 2020/2021 as Kshs. 291,744,934 instead of the correct figure of Kshs. 291,742,375. This has since been corrected in the amended financial statements.

There was a mix up of dates on opening and closing balances of retentions in our draft financial statements submitted for audit on 31st August 2022. This was a regrettable typing error in Note

11 as noted by the auditor. This error has since been corrected in the amended project financial statements.

The closing fixed assets cost balance of Kshs. 23,631,953,730 was a regrettable error. The difference of Ksh.3,115,077,259 as noted by the auditor comprises of:

i. Additions for works for the year - Ksh.2,880,635,235; and

ii. Additions for land compensations for the year - Ksh. 234,442,024

The opening balance of Kshs.200,095 as noted by the auditor under supply of services was a regrettable typing error. The financial statements were amended on page 14 note 11(Previously note 12.1) to reflect a nil closing balance as correctly pointed by the auditor.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**757. Transfer from Government Entities**

The statement of receipts and payments reflects transfer from Government entities through the parent Ministry of Kshs. 2,338,177,890 which was fully expensed in the year review. The receipts could however not be confirmed since the Authority did not maintain separate bank account and cashbook for projects.

**Submission by the Accounting Officer**

The Authority maintains one exchequer bank account to receive and pay out exchequer funds that are remitted in tranches against the Authority's annual Budget from the National Treasury through the line ministry. Although the authority maintains one bank account for the exchequer funds received and payments thereof, the Authority maintains a dynamic accounting system through which detailed analysis of each project various transactions processed through the bank account can be extracted. The authority is therefore able to segregate receipts and payments on a project – by - project basis which ensures accuracy of the balances reported in the project financial statements.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**758. Unsupported Bank Balance**

The statement of financial assets reflects a bank balance of Kshs.39,888,522 as at 30 June, 2022. Included in this balance is an amount of Kshs.31, 776,307 held at a local bank for which no cashbook, bank reconciliation and bank confirmation certificate were provided for audit verification. In addition the bank balance includes Ksh.8,112,215 for KCB bank account for which the bank confirmation certificate was not provided. In the circumstances, the accuracy and completeness of bank balance of Kshs.39,888,522 could not be confirmed.

**Submission by the Accounting Officer**

The Authority maintains one bank account for all the retention money withheld from all the projects. The Kshs. 31,776,307 recorded in the project financial statements represents the retention withheld from Nairobi Water and Sewerage Company for relocation of their water and sewage infrastructure. A copy of the certificate of balance from KCB Bank Ltd supporting the bank balance of Kshs. 8,112,215 was provided during the audit exercise.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**759. Unsupported Retentions**

The statement of financial assets and Note 10 to the financial statements reflect retention balance of Kshs.31 , 776,307 as at 30 June, 2022. However, this balance was not supported by a schedule showing the payees and the retention balance due to each of the payees. Further review of the retention movement during the year indicates that a retention amount of Kshs.867,686,035 was released to a contractor. It is however not clear why this balance was released to the contractor before completion of the works.

In the circumstances, the accuracy and regularity of the payment of Kshs.867,686,035 could not be confirmed.

**Submission by the Accounting Officer**

The retention balance of Kshs.31, 776,307 is the total amount of retention for Nairobi Water and Sewerage Company supported by the payment vouchers.

Retention balance of Kshs. 867,686,035 was released to the contractor, M/s China Wu Yi Co. Ltd with a retention money bank guarantee as a substitute as provided for in the contract.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**760. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects a final expenditure budget of Kshs.2,629,312,384. However, Management did not provide an itemized budget showing the detailed budget items for which the expenditure was intended. In addition, the statement reflects a final expenditure budget of Kshs.2,629,312,384 against actual expenditure of 3,115,107,452 resulting to an over-expenditure of Kshs.485,795,068 for which no authority was provided for audit purposes.

**Submission by the Accounting Officer**

By nature and practice, appropriation by the national assembly to the project is on a specific line by line basis. This is the form in which the project budgets are uploaded into IFMIS and funds disbursed for expenditure.

The reported over-expenditure of Kshs. 485,795,068 resulted from the configuration of the financial statement reporting template which requires release of retention money to be treated as an expenditure. The reported over expenditure of Kshs. 485,795,068 is part of the Kshs. 867,686,035 retention money released on the strength of retention money bank guarantee.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**761. Pending Bills**

Note 12.1 and Annex 3 to the financial statements reflects pending accounts payables totalling Kshs.5,834,320,191 which comprises of Kshs.3,295,473,099 for construction of civil works, Kshs.2,466,365,853 for land compensation and Kshs.72,481 ,239 for supply of services that remained unpaid as at 30 June, 2022. Although Management has committed to liaise with the line Ministry and the National Treasury for timely provision of sufficient budgetary allocations to pay the debts in the subsequent financial year, the Project is at risk of incurring significant unquantified interest costs and penalties due to failure to pay invoiced bills.

Failure to settle bills during the year in which they relate adversely affect the provisions of the subsequent year to which they have to be the first charge.

**Submission by the Accounting Officer**

The accumulated pending bill amounting to Kshs. 5,834,320,191 was as a result of budget constraints in the current and prior financial years. The Authority is continuously liaising with the parent ministry and the National Treasury to ensure adequate GoK budgetary allocations to facilitate settlement of the entire pending bill.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**762. Cancellation of Financing Agreement**

The project was co-financed by the World Bank (IDA) 80% and the Government of Kenya (GoK) 20% up to 31st December 2018. The financing agreement was however cancelled in December 2018 and thus since January 2019 the project became a government of Kenya funded project, 100%. The funding summary at Note 1.7 of the financial statements indicate that as at the time of cancellation, an amount of Kshs.23,837,436,577 had been drawn.

It is not clear the circumstances under which the Bank withdrew from the project and how the financing agreement was terminated.

In the circumstances the overall objectives of the project may not be met therefore denying the public the expected benefits from the project.

**Submission by the Accounting Officer**

The Credit Agreement was cancelled on 31st December 2018 at the request of the National Treasury hence the Project fully reverted to the Government of Kenya.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents on time, as required by section 9 (i) (e) of the Public Audit Act, 2015.**

**763. Delay in Project Completion**

Management entered into a contract agreement dated 02 August, 2016 between Kenya National Highways Authority and a contractor for the rehabilitation and capacity enhancement of James Gichuru Junction – Rironi (A104) at a contract sum of Kshs. 16,366,586,563 (inclusive of taxes) for a period of thirty-six (36) months plus twelve (12) months defects liability period.

Through addendum No. 3, the contract sum was varied by Kshs.4,048,208,434 or 24.7% to a new contract sum of Kshs.20,414,794,998 vide a revised bill of quantities arising from additional activities (Gitaru full cloverleaf interchange, reconstruction of major bridges instead of widening, Rironi bridge changed from 1 span to 2 span and introduction of retaining walls in line with urban road design philosophy. In addition, through addendum No.5 upon approval of extension of time request by the contractor, the contract end date was revised to November, 2023 inclusive of the defect liability period. By 30 June, 2022, the overall project progress was at 72% against a planned progress of 82.71% indicating that the project was behind schedule. Overall construction time that had elapsed was at 92.22% against an overall project progress of 72% indicating slow progress of implementation that may call for further extension of time.

Further, physical verification conducted in the month of September, 2022, revealed that no works were ongoing as the contractor had suspended work from March, 2022 citing lack of payments. The funding challenge was further evident by addendum No. 4, clause 14.9 of the contract that was effected to facilitate release of retention money to the contractor against a bank guarantee in a bid to release funds to the project.

Review of records revealed that as at 30 June, 2022, the National Urban Transport Improvement Project had accrued a total of Kshs.230,382,944 as interest due to delayed payment of interim payment certificate No.42 dated 23 May, 2022.

Delay in completion of the road project 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 completion of the project in time

In the circumstances, value for money could not be established for the expenditure of Kshs.23,797,548,056 spent on the Project to date

**Submission by the Accounting Officer**

The delay in Project completion is attributed to the increase in the project sum due to redesigning and reconstruction of major bridges, delay in land acquisition and cancellation of the financing agreement prior to conclusion of all the project components hence inadequate resources from the government of Kenya now the sole financier of the project. In addition, delays have been caused by inadequate budgets over the project implementation period.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents on time, as required by section 9 (1) (e) of the Public Audit Act, 2015.**

**NORTHERN CORRIDOR TRANSPORT IMPROVEMENT PROJECT IDA CREDIT NO.3930-KE & No.4571-KE - KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**766. Inaccuracies in the Financial Statements**

The statement of receipts and payments reflects a deficit of Kshs.9,702,270 for the year ended 30 June, 2022. However, the statement of financial assets reflects a surplus of Kshs.2,496,331 for the same period resulting in unexplained difference of Kshs.12,198,601.

In the circumstances, the accuracy of the financial statements could not be confirmed.

**Submission by the Accounting Officer**

This was attributed to the following:-

i. The Project Bank account has earned interest of Kshs.2,496,331 during the reporting year and,

ii. A retention amount of Kshs.12,198,601 was refunded to the contractor having been withheld in the prior years as reported in the statement of financial assets for the prior year.

The reporting template requires that the amounts retained or released be reported as financial liabilities and bank account interest earned as incomes. The deficit/ surplus will be the income less expenses/ liabilities incurred during the period.

For this project, the deficit of Kshs. 9,702,270 was arrived at as follows: -

Income (Kshs. 2,496,331) less liabilities for the year (Kshs. 12,198,601). Please note that this project was completed more than 10 years ago hence there were no further activities with a financial implication.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**767. Unsupported Bank Balances**

The statement of financial assets reflects bank balance of Kshs.59,353,586 as at 30 June, 2022. However, and as reported in 2021/2022, the opening balance of Kshs.69,055,856 was not supported with bank reconciliation statement and bank confirmation certificate.

In the circumstances, the accuracy of bank balance of Kshs.59,353,586 as at 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

Management availed the letter from NCBA Bank confirming the bank balance for the KeNHA-NCTIP as at 30th June 2022 to have been Kshs. 59,353,582.25. The bank reconciliation statement for the same account was provided indicating the actual bank balance of Kshs.59,353,582.25.

The opening bank balance for FY 2021/2022 as at 1st July 2021 was Kshs. 69,055,856. The above was the closing balance for FY 2020/2021 which was audited and confirmed to comprise of:-

i. Bank balance at NCBA – Kshs. 56,857,255

ii. Bank balance at NBK Retention -Kshs. 12,198,601

iii. Project bank balance as at 30/06/21-Kshs. 69,055,856.

The above closing project bank balance as at 30th June 2021 of Kshs. 69,055,856 was verified during the audit exercise for FY 2020/2021. Further note that the difference of Kshs. 2,496,331 between the opening project bank balance and closing project bank balance of Kshs. 56,857,255 and Kshs. 59,353,582.25 was the total net interest earned during the financial year under review whereas the Kshs. 12,198,601 retention money shown at the close of FY 2020/2021 did not appear in at the close of FY 2021/2022 since it was released to the contractor during the year under review.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**768. Unsupported Pending Bills**

Note 12.1 and Annex 2 to the financial statements reflects pending accounts payable in respect of road contractors totalling Kshs.3,597,877,130 as at 30 June,2022. Annex 2 of the financial statements clearly shows that a total of

Kshs.3,589,974,572 were contracted on 28 and 30 June 2022 which was six and a half years after the project timelines. Further the financial statements for the year ended 30 June 2021 did not disclose any pending bills at that point even though a pending bill of Kshs.7,902,558 is reflected as the opening balance as at 1 July, 2021. No documentation have been provided in support of the above pending bills. Review of the project's records indicate that no bill was settled during the year and the project therefore runs the risk of incurring significant unquantified interest costs and penalties with the continued delay in settling invoiced bills.

**Submission by the Accounting Officer**

The above amounts of Kshs. 3,597,877,130 were under dispute resolution mechanisms in the prior financial years hence reported under contingent liabilities. However upon their crystallization following a court award in FY 2021/2022, they transited from contingent liabilities to actual confirmed liabilities hence recognition in the project financial statements for year ended 30th June 2022.

This matter had not been adjudicated and awarded as at the time of reporting for the year ended 30 June 2021.

The awards are supported by the three (3) Dispute Board awards of Kshs. 3,589,974,572 and IPC of Kshs. 7,902,558 shared during the audit for the current financial year.

We disagree with the audit observation that the pending bill amount of Kshs 7,902,558 was not reported in the prior year's project financial statements. This pending bill was actually included in the project financial statements for FY 2020/2021

A copy of the audited project financial statement for the previous FY 2020/2021 has been availed. No bill was settled due to lack of project line budget provision in FY 2021/2022 due to constrained budget ceilings.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**769. Project Closure Report**

The Project information at Section 1.2 of the annual report and financial statements reflects the project end date of 30 December, 2015. However, the project closure report was not provided for audit, being almost seven (7) years after the expiry of the closure period.

**Submission by the Accounting Officer**

Please note that the project was administered under FIDIC Conditions of Contract. As per FIDIC conditions of Contract, a final account shall only be prepared upon both parties to the contract settling all outstanding matters. Please note that the government is yet to settle all project pending bills including claims thereof. The project bank account at NCBA Bank was closed during the FY 2022/2023.

**Committee Observations and Findings;**

**The Committee noted the submission from the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer henceforth provides an interim project execution completion report, albeit showing pending bills, for audit purposes.**

## REGIONAL MOMBASA PORT ACCESS ROAD PROJECT (LOAN NO.27459, CREDIT NO.84010 AND GRANT NO.202061919) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

### 773. Unsupported Budget Amounts

The statement of comparative budget and actual amounts reflects Kshs 17,000,000 and Kshs 603,870,000 as the budget for purchase of goods and services and acquisition of non-financial assets respectively. However, these two amounts are not in agreement with the approved project budget under the budget line items of purchase of goods and services and acquisition of non-financial assets.

**Submission by the Accounting Officer**

By nature and practice, appropriation by The National Assembly to the project is on a specific line by line individual project. This is the form in which the project budgets are uploaded onto IFMIS and availed for expenditure. A line by line individual project budget was availed during the audit. However, for purposes of presentation in the financial statements, the requirement is not to present them per project as in IFMIS but by the nature of expenditure as per the template provided by the Public Sector Accounting Standards Board (PSASB).

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

### 774. Ineligible Expenditure

The statement of receipt and payments reflects purchase of goods and services amount of Kshs. 16,148,099, as disclosed in Note 4 to the financial statement which includes Kshs. 15,609,099 in respect to domestic travel and subsistence.

Included under domestic travel and subsistence expenditure of Kshs 15,609,099 are payments in respect to per diems for tracer studies and shooting of documentary Kshs 700,696 collection and issue of awards Kshs. 7,236,609, shortlisting of applicants for vocational training Kshs 361,200, cabinet secretary visit to Mombasa Kshs 386,400 and AfDB Mission Kshs 229,585. It was not demonstrated how these expenditures relate to the project and why the amounts were charged yet the road construction had not started.

**Submission by the Accounting Officer**

These were project operating expenses relating to project publicity, community engagement and oversight activities by the Cabinet Secretary.

**Committee Observations and Findings;**

**The Committee observed that the expenses were not core to expected deliverables of the project.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer.**

**775. Delay in Project Implementation**

As previously reported, Note 1.7 to the annual report and financial statements on funding reflects the Project implementation period as 41 months commencing August, 2017 to December 2020. The total Project commitment from Development Partners and counterpart funding from the Government of Kenya amount to Kshs 18,112,866,000. However, as at 30 June, 2022 an amount of Kshs 480,201,992 (2.7%) had been drawn leaving a balance of Kshs 17,632,664,008 as undrawn balance.

**Submission by the Accounting Officer**

Delay in Project implementation has been due to prolonged procurement process for the works contractor occasioned by stringent requirements by the financier. The Authority has however finalized the procurement process and civil works contract signed and expects works to commence in FY 2022/23

Once the works commence, the Authority shall endeavour to closely monitor the Project through site meetings in an effort to enable speedy delivery of the project. Further, the Authority through the Parent Ministry initiated the process of extension of the credit agreement which was granted up to 31st December 2025.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer submits a status report within three (3) months of adoption of this report.**

**776. Pending Bills**

Note 12.1 to the financial statements reflects pending accounts payable in respect to land compensation totaling Kshs 82,589,339 as at 30 June, 2022 out of which bills totaling to Kshs 15,028,891 were carried forward from the previous financial year. The Project therefore runs the risk of incurring significant unquantified interest costs and penalties with the continued delay in settling invoiced bills.

**Submission by the Accounting Officer**

This arose due to inadequate GoK budgetary provisions and delays in exchequer releases.

In FY 2022/23 the Authority has managed to secure GoK allocation of Kshs 30,000,000 for the project subject to the current year ceilings to be utilized in reducing these pending bills.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**777. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs. 620,870,000 and Kshs. 16,148,099 respectively resulting to underfunding of Kshs. 604,721,901 or 97 % of the budget. Similarly, the project spent Kshs. 16,148,099 against approved budget of Kshs. 604,721,901 resuting to a under expenditure of Kshs. 604,721,901 or 97% of the budget.

**Submission by the Accounting Officer**

As above.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**779. Non-Maintenance of Project Cash book**

The Authority does not maintain a project cashbook which increases the risk of comingling of funds. It is therefore not clear how funds earmarked for specific projects are accounted for in the absence of a project cashbook.

**Submission by the Accounting Officer**

Through the Authority's accounting system Sage Pastel evolution, one cashbook for GoK development funds is maintained that provides amongst other details:

- The Project codes
- The Project description and
- The vendor to whom an amount relates to

From this single cashbook therefore, transactions for a particular project can be filtered through the Project Code and Project Description. Further, the Authority maintains one cashbook in line with the National Treasury's circular on rationalization of bank accounts by MDAs.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (c) of the Public Audit Act, 2015, respectively.**

## UPGRADING OF "GILGIL MACHINERY" ROAD PROJECT - KENYA RURAL ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

### 781. Unsupported Bank Balance

The statement of financial assets reflects a bank balance of Kshs.13,984,599 as at 30 June, 2022. Included in this balance is Kshs.11,549,100 being retention monies held at a local commercial bank. However, the bank reconciliation statement for June, 2022 provided for audit review includes a balance of Kshs.2,516,634,138 described as due to other projects. Although Management explained that the Project does not maintain its own retention account and that the bank account used for retention monies is a commingled account with deposits from other projects, the support for Kshs.2,516,634,138 was not provided for audit review.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.13,984,599 could not be confirmed.

**Submission by the Accounting Officer**

A copy of the bank reconciliation for the retention account has been availed.

**Committee Observations and Findings:**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (c) of the Public Audit Act, 2015, respectively.**

### 782. Delay in the Disbursement of the Government Counterpart Funding

The statement of receipts and payments reflects a loan amount from the Arab Bank for Economic Development in Africa (BADEA) of Kshs.414,210,668 and Kshs.50,000,000 as counterpart funding from the Government of Kenya. The total cumulative counterpart funding from the Government of Kenya as at 30 June, 2022 stood at Kshs.137,500,000. This represents 34% of the total counterpart financing projection of Kshs.400,000,000. With the expected closing date of the project set at 30 July, 2024, it is doubtful that the counterpart financing balance of Kshs.262,500,000 or 66% will be disbursed to the project activities before closure date.

Failure to finance the project activities as planned may affect the operations of the Project resulting to delayed implementation and the likelihood of pending bills.

**Submission by the Accounting Officer**

During the period under review budgetary constraints limit the amount of remittances to the projects.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**783. Budgetary Control and Performance**

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.800,000,000 and Kshs.464,210,668 respectively resulting to an underfunding of Kshs.335,789,332 or 42% of the budgeted receipts.

Similarly, the Project spent Kshs.463,400,144 against an approved budget of Kshs.800,000,000 resulting to an underexpenditure of Kshs.336,599,856 or 42% of the budget.

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

**Submission by the Accounting Officer**

This was due to inadequate budgetary allocations.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**784. Pending Bills**

Note 12.1 and Annex 3 to the financial statements reflects pending bills totalling to Kshs.145,613,575 as at 30 June, 2022 which comprise of withholding tax due of Kshs.5,899,717 and balances due for various payment certificates of Kshs.139,713,858. Management has indicated that the non-payment of the pending bills is due to inadequate budgetary provision in the year under review.

Failure to settle bills during the year in which they relate adversely affects the provisions of the subsequent year to which they have to be the first charge.

**Submission by the Accounting Officer**

This was due to inadequate budgetary allocations.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**785. Delayed Completion of Road Project**

The contract for upgrading to bitumen standard of Gilgil-Machinery Road, contract No. RWC369 was awarded on 6 February, 2019 and the contract agreement signed on 3 April, 2019 at a contract sum of Kshs.1,476,491,036 and for a contract period of 24 months. Further, the notice of commencement of the works was dated 4 April, 2019 setting the date of commencement to 4 May, 2019 and an initial date of completion of 4 May, 2021. However, due to delays in implementation of the contract, the employer awarded a 14-month extension of time to the contractor, with the revised date of completion set at 12 July, 2022.

Audit inspection carried out in the month of July, 2022 revealed that the road works were still in progress and the estimated overall achieved physical progress for permanent works was at 72% against a projected revised programme of 71% of the expected output. Review of the monthly progress report (MPR No. 39) for August, 2022 indicates that the contractor had applied for a further extension of time as a result of delay in payments of certified works, which is under evaluation.

The delayed implementation of the project works will affect service delivery to the users of the road in Nakuru and Nyandarua Counties.

**Submission by the Accounting Officer**

Delayed Tax exemption was on the key factors that delayed the project commencement.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails to the Committee a status report within three (3) months of adoption of this report.**

**786. Consultancy Services Offered without a Valid Contract**

The Project Management entered into a contract reference KeRRA/BADEA/001/16, with a Consultant on 18 January, 2018 for the design review and construction supervision of the Gilgil-

Machinery Road project for a contract period of thirty-one (31) months (design review – three (3) months and construction supervision – twenty-eight (28) months) at a contract sum of US Dollars 1,244,550 exclusive of VAT.

Review of the contract agreement revealed that the contract period for the consultancy had expired on 18 August, 2020 and the contract had not been renewed or extended. Although Management explained that approval for the extension of the consultancy contract was in progress, the approval had not been obtained as at 30 June, 2022 yet consultancies were still ongoing.

This is contrary to Section 139 (2) (a) of the Public Procurement and Asset Disposal Act, 2015. Further, Part III of the contract agreement for the consultancy services for design review and construction supervision with the consultant on special conditions of contract, paragraph 13.1 and 14.1 provides for the commencement of services and expiry of the contract.

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

**Submission by the Accounting Officer**

The contract has since been renewed to June 2024.

**Committee Observations and Findings;**

**The Committee noted that the contract was belatedly renewed.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for the lapse of time in contract renewal, and recommends that he avails a status report on the project to the Committee within three (3) months of adoption of this report.**

## NAIROBI WESTERN BYPASS – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

### 788. Unverified Land Compensation

The Statement of receipts and payments and Note 4 of the financial statements indicate that Kshs. 73,983,440 was paid to the Commissioner of land to cater for land compensation.

The payments were made on the strength of schedules attached to payment vouchers. However, no evidence of determination of acreage, boundaries, ownership and value was provided for audit verification. This is contrary to Section 119 of the Land Act, 2012 which provides that compensation shall be made only upon the exercise of due diligence which shall include verification of final survey and the determination of acreage, boundaries, ownership and value.

**Submission by the Accounting Officer**

The acreage and boundaries was indicated in the land acquisition drawings and schedule that was forwarded with approval letter Ref.: MoTIHUD/I/35.08/Vol. dated 4th November, 2019 from the Cabinet Secretary (Ministry of Transport, Infrastructure, Housing, Urban Development & Public Works) to the Ag. CEO (NLC). The ownership and valuation of the acquired parcels is determined by NLC as provided in section 107(1) of the Land Act.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**789. Unsupported Receipts and Payments**

The statement of receipts and Payments reflects transfers from government entities amounting to Khs. 74,973,580 as disclosed in Note 1 to the financial statements, all of which were received during quarter four (4). However, the project Management did not provide supporting documents indicating the specific dates on which these receipts were received, but instead provided an exchequer confirmation of the entire amount issued to Kenya National Highways Authority (KeNHA), amounting to Kshs. 58,719,787,682.

This is contrary to Regulation 76 of the Public Financial Management (National Government) Regulations, 2015 which provides for the purpose of disbursement of project fund, 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 know by the name of the project for which it is opened and each project shall maintain on one bank account.

**Submission by the Accounting Officer**

Regulation 76 of the National Regulation 2015 is on Grants and Loans received from the Development Partners.

The Nairobi Western bypass uses the Direct Payment Method where the Partner do not disburse any cash hence no account is required. This is also not specified in the financing agreement.

Direct payment vouchers totalling to Ksh. 5,139,307,587 was availed during the audit exercise.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**790. Unimplemented Road interchanges and Service lanes**

Audit review of records provided for audit revealed that the road project commenced in April, 2019 and covers a distance of approximately 16.7 Km. The project entailed construction of a dual carriage way, two (2) lanes each direction seven (7) metres wide. The information further indicated that there were six interchanges to be implemented at six shopping centers along the road, all of which the evidently not done. According to Variation of Contract Ref: KeNHA/RD/EPC/2074/2017, Addendum No. 2, dated 14 January , 2022, the management provided justification for lack of implementation for the interchanges referred above, as detailed below;

i. Omission of the first interchange was formed by the necessity to contain the cost of the project within the contract sum, and the savings made would be channeled to cover the cost of additional 1.384m of reinforced earth retaining walls and part of the 725m additional gravity retaining walls along alignment.

ii. Construction of the second interchange ramps and slip roads were to be limited to available space due to difficulty in acquisition of land and need to reduce the cost of interchange.

iii. The tunnel initially proposed to connect two overpasses at the third interchange was omitted in order to avoid the cost of project going over the budget instead an additional crossing at the site was constructed, instead on one (1No.) of crossing proposed at the preliminary design.

iv. In order to contain the cost of the project within the contract sum, the scope in fourth interchange was scaled down in the interim, so as to free financial resources to cater for additional works including box under-passes and other necessary enhancements. Considering that the land for the interchange was still not available, the construction works were to be done in stages, the first being an at-grade round about to cater for the current traffic.

v. The fifth junction, which was initially meant to be a simple underpass, was now to be completed as a diamond type interchange, due to the high cost of acquiring the land.

**Submission by the Accounting Officer**

Not all interchanges were done in order to accommodate costs arising from additional work that the contractor undertook and the lack of land space. The decision to omit two interchanges, to be completed by stage construction, was reached by mutual agreement after a meeting with the Employer in September 2021.

Project being an EPC the contract sum is fixed and the contractor is responsible for design and construction works.

**Committee Observations and Findings;**

**The Committee noted that the submission by the Accounting Officer was unsatisfactory, and pointed to lack of proper planning and foresight.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer.**

**791. Pending Bills**

Note 12 to the financial statements, the project had pending bills ok Kshs. 3,926,892,951. The project end date was 30th June, 2022 however, it was not clear how and when these pending bills would be paid since the delayed payment of the pending bills may result in significant penalties and interests.

**Submission by the Accounting Officer**

The project is being executed over a period of 39 months (3 ¼ years). The government allocates the total cost of the project over the number of years the project is implemented. During the FY 2021/2022, the amount allocated was fully utilized as planned.

The pending bill amounting to Kshs. 4,016,057,655 (Kshs. 3,926,892,951 FY 2020/2021) was as a result of budget constraints and reduction of GoK budget allocation by Kshs. 137,500,000 in the reporting financial year (2021/2022). An amount of Kshs. 2,569,653,793.29 in the first quarter of the current FY 2022/2023.

An allocation of Kshs. 5,400,000,000 (AIA Kshs. 5,230,000,000 and GoK Kshs. 170,000,000) is provided in the current FY 2022/2023.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**792. Corporate Social Responsibility Activities outside the Affected Road Locality**

The project environmental and sustainability report section indicate that the Chinese Suppliers (China Road & Bridge Corporation) has been involved in various Community Social Responsibility (CSR) activities geared towards providing residents through water kiosks, improvement of access roads and enhancing learning and playing environment in schools along the project. There was a total of nine CSR activities carried out by the project which were undertaken outside the locality of the road.

However, correspondences and documents in support of initiation and public participation on the said CSR activities including quantity and amount spent on the activity have not been provided for audit verification. The activities were undertaken far from the locality in which the project was being implemented contrary to the environmental and sustainability reporting sub paragraph 3.5 which indicate that the activities are geared towards benefiting the local residents.

**Submission by the Accounting Officer**

The contractor obtains most of his subgrade material and hard fill from Karai. That area is thus considered a project area and deserving of CSR activities as without the subgrade material road pavement would not be placed. The same to KFS because the asphalt mixing plant is located on forest land. Nduruua is located within the project road, off the Lower Kabete interchange, between Ramps A and B.

At Rungiiri, the Contractor sources his water for construction from Rungiiri Dam. That area is off Gitaru 1 interchange at WK 0+825 and therefore benefits the locals.

In addition, a wall was erected at Kihara School. Erecting a wall for a school does not directly 'benefit' the local residents but reduces their burden in developing the school and keeps the school community safe

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents on time, as required by section 9 (i) (e) of the Public Audit Act, 2015.**

## ARUSHA-NAMANGA-ATHI RIVER ROAD DEVELOPMENT PROJECT NO. P-Z1-DB0-040 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

### 794. Unconfirmed Transfers from Government Entities

The statement of receipts and payment reflects transfer from Government entities through the parent Ministry of Kshs. 72,258,398 which was fully expensed in the year under review. The receipts could however not be confirmed as the Authority did not maintain a separate bank account and cashbook for the project.

**Submission by the Accounting Officer**

Prior to the lapse of it's financing agreement, the Multinational Athi River – Namanga – Arusha Road Project used the Direct Payment Method where the Development Partner did not disburse any cash to the Authority but paid directly to the Contractor and Consultant. The financing agreement did not have a provision for opening a special project account. Although the authority maintains one bank account for the exchequer funds received, the Authority maintains a dynamic accounting system which is able to provide a robust electronic register that provides a detailed analysis of various transactions incurred through the bank account on a project-by-project basis. The authority is therefore able to segregate payments which ensures accuracy of the balances reported in the project financial statements.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

#### 795. Pending Bills

Note 12 and Annex 3 to the financial statements reflects pending bills balance in respect of road construction amounting to Kshs 83,344,955 as at 30 June 2022. Review of the project's records indicate that the entire balance of Kshs 83,344,955 was brought forward from the previous year. The project therefore runs the risk of incurring significant interest costs and penalties with the continued delay in settling the bills.

**Submission by the Accounting Officer**

This was a result of Exhaustion of Development Partner funds and subsequent lapse of credit agreement prior to completion of the project and Insufficient exchequer budgets in the current as well as prior financial years.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

### EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT (IDA CR-5638) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

#### 800. Inaccuracies in the Financial Statements

The statement of financial assets reflects a fund balance brought forward of Kshs.200,585,306 which differs with the prior year audited carried forward balance of Kshs.181,737,287 resulting to an unreconciled and unexplained variance of Kshs.18,848,019. Further, the statement of receipts and payments reflects a deficit of Kshs. 155,922,439 in the year under review while the statement of financial assets reflects a deficit of Kshs.22,367,577 resulting to an unreconciled variance of Kshs.133,554,862.

In the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

The brought forward figure of Kshs. 200,585,306 was correctly stated. The alleged variance of Kshs. 18,848,019 was a result of retention transferred from the authority's retention account to the project account as required by the development partner. This amount that had been accounted under financial liabilities has therefore been reclassified to fund balances in the current financial year. The difference of Kshs. 133,554,862 is the retention released to the contractors for the financial year under review.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**801. Unconfirmed Cash and Cash Equivalents Balance**

The statements of financial assets disclosed in note 7 to the financial statements reflects cash and cash equivalent balance of Kshs.311,210,876. Included in this balance is an amount of Ksh 178,217,730 held in a local bank account whose bank certificate reflects a closing balance of Ksh.25,634,574 as at 30 June 2022 resulting to an unexplained and unreconciled variance of Ksh.152,583,156.

Further, the cash and cash equivalents balance includes an amount of Kshs.132,993,147 in respect of retention monies, similarly held in a local bank. However, the cash book, bank reconciliation statements and bank confirmation certificates in respect of the balance were not provided for audit review.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.311,210,876 as at 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer**

The difference of Kshs. 142,583,155.601 is as a result of unpresented cheque no.6562 for Kshs. 142,583,155.60.

Although the Authority maintains one bank account for funds held as retention funds, the Authority maintains a dynamic accounting system which has capacity to generate a robust electronic register that provides the following details amongst others: -

a) The date when an amount was either retained or paid out,

b) The amounts retained or released,

c) The vendor to whom the amount relates to, and

d) The project to which the amount relates to.

The authority maintains one bank account for all the retention money withheld from all the projects. The Kshs. 132,993,147 reported in Note 7 of the financial statements represents only the retention portion of this project.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**802. Unreconciled Balances on Special Deposit Accounts**

The Project's special account statement reflects USD 4,046,000 equivalent to Kshs.460,787,056, which was withdrawn from the special account and transferred to the project bank account during the year under review. However, the statement of receipts and payments reflects transfers from external development partner to the project amounting to Kshs.460,356,451, resulting to an unexplained and unreconciled difference of Kshs.430,605.

In the absence of reconciliation of the variance of Kshs.430,605, it was not possible to confirm the accuracy of the balance of Kshs.460,356,451 reflected in the financial statements.

**Submission by the Accounting Officer**

Transfers from external development partner to the project special account operated by the National Treasury at the Central Bank of Kenya were received on diverse dates at varrying ruling exchange rates as indicated below: -

*a)* 12/10/2021 USD 1,303,207.70 received as Kshs.143,574,392.30

*(exchange rate was Kshs. 110.17/USD)*

*b)* 28/3/2022 USD 1,439,331.19 received as Kshs.164,198,902.15

*(exchange rate was Kshs. 114.08/USD)*

*c)* 28/6/2022 USD 1,303,461.10 received as Kshs. 152,583,156.35 *(exchange rate was Kshs. 117.06/USD)*

Total receipts from the 3No. tranches was Kshs. 460,356,450.80

Therefore, the figure of Kshs.460,356,451 in the statement of receipts and payments is correct as confirmed by remittance advises from the National Treasury.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**803. Presentation and Disclosure of the Financial Statements**

Section 1.3 on page v which reflects the project overview has omitted information relating to achievements on strategic goals, current situation which the project was formed to intervene and the project duration. In addition Section 1.7 on page vii which relates to funding summary has omitted information relating to the project duration.

Further the summary of overall project performance section of the report includes incomplete information on the upgrading of Lodwar and the revised contract sum for the bid is not indicated. In addition, detailed information on upgrade of Lokichar - Loichamatak Lot 4, is not included in the summary of overall project performance.

In the circumstances, it was not possible to confirm that the financial statements were presented in the format prescribed by the Public Sector Accounting Standards Board.

**Submission by the Accounting Officer**

The Financial statements were amended on page v (appendix iv) and the project overview now has the information relating to achievements on strategic goals, current situation that the project was formed to intervene and project duration.

The Financial statements were amended and the funding summary now has information relating to the project duration.

The Financial statements summary of overall Project Performance section of the report were amended on page xi (appendix iv) to include information on the upgrading of Lokichar - Loichangamatak -Lodwar. it is worth noting that there was no revised contract sum for this particular project.

The Financial statements were amended to include the detailed information on upgrade of Lokichar – Loichagamatak on pages xi and xii in the amended financial statements.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**804. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis totaling to Kshs. and Kshs.9,766,284,766 respectively, resulting to an underfunding of Kshs.2,738,103,221 or 22% of the budget.

Similarly, the Project spent Kshs.9,922,207,205 against an approved budget of Kshs. 12,504,387,987 resulting to an under expenditure of Kshs.2,582, 180,782 or 21% of the budget.

The underfunding and under-performance may have affected implementation of the planned activities, and this may have impacted.

**Submission by the Accounting Officer**

The under absorption/ spending of budgeted resources was as a result of delayed approval of submitted addendums which prevented payments to the Contractor for work done under the Lodwar - Lokitaung project hence under absorption of the development partner portion of the budget.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**805. Pending Bills**

Other important disclosures under paragraph 1 to the financial statements reflects pending bills totaling Kshs.453,148,451 as at 30 June, 2022 which were not settled during the financial year 2021/2022 but were instead carried forward to 2022/2023. This figure of Kshs. 453,148,451 varies with recalculated amount of Kshs.452,413,937 by Kshs.734,514. Further, the pending bills in the year under review of Kshs.453,148,451 were not supported with respective schedule therefore could not be reconciled to the pending bills totalling to Kshs.1 in the financial year 2020/2021 with an original amount of Kshs.7,654,282,422.

Failure to settle bills in the year to which they relate affects the budgetary provisions for the subsequent year to which they form a first charge, and also efficiency with which the project is implemented.

**Submission by the Accounting Officer**

This was as a result of GoK budget constraints in the financial year. However, In FY 2022/23 the Authority managed to secure a GoK budgetary provision for the project amounting to Kshs. 930,000,000 as per the printed estimates extract for FY 2022/23.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**806. Delay in Implementing Part of the Financing Agreement**

Review of the project information and overall performance revealed that one of the objectives of the project was the provision of a

One Stop Boarder Post (OSBP) between Kenya and Sudan to enhance business opportunities. However, audit review of documents provided revealed that an OSBP had not been constructed at Nadapal. No explanation was provided for not implementing the OSBP, considering that the Project Agreement lapses in 2023.

Based on the circumstances described above, the project may not be completed within the scheduled project timelines.

**Submission by the Accounting Officer**

One Stop Boarder Post at Nakodok was to be implemented by Kenya Revenue Authority (KRA) who are one of the beneficiaries under the financing agreement.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents on time, as required by section 9 (i) (e) of the Public Audit Act, 2015.**

**807. Unresolved Prior Year Matters**

In the audit report of the previous year, several issues were raised. However, the Management has not indicated how each of the issues raised in the previous year Auditor-General's report, was resolved, including the provision of information required under the prescribed reporting format.

Under the circumstances, it was not possible to confirm that the financial statements disclosed the implementation status of the prior year audit recommendations.

**Submission by the Accounting Officer**

Awaiting PAC report for FY 2020/21.

**Committee Observations and Findings;**

**The Committee observed that its FY 2020/21 report had since been adopted by the House.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails status report of implementation of the Committee's recommendations within three (3) months of adoption of this report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**808. Irregularities in Project Implementation**

The statement of performance against the project's predetermined objectives reflects projects currently under execution under six (6) contracts. Review of records provided for audit revealed the following;

**808.1. Upgrading of Lodwar - Lokitaung Junction Road (80Km)**

The Management awarded the contract to an international contractor and an international consultant at a total sum of and

(Kshs.568,958,975 and Euro. 1,589,113 - exchange rate Kshs.125) respectively. The commencement date was 15 August, 2017 for a period of thirty-six (36) months to 14 August, 2020, with defects liability period of 12 months. The works contract sum was varied from Kshs.8,334,773,795, with an increment of Kshs.2,126,856,197 or 26%, to Kshs.10,461 In addition, there was an extension of time to 31 January, 2022 representing 47.2% increase in contract period inclusive of defects notification period.

This contravened Section 139(4)(e) of the Public Procurement and Disposal Act, 2015, which provides that the cumulative value of all contract variations should not result in an increment of more than 25% of original contract price. Further, the contractor was paid the balance of 50% of his retention money against a retention guarantee, despite not having constructed a One Stop Boarder Post (OSBP) between Kenya and Sudan, which was part of the scope provided for under the Construction Agreement. The project was yet to be completed at the time of the audit.

In view of the issues described above in relation to the project implementation, the Project Management is in breach of the law.

**Submission by the Accounting Officer**

The subject project was implemented through World Bank funding and its procurement was undertaken in accordance with the Bank's Procurement Regulations which requires a No Objection for any Contract amendment which was sought by KeNHA. The necessary approvals were obtained from the Bank prior to processing the variation.

The One Stop Boarder Post at Nakodok had nothing to do with the Upgrading of Lodwar – Lokitaung Junction since it was to be implemented by Kenya Revenue Authority (KRA) who were not a party to the road project.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**808.2. Upgrading of Lokitaung Junction - Kalobeyei River Road (80Km)**

The Project was awarded to an International Construction Corporation (works) and a local consultant at a contract sum of Kshs.8,454,759,874 and Kshs.854,625,389 and - exchange rate Kshs.102), respectively.

The project, commenced on 1 August, 2017, for a period of thirty-six months ending 31 July, 2020, with twelve-months defects liability period. The work's sum for this project was varied from the initial amount of Kshs.8,454,759,874 to Kshs.9,799,110,192, comprising an increment of

Kshs.1,344,350,318 or 16% of the initial contract sum. However, no details were provided in relation to the additional scope of work.

In addition, Kshs.1,599,184 was drawn from the project's contingency fund to compensate five (5) persons affected by the Project (PAPs).

However, the compensation was for Lodwar - Lokitaung PAPs and not Lokitaung - Kalobeyei River PAPs. A list from the National Lands Commission in support of this payment was not provided for audit review and no explanation was given for the irregular payment.

Further an amount of Kshs.2,046,690 was incurred on compensation of six (6) new PAPs, who were already compensated. However, the Management did not explain how the PAPs were identified for the second payment and whether it was a case of double payment.

Again, there was modification of scope of consultancy services to include design and supervision of social economic infrastructure in Turkana and West Pokot whose variation was included in addendum No.2 to the consultancy contract. However, this addendum to the contract including the amount of variation and timeline was not provided for audit review.

**Submission by the Accounting Officer**

The Contract price was revised under addendum No. 2, a copy of which was provided to the auditors, which was approved by the World Bank from Kshs. 8,454,759,874 to Kshs. 9,799,110,192 an increment of Kshs. 1,344,350,318 (15.90%). This was occasioned by the project cost appraisal done on the project due to variations of works resulting from increased quantities and adjustments for changes in cost due to escalation of applicable indices in accordance with Sub-Clause 13.8 [Adjustments for Changes in Cost] of the Conditions of Contract.

This section was completed and handed over before any budgetary allocations were available from GoK counterpart funds for the 5 persons affected by the project (PAPs) in this schedule. To avoid any complaints on noncompensation being escalated to the World Bank (Which would Instantly go against guidelines in OP.4.10, OP 4.122, Currently ESS5 and ESS 7 on Loan conditions necessary for safeguarding of Project Affected Persons, the approval was granted to ensure the project did not contravene any of the World Bank's Guidelines, or infringe on human rights through displacement devoid of compensation as per the Land Act 2012. (If this happened, the whole project funding would be suspended by the bank).

If the funds were sent to NLC and due to the delay in NLC processes and the Vulnerable PAPs relocated without these funds, then the project would be in contravention of the Loan safeguards conditions highlighted above.

The NLC schedules received by the Authority which were initially shared with the Authority.

As it can be observed, none of the 6 new PAPs had been compensated before. The project design confirmed their structures had not been captured by the NLC in the initial 2019 site inspection and for purposes of follow up, that's why they were labelled as "new" PAPs in 2021 to avoid them being disenfranchised by the resettlement and compensation process, and thus making them Vulnerable which would trigger a complaint to the World Bank.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**808.3. Upgrading of Kalobeiyei River - Nadapal/Nakodok Road Project**

A contract for works was awarded to China Railway No.5 Engineering Group Co. Limited at a contract sum of Kshs.7,865,031,057, which was later revised to Kshs.9,819,160,609. The contract for supervision was awarded to Intercontinental Consultants & Technocrats Pvt Ltd in joint venture with CAS Consultants Ltd at a contract sum of Kshs.7,116,386,658. The contract commenced on 11 July 2017 for 36 months ending10 July, 2020, with a defect liability period of 12 months. An extension of time was granted revising the completion date to 30 September 2021. However, anomalies were observed in the implementation of the project, as detailed below.

i. The project was at 93% physical progress against 105% of time lapse. There was no evidence that the employer charged liquidated damages to the contractor even though the contractor had not discharged his contractual responsibility.
ii. No valid performance guarantee was provided by the contractor as provided for in the construction contract.
iii. The consultant provided his performance guarantee from an Insurance Company from India. It is not clear the circumstances under which Management exposed the Authority to this risk of having a guarantee which could not be authenticated.
iv. The contractor has raised a claim of Kshs.77,988,334 as interest on delayed payment, which the Authority declined to honor and make payment, which points to lack of prudent financial management in relation to the project.
v. The project was revised from 88km to 77km, whereby the distance from Nadapal to Nakodok was truncated. However, there was no proportionate reduction of the contract sum, but on the contrary the contract sum increased from ,057 to Kshs.9,819, 160,608.
vi. vi. A total of 141 Project Affected Persons were irregularly compensated at a cost of Kshs.50,895,710. However, this compensation was done by the contractor through instruction from the Authority, contrary to the normal process where the National Land Commission (NLC) is the entity mandated to carry out land compensation. It was not clear, and Management did not explain why the compensation was not carried out by the National Land Commission. No evidence was provided to show the compensation was approved by NLC.

In view of the anomalies described above, it was not possible to confirm that value for money was realized in the implementation of the Project.

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

**Submission by the Accounting Officer**

The works are substantially complete and were taken over by the Employer on 10th April 2022 and are under the Defects Notification Period and further clarify as follows.

The contractor has provided a valid performance guarantee in accordance with the Contract as per copy of performance bond.

The first Consultant's Performance guarantee was from Oriental Insurance Company from India which were endorsed by a local insurance company, M/s CIC General Insurance Ltd. The claim on interest on delayed payment is supposed to be paid by the Government of Kenya but there have been delays due to the Government's budgetary constraints. Management will however endeavour to allocate resources and pay the interest on delayed payment in full.

The contract sum had not been increased from Kshs.7,865,031,057 to Kshs.9,819,160,608 as stated. The revision of the Contract sum and scope which has been incorporated under Addendum No. 3 and forwarded to the World bank for clearance comprising of the following;

i. The revision in the scope of works from Kalobeiyei River - Nakodok (88.0 km) to Kalobeiyei River – Nadapal (77.2 km).

ii. Extension of Time for Completion by One Hundred and Ninety-Two (192) Calendar Days without any additional cost to the Employer. The aforesaid Addendum revises the Completion Date for the works from September 30, 2021, to April 10, 2022, plus 12 months Defects Notification Period starting from April 11, 2022, and ending on 10 April 2023

iii. Reduction of Ksh 324,419,402.77 to be excluded from the Contract Price; thereby revising the accepted contract amount to Ksh.7,540,611,654.38 which translates to 4.12% reduction.

There were no irregularities in the payment for land compensation by the project contractor. This was in the interest of forestalling potential claims occasioned by presence of Project Affected Persons (PAPs) on the critical sections of the road due to the delays in remittance of funds by NLC that had already been transferred by KeNHA. This ensures that the contractor obtains right of way to enable fast tracking & completion of the works within time for completion. Further please note that payments to the affected PAPs were guided by compensation schedules issued by NLC.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**808.4. Upgrading of Lokichar - Loichangamatak (40Km)**

The works contract for the upgrading of Lokichar - Loichangamatak (AI) road was awarded to an international construction Engineering Limited on 10 July, 2017 for a period of 30 months ending 9 January, 2020 and later revised to 9 April, 2021. The contract sum was 125.

The Management approved an irregular payment of Kshs.30,452,484 to be utilized by Resident Engineer to compensate the Project Affected Persons (PAPs), contrary to the normal process where the National Land Commission is the entity mandated to carry out

land compensation. There was no documentation to demonstrate that the PAPs compensation was sanctioned by NLC.

In addition, according to the works contract the contractor was to provide seven (7) type II houses for accommodation of the engineer's senior staff, at a cost of Kshs.4,510,000 each. In August, 2020 the Authority instructed the contractor to add 2 more houses that were not provided for in the contract, to accommodate KeNHA staff members. Further, the Authority's staff members were issued with imprest to cater for accommodation and other expenses.

In view of the anomalies described above, it was not possible to confirm the validity of the above funds paid to the PAPs by the resident engineer and the expenditure of Kshs.9,188,000, comprising the cost of two (2) houses together with imprest issued for accommodation.

**Submission by the Accounting Officer**

The approval for Payment for land compensation was in the interest of forestalling potential claims occasioned by presence of Project Affected Persons (PAPs) on the critical sections of the road due to the delays in remittance of funds by NLC. This ensures that the contractor obtains right of way to enable fast tracking & completion of the works within time for completion.

We wish to clarify that the referenced contract: Lokichar – Loichangamatak (A1) Road was awarded to China State Construction Engineering Ltd on 2nd October 2019 for a period of 30 months ending 2nd December 2022 at contract sum of Kshs. 5,800,819,125. No amendments have been to this contract completion date as per your observations.

Regarding the provision of accommodation for Engineer's Senior staff, we clarify that there are no additional houses instructed and the Contractor is only providing for seven houses as per the Contract.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (c) of the Public Audit Act, 2015, respectively.**

**808.5. Upgrading of Loichangamatak - Lodwar (50km)**

The project was awarded to an international Engineering Company Limited for works and Engineering Company Limited in Joint Venture for consultancy at a contract sum of and and USD at exchange rate of Kshs.102 respectively.

Documents provided for audit review revealed that the project was 99.8% complete while the progress reports for the project revealed that the project was at defect and liability period. However, the snag list was not provided for audit review.

Further, the financial statements reflect a donation of 20 trucks of sand material and gravel for renovation of the Governor's office. However, it was not clear the circumstances under which project funds were used to renovate the Governor's office considering that the County's budget has an allocation for such expenses and that Corporate Social Responsibility (CSR) activities are supposed to benefit the local community.

In view of the anomalies described above, it was not possible to confirm that value for money was realized in the implementation of the Project.

**Submission by the Accounting Officer**

We confirm that the project is at 99.8% complete, under Defect Notification Period and a copy of the snag list has been availed.

The material in question that was dumped at the Governor's office is the spoil from the road and was the Contractor's CSR which is not paid under the Contract.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**MOMBASA GATE BRIDGE CONSTRUCTION PROJECT (I) LOAN AGREEMENT NO.KE-P34 - KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**811. Inaccuracy of the Cumulative Receipts**

The statement of receipts and payments and Note 1 to the financial statements, reflects prior year receipts and payments made by third parties balance of Kshs. 4,422,361. However, additional information indicates that the quarter three (3) receipts for the 2020/2021 financial year were understated by Kshs.31,500. The prior year adjustment to correct the understatement has not been affected. As a result, the accuracy of the cumulative amount of Kshs. 12,246,513 on transfer from Government entities could not be confirmed.

**Submission by the Accounting Officer**

The Government makes budgetary allocation on annual basis to finance the project operating costs as well as the right of way. The exchequer amount budgeted and received by the project since inception amounting to Kshs 12,246,573.00 has been disclosed under the funding summary, further all exchequer funds are received in lumpsum and channeled to a single exchequer bank account which is in line with provisions of the PFM Act of a Treasury single Account.

The exchequer confirmation for all exchequer received in the financial year was availed to the auditors during the audit exercise.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**812. Unsupported Transfer from Government Entities**

The statement of receipts and payments and Note 1 to the financial statements indicate that transfers from Government entities amounting to Kshs. 7,824,152 was made during the year under review. However, the quarterly exchequer requisitions, exchequer receipts, cash book and bank statements confirming the receipts, were not provide for audit review. As a result, the completeness and accuracy of receipts from other Government entities totaling to Kshs. 7,824,152 could not be confirmed.

**Submission by the Accounting Officer**

The Authority does not maintain a separate bank account but maintains one development Exchequer bank account for all the Authority's programmes funded by GoK Exchequer.

This is in line with the National Treasury advisory to State corporations to maintain and operate rationalized and optimized bank accounts. The quarterly exchequer requisitions, receipts, cashbook and bank statements were all availed during the audit process.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**813. Failure to Open a separate Bank Account for the Project**

The statement of financial assets reflects a nil balance in respect of cash and cash equivalents. However, the certificate of bank balance reflects a balance of Kshs, 5,305,453,396 for all the projects under implementation by KeNHA. A breakdown of the project's specific balance for Mombasa Gate Bridge Construction Project (I) included in the amount has not been provided. In addition, the cashbook, board of survey report and bank reconciliation statement in respect of this project was not provided for audit review.

**Submission by the Accounting Officer**

The Authority receives exchequer amounts in lumpsum in line with Sec 28(2) of PFM act of 2012 requiring maintenance of a single treasury account. In the FY under audit however, the project received an amount of Kshs 7,824,152 and expended in full hence a Nil Cash balance as at end of the year. The Authority will continue to provide Financial statement that give a and fair view of the financial affairs of the project.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**814. Unsupported Payments on Goods and Services**

The statement of receipts and payments reflects amount of Kshs. 7,824,152 under purchase of goods services. This amount relates to domestic travel and subsistence expenses during the year. However, supporting ledger, project trial balance and payment vouchers were not provided for audit verification.

**Submission by the Accounting Officer**

The authority maintains a robust imprest register for all staff within the financial reporting system. The authority is therefore able to identify all imprest issued and surrendered. However, all this was availed to the auditor during the audit exercise therefore all imprest issued during the financial year were surrendered and surrendered documents availed.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (c) of the Public Audit Act, 2015, respectively.**

### 815. Ineligible Expenditure

The statement of receipts and payments and Note 3 to the financial statements indicate that an amount of Kshs. 7,824,152 was paid in respect of goods and services. Included in this amount is a payment of of Kshs. 1,834,850 in respect of domestic travel and subsistence. Review of the documents in support of the expenditure revealed that the payment relates to Mombasa Port Area Development Project (MPARD). However, the expenditure was not in the project approved budget.

**Submission by the Accounting Officer**

The survey team were to serve notices as per section 120(3) of land act to the Paps within Mombasa County of which the affected areas were within the round about that inter links MPARD and Mombasa Gate Bridge thus some of the Paps were at the boundary of the two projects. It was however right to source funds from Mombasa Gate Bridge as part of the activity involved survey of it.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### 816. Delayed Commencement of Project

The Government of Kenya through the Cabinet Secretary for finance entered into a loan agreement with the Japan International Cooperation Agency (JICA) for construction of Mombasa Gate Bridge on 5 December, 2019. The project agreement states in part that "The final disbursement under the loan agreement shall be made within the period from the effective date of the Loan Agreement to the same day and month nine (9) years after the effective date of the Loan Agreement". The project is expected to be completed by June 2027.

The consultant was paid 15% of the contract sum equivalent to Kshs.938,218,013 on 18 March, 2022 as per the contract agreement. However, the consultant has not completed the Draft Detailed Design Documents and Draft Bidding Documents covered under item 1 of the scope of consultancy services.

**Submission by the Accounting Officer**

As captured in the Minutes of Discussion signed on 17th April 2019 between MoTIHUD & PW and JICA, the Detailed Design for the Mombasa Gate Bridge was to be undertaken by a Consultant appointed by JICA and paid for through grant. Although the Consultant procured under KeNHA to undertake among other duties, Tender Assistance and Construction Supervision was procured in August 2021 and an Advance payment made, commencement to the Consultant could not have been issued since, as stipulated in the Consultant's Contract *sub-clause 2.3.1*, commencement of the services will be upon issuance of Draft Bidding Documents to the Consultant. The authority has however not received the draft bidding documents from JICA with no objection after the consultant submission. Delay in completion of the Detailed Design was occasioned by the effects of COVID-19. Most of the team who were from Japan were forced to go back to their native land and quarantined. This significantly consumed most of their time and derailed the project design. The Authority will continue to provide financial statements that give a fair view of the financial affairs of the project.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**817. Failure to Maintain an Imprest Register**

Review of payments records revealed that Management issued out several imprests to project management issued out several imprests to project management staff. However, the imprest register was not maintained contrary to the provisions of regulation 93 (4) of Public Finance Management (National Government) Regulations, 2015 on issuance and surrender of imprests which requires that before issuing temporary imprests the Accounting Officer shall ensure that the applicant has been recorded in the imprest register including the amount applied.

**Submission by the Accounting Officer**

The authority maintains a robust imprest register for all staff within the financial reporting system. The authority is therefore able to identify all imprest issued and surrendered. However, all this were availed to the auditor during the audit exercise therefore all imprest issued during the financial year were surrendered and surrendered documents availed.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**BAGAMOYO-HOROHORO LUNGA LUNGA-MALINDI ROAD PROJECT (PHASE I) ID NO: PZI-DBO-129 - KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**820. Lack of Project Bank Account and Cashbook**

The statement of receipts and payments relects transfer from Government entities through the parent Ministry of Kshs. 51,021 ,266 which was fully expensed in the year review. The receipts could however not be confirmed since the Authority did not maintain separate bank account and cashbook for projects In the circumstances, the accuracy and completeness of the transfer from other Government entities of Kshs.51 ,021 ,266 could not be confirmed.

**Submission by the Accounting Officer**

The Authority does not maintain a separate bank account but maintains one development Exchequer bank account for all the Authority's programmed funded by GoK Exchequer. This is in line with PFM Act on maintenance of a single treasury account and the National Treasury advisory to State corporations to maintain and operate rationalized and optimized bank accounts.

**Committee Observations and Findings;**

**The Committee noted the explanation by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer seeks exemption from CS National Treasury on projects that receive donor funds directly to contractors, for purposes of GoK counterpart funds, as provided for under section 76(1) of PFM Regulations.**

**821. Purchase of Goods and Services**

The statement of receipts and payments reflects payments totalling to Kshs.51 ,021 ,266 under purchase of goods and services. The following anomalies were noted.

**821.1. Lack of Project detailed Budget**

The statement of comparison of budget and actual amounts reflects a final expenditure budget of Kshs. 1,555,000,000 and actual expenditure of Kshs. 1,410,098,820. The statement of receipts and payments indicated that the total expenditure of Kshs. 1,410,098,820 comprised of kshs. 58,884,643 relating to purchase of goods and services and Kshs. 1,351,214,177 relating to acquisition of non-financial assets. However, Management did not provide itemized budget showing the detailed budget items for which the expenditure was intended.

**Submission by the Accounting Officer**

By nature, & practise appropriation by the National Assembly to the project is on a specific line by line individual project. This is the form in which the project budget is uploaded into IFMIS & availed for expenditure. However, for purpose of presentation in the Financial Statement the requirement is not to present per project as in IFMIS but by the nature of expenditure.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**821.2. Unsupported Expenditure**

The Statement of receipts and payment reflects purchase of goods and services expenditure of Kshs 51,021,266. As disclosed at Note 3 to the financial statements, the expenditure is mainly in respect to domestic travel and subsistence. However, this expenditure was not supported by a detailed and approved work plan for the financial year ended 30 June 2022.

**Submission by the Accounting Officer**

All expenditure in respect to domestic travel and subsistence are pre-authorized by Director General. Payments vouchers relating to these expenses with their approvals were availed during the audit exercise.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**821.3. Irregular and Unjustified Payments**

During the year under review, the project made payments totalling to Kshs 20,489,359 to East Africa Community Secretariat being remittance for logistics resources for project implemented within the East Africa Community. There was no explanation, justification or support to show how this cost was allocated to the project. The amount was not supported by any work plan or budget.

Further, included in these payments is Kshs 13,946,712 relating to payments of arrears for the Financial years 2016/2017 and 2018/2019 which do not relate to the project while the project financing agreements was signed by the government of Kenya and Development partner on 20 June, 2020. Management did not explain how the payments in arrears of Kshs 13,946,712 arose since the project financing agreement was signed in June, 2020. Further, the amount paid was not disclosed in the project financial statements for 2020/2021 as pending bills.

**Submission by the Accounting Officer**

The Bagamoyo-Lunga Lunga-Malindi Phase 1 Road Project is a Multinational project being financed by the AfDB under the East Africa Community Multimodal roads projects. The planning, financing and implementation of these projects are co-ordinated by the East Africa

Community Secretariat. To facilitate the co-ordination of these multinational projects, the EAC parties' states through the sectorial council ratified and directed all parties' states to be contributing towards the logistical resources.

In the FY 2016/17 – FY 2019/20 the Bagamoyo-Lunga Lunga-Malindi Phase 1 Road Project was at planning stage under the co-ordination of the EAC Multimodal road projects secretariat. The fee notes relating to the cordination costs for this planning phase were subsequently submitted and approved for payment in the current financial year under audit.

The bill was received in FY 2021/22 hence could not have been accounted for in the previous financial year.

**Committee Observations and Findings;**

i) **The Committee noted the submission by the Accounting Officer.**
ii) **The Committee recommends that the matter be resolved.**

**821.4. Domestic Travel and Subsistence Misallocation of Expenditure**

Included under domestic travel and subsistence expenditure of Kshs 51,021,266 as disclosed at Note 3 to the financial statement is an expenditure of Kshs 7,860,300 paid to a firm in respect of consultancy services for documentary shooting which was however reported under domestic travel and subsistence.

**Submission by the Accounting Officer**

The Agency has reclassified this expenditure from domestic travel to Communication, Services & Supplies as per the amended Financial Statement . However, its important to note that the amount is Kshs 7,998,200 and not Kshs 7,860,300 as indicated by the auditor.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**822. Accuracy of Accumulated Project Costs**

The statement of receipts and payments reflects accumulated payments amounting to Kshs 78,634,198 in respect of purchase of goods and services. However, the amount included payments amounting to Kshs 19,749,555 in respect of payments made in financial year 2020/2021 yet the project contract was signed om 5 November, 2021.

**Submission by the Accounting Officer**

The loan agreements for the project were signed on 10th June 2020, Kshs 19,749,555 for FY 2020/21 and Kshs 7,863,377 for FY 2021/22 were payments made to the training of youths through a No objection from the bank to the Institutions which is a component of the Loan.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**823. 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 1,555,000,000 and Kshs 1,410,098,820 respectively resulting in an underfunding of Kshs 144,901,180 or 91% of budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs 1,555,000,000 and Kshs 1,410,098,820 respectively, resulting in an under expenditure of Kshs 144,901,180 or 91% of the budget.

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

**Submission by the Accounting Officer**

Under-expenditure was mainly affected by lengthy process of getting a no objection from the financier, legal opinion from the solicitor General and concurrence from the National Treasury as well as the Covid-19 pandemic this significantly affected the progress of the project thus affecting Budget performance.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**824. Slow Project Implementation- Lot 1**

The contract agreement for Multinational Bagamoyo Horohoro/Lunga Lunga Malindi Road Project Phase one project with contract number is KENHA/RD/D/3567/2022 was signed on 18/03/2022 between Hunan Road and Bridge Construction Group Company Ltd and Kenya National Highway Authority. The contract period according to the contract agreement was 48 Months, of which 36 Months are for construction period and 12 Months for defect notification period. Further, the loan agreement between the Republic of Kenya and the Africa Development Bank was signed on 10/06/2020. According to section 4.07 of the agreement the closing date for the loan is 31 December 2025.

Review of the project documentation review that as at 30th June 2022, the contractor had been paid advance payments/Mobilization totalling to Kshs.585,332,008. However, and despite the advance payment made, the contractor had not been given commencement instructions to start work.

**Submission by the Accounting Officer**

The consultant is currently mapping out utilities needed for relocation e.g. powerlines, water and sewerage line to give right of way before commencement of the project by the contractor. NLC is also finalizing on the awards before issuing Paps. The Authority awaits final completion from the Consultant report on mapping and NLC Paps findings in order to issue instructions for the commencement of the project. Upon commencement, the authority will review the project implementation program in order to ensure that the project is implemented within the set timelines. The issuance of order to commence without clearance of road would result in escalated cost due to contract delays and claims by the contractor.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer avails a status report to the Committee within three (3) months of adoption of this report.**

**MOMBASA SPECIAL ECONOMIC ZONE DEVELOPMENT PROJECT (I) - KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

**828. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual comparable basis of Kshs 150,000,000 and Kshs. 73,973,910 respectively resulting to an underfunding of Kshs. 76,026,090 or 51%. Similarly, Kshs. 73,973,910 was spent on the project against an approved budget of Kshs. 150,00,000, resulting to an under expenditure of Kshs. 76,026,090 or 51%.

**Submission by the Accounting Officer**

Detailed Design and draft bidding documents for Mombasa Special Economic Zone Development Project (I) was to be undertaken by a Consultant appointed by JICA and paid for through a grant. Although the Consultant procured under KeNHA to undertake among other duties, Tender Assistance and Construction Supervision was procured in August 2021 and an Advance payment made, commencement to the Consultant could not have been issued since, as stipulated in the Consultant's Contract *sub-clause 2.3.1*, commencement of the services will be upon issuance of Draft Bidding Documents to the Tender Assistance and Construction Supervision Consultant. Further, there was a delay in completion of the Detailed Design occasioned by the effects of COVID-19.

The Authority received the draft bidding documents from JICA and a committee for Technical Inspection has been proposed to finalize the inspection before issuance of the final design documents to the Supervision Consultant.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

## HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT LOAN NO.6768-KE - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

**831. Inaccuracies in the Financial Statements**

Review of the project's financial statements revealed the following inaccuracies:

i. Paragraph 1.7 of the financial statements on funding summary reflects an approved budget of Euro 573,700,000 equivalent to Kshs.73,232,977,110. However, an amount of Kshs.55,099,103 appearing in the same paragraph has not been identified to any of the funding sources mentioned. Further, section A on source of funds reflects donor commitment (approved budget) as USD 573,700,000 thereby misstating the currency denomination for the Project and therefore implying that the donor commitment has been reflected in both Euros and US Dollars.

ii. Note 2 to the financial statements shows loan received from bilateral donors (IDA) of Euro 29,892,254 whereas paragraph 1.7 B of the financial statements on application of funds reflects amounts received to date (30 June 2022) of USD 31,596,438. This therefore results to a lack of consistency in currency reporting.

iii. The statement of receipts and payments reflects miscellaneous receipts of Kshs.27,134,920. However, the ledger and support schedule provided reflect an amount of Kshs.27,724,596 resulting in an unexplained difference of Kshs.589,676.

iv. The statement of receipts and payments reflects miscellaneous receipts of Kshs.27,134,920. However, the ledger and support schedule provided reflect an amount of Kshs.27,724,596 resulting in an unexplained difference of Kshs.589,676.

v. Note 8 to the financial statements on special deposit account disclosure reflects a total amount withdrawn from the special deposit account Kshs.69,044,470 while the statement of receipts and payments reflects receipts from external development partner of Kshs.905,096,500. The resultant variance of Kshs.836,052,030 has not been explained Further review of the special account statement had an opening balance of Euro 8,450,000,deposits of Euro 556,719 a withdrawal balance of Euro 2,006,719, however all these amounts have not been disclosed in the financial statements.

vi. Note 12 to the financial statements on other important disclosures reflects project information as paragraph 1 instead of paragraph 4.

vii. Annex 1 to the financial statements on variance explanations reflects Kshs.80,971,344, Kshs.2,761,868,804 and Kshs. 27,724,596 as actual receipts under transfers from Government entities, transfer from external development partner and miscellaneous receipts respectively. However, the statement of receipts and payments reflects

Kshs.83,724,201, Kshs. 3,226,868,804 and Kshs. 27,134,920 as actual receipts under transfers from Government entities, transfer from external development partner and miscellaneous receipts respectively. The resultant differences of Kshs.2,752,857, Kshs.465,000,000 and Kshs. 589,676 respectively have not been explained.

Further, the annex reflects Kshs.108,181,235, Kshs. nil, and Kshs.2,821,048,211 as actual payments under purchase of goods and services, research studies & design and miscellaneous charges respectively. However, the statement of receipts and payments reflects Kshs. 110,934,092, Kshs. 2,380,951,711 and Kshs. 54,720 for the same item respectively. The resultant differences of Kshs. 2,752,857, Kshs. 2,380,951,711 and Kshs. 2,820,993,491 respectively have not been explained

viii. The period at Note 12.3 (d) to the financial statements on purpose and use of external assistance is reflected as 2021/2021 instead of 2021/2022.

In the circumstances, the accuracy of the financial statements could not be confirmed.

**Submission by the Accounting Officer**

i. The amount of Kshs.55,099,103 appearing in paragraph 1.7 of the draft financial statements submitted for audit on 31st August 2022 was a regrettable error on our part. The financial statements were amended on page vii to show the correct budget of Ksh.143,823,304 identified as funding from the Government of Kenya (GOK) instead of Kshs.55,099,103. Further, the financial statements were amended on page vii, section A on source of funds to reflect the donor commitment (approved budget) as EURO 573,700,000 and not USD 573,700,000.

ii. Lack of consistency in currency reporting was a result of an oversight on our part. The error is regretted, and the financial statements were amended on page vii to reflect the correct currency as EURO 31,596,438 and not USD 31,596,438.

iii. The miscellaneous receipts of Kshs.27,134,920 as reflected in the Receipts of Payments is the correct figure, however, the supporting schedule amounting to Ksh.27,724,596 was erroneously presented. The unfortunate situation arose from a misrepresentation of a withholding tax on interest of Ksh 586,676 as a bank charge.

iv. The difference between the fund balance brought forward of Kshs.202,030,967 and the audited financial statements for 2020/2021 of Kshs.180,875,330 as noted by the auditor is Kshs.21,155,637 which relates to the retention money transferred back to the project account in the financial year under review and is supported by the schedule.

v. The variance of Kshs. 836,052,030 between the special deposit account disclosure and the special deposit account in Note 8 in our draft financial statements submitted for audit on 31st August 2022 arose due to a regrettable error whereby we indicated the currency as Kshs. instead of Euros. The financial statements were amended in page 15 Note 8 to show the correct withdrawal of Euro 7,000,000 which is equivalent to Ksh 905,096,500 as reflected in the statement of Receipts and Payments, the Kshs. 69,044,470 was the total amount deposited in the financial year which was equivalent to Euro 556,719 at the spot exchange rate. We further agree with the auditor's observation that the amounts had not been disclosed in Note 8 of the draft project financial statements submitted for audit on 31st August 2022.

The amounts pointed by the auditor as disclosed in note 8 was erroneously presented in Kenya Shillings as opposed to Euros. However, the financial statements were amended (Page 15, Note 8) have been restated in the currency of the loan to reflect: -

- The opening balance of EURO 8,450,000,
- The Deposit of Euro 556,719 during the year,
- A withdrawal of Euro 7,000,000 (which was deposited in the Project account), and
- A closing balance of Euro 2,006,719

vi. The project information reflected on page 18 of the 1st draft project financial statements was a regrettable typing error. The financial statements were amended on page 19 to correctly read note.

vii. This was a regrettable misrepresentation of figures. However, Annex 1 of the financial statements has been amended on page 22 to reflect the amounts of Kshs. 83,724,201, Kshs. 3,226,868,804 and Kshs. 27,134,920 as actual receipts under transfers from Government entities, transfer from external development partner and miscellaneous receipts respectively as correctly pointed by the auditor. The amounts reflected on *annex 1* of our draft project financial statements submitted for audit on 31st August 2022, as pointed by the auditor, was a regrettable error of misrepresentation of figures. Annex 1 of the revised project financial statements has been amended on *page 22* to reflect the amounts of Kshs.110,934,092, Kshs. 2,380,951,711 and Kshs. 54,720 for actual payments under purchase of goods and services, research studies & design and miscellaneous payments respectively as correctly pointed by the auditor.

viii. This was a regrettable typing error on our draft project financial statements submitted for audit on 31st August 2022. The period at Note 12.3 (d) to the revised project financial statements on purpose and use of external assistance page 18 was corrected to read 2021/2022.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (c) of the Public Audit Act, 2015, respectively.**

**832. Purchase of Goods and Services**

The statement of receipts and payments reflects purchase of goods and services of Kshs.110,934,092. As disclosed at Note 4 to the financial statements, the amount comprises of domestic travel expenses of Kshs.79,035,786, printing and advertising of Kshs.2,063,175, , hospitality expenses of Kshs.4,029,238, communication supplies of Kshs.9,389,056 and training cost of Kshs.16,416,837. However, a detailed work plan to confirm that the activities paid for related to the Project was not provided for audit review Further, expenditure totalling to Kshs,4,632,411 was described as relating to the previous North Eastern Transport Improvement Project (NETRIP).

In the circumstances, the accuracy and validity of the purchase of goods and services expenditure of Kshs.110,934,092 could not be confirmed.

**Submission by the Accounting Officer**

The Horn of Africa project is a multiyear project, and all activities are project related and there is no separate line budget for each activity. Please note that note that the national government budget mechanisms are program based where budgets are allocated on project by project as opposed to activity by activity within projects.

Activities are approved on case by case basis based on their significance subject to budget provisions. The case by case approvals form the basis of incurring expenditure hence forms an important ingredient to documents supporting payments made.

The project initially started as North Eastern Transport Improvement Project (NETIP) which later on changed name to Horn of Africa Gateway Development Project (HoAGDP) upon evolving to a regional project to be implemented in Kenya and Ethiopia. We further wish to clarify that the description of the project was not NETRIP as pointed by the auditor but NETIP.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**833. Lack of an Itemized Expenditure Budget**

The statement of comparison of budget and actual amounts indicates that the Project budgeted to receive Kshs. 150,000,000 and as Government of Kenya counterpart funds and loan from external development partners respectively for the implementation of Horn of Africa Gateway Development (HoAGDP) Project. The statement further indicates that Kshs. 110,934,092 and , 711 were spent on purchase of goods and services and acquisition of non-financial assets respectively. However, the project expenditure budget was not provided.

In the circumstances, it was not possible to confirm the budget from which the expenditure was incurred.

**Submission by the Accounting Officer**

By nature and practice, appropriation by the National Assembly to the project is on a specific line by line individual project. This is the form in which the project budgets are uploaded onto

IFMIS and availed for expenditure. However, for purposes of presentation in the financial statements, the requirement is not to present them per project as in IFMIS but by the nature of expenditure.

The project budget for the project was Kshs. 150,000,000 and Kshs. 4,656,000,000 as GoK funds and loan from external development partners respectively. The amounts paid of Kshs. 110,934,092 and Kshs.2,380,951,711 spent on purchase of goods and services and acquisition of non-financial assets respectively were funded by the above quoted project budgets.

**Committee Observations and Findings;**

**The Committee noted the submission by the Accounting Officer.**

**Committee Recommendation;**

**The Committee recommends that the Accounting Officer henceforth avails an itemized and detailed budget to the auditors as annexures, above and beyond the template provided by PSASB.**

**834. Budgetary Conbtrol and Performance**

The statement of comparison of budget and actual amounts reflects total budgeted receipts of against actual receipts of Kshs.3,337,727,925 thereby resulting in an under-collection of Kshs. 1468,272,075 or 30.5% of the budgeted receipts. Further, the statement reflects total budgeted expenditure of against actual payments of Kshs.2,491 resulting in an under-expenditure of Kshs.2,314,059,477 or 48% of the budgeted expenditure.

The under-collection of receipts and underexpenditure is an indication that the Project may not have achieved the planned objectives.

**Submission by the Accounting Officer**

Planned Milestones for Design Review delayed due to the sensitive security situation along the project area, especially for Wajir – Kotulo – Elwak where security threats were high. Additionally, there were delays in the procurement process due to inability to access project execution areas due to the same security risks.

The procurement process for Isiolo - Kulamawe and Kulamawe - Modogashe sections were completed in this financial year and advance payments made to the contractor

Once the security risks are fully addressed, the contractors on the projects will be requested to expedite their pace of project execution so as to recover lost time.

**Committee Observations and Findings;**

**The Committee observed that pending bills and delays in project implementation due to inadequate budgetary support was a major issue in the state department.**

**Committee Recommendation;**

**The Committee recommends that the state department does not commit to new projects until ongoing ones are completed.**

**835. Delayed Project Milestones**

Review of the project information as presented in the financial statements and the project activities implementation status as at 30 June, 2022 revealed that although the project financing agreement was signed in October, 2020, construction works for the road sections had not started with some sections at the design stage while others were either at contractor's procurement stage or works contracted but not started.

In the circumstances, the general and specific objectives, outcome and performance of the project may not be timely realized which will impact negatively on service delivery to the public.

**Submission by the Accounting Officer**

The main delay factor has been procurement process which has since been addressed in conjunction with the development partners. It is worth noting that most of the road sections along the Isiolo - Mandera corridor are at an advanced stage of procurement. Additionally, it is worth noting that so far two projects along the corridor have since commenced.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

**836. Lack of a Fixed Assets Register**

Annex 3 to the financial statements — summary of fixed assets, reflects a balance of as the closing cost of the road asset. However, contrary to Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015, the Project's Management did not maintain a register of assets.

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

**Submission by the Accounting Officer**

the Fixed Assets Register which is maintained by the authority has all the information pertaining to the project. It is worth to note that Annex 3 of the financial statement, has all the information required under the project reporting template as provided by PSASB.

**Committee Observations and Findings;**

**The Committee noted that the Accounting Officer belatedly availed requisite documentation and explanation.**

**Committee Recommendation;**

**The Committee reprimands the Accounting Officer for failing to provide support documents in the prescribed format and on time, as required by section 81 of the PFM Act 2012 and section 9 (i) (e) of the Public Audit Act, 2015, respectively.**

## 4.17 VOTE 1092: STATE DEPARTMENT FOR TRANSPORT

**Mr. Mohamed Daghar**, the Principal Secretary and Accounting Officer for State Department for Transport, appeared before the Committee on 14th May 2024, accompanied by the following officers:

| | | | |
|---|---|---|---|
| i. | Mr. James W. Thuita | – | Senior Deputy Accountant General |
| ii. | CPA. Odongo Kennedy | – | Deputy Head of Accounting Unit |
| iii. | Ms. Anne Maina | – | Accountant |
| iv. | Mr. Benard L. Owuor | – | Principal Finance Officer |
| v. | Ms. Priscal Ochanda | – | Principal Accountant |
| vi. | Mr. Jacob Sisey | – | Director NTSA |

and submitted as follows;

REPORT ON THE FINANCIAL STATEMENTS

**839. Unsupported Adjustments**

Review of the financial statements of the State Department revealed adjustments that were passed comprising of Kshs.3,622,824 under exchequer receipts, Kshs.687,230 under use of goods and services, Kshs.2,935,594 under acquisition of assets, Kshs.4,391,429 under accounts receivables and Kshs.2,671,623. However, Management did not provide evidence to support the adjustments including the authorization and explanation of the nature of the adjustments.

In the circumstances, the validity of the adjustments made and the accuracy of the financial statements could not be confirmed.

**Submission by the Accounting Officer;**

It is true that Management submitted financial statements on 30 September 2022 and that the Financial Statements were revised and another set submitted on 14 December 2022. The revision of the financial statement was advised by the observations of the Auditor as captured in the Management Letter on Regularity Audit performed for the year ended 30th June 2022. The adjustments made entailed capturing in the IFMIS the omissions of the Exchequer receipts and performing the required reconciliations in the IFMIS.

**Committee Observations and Findings**

**The Committee observed that the reconciliations had since been done.**

**Committee Recommendation**

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

**840. Unexplained Variances**

**840.1. Cash and Cash Equivalents Balance**

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.54,735,614 as disclosed in Note 9A to the financial statements. However, the bank reconciliation statements for the recurrent, development and deposit bank accounts, for the month of June, 2022, indicated total cash and cash equivalents balance of Kshs.54,755,450 resulting to an unexplained variance of Kshs.19,837. In the circumstances, the accuracy and completeness of the cash and cash equivalents of Kshs.54,735,614 as at 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer;**

It is true that the statement of assets and liabilities reflects a cash and cash equivalents balance of Kshs.54,735,614 as disclosed in Note 9A to the Revised Financial Statements. Similarly the bank reconciliations for the recurrent, development and deposit bank accounts reconciles the cash book balances to the bank balances with no discrepancies as evidenced by the attached IFMIS bank reconciliations to the Financial Report.

**Committee Observations and Findings**

**The Committee observed that the reconciliations had since been done.**

**Committee Recommendation**

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

**840.2. Transfers to Other Government Entities**

The statement of receipts and payments reflects other receipts amount of Kshs.5,568,942,983 as disclosed in Note 3 to the financial statements which includes an amount of Kshs.5,508,942,983 relating to aviation fees and air navigation charges. Further, the statement reflects transfers to other Government entities of Kshs.5,916,442,983 as disclosed in Note 6 to the financial statements, which include an amount of Kshs.5,568,942,983 under recurrent grants and Kshs.347,500,000 development grants to Government agencies. Out of the recurrent grants, an amount of Kshs.5,508,942,983 relates to transfers to Kenya Civil Aviation Authority (KCAA) and represents amounts spent by KCAA from own generated revenues (Appropriation-In-Aid). However, KCAA records indicated a total amount of Kshs.6,935,252,529 as own generated revenue (Appropriation-In-Aid) resulting in an unexplained difference of Kshs.1,426,309,546.

In the circumstances, the accuracy of other receipts amount ofKshs.5,508,942,983 and transfers to other government entities of Kshs.5,508,942,983 could not be confirmed.

**Submission by the Accounting Officer;**

It is true that the State Department under note 6 to the financial statement indicated that transfers to Government Agencies and other levels of Government amounting to 5,568,942,983 whereas the actual amount generated by the Institution during the year under review was Kshs. 6,935,252,528.84. The State Department recognized Khs 5,568,942,983 as Appropriation In Aid (AIA). The difference of Kshs. 1,426,309,545.80 has been identified as a disclosure in the Financial Statement under note 6b (ii)

The Authority reported Kshs. 6,953,010,100 as own generated revenues (Appropriation –In-Aid) in the Annual Report and Audited Financial Statements for the year ended 30th June 2022. Consequently, as required of regulatory entities, during the financial year 2022/2023, the Authority remitted Kshs. 1,634,140,169.55 to the National Treasury and Planning, through the Kenya Revenue Authority, being 90% of its surplus for the year ended 30th June 2022. The surplus amount before the audit stood at Kshs. 1,815,711,300 and this decreased to Kshs. 1,812,682,153 after the audit. A copy of the signed Statement of Financial Performance for the year ended 30th June 2022 is hereby attached for your information.

**Committee Observations and Findings**

**The Committee observed that the reconciliations had since been done.**

**Committee Recommendation**

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

**841. Expenditure Wrongly Classified as Rentals of Produced Assets**

The statement of receipts and payments reflects use of goods and services amount of Kshs.131,220,107 as disclosed in Note 5 to the financial statements which includes an amount of Kshs.6,152,865 in respect of rentals of produced assets. However, review of records revealed that out of the amount of Kshs.6,152,865, an expenditure totalling Kshs.2,969,040, comprising of domestic travel expenses of Kshs.1,905,820, foreign travel of Kshs.715,220 and hire of conference facilities costs of Kshs.348,000, was wrongly charged under the rentals of produced assets expenditure.

In the circumstances, the accuracy and completeness of rentals of produced assets figure of Kshs.6,152,865 for the year ended 30 June, 2022 could not be confirmed.

**Submission by the Accounting Officer;**

It is true in the year under review, the State Department for Transport charged various items of expenditure such as foreign travel and provision of air tickets worth Kshs. 2,969,040 under the Rentals of produced assets component. In the IFMIS Chat of Accounts classification, 'Rentals of Produced assets' item 2210600 includes the sub-item 2210604 'hire of transport' under which the above expenditure relates.

**Committee Observations and Findings**

**The Committee observed that the expenditure items were charged in wrong votes.**